



Harmony Bank

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Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: James P. Sheesley, Assistant Executive Secretary
RIN 3064-AF99

Re: Notice of Proposed Rule Making, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions

Dear Mr. Sheesley,

My name is William E. Lowe, Chairman, President and Chief Executive Officer of Harmony Bank (the "Bank"), a community bank with 20 years of service to the Dallas-Fort Worth Metroplex and over 100 years of service in the North and East Texas markets. Our Bank has approximately \$823 million in total assets. I am writing to express the Bank's opposition to the proposed rule issued by the Federal Deposit Insurance Corporation (the "FDIC") entitled Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions (the "Proposed Rule"). Like many community banks who rely on relationships with members of the community who facilitate deposits based on those relationships, we believe that the Proposed Rule significantly and negatively impacts our operations by forcing undue regulatory and administrative burdens on community banks who rely on brokered deposits to maintain long-term liquidity and stability. The FDIC's rule would divert critical resources and shift focus from serving our communities as we experience increased competition from the country's largest banks.

The Proposed Rule would retroactively and prospectively recharacterize as brokered deposits the deposits we receive through third parties even though the primary purpose of the third-party depositor is not to place funds with depository institutions. The FDIC's 2020 rule outlined eleven types of third-party relationships that automatically met the primary purpose exception without a notice or application requirement as well as two business relationships that required notice or application. The Proposed Rule departs from the current framework and reverts to a pre-2020 regime where the FDIC would consider the third-party's intent in placing the funds and determine whether the intent is for a substantial purpose other than to provide deposit-placement services or FDIC deposit insurance. Additionally, the Proposed Rule would eliminate the "enabling transactions" primary purpose exemption as well as narrow the "25% test" primary purpose exemption to apply only to registered broker-dealers and investment advisors. The Proposed Rule presents a marked shift from the current environment and recharacterizes a significant amount of deposits that were not traditionally considered brokered-deposits and would hinder the Bank's ability to expand its services and increase its ability to meet the financial and credit needs of the communities we serve. These limitations could also impact our abilities to increase our lending presence in underserved or economically challenged areas where community banks play a critical role in economic development.

Under the FDIC's 2020 deposit broker rule, many of the Bank's deposits are not classified as brokered deposits because they fall under the primary purpose exemption. Under the Proposed Rule, there would be uncertainty whether the Bank's current arrangement would fall under the narrower primary purpose exemption, which will alter how the Bank classifies its deposit base and could result in short-term liquidity concerns as the Bank searches for new sources of deposits as well as subject the Bank to increased regulatory scrutiny due to higher concentrations of brokered deposits. While the Bank understands the FDIC's concerns with the volatility of brokered deposits in larger institutions, the Bank's situation is not comparable in that unlike these larger and complex deposit broker arrangements, the Bank's relationship with the

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third party through which it receives deposits that could be recharacterized as brokered deposits is based on common ownership of such third party and the Bank rather than speculative or volatile market activities. This arrangement offers the Bank a stable deposit base like traditional deposit gathering channels.

Additionally, the Bank is concerned with the proposed changes to the application and notice processes to qualify for the primary purpose exemption. Under the FDIC's 2020 rules, an insured depository institution or third-party could file the notice or application which provided banks flexibility when dealing with multiple third-party relationships. Under the Proposed Rule, only insured depository institutions can file the notice or application which disproportionately impacts community banks, many of which lack the critical infrastructure to manage the volume of notices or applications. The proposed changes to the application process would place the burden of filing an application on insured depository institutions rather than third parties as each institution would need to file a separate application for each proposed exemption. On top of the new application requirements, periodic reporting requirements would be imposed under the Proposed Rule which would require banks to monitor third parties to ensure compliance with relevant laws. The Bank, like many other community banks, has scarce critical resources. Imposing additional regulatory duties on the Bank will be burdensome and will likely impose further stress on the Bank's current compliance infrastructure. The Bank may be unable to bear the increased burden and may determine to forego the benefits of the deposits. Increased regulatory burdens will also lead to increased costs and will divert the Bank's attention from serving the needs of its communities.

The Bank serves many communities that are underserved by large institutions and provides services to meet their financial needs. The Proposed Rule could impact our ability to utilize certain of our deposits. If the Bank loses a portion of its deposit base, we may need to reduce our offerings of certain innovative products and services. The FDIC's concerns about the liquidity risks associated with complex brokered-deposit relationships are not applicable to community banks where these brokered-deposit relationships are more relationship-focused. This proposed rule change is an ill-advised reaction to the failures of Synapse and Silicon Valley where a run on uninsured deposits played a meaningful role in creating a short-term liquidity crisis rather than an exodus of brokered deposits. While the Bank understands the FDIC's concerns with the stability of brokered-deposits, the Proposed Rule casts a broad net that fails to consider the role brokered-deposits play in community banks and the relative stability of such arrangements.

We understand the need to address risks in the bank sector, but the Proposed Rule is a broad overreach and inadvertently harms community banks. We respectfully urge the FDIC to reconsider the Proposed Rule, and particularly the primary purpose exemption.

Sincerely,

William E. Lowe
Chairman, President and CEO

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