

June 8, 2020

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Brokered Deposits RIN 3064-AE94

Dear Mr. Feldman:

Alegeus appreciates the opportunity to provide comment on the Federal Deposit Insurance Corporation's (FDIC) notice of proposed rulemaking (NPR) on brokered deposits.

Executive Summary

We respectfully request clarification that all deposits associated with Health Savings Accounts (HSAs) be expressly excluded from the brokered deposit rules. We agree that the FDIC's interpretation and implementation of Section 29 of the Federal Deposit Insurance Act (FDIA) should reflect the advancement in financial products and the common understanding of brokered deposits.

HSAs, which were not invented until 2003, provide a powerful tax-advantaged account for individuals to save and spend money on medical expenses. Funds are not contributed to HSAs for the purpose of facilitating the placement of deposits with depository institutions but rather to provide a source of funding for future healthcare needs of the HSA owner and to facilitate payment transactions when healthcare is consumed. These purposes fundamentally differentiate HSA funds from brokered deposits for the same reasons that retirement savings are excluded from the scope of brokered deposits.

Alegeus

Alegeus is proud of its unique HSA market position. As a software platform, debit card, and services provider to the employee benefits market, Alegeus' infrastructure supports more than 30 million US consumers and their healthcare financing. Additionally, as a Treasury certified non-bank custodian providing HSAs, Alegeus is proud to have earned the distinct responsibility for helping Americans more easily save and pay for healthcare.

HSAs

HSAs are individually owned accounts where individuals can contribute each year pre-tax dollars to spend on qualified medical expenses or save into retirement. Individuals choose whether to spend their contributions on medical care or benefit from tax-free growth on savings. Since 2003, tens of millions of Americans have financed their healthcare with an HSA.¹ HSAs have become an important and growing part of employee benefit strategies and are the only health benefit product in the United States that is portable. Individuals can move jobs with no impact to their savings because HSAs are owned solely by individuals, not employers.

¹ Paul Fronstin and Jake Spiegel, EBRI Issue Brief: Health Savings Account Balances, Contributions, Distributions, and Other Vital Statistics, 2018: Statistics From the EBRI HSA Database (Dec. 5, 2019), available at: <https://www.ebri.org/content/health-savings-account-balances-contributions-distributions-and-other-vital-statistics-2018-statistics-from-the-ebri-hsa-database>.

Comments

The preamble to the NPR requests comment on two questions that are relevant to funds contributed through HSAs:

Question 1: Is the FDIC's proposed definition of "engaged in the business of placing deposits" appropriate?

Question 5: Should the FDIC provide more clarity regarding whether any specific types of deposit placement arrangements would or would not meet the "facilitation" prong of the "deposit broker" definition? If so, please describe any such deposit placement arrangements.

In response to both of these questions, the proposed rule would be improved by clarifying that all deposits associated with HSAs are expressly excluded from the scope of the brokered deposit rules.

Employers, administrators, insurers, custodians, and other third parties that make HSAs available to individuals and facilitate the management of HSAs are not engaged in the business of placing deposits. The services provided by these third parties are intended to enable individual HSA owners to accumulate funds for healthcare and retirement needs and to facilitate the use of those funds to pay for healthcare-related transactions.

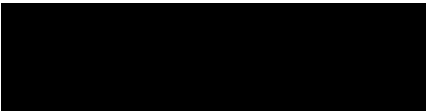
Like retirement savings, funds accumulated in HSAs may be invested in a range of assets. When the HSA owner expects to utilize funds in the near term or is focused on preservation of capital, HSA funds may be placed in deposit accounts that will allow for routine transactions to access funds. When the HSA owner seeks to invest funds over a longer period, HSA funds may be invested in stocks, bonds, mutual funds or other similar financial products. It is only to the extent an HSA owner seeks to retain funds in a transaction-enabled deposit account that third parties working with HSAs will seek to place those funds with a depository institution. In the context of other services offered in connection with HSAs, this does not rise to the level of being engaged in the business of placing deposits.

For the same reasons, the FDIC should clarify that services related to the administration, management, and investment of HSA funds are not meant to facilitate the placement of deposits with depository institutions. These services provide HSA owners with a range of options for investing and utilizing the funds contributed to their HSAs so those funds are available when the HSA owner intends to access them. Deposit arrangements utilized in connection with HSAs are therefore distinct from other types of deposit placement arrangements and should be excluded from the facilitation prong of the deposit broker definition.

The FDIC's efforts to modernize the deposit broker rules will benefit health care consumers with continued innovation and expansion of HSA offerings. Given the express regulatory purpose of HSAs as tax-advantaged accounts owned solely by individuals, we respectfully recommend that the FDIC exclude HSAs from the deposit broker rules and expressly exclude HSA dollars from being brokered deposits.

We would be happy to respond to any follow up questions or provide further clarification. Please feel free to contact me at Sharon.Hecker@alegeus.com or (781) 250-6242.

Sincerely



Sharon Hecker
General Counsel