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Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429

Attn: James P. Sheesley, Assistant Executive Secretary

Re: Proposal on FDIC Official Sign and Advertising Requirements, False Advertising,  
Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo  
Docket No. RIN 3064-AF26

Dear Madam or Sir:

The Iowa Bankers Association (IBA) is a trade association representing 99 percent of the almost 300 state- and national-chartered banks and federal thrifts operating in the state of Iowa. The IBA appreciates the opportunity to submit this comment letter to the FDIC in response to its notice of proposed rulemaking on FDIC Official Sign and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo. The proposed rule aims to (1) modernize and amend the rules governing the display of the official sign in branches and apply the rules to non-traditional IDI branches (i.e., Insured Depository Institution - referred to as "banks" in this comment letter); (2) require the use of the FDIC official sign, new digital sign, and other signs differentiating deposits and non-deposit products across all banking channels; (3) clarify the FDIC's rules regarding misrepresentations of deposit insurance coverage by addressing specific scenarios where information provided to consumers may be misleading; (4) amend definitions of "non-deposit product" to include crypto-assets; and (5) require banks to maintain procedures addressing compliance. IBA members are strongly committed to consumer protection, promoting public confidence in insured deposits, and preventing false and misleading representations about the manner and extent of FDIC deposit insurance. However, the IBA members offer the following suggestions to improve the results of these objectives and to clarify certain aspects of the proposal.

#### **SIGNAGE REQUIREMENTS**

The proposal addresses evolving digital channels through which depositors handle their banking needs and strives to provide clear, consistent, and accurate signage requirements across all banking channels, including ATMs and evolving digital channels.

#### ***Banks with Traditional Footprint***

For banks with a traditional footprint, defined as those that usually and normally receive deposits at teller stations, the proposal provides flexibility in placement and quantity of FDIC signage if the bank

only offers FDIC-insured deposit products. Specifically, the proposal allows the bank to display the FDIC sign in one or more locations visible from the teller station(s) provided it is large enough to be legible from anywhere in that area.

- *Definition of “Large Enough”* - IBA members support this flexibility. However, they request the FDIC include examples of what constitutes “large enough to be legible from anywhere in that area”.

The proposal further states if the bank with a “traditional footprint also offers non-deposit products on the premises, display of the official sign at each teller window would be required, consistent with current regulations” with the caveat that the sign could now be displayed in digital form.

- *Definition of “Offers”* - IBA members urge the FDIC to define the term “offers”. IBA members understand this to mean the bank facility has personnel *on the bank premise* who are licensed to sell non-deposit products such as insurance, annuities and investments. It would exclude branch locations that do not have licensed onsite staff to sell insurance, annuities and/or investments. IBA members urge the FDIC to confirm this distinction.

Furthermore, where a bank [location] offers both deposit and non-deposit products, banks would be required to physically segregate the areas where non-deposit products are offered from areas where insured deposits are usually and normally accepted and to display a sign in the non-deposit areas indicating that non-deposit products: “are not insured by the FDIC; are not deposits; and may lose value.” The proposed rule also would prohibit display of non-deposit sign “in close proximity to the official FDIC sign.” The FDIC states in the proposal that the “non-deposit sign requirement is intended to be generally consistent with practices described in the longstanding Interagency Statement on the retail sale of non-deposit investment products that many institutions already follow, and thus should be familiar to many consumers.”

Under the current definition, a non-deposit product includes, but is not limited to, insurance products, annuities, mutual funds, and securities. For purposes of this definition, a credit product is not a non-deposit product. The proposal includes an amended definition that includes any product that is not a “deposit”, including, but not limited to stocks, bonds, government and municipal securities, mutual funds, annuities (fixed and variable), life insurance policies (whole and variable), savings bonds, and crypto-assets. The proposal definition continues to state a credit product is not a non-deposit product. IBA members ask for additional clarification in three areas regarding the definition of non-deposit product.

- *Insurance products other than whole or variable life* – Historically, banks have been instructed by regulators to include the non-deposit product signage in any area where insurance is offered, whereas the proposal only includes life insurance policies that are whole or variable. Does the definition of non-deposit product include other types of insurance offerings? If not, is it a violation to disclose the FDIC signage in close proximity to areas offering these products, including advertisements?
- *Safe Deposit Boxes* - Over the last decade, regulators have increasingly focused on safe deposit box safekeeping services stating that banks should not have an FDIC sign in this area since the contents of the boxes are not insured by the FDIC. Does the FDIC consider safe deposit box safekeeping to be non-deposit products requiring additional disclosures? If not, per the proposal it would no longer be a violation to include FDIC signage in close proximity to areas offering these products, including advertisements.
- *One-sign Rule* - Regarding the application of one-sign rule, are banks that don’t offer annuity and/or insurance products but do offer safe deposit box safekeeping excluded from the

flexibility of the “one-sign” rule? In addition, it is common for banks to offer traditional non-deposit products at their larger locations but only FDIC-insured products at their smaller branches. The rule speaks to banks that offer these products but does not differentiate between the bank and its branches. Would the one-sign rule apply to bank branches that do not offer non-deposit products on the premise even if the bank’s larger branches of the same bank do?

#### **DIGITAL SIGNAGE REQUIREMENTS**

The FDIC believes it is important to require digital deposit-taking signage be consistent with in-branch signage, to the extent feasible. Digital channels include, but are not limited to, the bank’s website, web-based applications and mobile applications that offer consumers access to insured deposits at that bank.

The proposal would require a bank to clearly, continuously, and conspicuously display a digital sign on the bank’s homepage, landing and login pages or screens, and transactional pages or screens *involving deposits*, to the extent applicable. The proposal further provides that “to be clear and conspicuous, the digital sign must be displayed in a continuous manner, near the top of the relevant page or screen, in close proximity to the bank’s name” and that “display of the digital sign at the footer of the relevant page or a similar location would not satisfy the clear and conspicuous standard.” The proposal states that the FDIC views a bank’s homepage, landing and login pages, and transactional pages “as environments where the customer may interact directly with the bank, rather than as “advertisements” as defined in the rule’s advertising statement requirements.” IBA members request clarification in the following areas:

- *Differentiation Between Marketing and Transaction Pages* - The FDIC’s proposed signage rule would require the FDIC sign to be displayed on the bank’s homepage, landing and login pages or screens, and transactional pages or screens involving deposits. The FDIC states that this digital sign would be intended to visually communicate to the consumers that they are doing business with a bank rather than a non-bank entity. Further, the proposal states the home page and landing page are generally the primary point of interaction between banks and consumers. IBA members disagree in part with this last statement. Home pages and landing pages are generally used for marketing purposes and do not provide deposit taking or “interaction” capability. Thus, the current advertising rules provide an appropriate framework for disclosures for those types of pages. Requiring the FDIC sign and the proposed nonbank disclosures on pages used primarily for marketing that do not have a deposit-taking functionality could be confusing to consumers. IBA members urge the FDIC to differentiate between digital pages that are primarily for a marketing purpose, such as home pages and landing pages, and those “digital channels where *insured deposits are received* that are analogous to the traditional teller windows or stations that consumers interact with at a [bank’s] physical premises.” For digital pages that are solely for marketing purposes, banks should be allowed to continue to display the FDIC logo at the bottom of the page if all products on the page are FDIC-insured as the FDIC has provided no evidence that the current signage advertising placement on bank’s digital channels - where only insured deposit products and services are available - are ineffective or confusing to consumers or fail to meet the “clear and conspicuous” requirements.

Only digital channels, including web pages or display screens, with deposit-taking transaction capability, such as login pages, should be subject to the FDIC signage requirements as stated in this proposal. However, IBA members remind the FDIC that the FDIC has provided no evidence that the current signage placement on the bank’s digital channels where only insured deposit

products and services are available is ineffective or confusing to consumers. Therefore, they contend these additional prescriptive requirements are not needed.

- *Define “Transaction”* - IBA members request the FDIC clarify what constitutes a transaction requiring the digital sign. For example, IBA members do not feel such signage would need to be included on an internal transfer screen between FDIC-insured products as these transfers can only be conducted after logging in (which includes the digital sign disclosure).
- *Clarify Frequency of Digital Sign for Same Transaction* - For transactional pages, IBA members request clarification on the frequency the digital sign needs to be disclosed. For example, IBA members agree that the digital sign should be displayed on the log-in screen if deposit transactions may be conducted and the first transaction screen which allows the user to make a deposit. IBA members disagree that the digital sign should be displayed on *each* following screen for the same transaction as the consumer has already been informed of the FDIC insurance status of that transaction/account.

*Placement of Digital Sign*- It is important the FDIC understand banks do not typically include their bank name or logo on each landing or transaction page. Due to the proposed placement requirements of the digital sign, to be displayed near the top of the relevant page and in close proximity to the bank’s name, such a requirement would then mandate the bank include their bank’s name/logo on each of these transaction pages. There is no evidence the consumer would need to be reminded of the bank’s name or FDIC-insurance coverage in the middle of a transaction. If the FDIC maintains this requirement, IBA members agree a new abbreviated digital sign format would be required due to space constraints. Since the proposed rule does not include an example of an acceptable abbreviated digital sign, IBA members suggest including the statement “Member FDIC” would suffice. Moreover, banks should have flexibility regarding where they place the FDIC signage requirement on pages and screens where customers can open an insured account or make deposits, transfers, or payments in connection with an insured account.

#### ***Digital Signage Requirements Related to Both Deposit and Non-deposit Products***

Under the proposed rule, if a digital *deposit-taking* channel offers access to *both* deposits and non-deposit products, the bank would be required to clearly and conspicuously display signage indicating that the non-deposit products are “not insured by the FDIC, are not deposits, and may lose value”. Banks would be required to display this non-deposit signage via a one-time notification when consumers initially access such a page, which would provide an initial, prominent display of the non-deposit signage to alert consumers that they are dealing with non-deposit products that are not subject to FDIC insurance. The proposal states that consumers would “need to take action to dismiss the notification before accessing the relevant page or screen.” To implement this requirement, the proposal provides a bank “could use a “pop-up”, “speedbump”, or “overlay” that displays a notification to the consumer that the consumer must dismiss before accessing the content related to non-deposit products.” In addition, the “rule would require the continuous display of the non-deposit signage on each page relating to non-deposit products and prohibit displaying the non-deposit signage in close proximity to the digital FDIC sign.” This would be a new, prescriptive requirement not currently contemplated with this level of specificity in the rule or the Interagency Statement and may go beyond what is needed for clear and conspicuous display. In addition, if mobile applications are included in this requirement, IBA members stress that dismissing pop-ups related to non-deposit products could be problematic if not readily identifiable and easily dismissed.

Lastly, IBA members agree with statements in the ABA comment letter referring to FDIC disclosure design and development constraints. Specifically, “the FDIC should factor in digital design and

development customization constraints. For example, digital platforms commonly have limits on the amount of customization and characters that can be added, particularly with mobile applications. Prescriptive changes in design, messaging, pop-ups, etc. are extremely hard to process and may not be entirely possible. Space and customization constraints may also be limited by a bank's third-party vendor applications, some of which are central to deposit activities". Further, IBA members urge the FDIC to develop an image that is high enough quality to scale automatically and for the verbiage used for these devices to be succinct. The proposed non-deposit product disclosure may cause issues when being displayed on mobile devices. "The FDIC's proposed rulemaking will necessitate a significant deployment of resources and coordination with third-party vendors to scope the project and clearly understand applicable platform or application specific constraints or space limitations. For these reasons", IBA members "respectfully ask the FDIC to carefully consider the feasibility of these requirements and requests flexibility in implementing these changes, particularly as it pertains to older platforms approaching end-of-life, some of which have rigid limits on customization capabilities."

### ***Signage for ATMs***

Per the proposal, section 328.4 governs signage requirements for ATMs and other remote electronic facilities that accept deposits. The proposal intends to capture banking kiosks and other devices currently defined as "remote services facilities" such as automated teller machines, point-of-sale terminals, or other remote electronic facility where deposits are received. It appears, as written, the proposal would not require such signage for ATMs and other remote electronic facilities that provide balance, transfer or withdrawal only capabilities. IBA members urge the FDIC to include this clarification in the final rule. The current rule provides an option to display the physical official FDIC signage. However, the proposal would require the electronic display of the official signage on the ATM or like device home page/screen and *each* transaction page/screen relating to deposits. IBA members share the same concerns as stated above regarding the frequency of the signage disclosure. IBA members reiterate that repetitive signage after the start of the transaction is not warranted for consumer clarity. They conclude that it is sufficient to include the digital sign on the first deposit transaction screen only.

The proposal further requires the electronic non-deposit signs where an ATM or like device both receives deposits *for the bank* and offers access to non-deposit products. In Iowa, banks are part of a reciprocal deposit network which allows consumers to make deposits at any participating ATM in the state even if the ATM is not owned by their bank. IBA members assume this signage requirement applies to the owner of the ATM and not necessarily the depository bank if they are not the same. IBA members are not opposed to disclosing the non-deposit product signage on each transaction page related to non-deposit products for clarity since the consumer incurs more risk of loss for these transactions.

### **ATM AND REMOTE ELECTRONIC FACILITIES**

The proposal includes signage requirements for remote electronic facilities and clarifies these do not include online or mobile banking channels. The proposal appears to exclude ITMs as a non-traditional branch under these requirements and IBA members agree. In general, an ITM is an interactive ATM that uses a combination of touch screens and video technology to offer a virtual version of an in-person banking experience similar to a video chat. The functions performed at ITMs do not render them a branch as clearly laid out in the FDIC regulations. Although the virtual session includes a conversation and possible transaction(s) directly with the bank employee, IBA members stress the FDIC should clarify such machines are not subject to the disclosure rules and would not require the electronically display of the digital signage on "each transaction screen" since no such transaction screens are visible with this video format.

#### **REQUIREMENT TO ESTABLISH WRITTEN POLICIES AND PROCEDURES**

The proposed rule would require banks to establish written policies and procedures related to the signage and advertising requirements that “would also need to include, as appropriate, provisions related to monitoring and evaluating activities of persons that *provide deposit-related services* to the [bank] or *offer [bank]’s deposit-related products or services to other parties*,” because “sound risk management would compel the [bank] to be aware of the activities of the third party to ensure that the availability of deposit insurance is not being misrepresented.” The proposal further requires banks who have business relationships with third parties providing deposit-related services to implement policies and procedures that “include reasonable provisions . . . to ensure the marketing and advertising materials provided to prospective depositors by that third party do not misrepresent the insurability of financial products.” IBA members are concerned the proposal is not appropriately aligned with current third-party risk management expectation and guidance. To the extent the FDIC amends the regulations to include a third-party risk management monitoring obligation with respect to third-party providers, IBA members recommend the following modifications to the proposal:

- The scope of the required policies should be clarified to only cover marketing materials and other public communications for deposit-related products and services regarding the availability of FDIC deposit insurance, and
- Only third parties with a *written contractual relationship* with the bank addressing the *offering or sales of the bank’s deposit-related products or services* should be covered by the requirement where misrepresentation-related risks could be material. The existence of a written contract is needed to provide the bank a mechanism that allows it to enforce rights relative to a third party. In addition, the mere involvement of non-marketing related deposit-related services (e.g., IT and other back-office service providers, strategic consultants, etc.) does not necessarily implicate the types of risk the proposal is intended to address. Non-contractual relationships, as well as written contracts with vendors supporting non-marketing services, should be excluded and addressed via other means such as existing guidance as appropriate.

#### **IMPLEMENTATION PERIOD**

As currently written, the proposal omits a suggested implementation period. Importantly, if the FDIC proceeds with finalizing a rule substantially similar to the proposed rule which establishes prescriptive requirements for signs and advertising for banks in both physical locations and via digital channels, many banks will need to make substantial changes that will require sufficient time to implement. Banks currently have implemented signage and advertising practices consistent with the spirit of the existing regulations and the Interagency Statement. Changes that would be required to banks’ digital banking channels would involve widespread revisions requiring sufficient time for vendors or bank staff to design, code and test these changes which would have to be deployed over a substantial number of pages of online and mobile screens, through both iOS and Android operating systems, and in some cases, in both English and Spanish. Therefore, IBA members request the FDIC work closely with all stakeholders including vendors and provide for a minimum 18-month implementation period to allow those affected to make the necessary changes to come into compliance with the regulations’ requirements.

#### **SUMMARY**

IBA members are strongly committed to consumer protection, promoting public confidence in insured deposits, and preventing false and misleading representations about the manner and extent of FDIC deposit insurance. IBA members agree in general with the premise of the proposal. However, additional clarification and modifications are needed regarding certain definitions, reduction of the

repetitive disclosures that fail to further the FDIC’s mission especially related to digital FDIC-insured deposit taking channels, limiting the scope of requirement to establish policies and procedures, and the need to set a reasonable implementation period.

For questions related to this comment letter, the FDIC may contact me at [jgliha@iowabankers.com](mailto:jgliha@iowabankers.com) or at 515-286-2981.

Respectfully Submitted By,



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