



December 4, 2024

Submitted via E-Mail at: [comments@fdic.gov](mailto:comments@fdic.gov)

Federal Deposit Insurance Corporation  
550 17th Street NW  
Washington, DC 20429

Re: Recordkeeping for Custodial Accounts  
[RIN 3064–AG07]

To Whom It May Concern:

This letter is submitted to the Federal Deposit Insurance Corporation (the FDIC) by iLEX Consulting Group, LLC in response to the proposed rule on Record Keeping for Custodial Accounts, issued by the FDIC on September 17, 2024 and published in the Federal Register on October 2, 2024 (the Proposed Rule). We appreciate the opportunity to provide feedback to the FDIC on this important topic.

iLEX Consulting Group has been working with both Fintechs and Banks for over twelve years; additionally, iLEX's CEO and Founder has been working with Fintechs since joining The Bancorp Bank in 2005. iLEX ensures that through robust compliance, fraud, risk, and customer service programs Fintechs are able to launch and function safely, that their Issuing Bank Partners are true partners, and that those Bank Partners are managing Fintech Programs within regulatory requirements. As a result, iLEX is not in favor of "middleware," such as Synapse, but instead encourages direct partnerships between Banks and Fintechs.

We are generally supportive of the Proposed Rule which is designed to "strengthen FDIC-insured depository institutions (IDIs) recordkeeping for custodial deposit accounts with transactional features and preserve beneficial owners' and depositors' entitlement to the protections afforded by Federal deposit insurance." The Proposed Rule acknowledges that deposit taking in the digital age has evolved, creating new opportunities for IDIs to gain access to deposits through third-party relationships. What is being proposed is best practice and already promoted by iLEX to its clients, both Banks and Fintechs.

We are aware, on reading the FDIC Proposed Rule supplementary information, that the impetus for this Proposed Rule was the bankruptcy of Synapse Financial Technologies, Inc. (Synapse), and the difficulties faced in obtaining, reviewing, and reconciling Synapse's records, leading in turn to consumers being unable to access their funds. Had best practices been followed by Synapse and its partners this would not have occurred and the Proposed Rule will ensure there is no repeat.

The Proposed Rule, however, is overly broad in its current form. The Proposed Rule states that it would "establish new recordkeeping requirements at IDIs for 'custodial deposit accounts with



transactional features’ subject to a list of specific exemptions”, and the “term ‘custodial deposit accounts with transactional features’ would be defined as a deposit account that meets three requirements: (1) the account is established for the benefit of beneficial owner(s); (2) the account holds commingled deposits of multiple beneficial owners; and (3) a beneficial owner may authorize or direct a transfer through the account holder from the account to a party other than the account holder or beneficial owner.” These criteria, with the rule’s specific list of exceptions, would include financial products such as gift cards and single load payment devices despite these not being true accounts.

As noted above, iLEX is generally supportive of the Recordkeeping for Custodial Accounts Proposed Rule, however we ask that the FDIC consider narrowing the Rule to cover only true custodial deposit accounts with transactional features, and exclude gift cards and singleload payment devices that do not operate as payment account substitutes. We urge the FDIC to clearly exempt products and services that are not “accounts” for purposes of the Bank Secrecy Act (“BSA”) from FDIC Rules part 370 and the proposed 375, and to clarify that the rule does not apply to non-transactional accounts such as savings and wealth management accounts.

If you have any questions or wish to discuss this letter, please contact me at:

[joyce@ilexgrouppllc.com](mailto:joyce@ilexgrouppllc.com)

Sincerely,  
Joyce Mehlman  
Founder and CEO of iLEX Consulting Group LLC