

## Statement by Vice Chairman Travis Hill on the FDIC Sign and Advertising Final Rule

December 20, 2023

I plan to vote in favor of the rule. While I don't agree with everything in it, I appreciate the staff's extensive engagement, and the willingness of the staff and the Chairman to compromise on a number of issues in the spirit of achieving consensus.

This rulemaking effort began almost four years ago with the issuance of a request for information seeking input on how the FDIC could modernize its sign and advertising rule to reflect changes in how customers engage with banks, including in particular the increased use of online and mobile banking.<sup>1</sup> I support the goals of promoting awareness of FDIC insurance, ensuring clear delineation between FDIC-insured deposits and uninsured non-deposit products, and providing additional clarity regarding the FDIC's expectations for nonbanks that make representations – or misrepresentations – of deposit insurance.

The final rule includes a number of important improvements from the proposed rule, including, among others, (1) tailoring the ATM requirement by allowing existing ATMs that do not offer non-deposit products to display a physical FDIC sign rather than the new digital signs;<sup>2</sup> (2) clarifying the FDIC's expectations for circumstances in which it is challenging to physically segregate the offering of deposit and non-deposit products at a physical location;<sup>3</sup> (3) adding a number of important clarifications around disclosures for non-deposit products offered by nonbanks that also offer pass-through FDIC insurance;<sup>4</sup> and (4) narrowing when a bank is required to show a pop-up or notification related to non-deposit products on the bank's website or app.<sup>5</sup>

The FDIC is also declining to include the proposed definition of crypto assets in the final rule, and further clarified that the final rule is not expressing a view on whether a financial product employing blockchain-related technology does today, or could in the future, fall within the statutory definition of a "deposit" under the FDI Act.<sup>6</sup> While I agree that crypto assets *generally* are not "deposits" under the FDI Act and should be subject to the same FDIC disclosure regime as other non-deposit products, the question of whether and under what circumstances tokenized deposits, dollar tokens, and other similar products should be treated and reported as "deposits" is an important one for the FDIC and the broader financial system. The

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<sup>1</sup> See Federal Deposit Insurance Corporation, [Request for Information on FDIC Sign and Advertising Requirements and Potential Technological Solutions](#), 85 Fed. Reg. 10997 (February 26, 2020).

<sup>2</sup> See Final Rule, at § 328.4(b).

<sup>3</sup> See *id.*, at § 328.3(c).

<sup>4</sup> See *id.*, at § 328.102(b)(5)(iii).

<sup>5</sup> See *id.*, at § 328.5(g)(2).

<sup>6</sup> See *id.*, at n. 55.

FDIC was working hard on this question, along with many related ones, in 2021 and early 2022,<sup>7</sup> but it is unclear to me whether the agency has made any meaningful progress since then. Nonetheless, I agree that this rulemaking is not the appropriate vehicle for consideration of this issue, and I support the amendments in the final rule.

Finally, I want to thank the staff for the multiyear effort to finalize the rule and look forward to voting in favor.

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<sup>7</sup> See, e.g., [Remarks by Jelena McWilliams at the Bipartisan Policy Center](#) (February 3, 2022) (“A key question that the FDIC has been carefully exploring is whether a stablecoin, or the funds represented by a stablecoin, meets the definition of “deposit” under the Federal Deposit Insurance Act, and relatedly, whether stablecoins could be eligible for deposit insurance. These are critical questions with major ramifications for the evolution of stablecoins. My personal view is that generally bank-issued stablecoins closely resemble digital representations of deposits. I urge the FDIC to build off the work we have done and provide clarity to the public as soon as practicable, which could include promulgating amendments to the deposit insurance rules.”) Note there has been evolution over the years in the use of terms like “stablecoin” and “tokenized deposit.”