

From: Karen Sommers <karens@esbtrust.com>
Sent: Friday, April 03, 2020 3:58 PM
To: Comments
Subject: [EXTERNAL MESSAGE] RIN 3064-AE94

April 3, 2020

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Depository Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

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

Dear Mr. Feldman,

I write today to provide feedback on the FDIC's proposed new rule regarding brokered deposits.

My name is Karen Sommers. I am Vice President of ESB Financial, headquartered in Emporia, Kansas with locations in Manhattan KS as well. We have been serving the needs of Kansans since 1887 and we are proud to be a family-owned bank with a history of helping our family, friends and neighbors for over one hundred and thirty-three years.

As a locally-owned institution, our officers and employees are active in Chamber of Commerce and City of Emporia and Manhattan projects as well as many other civic organizations as this keeps us in touch with the financial needs of our local citizens and the small business that operate in the towns we support. Our values are simple yet powerful – we treat everyone honestly and fairly; we provide an array of financial services that exceed expectations; we invest in the welfare of our customers; we are committed to well-being and quality of life in the areas we serve.

Unfortunately, as I read and understand the FDIC's proposed rule regarding brokered deposits, I fear that our vision of helping every customer achieve their dreams is being compromised by the FDIC's proposed "facilitating the placement of deposits" definition. I may be wrong and please forgive me if I am misinterpreting the FDIC's intent but it appears to me that unless I am willing to accept a large portion of our deposits being deemed to be "brokered", the FDIC is limiting my ability to use third-party service providers to serve my customers and grow and operate my business.

Unless we are willing to accept deposits being classified and treated as brokered, it appears that the first prong within the "facilitation" definition prohibits my ability to received data from any third party else any deposits gathered via the use of that date would be deemed to be brokered. Similarly, the third prong of the definition appears to restrict my ability to use consultants or industry advisors to assist me to optimize my deposit offerings. In addition, I am not sure I understand the fourth prong of the proposed "facilitating" definition but

it leads me to think that I may be limited to utilizing external resources solely for booking and accounting activities.

I hope that my interpretations are inaccurate but I have no choice but to respond to the language that I see within the proposed rule and as such, I respectfully request the FDIC to take the following steps within their final rule so that my institution and the communities that I support can continue to grow both now in a rather precarious time (i.e. the COVID 19 pandemic) as well as in the future:

- Create a formal exclusion from the definition of “brokered deposits” for transaction account deposits where a tangible, independent direct relationship has been established between the depositor and the bank
- Create a formal exclusion from the definition of “deposit broker” for third-party service providers that assist insured depository institutions offer transaction and relationship-based deposit accounts where the bank owns the depositor relationship directly and the third party has no contractual relationship with any depositor to place, manage or control the depositor’s funds.

We don’t have a large product development budget and we don’t have an abundance of skilled programmers and technologists like the fintech companies and large banks enjoy. We can’t develop the digital offerings and attractive deposit offerings that consumer crave via “in-house” resources like our larger competitors can do. We must be allowed to partner with third-party service providers so we can offer the innovative financial products, services and capabilities that our customers expect. As long as we establish a direct relationship with the depositor and we own that relationship, it should not matter what services or activities we receive from a third party.

The FDIC should exclude stable sources of funding from the “brokered deposit” definition. Transaction account deposits and deposit residing in other accounts that are associated with a direct relationship that is established with an individual depositor and owned by the bank should be excluded from any brokered deposit classification or treatment. These are “sticky” deposits that provide a firm foundation for the safe and sound operation of our bank and they do not introduce risk to the Deposit Insurance Fund (DIF). In a world where funding source flexibility and focus on liquidity are heightened, the FDIC should acknowledge the stable nature of deposits that are clearly associated by bona fide depositor relationships.

Lastly, we recommend that the FDIC maintain all current Advisory Opinions after publishing its final rule. These opinions serve as the basis for several third party partnerships that we have established and it is unclear what would happen to these partnerships and the associated financial products and services we provide to our communities based upon these opinions if they were to be eliminated.

Thank you for letting me share my concerns and comments. I hope you find them constructive and helpful and I urge the FDIC to incorporate them into the final rule for as currently constructed, the proposed rule would negatively impact consumers and our ability to support our customers and the communities we serve.

Yours for Greater Success,

Karen W Sommers

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