May 2, 2019

VIA EMAIL: comments@fdic.gov
Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Brokered Deposits (RIN 3064-AE94)

Ladies and Gentlemen:

CIT Bank, N.A. ("*CIT Bank*", "*we*", "*our*" or "*us*") is a leading national bank that provides banking and related services to commercial and individual customers through its 60 branches in Southern California and its online bank, *cit.com/cit-bank/*.[1] At December 31, 2018, CIT Bank had total assets, total deposits and total brokered deposits under the Federal Deposit Insurance Corporation's ("*FDIC*") current definition of that term of $42.2 billion, $32.0 billion and $3.1 billion,[2] respectively. Accordingly, we are deeply interested in the FDIC's advance notice of proposed rulemaking (the "*ANPR*") concerning its comprehensive review of its regulatory approach to brokered deposits.[3]

CIT Bank is a member of the Bank Policy Institute ("*BPI*") and has participated in BPI's preparation of its comment letter on the ANPR. While we support the positions taken by BPI in its letter, there are two aspects of the current regulatory treatment of brokered deposits that are particularly important to us and on which we wish to comment separately. They are as follows:

- The regulatory regime addressing deposits should distinguish long-term brokered deposits – that is, brokered deposits at a relevant date having a

[1] CIT Bank is a subsidiary of CIT Group, Inc. (together with its subsidiaries, "*CIT Group*"), a bank holding company and financial holding company with $48.5 billion of total consolidated assets at December 31, 2018.

[2] All of CIT Bank's brokered deposits are in amounts of $250,000 or less and, accordingly, are fully-insured by the FDIC. Of our $3.1 billion in fully-insured brokered deposits at December 31, 2018, $2.3 billion (or 74%) had at that date a remaining term to maturity of more than one year.

[3] 84 Fed. Reg. 2366 (Feb. 6, 2019).

remaining term to maturity of more than one year,[4] particularly those that are fully FDIC-insured – from other brokered deposits. Long-term brokered deposits are a source of funding that is as stable as other liabilities with similar maturities and are an important asset-liability management tool. They reflect a fact every bank treasurer knows: the stability of funding sources is more closely linked to the maturity profile and repayment characteristics of the particular liability than to its origination channel. Long-term brokered deposits give banks access to depositors nation-wide for funding matching the bank's upcoming needs, particularly as to maturities, and can be raised to match needs on a more targeted and timely basis than deposits within the geographic boundaries of bricks-and-mortar banking. Accordingly, we believe that, at the least, long-term brokered deposits that are fully-FDIC-insured (that is, in amounts less than the standard maximum deposit insurance amount, or "*SMDIA*", which currently is $250,000), like non-brokered certificates of deposit with similar terms, should be treated as core deposits, or should be excluded from brokered deposits status (as applicable), for purposes of three components of the FDIC's deposit insurance assessment calculations under the Part 327 of the FDIC's rules[5] that penalize fully-insured long-term brokered deposits – (i) the ratio of Core Deposits to Total Liabilities in Section 327.9(b), further addressed in the

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4 References in this letter to ***"long-term" deposits***, whether or not brokered, mean deposits having, at any relevant date, a remaining term to maturity of more than one year. We use a remaining maturity of more than one year as the proposed standard for fully-insured brokered deposits that are lower risk because one-year versus shorter maturities is the banking agencies' standard for reporting in the call reports and is the FDIC's break-point for stable funding in a number of areas. For example, (i) a one-year or longer remaining term to maturity is the test for a bank to benefit from the unsecured debt adjustment in Sections 327.9(d)(1) and 327.16(e)(1) of the FDIC's deposit insurance assessment regulations, and (ii) in its frequently asked questions issued in 2015 and revised in 2016 (FIL-42-2016, *Frequently Asked Questions on Identifying, Accepting and Reporting Brokered Deposits* (June 30, 2016, revised July 14, 2016)), the FDIC, in FAQ No. F3, used 12-months without involvement of a deposit broker as the standard for reclassifying a brokered nonmaturity deposit to nonbrokered status. As to underlying principles, the FDIC noted in its 2011 study of core and brokered deposits mandated by the Dodd-Frank Act, that "[t]he duration of a deposit can present or mitigate the problem of a deposit leaving a bank for higher rates or when the bank is under stress. The longer a deposit's remaining time to maturity and the stricter the limitations on early withdrawal, the less likely it is to be withdrawn when an institution is under stress." FDIC, *Study on Core Deposits and Brokered Deposits—Submitted to Congress pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act* (July 8, 2011), at p. 51 (the "*2011 Study*").

5 12 CFR Part 327.

scorecard in Appendix A to Subpart A of Part 327; (ii) the brokered deposit adjustment in Section 327.16(e)(3); and (iii) although not applicable to CIT Bank as a large institution for purposes of the assessment rules, the Brokered Deposit Ratio in Section 327.16(a) applicable to small institutions. We urge the FDIC to make these amendments to its assessment rules notwithstanding that fully-insured long-term brokered deposits nevertheless are brokered deposits under Section 29 of the Federal Deposit Insurance Act ("*FDIA*") and related FDIC regulations in their current forms. Ultimately, we believe such deposits should be treated as core deposits until they have a remaining maturity of one year or less, and carved out of brokered deposit status, for all purposes.

- The FDIC, in its application of the interest rate limitations imposed by paragraph (e) of FDIA § 29, should implement an approach that recognizes the different markets accessed by on-line versus bricks-and-mortar banking and, in particular, should establish two national rates, one for on-line banking and the other for bricks-and-mortar banking. The FDIC's current approach of calculating a single national rate is obsolete in today's world because it fails to recognize the difference between on-line banking and bricks-and-mortar banking, much like the use of a Treasury-based rate was recognized by the FDIC as obsolete when it amended its brokered deposit rule, Section 337.6 of Part 37, in 2009 to adopt that rule's current provisions dealing with the national rate.[6] Moreover, failing to recognize that difference unfairly disadvantages deposits raised through on-line banking channels even though such channels afford depositors important convenience and service benefits. That is because the expense to banks in raising such deposits is lower than the expense of raising deposits through bricks-and-mortar branches, and the savings from such lower expenses can be – and generally at least in part are – passed on to consumers in the form of higher interest rates without impairing the issuing bank's earnings.

We have addressed at greater length in Part I, below, our views with respect to fully-insured long-term brokered deposits and, in Part II, below, our views with respect to the need for different national rates for on-line banking versus bricks-and-mortar banking.[7]

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6 74 Fed. Reg. 27679 (June 11, 2009).

7 References in this letter to Section 327, Section 337 or subparts or paragraphs thereof, without further explanation, are to those sections of the FDIC's rules and regulations. References in this

I. Fully-insured deposits with a remaining maturity of more than one year, irrespective of whether they are placed with the assistance of a deposit broker (i.e., irrespective of whether under current statutory and regulatory definitions they are treated as brokered deposits), should be recognized as core deposits and excluded from the definition of brokered deposits, at least for purposes of FDIC deposit insurance assessment calculations.[8]

We believe the FDIC should correct the punitive treatment of fully-insured long-term brokered deposits under three provisions of its assessment regulations, as follows:

- First, the FDIC should include those deposits in the numerator of the core deposits to total liabilities ratio in the FDIC's deposit insurance assessment scorecard for large institutions. That scorecard is addressed in Section 327.9(b) and in the explanation of the ratio of "Core Deposits/Total Liabilities" in Appendix A to Subpart A of Part 327 – Description of Scorecard Measures" ("Appendix A"). Appendix A defines the ratio as "[t]otal domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities." Our recommendation could be implemented by redefining the ratio as "[t]otal domestic deposits excluding <u>(i)</u> brokered deposits <u>that are either uninsured or have a remaining term to maturity of one year or less</u> and <u>(ii)</u> uninsured non-brokered time deposits, divided by total liabilities."[9]
- Second, the FDIC should exclude from brokered deposit status in calculating the upward assessment adjustment for brokered deposits in Section 327.16(e)(3) fully-insured long-term brokered deposits. The brokered deposit adjustment applies to all new small institutions in Risk Categories II, III and IV and to all large institutions and highly complex institutions, other than those that are well capitalized and have a CAMELS composite rating of 1 or 2. Our recommendation could be implemented by revising the third sentence of Section 327.16(e)(3) to read as follows: "The brokered deposit adjustment includes all brokered deposits as defined in Section 29 [of the

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letter to Section 29 or subparts or paragraphs thereof, without further explanation, are to Section 29 of the FDIA.

8 Our comments in this Part I respond to, among others, the following questions posed by the FDIC in the ANPR at p. 2376: "[a]re there types of deposits that are currently considered brokered that should not be considered brokered? If so, please explain why;" and "[a]re there areas where changes might be warranted but could not be effectuated under the current statute? Are there any statutory changes that warrant consideration from Congress?"

9 New language underscored.

FDIA] and [Section 337.6 of the FDIC's regulations] including reciprocal deposits as defined in [Section 327.8(p)], and brokered deposits that consist of balances swept into an insured institution from another institution, but excluding brokered deposits that are fully uninsured and have a remaining term to maturity of more than one year."[10]

- Third, the FDIC should exclude from brokered deposit status in calculating the Brokered Deposit Ratio for established small institutions under Section 327.16(a) fully-insured long-term brokered deposits. Our recommendation could be implemented by revising the text opposite the caption "Brokered Deposit Ratio" in the second table in Section 327.16(a), second sentence, to read as follows: "For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, brokered reciprocal deposits as defined in § 327.8(q) and brokered deposits that are fully-insured and have a remaining term to maturity of more than one year are deducted from brokered deposits."[11]

As noted in the introductory paragraphs of this letter, long-term brokered deposits (and particularly those that are fully-insured, which is our focus in this Part I) are a stable source of funding for banks and an important asset-liability management tool. Simply by virtue of their maturity, they cannot give rise to near-term liquidity stress for the issuing bank. To the contrary, as a source of access and outreach to potential depositors that is not limited by the geography of a bank's branch network, they are an important item in a bank's "liquidity tool box". Although on-line banking (discussed in Part II of this letter in the context of FDIA § 29's interest rate limits) is also not limited by geography, as a tool when used without assistance from a deposit broker, on-line banking relies on individual customers nation-wide using the internet to identify deposit and other banking opportunities and initiating outreach to the bank. Brokered deposits, whether or not on-line, enable banks to initiate the outreach in the other direction -- that is, to depositors -- in order to raise funds tailored to the bank's specific funding needs, including as to term and interest rate basis.

If as of a particular date a bank's management or supervisors become concerned with its financial health in any respect or for any reason (including the nexus between asset quality and rapid growth, which was the major focus of Congress in enacting Section 29 of the FDIA in 1989 and has been the major focus of supervisors in

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10 New language underscored. Although reciprocal brokered deposits and brokered sweeps currently are not important funding sources for CIT Bank, we urge the FDIC to consider as well whether they should be excluded from brokered deposits status for purposes of Section 327.16(e)(3)'s upward adjustment.

11 New language underscored.

evaluating banks' use of brokered deposits), management and supervisors have at least one year to address concerns. As going concern funding, fully-insured long-term brokered deposits are a valuable component of a bank's funding mix that permits a bank to create a stronger, not weaker balance sheet.

Moreover, we believe a thorough analysis will show that the correlation between brokered deposits and failure is between short-term brokered-deposits and failure, not long-term brokered deposits and failure. A preliminary analysis prepared by CIT Bank, with assistance from its advisors, of 377 banks that failed between January 1, 2008 and December 31, 2011 (the "*Failed Bank Sample*"), prepared using only publicly available information, shows, using data as of December 31, 2007, that failed banks' brokered deposits were heavily skewed to short-term deposits, with 71.1% of the Failed Bank Sample's brokered deposits having a remaining term to maturity of one year or less and 28.9% having a remaining term to maturity of more than one year. The skewing of brokered deposits to short-term deposits remains true today, supporting our view that a limited exception for fully-insured long-term brokered deposits does not expose the deposit insurance fund to significant risk because fully-insured long-term brokered deposits are a relatively small part of total brokered deposits. As of December 31, 2018, for banks in the BKX and banks in the KRX, respectively, 99.4% and 88.8% of their total brokered deposits consisted of short-term deposits.[12] That compares to 26.2% for CIT Bank as of December 31, 2018.

In our view, long-term brokered deposits are similar to (and no more suspect, and we expect no more linked to higher risk activities or bankruptcy or receivership than) the many billions of dollars raised by corporate America every year in capital markets issuances with assistance from investment banks as underwriters or initial purchasers that are registered under the Securities Act of 1933 (or, for national banks, the OCC's Part 16) or issued in private transactions (under Rule 144A, for example). Indeed, the FDIC's deposit insurance assessment regulations provide for a limited potential reduction in a bank's deposit insurance assessment the higher the amount long-term unsecured debt, with long-term defined as a remaining term to maturity of at least one year.[13] Ordinary bank notes distributed through investment banks as underwriters or initial purchasers would qualify. Long-term funding raised for banks through investment banks or other financial services firms as distribution agents, whether in the form of bank notes or deposits of any type (whether brokered or not, and whether in the form of certificates of deposit, deposit notes, or otherwise), should not be considered to be unusually risk-inducing.

The FDIC cites in the ANPR three characteristics that it believes describe the characteristics of brokered deposits that pose risk to the Deposit Insurance Fund

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12 Based on a review of call report data. BKX Index represents KBW Nasdaq Bank Index and includes large-cap banks (24 component companies); KRX Index represents KBW Nasdaq Regional Banking Index and includes mid-cap banks (50 component companies).

13 *See* the definition of "long-term debt" in Section 327.8(p) of Part 327 and the operative adjustment provisions in Sections 327.9(d)(1) and 327.16(e)(1) .

("*DIF*") – (i) volatility, (ii) source of funding for rapid growth and (iii) absence of contribution to franchise value.[14] Applying the FDIC's description of those characteristics, without the benefit of data supporting a quantitative analysis, we believe that fully-insured long-term brokered deposits are not volatile and have a weak, if any, correlation with rapid growth funding high-risk assets or absence of franchise value as contributors to DIF risk.

Most of our comments above in this Part I go to the stability, and hence absence of volatility, of fully-insured long-term brokered deposits as a funding source. Because at any point in time they have a *remaining term to maturity* of more than one year, they cannot flee because the bank becomes troubled or the customer finds a more appealing interest rate or terms elsewhere.

As to rapid growth, even if fully-insured long-term brokered deposits were used imprudently to fund the rapid growth of high-risk assets at the time of the thrift crisis in the late 1980s or the financial crisis at the end of the first decade of the 21st century, we believe there should be much less concern in that regard today. The enhanced supervision and regulation regime arising out of the financial crisis – particularly with respect to capital, leverage, liquidity and risk management – did not exist at the time Section 29 was enacted and substantially mitigates concern that there may be a causal relationship between such deposits and the booking of high-risk assets today.

As to franchise value, the FDIC stated in its 2011 Study that "bidders have repeatedly told the FDIC that they are not interested in paying for brokered deposits and the FDIC, as a result, does not even seek bids for brokered deposits when a bank fails."[15] We have two observations in this regard. First, given the predominance of short-term maturities for brokered deposits at the time of the financial crisis (not only for banks that failed but for all banks) and that continues today, we ask the FDIC to consider whether, in seeking bids for failed banks, it should distinguish between short-term and long-term brokered deposits – that is, seek bids on long-term brokered deposits but not on short-term brokered deposits. Fully-insured long-term brokered deposits may in fact have franchise value that hasn't been recognized in the past because of the predominance of short-term brokered deposits in failed banks' liability mixes. Second, even if fully-insured long-term brokered deposits do not contribute to franchise value, we believe their contribution to the safe and sound operation of a bank as a stable funding source and an important asset-liability management tool nevertheless warrants the FDIC

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14 The ANPR describes (i) volatility as "the extent to which deposits might flee if the institution becomes troubled or the customer finds a more appealing interest rate or terms elsewhere. Volatility tends to be also [] mitigated somewhat by deposit insurance, as insured depositors have less incentive to flee a problem situation;" (ii) rapid growth as "the extent to which deposits can be gathered quickly and used imprudently to expand risk assets or investments;" and (iii) franchise value as "the extent to which deposits will be attractive to the purchasers of failed banks, and therefore not contribute to losses to the DIF." ANPR at p. 2369.

15 2011 Study at p. 47.

adopting our recommended steps to correct their punitive treatment under the FDIC's assessment regulations.
In addition to the FDIC's targeted consideration of its treatment of fully-insured long-term brokered deposits under its deposit insurance assessment regulations, discussed above, we ask the FDIC to undertake a comprehensive review of whether fully-insured long-term deposits that, under the current standards in FDIA § 29 and the FDIC's implementing regulations in Section 337.6 of Part 337 of its regulations,[16] currently are treated as brokered deposits and excluded from status as core deposits should instead be treated as core deposits for all purposes and excluded from status as brokered deposits. We believe that the same considerations supporting a conclusion that fully-insured long-term brokered deposits should not be treated punitively for deposit insurance assessment purposes support our view that they should be treated as core deposits for all purposes. As to the breadth of that request, we recognize that:

- To bring deposits that, under the current regime, are fully-insured long-term brokered deposits within the ambit of core deposits as defined for analytical and examination purposes in the Federal Financial Institutions Examination Council's ("*FFIEC*") Uniform Bank Performance Report User Guide ("*USBPR*") would require agreement among the banking agencies that participate in the FFIEC.[17]
- To exclude them from status as brokered deposits under FDIA § 29 would require a statutory change.

Nonetheless, we believe a full examination of the treatment of fully-insured long-term brokered deposits is called for, and that examination should be data-based. We urge the FDIC to undertake a methodical and comprehensive data-based examination of whether deposits that under the current regime are fully-insured long-term brokered deposits instead should be treated as core deposits. Their important role as a stable funding source and asset-liability management tool, and what we expect will be a weak or perhaps a total lack of correlation between such deposits and failure as indicated on a preliminary basis by CIT Bank's analysis, support the need for serious study. The studies the FDIC cites in the ANPR, including its 2011 Study of core and

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[16] 12 CRFR Part 337.

[17] *See* the discussion at page 2377 of the ANPR addressing the history of the term "*core deposits*", including its current definition in the USBPR, last revised in March 2011, to mean "the sum of demand deposits, all NOW and ATS accounts, MMDAs, other savings deposits and time deposits under $250,000, minus all brokered deposits under $250,000." Emphasis added. If the FDIC and other banking agencies were to accept our view that fully-insured long-term brokered deposits should be treated as core deposits, it could do so by revising the last phrase in the definition quoted above to read "minus all brokered deposits (i) in amounts of less than $250,000 or (ii) having a remaining term to maturity of one year or less."

brokered deposits,[18] in analyzing the correlation between brokered deposits and failure rates, do not appear to draw a distinction between fully-insured long-term brokered deposits and other (particularly short-term or uninsured) brokered deposits. Nor do they acknowledge that it may have been the short-term maturity characteristics of such brokered deposits that contributed to failure rather than the origination channel of such deposits.

If the results of such examination prove our hypothesis, as we expect it would, that long-term brokered deposits are not connected to bank failure, we urge the FDIC to support statutory changes that would exclude long-term fully-insured brokered deposits from Section 29's restrictions.

II. The FDIC should establish two "national rates" for purposes of the interest rate limits under paragraph (e)(3)(B) of FDIA § 29, one for on-line banking and the other for bricks-and-mortar banking. Failure to do so in some rate environments will prevent adequately capitalized banks that are subject to the limits from passing on to consumers the lower-costs incurred by banks in raising deposits through on-line banking and dampen their ability to raise deposits at otherwise attractive rates. Equally important, for well-capitalized banks that offer deposits raised through on-line banking at rates that are above the limit but would not be above the limit based on a national rate established separately for on-line banking, an inappropriately low rate for such deposits may signal to the market that such deposits imply higher risk when they in fact do not.[19]

FDIA § 29 provides, among other things, that a bank that is adequately-capitalized but not well-capitalized may not pay a rate of interest on deposits[20] exceeding (i) "the rate paid on deposits of similar maturity in the normal market area of the [bank] for deposits accepted in the normal market area" (paragraph (e)(3)(A)) or (ii) "the national rate paid on deposits of comparable maturity, as established by the [FDIC], for deposits accepted outside the normal market area" for the bank (paragraph (e)(3)(B)). The FDIC's implementing regulation is in paragraph (b)(2)(ii) of its brokered-deposit regulation, Section 337.6 of 12 CFR Part 337. The FDIC, in its

[18] 2011 Study at pp. 2369-2370.

[19] Our comments in this Part II respond to, among others, the following questions posed by the FDIC in the ANPR at p. 2377: "[s]hould the methodology used to calculate the 'national rate' be changed? If so, how?;" and "[h]ow should the rates offered by internet-based or electronic commerce-based institutions be calculated?".

[20] Section 29's rate limitations apply to all deposits of adequately-capitalized banks, not just brokered deposits. That is the consequence of paragraph (g)(3) of Section 29, which provides that "the term 'deposit broker' includes any insured depository institution that is not well capitalized...".

regulations, has treated the rate called for by paragraph (e)(3)(A) of Section 29 as a bricks-and-mortar geography-based concept that is not national in scope (probably what Congress had in mind, although the language could be read more broadly) and the rate called for by paragraph (e)(3)(B) of Section 29 as national in scope, <u>but still, more importantly, as a single national rate for deposits of difference sizes (for example, "jumbo" deposits of $100,000 or more versus smaller deposits) irrespective of the nature of the banking relationship</u>.

The use of a single national rate for deposits of a certain maturity and size has become obsolete in today's banking world, much like the Treasury-based national rate, which did not account for different types of deposits and, in 2009, was recognized by the FDIC as obsolete and was subsequently abandoned.[21] It fails to recognize the significant development of on-line banking in the last decade[22] accessible without regard to physical geography or location and, by doing so, could have the effect of limiting the interest rates paid by banks on deposits raised through on-line banking channels to the same national rate that applies to bricks-and-mortar banking when safety and soundness considerations and consumer interests would support a higher rate for on-line banking. We urge the FDIC to consider establishing two national rates for purposes of Section 29(e)(3)(B)'s rate limitation for deposits of each relevant maturity and type, one for deposits raised through on-line banking and another for deposits raised through bricks-and-mortar banking.

First, as to terminology, what do we mean by deposits raised through on-line versus brick-and-mortar banking?

- By deposits raised through "*on-line banking*", we mean deposits raised through interaction by the depositor with a bank *only* by using a device – that is, a computer, tablet or smart phone – that enables the depositor to access the bank's website and make its decisions through that website access, with no (i) visit to a physical location, whether the head office or a branch or ATM, or (ii) telephone contact with a bank employee or representative, other than inquiries made to the bank's online call center. On-line banking, by definition, is not geographically limited.
- By deposits raised through "*bricks-and-mortar banking*", we mean "all else"—that is, any and all deposits that are not raised through on-line banking.

Deposits of comparable maturities and amounts (for example, jumbo versus smaller deposits) raised through on-line banking typically bear higher interest rates than

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21 74 Fed. Reg. 27679 (June 11, 2009).

22 Based on call report data and third party sources, where at year-end 2010 total on-line banking deposits in the U.S. banking system were approximately $250 billion, we estimate the amount today to be approximately $600 billion.

deposits raised through bricks-and-mortar banking. That is true both for brokered and non-brokered deposits. The key reason for the higher rates paid on deposits raised through on-line banking is that they are cheaper for a bank to raise. That expense benefit is shared by the bank and depositors. Banks are able to raise deposits online that offer higher rates to depositors, but are cost-effective relative to branch-based deposits.

We are not suggesting that Section 29(e)'s interest rate limitations applicable to adequately-capitalized banks be abandoned. We do believe, however, that their current application, resulting in a single national rate applicable to both on-line and bricks-and-mortar deposits, is unwise and actually runs counter to both safety and soundness considerations and the fair treatment of consumers. As to safety and soundness considerations, the single rate results in an artificially low rate ceiling for on-line banking that dampens the ability of adequately capitalized banks to raise deposits on-line. If a bank has fallen from well-capitalized to adequately-capitalized status, the bank and its regulators should want the bank to be able to compete for on-line deposits at rates that, even if higher than the rates paid on deposits of comparable maturity raised through bricks-and-mortar banking, have a bottom-line consequence for the bank that is comparable to the bottom-line consequence of lower-rate bricks-and-mortar deposits. And, as noted in the introductory caption for this Part II, even for well-capitalized banks an artificially low limit for on-line deposits may wrongly signal to the market that such deposits imply higher risk when, in fact, they do not. As to the fair treatment of consumers, the current artificial limit arising out of a single national rate deprives depositors of their potential to share in a portion of the issuing bank's expense savings from raising deposits through on-line banking versus bricks-and-mortar banking.

We understand that the FDIC currently calculates its single national rate for purposes of paragraph (e)(3)(B) of Section 29 using data gathered by RateWatch and posted to the FDIC's website weekly. A data source that would enable the FDIC to calculate two national rates, one for deposits raised through on-line banking and the other for deposits raised through bricks-and-mortar banking, is not, to our knowledge, currently available. We urge the FDIC and the banking industry to work together to develop data sources and reporting mechanics, including through an amendment to the FFIEC's call report forms as necessary, to enable the calculation of separate national rates for deposits raised through on-line banking and bricks-and-mortar banking.

The FDIC has previously construed paragraph (b)(3)(B) of Section 29 to authorize it to establish multiple national rates accommodating deposits of different amounts and different types, not just different maturities,[23] and it has done so notwithstanding that

[23] In the supplementary information accompanying its 2009 final rule amending the interest rate limitations in Section 337.6, the FDIC, in response to commenters urging the adoption of different rates for different types of deposits and not just maturities, stated: "The FDIC intends to publish or post the national rate on its Web site. In publishing the national rate, the FDIC would publish separate rates for deposits of different amounts and maturities. In addition, the FDIC

paragraph (b)(3)(B) simply uses the phrase "the national rate paid on deposits of comparable maturity". That construction of the statutory language, permitting multiple national rates as circumstances require, applies equally here, where the distinction is deposits raised through on-line banking versus bricks-and-mortar banking. We agree with the FDIC's view that it has the authority under Section 29 to establish, in recognition of changing markets and products, national rates based not only on different maturities but also deposit amount, type of deposit or, as is the case here, the channel used to raise the deposit.

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Thank you for considering our comments. Should you have any questions or otherwise wish to discuss them with us, please contact the undersigned (telephone -- 212-771-9310; e-mail -- James.Hubbard@cit.com) or my colleagues, Jim Shanahan (telephone -- 973-740-5371; e-mail -- James.Shanahan@cit.com) or Doug Witte (telephone -- 973-740-5393; e-mail -- Doug.Witte@cit.com).

Very truly yours,

[redacted]

James R. Hubbard
Executive Vice President,
General Counsel and Secretary

cc: Ellen R. Alemany
John J. Fawcett
Sarah L.F. McAvoy
Jacqueline P. McCaulley
James P. Shanahan
Douglas S. Witte
(CIT Group Inc.)

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might publish separate rates for different types of deposit products. For example, the FDIC might publish a rate for NOW accounts and a separate rate for MMDAs." 74 Fed. Reg. at p. 27681 (emphasis added).