KASASA

August 28, 2020

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington D.C. 20429
*Via Email*—Comments@fdic.gov

Re: Request For Information on Standard Setting and Voluntary Certification for Models and Third-Party Providers of Technology and Other Services
RIN 3064–ZA18

Dear Secretary Feldman:

In issuing its request for information ("Request") on the potential of establishing standard setting and voluntary certification for models and third-party providers of technology and other services, the Federal Deposit Insurance Corporation ("FDIC") has raised important issues that impact community banks and the third-party service providers who support them.

My company, Kasasa, Ltd. ("Kasasa") is a third-party service provider whose primary mission is to help community financial institutions serve their communities and compete with our nation's financial technology ("fintech") providers and larger regional and global systemically important banks.[1] We support more than 900 community financial institutions across all 50 states, by providing professional banking services, digital enablement platforms, and innovative retail offerings to help such institutions reduce operational expenses, increase executional efficiencies, enhance user experiences, and establish direct relationships, which the institution owns and controls, with individual depositors who live and work within their communities.[2]

Kasasa does not offer quantitative methods, systems or approaches that apply statistical, economic, financial, or mathematical theories, techniques and assumptions to process input data into quantitative estimates (collectively "models") to financial institutions. Accordingly, our remarks will focus upon the Request's interest in the relationships financial institutions establish with external third parties and the due diligence and vendor / technology management responsibilities associated with those relationships. We support the FDIC efforts to encourage community banks to adopt new technologies, and we appreciate the FDIC's desire to modernize its supervisory framework so that it does not place additional regulatory burdens or costs upon the insured depository institutions ("IDIs") it supervises.

We thank the FDIC for the opportunity to comment on this important initiative.

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[1] Kasasa was created in 2003 with a singular mission: Enable a powerful network of community financial institutions to re-establish themselves as the go-to place for banking products and services and compete successfully against our country's large national banks. In pursuit of this goal, Kasasa provides community financial institutions with a host of professional banking services, enablement platforms, and retail products and financial services to assist them to, among other things, drive operational savings, increase executional efficiencies, enhance consumer transparency, and develop deeply connected, long-lasting, in-market, "core" customer relationships. Kasasa operates "behind the scenes" and under the direction and management of our clients: We do not build, own or control any consumer relationships; we do not have any control over any consumer banking decisions; and we have no ability to influence, facilitate, place or move any consumer funds with or between any insured depository institutions. Kasasa has been recognized as a Top 100 FinTech Firm (IDC; September 2018, 2019); the 2nd Best FinTech Company to Work For (American Banker, March 2018); Best New Innovation / Best of Show (Finovate, 2008, 2009, 2016, 2018); Best Consumer Lending Platform (FinTech BreakThrough, April 2019); and Best Lending Platform (Benzinga, June 2018).

[2] Over the past 17 years, our community bank clients have distributed more than $2.4 billion in account rewards to more than 3 million individual depositors. At the same time, our community bank clients have received over $3.7 billion in non-interest income from these individual (and loyal) depositors, who are almost three times more profitable for community banks than traditional free checking accountholders.

## Community Banks Play A Vital Role In Our Nation's Banking System & Economy

Community banks play a vital role in the financial industry and in our nation's economy more broadly.

Serving markets that are often neglected by larger financial institutions and holding 48 percent of the small business and farm loans in the United States,[3] community banks operate as the "economic engines" that fuel the financial wellbeing of thousands of small cities, towns and rural areas all across our country – localities whose survival is critical to our nation's recovery from the economic ravages of the COVID-19 pandemic. Leveraging their deep understanding of their local areas and the close relationships they have established with individuals living in the communities they serve and with the small businesses that operate within those communities, community banks are uniquely positioned to be able to provide tailored financial products and services to support the financial needs of their local communities and businesses.

Unfortunately, community banks are struggling to survive. According to FDIC quarterly banking figures from 2002 to Q1 2020, on average, one (1) small bank (defined as less than $1 billion in asset size) has disappeared each business day over the past 18 years. While normal consolidation contributes to the attrition smaller banks are experiencing, many community banks simply don't have the internal skills, technologies, marketing expertise, financial budgets or operational size required to successfully participate and/or compete in key aspects of today's rapidly evolving financial services industry. This situation is not likely to improve as transformative changes (e.g., artificial intelligence, automated marketing, mobile apps, omni-channel engagements) are reshaping the financial services industry at a rate never before seen and at a speed that will never again be this slow. Large national banks and fintech companies have the economic wherewithal to invest aggressively in these initiatives while community banks do not.

To remain relevant, community banks must leverage their limited resources by partnering with industry innovators and third-party service providers to deliver the innovative financial products, the competitive rates, and the intuitive customer experiences that will attract new consumers to their institutions.

## Third Parties Foster Innovation at Community Banks

A diverse banking system where institutions of all sizes are able to innovate and meet evolving customer needs is essential to ensure access to safe, efficient, and modern banking services for communities across the nation. The FDIC acknowledges this need as the Request recognizes more and more financial institutions are using third-party technologies and services for functions that are either new or previously performed in-house. The Request also recognizes the important role that third-party service providers play in assisting IDIs to develop, deploy and support the modern banking products and services that consumers desire and through these offerings increase financial inclusion within the communities they serve. In addition, the Request identifies that third parties can help IDIs deliver banking products, services, tools and benefits to consumers more efficiently, more effectively and at a lower cost.

Innovations in technologies, analytic models and end-user experiences, such as those facilitated by third parties, can transform the way in which consumers interact with their financial institutions. Partnerships with industry innovators can help community banks provide customer-first, community-focused financial products and services that will enable them to support their customers the way their customers want to be supported.

[3] Data on loans were compiled from Consolidated Reports of Condition and Income, also known as Call Reports, that banks file with the Federal Financial Institutions Examination Council.

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## Due Diligence & Vendor / Technology Management Are Time Consuming & Challenging Tasks

We encourage the FDIC to modernize its supervisory framework to encourage community banks to engage with third parties and industry innovators to meet evolving consumer needs and expectations. New technologies, advanced analytics and digital services are subject to many of the traditional risks banks have managed in the past with "traditional banking services"; technology changes quickly and new developments inevitably lead to new questions and regulatory perspectives. Adhering to supervisory expectations regarding proper due diligence, vendor / technology management and performance evaluations can be particularly challenging for community banks who have limited resources, as these tasks are often complex, confusing, tedious, duplicative and difficult to execute.

As such, we respectfully request the FDIC take the following steps to ensure its regulatory regime works for community banks:

- **Clarity**: It would be extremely helpful to all industry participants if the FDIC would publish specific guidance that identifies the types of information and questions IDIs should request of a prospective third-party service provider. This guidance should sufficiently explain what proper due diligence looks like, including illustrative examples, for specific types of third parties, recognizing that standards may not universally apply to all industry participants. The guidance should provide flexibility so that the FDIC does not impede prudent, strategic partnerships between community banks and potential partners. The FDIC should especially support partnerships that combine the strengths of community banks and third-party service providers like Kasasa who have a long track record of industry performance and regulatory compliance.

- **Customization**: The FDIC and the other regulators have a role to play in ensuring that regulatory burden is tailored to bank size, risk, complexity, and capacity. Knowing the burden that third-party monitoring, in particular, can present to employees of the smallest banks, regulators should consider options for tailoring due diligence and vendor / technology expectations for community banks.

- **Consistency**: Clear and transparent guidance is most helpful when it is consistent. Regulatory guidance on third-party relationships should be consistent across the banking regulators. No one benefits when banks and their potential partners or other vendors have to navigate unnecessary differences in guidance between banking agencies.

- **Collaboration**: Regulators should also allow banks to conduct shared due diligence on potential partners. If several banks use the same third-party service provider and are open to collaborating, they should be allowed to pool resources instead of duplicating one another's work. This would not only have the benefit of increasing clarity and transparency for community banks, but could also be beneficial for third-party service providers that plan to expand their service offerings. Our nation's state banking associations provide a natural avenue for such collaborations to occur.

If the FDIC chooses to implement the above recommendations, the agency will have taken a meaningful step toward fulfilling the goal that Chairman Jelena McWilliams established in her October 1, 2019 "The Future of Banking" speech when she stated:

> *It is my goal that the FDIC lays the foundation for the next chapter of banking by encouraging innovation that meets consumer demand, promotes community banking, reduces compliance burdens, and modernizes our supervision.*
>
> *This is not optional for the FDIC. We must lay this foundation because the survival of our community banks depends on it. These small banks face challenges from industry consolidation, economies of scale, and competition from their community bank peers, larger banks, credit unions, fintechs, and a plethora of other non-banks lenders.*

*While the FDIC has limited ability to address the direct cost of developing and deploying technology at any one institution, there are things that we can do to foster innovation across all community banks and to reduce the regulatory cost of innovation. We cannot sit on that proverbial regulatory perch and observe the change from above. We have to get on the ground, roll up our sleeves, and get to work on supporting and advancing scalable technological change that works for community banks.*

A clear, customizable, and collaborative approach to vendor due diligence and management that is consistent across regulators is one way to promote community banking and accelerate the adoption of innovative products, services and technologies that will help these institutions to survive.

However, more work needs to be done.

For example, the current and proposed new rule regarding brokered deposits discourage community banks from partnering with industry innovators and third-party service providers. Both the current regulation and the proposed rule take a broad view of who may be considered a "deposit broker" and what deposits are considered "brokered". As such, the list of third parties and technology platforms that may be classified as "deposit brokers" is expansive, senseless, and oddly, not limited to those entities that operate between a depositor and a bank. As a result, a broad array of stable deposits garnered through the use a third party, a third-party service or an external technology platform are, and would be, unnecessarily subject to limits, higher insurance premiums, and additional examination scrutiny even when held by a well-capitalized institution. This discourages community banks from establishing partnerships with third-party innovators; limits their ability to introduce new offerings to their markets; and makes it more difficult for them to attract new customers and the stable transaction and savings deposits that are associated with these direct depositor relationships. The current and proposed rule must be revised to reflect modern banking practices and evolving consumer expectations.[4]

Collectively, I believe the recommendations made above will enable community banks to offer the modern financial products, services and credit that small businesses and consumers desire. Such services will foster economic growth within our nation's small cities, towns and rural communities and will ensure that families all across our country have access to locally sourced funds and trusted financial advice from their neighborhood bank.

Sincerely,

[redacted]

Patrick J. Laughlin
Senior Vice President

[4] Kasasa's recommendations on strengthening the FDIC's brokered deposit proposed rule are detailed at https://www.fdic.gov/regulations/laws/federal/2020/2020-unsafe-unsound-banking-practices-brokered-deposits-3064-ae94-c-057.pdf. These recommendations include (1) excluding transaction and multi-service account deposits from the definition of "brokered deposit"; (2) excluding third-party service providers who have no contractual relationship with depositors to place, manage or move their funds from the definition of "deposit broker"; and (3) grandfathering all current relevant FDIC Advisory Opinions, as banks and industry participants have deployed a wide range of services and technologies based upon the assurances these determinations provide. Please also consider the comment letter from our CEO, Gabriel Krajicek, which outlines a cooperative business model that would provide consumers with a wide range of financial products, services, tools and life stage offerings and that would enable community banks to compete with fintech companies and megabanks on an equal basis, available at https://www.fdic.gov/regulations/laws/federal/2020/2020-unsafe-unsound-banking-practices-brokered-deposits-3064-ae94-c-108.pdf. The concept of predefined regulatory standards and voluntary certifications of third parties could play a big role in making this vision a reality.