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Member FDIC

October 4, 2024

James P. Sheesley
Assistant Executive Secretary
Attention: Comments – RIN 3064-AG06
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Comments on Interim Final Rule Regarding Deposit Insurance Coverage for U.S. IDIs' Branches in the Freely Associated States

Dear Mr. Sheesley,

I am writing on behalf of Bank of Guam to provide comments on the FDIC's interim final rule concerning Clarification of Deposit Insurance Coverage for Legacy Branches of U.S Banks in the Federated States of Micronesia, the Marshall Islands and Palau (together referred to as the "Freely Associated States" or "FAS"). As a financial institution with a significant presence in these regions, we recognize the critical importance of ensuring that our customers' deposits are adequately protected and that our operations remain fully compliant with both U.S. and local regulations.

We appreciate the FDIC's efforts to clarify the application of deposit insurance in these unique jurisdictions. We commend the FDIC for its proactive approach to safeguarding depositor interest and ensuring regulatory consistency across jurisdictions. However, there are a few questions we would like addressed.

Background

We understand that the Freely Associated States are unique jurisdictions with a special relationship with the United States under the various Compacts of Free Association (the "Compacts"). This relationship allowed U.S. IDIs, as defined in the Interim rule, to operate in these nations with deposits insured by the FDIC.

Bank of Guam, under the leadership of its founder Jesus S. Leon Guerrero, pursued a growth strategy that involved both organic expansion and strategic acquisitions. During the 1980s, Bank of Guam acquired Bank of America branches located in Chuuk and Palau, enhancing its regional presence. Additionally, Bank of Guam established new branches in other Pacific locations, including Pohnpei and Majuro.

This strategic expansion was part of the Bank of Guam's broader vision of expanding financial services across Micronesia, aligning with its mission to support local economies and communities. The bank's growth was characterized by its commitment to local engagement and financial inclusion, key principles that continue to guide its operations today.

The Bank of Guam currently operates legacy branches in the following locations within the Freely Associated States:

- **Federate States of Micronesia** – Branches located in Pohnpei, Chuuk, Yap, and Kosrae
- **Republic of the Marshall Islands** – Branch located in Majuro
- **Republic of Palau** – Branch located in Koror

These branches serve a diverse range of customers -- including individual consumers, businesses of all sizes, and government entities – and play a critical role in providing financial services in their respective communities.

The Bank has been operating in the FAS for over 50 years and during that time, we were free to establish a branch in the various islands as banking needs required. Opening a branch anywhere in the FAS with deposits insured by the FDIC was the same as opening a branch in Guam or the United States. While our presence in the islands has reduced in the past, we are asked many times by local governments to open additional branches. As the flow of US dollars into the FAS increases due to the various Compacts, the need for additional branches may also intensify. Based on how this Interim rule is written, it appears we will be unable to expand any further beyond our current footprint.

We are also unsure how the Interim Rule may affect plans to relocate an existing branch within the same island. For instance, if we relocated our Majuro branch, in accordance to Part 303.41 of the FDIC Rules and Regulations, to another area in Majuro that is located over 2 miles from the existing branch. The Interim rule would not permit the deposits of that new branch to be insured by the FDIC, as such a move would be considered a closing of an old branch and the opening of a new branch. Alternatively, are we only allowed to relocate within 1,000 feet from the old branch (as required by FDIC Rules and Regulations) for deposit insurance to continue?

According to Part 303.41(a) of the FDIC Rules and Regulations, a branch is a place at which deposits are received, checks are paid, or money is lent. Considering the definition of a branch, would we be able to set up an office in the FAS to open accounts or process loans so long as all transactions under the definition of a branch are done electronically through a Legacy Branch tied to that office? Also, since automated teller machines and remote service units are not considered branches, can we still expand our services in such a manner without seeking FDIC approval?

Looking at the interim rule, it appears that the FDIC's approach to provide relief in this issue is conservative in its approach without any thought about the language contained in the different Compacts governing each of the FAS relationships with the United States throughout the years.

The Compacts did not have any language limiting FDIC insurance to "Legacy" entities. In the past, there was general Compact language that supported FDIC deposits in the FAS. Branching and providing insured deposits has historically existed, without any pushback from the FDIC, because that was the way it initially was established.

Another issue that we would fully like to explore is the inclusion of the Freely Associated Sates into our Community Reinvestment Act (CRA) assessment area. By definition, the communities that we serve in these areas are comprised of low to moderate income families and businesses. And yet, historically, none of this activity has been recognized in evaluating the Bank's compliance with the CRA.

Conclusion

The FDIC's interim final rule represents an important step in clarifying deposit insurance coverage for U.S. IDIs operating in the FAS. However, as detailed above, there is some uncertainty regarding how the interim rule will affect relocation or further expansion of Legacy Branches within the FAS.

We respectfully request that the FDIC consider these issues in its final rulemaking process and provide further guidance to help U.S. IDIs navigate the complexities of operating in these unique jurisdictions. By addressing these concerns, the FDIC can help ensure that all consumers, regardless of location, receive the full benefits of U.S. deposit insurance and related protections.

Thank you for the opportunity to comment on this important matter. We look forward to further engagement with the FDIC on these issues.

Sincerely,

[redacted]

Bank of Guam
Joaquin P. L.G. Cook
President and Chief Executive Officer