



March 24, 2020

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, D.C. 20439

Re: Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions – RIN 3064-AE94

Dear Secretary Feldman,

I am reaching out on behalf of the Bank of Little Rock in response to the proposed rule the FDIC posted on February 10, 2020 regarding brokered deposits. Bank of Little Rock has been serving the financial needs of our families and businesses in and around our community since 1927. We offer responsible lending and high-interest accounts that allow the communities dollars to go right back into the place they call home and creating a better life for family, friends and neighbors.

The Bank of Little Rock is commenting on the proposed rule since it seems as though it transforms ordinary “core” deposits into brokered deposits and would force us to sever relationships with many third-party vendors that give us tools to innovate and compete. I understand earlier this month, the FDIC staff issued a memorandum that suggests the intent was not to impact the ability to use third party service providers, but the current proposed rule language still needs to be updated to codify this clarification of intent.

I also wanted to point out that the proposed rule does not align with industry participants initial comments and recommendations or with Chairman McWilliams public comments which indicated appropriate revision were going to be made. Since becoming Chairman in 2018, Chairman McWilliams has stated that community banks play a vital role in the economy and the challenges they face in adopting new technology due to costs and lack of resources. She also encouraged a regulatory framework that would promote innovation that meets consumer demands and increases community banking.



Additionally, during the initial part of the rulemaking process, the industry commented with 130 individual letters with the majority of the letters supporting the following recommendations:

1. Exempt transaction and relationship-based deposit when a bona fide direct relationship is established between the bank and individual depositor.
2. Exempt all third-party service providers who provide services to a bank where the bank offers deposit accounts directly to individuals and the third party has no relationship with the depositor.

In addition to not rectifying the above proposals, the proposed causes more confusion. The proposed rule contradicts the statements of the Chairman, ignores initial industry input and fails to provide any “bright-line standards” on identifying who is and is not a deposit broker.

The proposed definition for “facilitating” the placement of deposits would currently include a person who directly or indirectly shares any third-party information with the insured depository institution or a person that provides assistance or is involved in setting rates, fees, terms, or conditions for the deposit account. This would restrict Bank of Little Rock from using a third party for data insights about our customers to deliver personalized marketing and to deepen our relationships as well as restrict consulting and advisory services to improve our retail deposit offerings including market research, studies, loyalty programs and more. Not to mention third parties are limited to “administrative services” which does not encompass all the other services we use including SEO, geolocation, online account opening, identity verification, fraud detection, digital delivery and more.

Therefore, I urge the FDIC to contemplate making edits to the proposed rule including:

1. Third-party services providers are essential to my business. They help me operate in a safe and sound manner, offer innovative products and services to my community and assist me in serving my customers the way they want to be served. Third-party service providers that help me to establish direct relationships with individual depositors should be expressly excluded from the definition of deposit brokers as these partners do not “maintain a level of influence or control” over the deposit relationship established between me and my customers. At minimum, there should be a bright-line standard under the primary purpose exemption within the rule to exempt such third parties. I own the depositor relationship; the third-party does not, so I should not be restricted from using external resources to serve my customers and my community.
2. The proposed definition of “facilitating the placement of deposits” focuses on the activities of third parties. I respectfully ask that the “facilitation” definition ultimately be written within the final rules to reflect Staff’s intended “influence or control” standard so that it does not inappropriately capture third-parties who provide services to banks that enable the banks to establish deposit accounts directly with individual depositors.



3. The proposed rule seems to discount the entrenched partnerships that have been established between banks and third parties based on existing FDIC Advisory Opinions. Significant time and resources were invested in securing these Advisory Opinions, and the proposal does not adequately consider the effect of withdrawing these opinions. Elimination of these Advisory Opinions may dramatically alter my ability to serve my community and as such, I request that all prior FDIC Advisory Opinions be maintained post final rule.

Thank you for the opportunity to provide feedback and please feel free to reach out with any additional questions.

Regards



Eugene Lee Maris
CEO
Bank of Little Rock