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Association
of Texas**

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James P. Sheesley, Assistant Executive Secretary, Legal-ESS,
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Via FDIC Email: Comments@fdic.gov

Re: RIN 3064-AF71

Greetings,

The following comments are submitted on behalf of the Independent Bankers Association of Texas ("IBAT"), a trade association representing more than 350 independent, community banks domiciled in Texas.

Proposed amendments to 12 CFR §328.102 states its prohibitions in broad terms, mandating that no person may represent or imply that any "Uninsured Financial Product" is insured or guaranteed by the Federal Deposit Insurance Corporation ("FDIC") by using "FDIC-Associated Terms" as part of a business name, or by using FDIC-Associated Terms or "FDIC Associated Images" in an advertisement, solicitation, or other publication or dissemination, and that no person may knowingly make false or misleading representations about deposit insurance. A statement is deemed to be a statement regarding deposit insurance if it includes any FDIC-Associated Images or FDIC-Associated Terms, or meets other conditions.

Of the questions posed, the following are of particular interest to Texas community banks. As such, we will limit our comments accordingly:

1. Please describe the extent to which the proposed rule sufficiently identifies situations that present potential risks related to false or misleading representations regarding deposit insurance coverage and the misuse of the FDIC's name or logo, including those related to specific products and advertising channels. If there are additional types of false or misleading representations about deposit insurance coverage that may not be effectively captured by the rule, please describe them.

The FDIC noted in the proposed rule that while it has broad statutory authority in this area, it has never issued specific regulations regarding false representations related to FDIC insurance or the misuse of the FDIC's name or logo. It also pointed out that it is not required to promulgate such rules. Texas community bankers applaud the agency for taking steps to protect the FDIC 'symbol of confidence' and consumers from intentional deception.

A recent article in ProPublica entitled '[A Banking App Has Been Suddenly Closing Accounts, Sometimes Not Returning Customers' Money](#)' highlighted the problems confronting the public when a company like Chime, a digital interface, is confused with a bank. This is a very good example of what community banks would like to avoid.

"For all of Chime's Silicon Valley tech patina, one thing [is] it's not is an actual bank. Like others in its category, Chime is a digital interface that hands over the actual banking to, in this instance, two regional institutions, The Bancorp Bank and Stride Bank. Chime customers interact with the Chime app, but Bancorp and Stride, both of which are FDIC-insured, hold their money.

Since Chime is not a bank, that leaves it in a regulatory no man's land, according to Alex Horowitz, senior research officer for the consumer finance project at the Pew Charitable Trusts. The rules and jurisdiction are murky at best. "When you have a fintech that is the consumer interface, they don't have a primary regulator," he said. "They're primarily regulated as a vendor to the existing bank, because banks are required to manage their vendors and they're responsible for third-party relationships. But it's still a step removed."

3. Please describe any suggested additions to the proposed rule for preventing and addressing the risks of false or misleading representations regarding deposit insurance and/or the misuse of the FDIC's name and logo. Procedures for Investigations, Informal Resolution, and Formal Enforcement Actions

These 'neobanks' should not benefit by representing themselves as FDIC insured banks – doing so to the detriment of the banking industry and to consumers who are misled. The *Chime* should not be able to mislead the public with a phrase like 'Banking that has your back' on their homepage. That is clearly intentionally misleading.

We encourage the FDIC to go further than just limiting the FDIC's name or logo to address phrases and terms that intentionally mislead the public.

Other Areas of Concern

10. Upon entering into a relationship or arrangement with a third-party non- bank entity, as part of FDIC-insured institutions' due diligence, do such institutions currently take steps to ensure: (a) That the non-bank is aware of existing laws and regulations related to the use of the FDIC's name and logo, and (b) that representations made by the non-bank regarding the insured status of bank products are accurate and comply with existing laws and regulations? If not, are there practices that FDIC- insured institutions could adopt to spread awareness of and compliance with these laws and regulations by non-banks?

We encourage the FDIC to issue clear guidance for banks that engage or contract with a digital interface to make as part of their due diligence and contract that the company will not use FDIC's name or logo and will not use phrases and terms that intentionally mislead the public. We encourage the FDIC to define the term "bank" for advertisement purposes and prohibit its use in all advertising when misused as such.

11. Are there other topics or issues relating to false or misleading representations regarding deposit insurance or the misuse of the FDIC's name and logo that the FDIC should consider? If so, please describe them and how you think the FDIC should address those topics and issues.

When promoting non-deposit investment or insurance products, banks are required to conspicuously display that those products are not a deposit or other obligation of, or guaranteed by, the bank; subject to investment risks, including possible loss of the principle amount invested; and the product is not insured by the Federal Deposit Insurance Corporation. Surely these 'neobanks' should be forced to display language that they simply are not a bank.

The Independent Bankers Association of Texas appreciates this opportunity to submit comments on this proposed rule. As we pointed out, use of the FDIC's name or logo or the use of phrases and terms that intentionally mislead the public should be prohibited.

Sincerely,



Karen M. Neeley
General Counsel