



April 6, 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,

Thank you for providing me an opportunity to share my perspectives on the FDIC proposed new rule regarding brokered deposits.

I am the President & CEO of Bank Plus. We are a locally owned financial institution that proudly serves the Northwest Iowa towns of Estherville, Graettinger, Swea City and Ledyard. With thirty (30) employees and an asset size of just over \$130 million, we compete with institutions that have far more resources than we do. That is why I write today as I feel it is important to point out the concerns that I have regarding the proposed rule.

Perhaps I am misconstruing the language within the proposed rule, but as currently written, the proposed rule seems to severely compromise my ability to serve my customers and my communities. As I read the proposed rule it appears to me that the “facilitating the placement of deposits” definition will expand, rather than reduce, the number of industry participants who will now be considered deposit brokers. I arrive at this conclusion as three of the four “prongs” that make up the definition seem to (a) limit my ability receive data from third parties; (b) restrict my access to industry experts and banking consultancies that assist me in making my deposit offerings more attractive and profitable and (c) inhibits me from using any third party at any stage and for any service other than “administrative services” within my deposit gathering processes – else I risk having any deposits that I gain through the use of such services will be deemed to be “brokered.”

Denying community banks access to industry participants who help us operate our businesses in a safe and sound manner and who help us offer the innovative and beneficial deposit products and services that our customers want will result in the demise of the community banking systems and will stale our nation’s economy one community at a time. Surely, it cannot be the FDIC intent to drive consumers to fintech providers and the too-big-to-fail institutions who have no firsthand knowledge of the small towns, the family owned farms and the small businesses that we support.

Rather than trying to define the types of activities that third parties cannot perform, why not define the type of outcomes that the FDIC and community bankers want via engagements with and/or the use of external resources and third-party services. Community bankers and the FDIC are aligned on a very simple premise – banks should establish and own direct relationships with all depositors. Such relationships result in individually gathered deposits that reside in checking and savings accounts that belong to local residents that live and small businesses owners who operate in our small towns. These deposits accounts are used by these depositors as their primary financial vehicles and our bank as their primary financial institution. These relationships and these deposits are the cornerstone of every community bank’s business model and we should be empowered, not restricted, from using third-party service

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providers to establish these personal relationships as they increase our franchise value and the associated deposits are extremely stable and do not cause any risk to the Deposit Insurance Fund or to my ability to operate our bank in a safe and sound manner.

The concept of and the benefits associated with banks establishing and owning direct depositor relationships cannot be misconstrued, misinterpreted or mischaracterized. As such, it seems to me that if a third-party service provider enables me to establish a direct relationship that I own with the depositor then, regardless of the third parties activities, the deposits associated with that direct depositor relationship should not be considered brokered and the third party should be excluded from the deposit broker definition.

Consequently, I recommend the FDIC make the following revisions to the proposed rule so community banks across our great country can serve our communities and our customers in the manner that they want to be served and deliver to our citizens, farmers and small business owners the banking services and financial credit they need to prosper:

- **Excluded All Third Party Service Providers Who Enable Me To Establish Direct Depositor Relationships:** While I do not profess to know the legal language that should be used, I suspect it is easy enough for the FDIC lawyers to create an overt exclusion from the deposit broker definition or at the very least create a permanent primary purpose exception for third-party service providers who enable me to offer deposit products and establish direct relationships with individual depositors provided the third party has no contractual relationship with the individual depositor to place, manage or control that individual's deposits. As part of my vendor selection and due diligence process I could require each third party to verify that they have no such "management" relationship is in place with any depositors thus doing away with the compliance and reporting burden that is inherent to the rule's lengthy and uncertain primary purpose exception application and determination process.
- **Exclude All Stable Sources Of Bank Funding:** While "core" deposits are not defined in statute, it is commonly understood that checking accounts are "core" deposits as they are typically used as the primary financial account for the purposes of an individual receiving funds (i.e. direct deposits) and for making payments for everyday financial obligations (i.e. car payments, mortgage, groceries, entertainment, etc.)

As such, I recommend the FDIC exclude from the definition of "brokered deposits" all sources of stable and relationship-based deposits – specifically all deposits residing in transaction accounts that are opened by an individual, held in the name of that same individual, is utilized on a monthly basis for deposit and payment transactions and who has the sole authority to authorize withdrawals to be made from the account. The active nature of such a singularly held account indicates that the depositor is using the account as his/her primary financial account and my institution as their primary financial institution.

Similarly, deposits that reside in other deposit accounts (i.e. savings accounts, CDs) that these depositors have with my bank (i.e. savings and certificate of deposits) should also be excluded from the brokered deposit definition as they are associated with this same relationship and serve to demonstrate the strength of that relationship via the extended services that these individuals use from my bank. Deposits associated with individuals who have an extensive relationship with my bank as evidenced by her/his use of multiple banking products or services offered by my institution – i.e. direct deposit, credit cards, online banking, payment services, loans, etc. are "sticky" and increase my institution's franchise value and thus should be excluded from the brokered deposit definition.

- **Grandfather All Current Advisory Opinions:** The FDIC should ensure that all current Advisory Opinions remain in full force and effect post whatever final rule the FDIC publishes regarding brokered deposits. We rely on such prior determinations to offer our customers a variety of deposit offerings and similarly, a wide range of industry participants rely on them as well. Eliminating these long standing and commonly accepted determinations would stall if not eliminate all market research and new product and services investment by all industry innovators for fear that there would be no return on their investment for fear that all deposits that are garnered through such innovation would be deemed to be brokered and thus, the offering would not be attractive to the banking community. Such fears would be null and void if all current Advisory Opinions remain intact post final rule and / or if the FDIC simply honor the "direct depositor relationship" concept that I articulated above.

Many thanks for allowing me to share my perspectives and my recommendations. We respectfully request the FDIC review, consider and implement our recommendations into its final rule, for as written, the proposed rule harms industry participants, negatively impacts consumers, hinders innovation, cedes banking services to the mega banks and prohibits community banks from doing what we do best – empower our nation’s local economies and improve our fellow citizens lives and businesses.

Respectfully,



Kevin Pernick
President/CEO
Bank Plus