



November 7, 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)

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

Dear Mr. Sheesley,

Thank you for the opportunity to provide thoughts regarding the FDIC's proposed revisions to the 2020 Final Rule on brokered deposits.

I am the President and CEO of CNB Bank, a 9-branch community bank headquartered in Berkeley Springs, WV. For 90 years, we've been providing our neighbors and our local businesses quick and easy access to the banking products and digital services they want and need. We are locally owned and operated and our decisions are made right here, locally, not in some corporate office far away from our community. We understand our customers in a way that national and regional banks just can't match, and our customers receive customized financial solutions from people they know and trust. We are also invested in the communities we serve. We contribute by providing money to local schools, fire and rescue companies, local Chambers of Commerce, United Way, and many other nonprofit organizations and we encourage our employees to be actively involved in our community organizations and civic events.

I write to share our perspectives regarding the FDIC's proposed rulemaking regarding brokered deposits.

The proposed rule significantly broadens the definition of a deposit broker by merging the "placing" and "facilitating" definitions into one and adding a "compensation prong." If taken literally, this new definition would classify any third-party receiving compensation, from any source, for helping banks attract customers and gather deposits as a "deposit broker." Such a sweeping interpretation is overly broad and will have unintended and far-reaching consequences.

Potential Impacts on Community Banks

Popular and cost-effective programs, such as referral programs, are widely used by banks to strengthen customer loyalty and acquire new relationships. I don't believe it is the FDIC's intention to prevent customers from recommending our institution to others. Rather, I believe the FDIC is intending to regulate large incentives that motivate traditional deposit brokers from randomly moving depositor funds from one institution to another in exchange for higher commissions or returns on the depositor's funds. Unfortunately, the proposed language lacks this critical nuance and would benefit from clarification.

Furthermore, the rule does not account for the digital banking landscape in which customers routinely use smartphones and tablets to evaluate financial products and providers. Restricting our use of digital marketing channels, like listing services and comparison websites, would hinder small banks like ours from effectively competing in the digital world, and directly impacting our customers.

The proposed rule also places an undue emphasis on the involvement and compensation of third parties rather than focusing on the primary relationship these entities help us establish with individual depositors. We urge the FDIC to recognize deposit stability that occurs when a direct, singularly sourced depositor relationship exists between a community bank and an individual - regardless of any third-party involvement. To support this goal, we respectfully suggest the following changes:

- **Exemption for Reward-Based and Transaction Accounts:** Exclude deposits from reward-based and transaction accounts from the brokered deposit definition, as long as the account is fully insured, held in an individual’s name; is used regularly for banking activities by that same individual and only that accountholder is authorized by the insured depository institution to close the account or execute withdrawals. These deposits provide a stable, low-cost source of funding that enables us to reinvest in our communities responsibly.
- **Exclusion for Third-Party Facilitators:** We recommend creating a specific exclusion from the deposit broker definition for third parties that support banks in establishing direct depositor relationships, fully owned and controlled by the bank. This exclusion would apply if the third party has no control over the depositor's accounts or deposits, is not involved in negotiating account terms, does not propose or manage deposit allocations among insured institutions, and its platform does not operate the system of record for any depositor’s transactions or funds.

To address the agency’s concerns regarding “intermediaries,” we suggest the FDIC clearly identify when certain bank-fintech partnerships are essentially acting as deposit brokers. Adding a criterion to the deposit broker definition and capturing any entity that directly markets, distributes, or facilitates deposit services directly to end users while serving as the system of record for those end-users’ transactions and deposit would target relevant fintech partnerships without restricting general third-party support.

Lastly, we encourage the FDIC to work with Congress to replace Section 29 of the FDI Act with an asset growth restriction, as proposed in the Asset Growth Restriction Act (S.3962 in the 116th Congress and S.5347 in the 117th Congress). This legislative approach would better achieve the original statutory objectives while providing a regulatory framework that is simpler for the FDIC to administer.

Final Request

We respectfully request that the FDIC revise the proposed rule to enable community banks to continue leveraging both traditional and digital channels, as well as third-party services, to establish and maintain direct depositor relationships with individuals who live, work, play and worship within our local communities. Additionally, we urge the FDIC to recognize the stability of insured transaction and reward-based accounts as core deposits, as they provide a safe and sustainable funding source that are essential for supporting our community lending needs.

Sincerely,



Mark Harrell
President & CEO

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