



# Bluff View Bank

## Focused On You

November 5, 2024

James P. Sheesley  
Assistant Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17th Street, N.W.  
Washington D.C. 20429  
([comments@fdic.gov](mailto:comments@fdic.gov))

Re: Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions RIN 3064-AF99

Dear Mr. Sheesley,

I am President of Bluff View Bank. Established in 1883, our institution was the fourth bank to open in Trempealeau County and today we are the only one to survive - making us the oldest bank in our county. Things have changed since then and we've kept up with the technological advances by delivering a full suite of digital products including mobile banking with mobile deposit, bill pay, instant issue debit cards at all locations, ClickSWITCH automated account switching tool, and person-to-person payments. We also rolled out multiple rewards checking and savings options to help customers earn a higher rate of interest or earn cash back on purchases.

While banking has evolved since 1883, our mission and values remain unchanged. Whether our customers prefer to bank online or in-person, they'll find that our focus is always on them. Personal relationships are the foundation of our business, and we strive to be a lifelong partner with everyone we serve.

Please consider the following comments and recommendations as you finalize your proposed revisions to the deposit broker rule.

My concerns focus primarily on the expanded definition of a "deposit broker," which, in my opinion, is too broadly constructed under the proposed revisions and the restrictions that are unduly placed on digital marketing channels.

### **Expanded Definition of "Deposit Broker"**

The proposed rule significantly broadens the "deposit broker" definition by merging the current "placing" and "facilitating" provisions and introducing a new "compensation prong." Under this new framework, any third party receiving compensation for supporting a bank's deposit-gathering activities will be classified as a deposit broker.

This sweeping redefinition risks inadvertently capturing arrangements that, in my opinion, do not align with the FDIC's intent. It appears that the rule would prevent third parties from receiving any form of compensation, from any source, in exchange for any assistance it may provide in our institution's deposit-gathering activities.

Such a redefinition will have far-reaching consequences. For instance, the proposed rule would effectively prohibit widely accepted customer referral programs, where current customers receive nominal incentives for referring new depositors. We do not believe the FDIC wishes to eliminate these programs. Rather, we believe the agency's intent is to regulate significant incentives that may motivate traditional deposit brokers to move funds between institutions to maximize commissions and depositor's yield. However, as currently phrased, the rule does not provide this necessary distinction.

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## Potential Burden on Community Banks

If the rule is adopted as proposed, institutions like mine may face an undue reporting burden, with more deposits classified as brokered. This reclassification would increase insurance assessments, examination scrutiny, and impose a regulatory stigma upon our institution. Consequently, we would be compelled to reexamine valuable third-party relationships that assist with customer acquisition and retention.

The FDIC should consider the operational realities faced by community banks today. Banks like mine, lacking the extensive technological and financial resources of larger competitors, depend on third-party partnerships to remain competitive in an increasingly digital market. These partnerships allow us to provide the digital banking services and elegant user experiences that consumers expect. Community banks cannot compete if we cannot collaborate with third-party service providers who help us deploy and maintain these essential services. And third parties cannot provide their services if they are prohibited from receiving appropriate compensation for the value they provide.

A recent article, "How to Integrate Digital Delivery and Human Connections to Boost Retention," published by *The Financial Brand* (October 28, 2023), highlights this competitive challenge. It notes that banks today are balancing advanced digital service delivery with the need to retain customers through personal engagement. A global survey cited in the article reveals that 35% of consumers switched banks within the last year, with digital experience cited as the primary motivation. Without access to third-party expertise and resources, the digital divide that currently exists between community banks and the too-big-to-fail institution will expand and we will effectively cede market share to our bigger competitors.

Restricting third parties from assisting banks with developing direct depositor relationships, that are fully owned and controlled by the bank, would cripple community institutions. Such restrictions are not only counterproductive but are punitive to small institutions that serve rural or underserved communities.

## Recommendations

To address these concerns, we respectfully request that the FDIC clarify or reconsider the "compensation prong." As currently written, it is overly broad and risks classifying core deposits as brokered, even when an insured depository institution (IDI) fully owns and controls the depositor relationship, and the depositor alone holds authority over the funds.

- **Specific Exemptions for Direct Depositor Relationships**

We recommend an express exemption from the "deposit broker" definition for third parties assisting banks in establishing direct depositor relationships, provided:

- The third party has no control over the depositor's accounts or deposits,
- Is not involved in setting account terms,
- Does not manage deposit allocations among IDIs, and
- Does not serve as the system of record for depositor transactions or funds.

- **Addressing Digital Realities in Marketing**

We further urge the FDIC to recognize and accommodate the digital landscape of today's banking industry. Consumers often evaluate financial services through comparison websites, digital listings, and mobile applications. The FDIC should remove limitations on "passive activities" and "limited compensation" for digital marketing channels. These sites and listing services facilitate informed decision-making and enable smaller institutions to compete with our larger brethren on an even playing field.

- **Exclusion for Specific Deposit Accounts**

The proposed rule should also recognize instances where community banks have directly established a primary financial relationship with individual depositors. We encourage the FDIC to exclude reward-based and transaction accounts from the "brokered" classification, provided the account is:

- fully insured;

- Opened by an individual depositor and held in the name of that same individual depositor;
- Utilized regularly by that same individual depositor for regular banking activities including deposits and withdrawals; and is
- Exclusively controlled by the depositor, who alone may close the account or withdraw funds.

Such accounts constitute stable, low-cost funding that we prudently reinvest in our local communities. These deposits align with the FDIC's objectives of maintaining a safe and sound funding sources.

- **Addressing Middleware Provider Risks**

Finally, to address potential risks posed by "middleware providers," the FDIC could clarify the "deposit broker" definition to capture entities that directly market, distribute, or facilitate access to deposit services, and where the intermediary—rather than the bank's core processor—serves as the system of record for the depositor's transactions and funds. This approach would target partnerships that genuinely warrant oversight, without broadly impacting traditional third-party service providers who do not have any control or authority over any depositor's funds.

### **Legislative Recommendation**

We also recommend that the FDIC consider collaborating with Congress to replace Section 29 of the FDI Act with an asset growth restriction such as the Asset Growth Restriction Act (S.3962 and S.5347), proposed by Senator Jerry Moran. This legislative approach has garnered support from prior FDIC leadership as well as current Vice Chairman Travis Hill and would better achieve the Act's public policy goals with greater administrative efficiency.

### **Conclusion**

We respectfully request that the FDIC amend the proposed rule to allow community banks to utilize both traditional and digital marketing channels to establish direct depositor relationships. Such revisions would enable community institutions to work with third-party experts to help us attract, retain, and serve our depositors. Additionally, we urge the FDIC to recognize reward-based and transaction accounts as stable, core deposits as these funds are associated with singular acquired, direct relationships, that we own and control, we establish with individual depositors who use their account as their primary banking account and our institution as their primary financial institutions. These are the type of deposits and customer relationships that increase my bank's franchise value and fund my lending activities.

Thank you for the opportunity to share our thoughts and suggestions. I hope you will incorporate our recommendations into the final rule that emerges.

Sincerely,



Windsay N. Spitzer  
President & CEO



# Bluff View Bank



Galesville, WI 54630-0429

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