November 21, 2024

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

RE: Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions [RIN 3064-AF99]

Dear Mr. Sheesley:

The Independent Community Bankers of America and the undersigned state banking associations, representing thousands of community banks and the communities they serve, collectively and strongly oppose the FDIC's Notice of Proposed Rulemaking concerning Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions ("the Proposal" or "the Proposed Rule")[1]. Under the Proposal, more core deposits will be considered brokered deposits. Among the deposits that the FDIC proposes to reclassify as "brokered" are deposits that do not pose "hot money" risks and that are stable, sticky, and subject to contractual terms for maturity that protect against deposit flight. As a result, this misguided Proposal will negatively impact every community bank when it comes to preparing Call Report data, calculating FDIC assessments, managing liquidity, and adjusting contingency funding plans. This is especially troubling because the FDIC has not identified any specific problems with brokered deposits at community banks since the 2020 rule was finalized.

The FDIC has not published any recent deposit data postdating the 2020 rule that demonstrates a need to revise the brokered deposits framework for the entire banking industry. In fact, the FDIC cites the 2023 large bank failures as justification for this Proposal – isolated events that were not caused by community banks and did not result in findings that community banks shared similar risk. Notably, the material loss reviews conducted for First Republic Bank, Signature Bank of New York, and Silicon Valley Bank do not even mention the term "brokered deposit" in their findings.[2] The material loss review for Republic First Bank discusses brokered deposits – but this report was published in November 2024, *after* the FDIC published the proposed rule, meaning its

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[1] Federal Deposit Insurance Corporation, *Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions*, RIN 3064-AF99, 89 FR 68244 (Aug. 23, 2024), https://www.federalregister.gov/documents/2024/08/23/2024-18214/unsafe-and-unsound-banking-practices-brokered-deposits-restrictions.

[2] *See* Material Loss Review of First Republic Bank, Report No. EVAL-24-03 (Nov. 28, 2023), https://www.fdicoig.gov/reports-publications/bank-failures/material-loss-review-first-republic-bank; Material Loss Review of Signature Bank of New York, Report No. EVAL-24-2 (Oct. 23, 2023), https://www.fdicoig.gov/reports-publications/bank-failures/material-loss-review-signature-bank-new-york; Material Loss Review of Silicon Valley Bank, Evaluation Report 2023-SR-B-013 (Sept. 25, 2023), https://oig.federalreserve.gov/reports/board-material-loss-review-silicon-valley-bank-sep2023.pdf.

findings could not have supported the July 2024 issuance of the Proposal.

The deficiencies in the Proposal's administrative record, including inadequate supporting data and a flawed cost-benefit analysis, warrant withdrawal of the proposed rule. But there are other reasons the FDIC should withdraw this Proposal, including that the Proposal will: (1) unnecessarily constrain community bank liquidity and funding sources; (2) penalize and disrupt some third-party relationships that community banks rely on to provide valued online banking and deposit services to their customers; and (3) needlessly force community banks to incur additional costs and business disruptions to reapply for primary purpose exceptions ("PPEs") that the agency previously approved.

I. The FDIC should not restrict community bank access to liquidity.

Community banks use brokered deposits as one of several diverse sources of liquidity. The overwhelming majority of community banks do not have high concentrations of brokered deposits or rely on brokered deposits for rapid growth. When managed prudently, brokered deposits are an important funding source for community banks to meet the borrowing needs of their communities. For example, brokered deposits help community banks manage seasonal agricultural lending needs, or instances when loan demand exceeds the ability to generate new core deposits. But requiring community banks to reclassify higher percentages of core deposits as brokered imposes serious costs and restrictions on community banks, including higher deposit insurance premiums, possibly lower CAMELS ratings, and additional regulatory scrutiny. More concerning, these reclassifications and restrictions on brokered deposits can operate in tandem to constrain community banks' access to liquidity when they need it most. Community banks should not be forced to reclassify core deposits as brokered – doing so may have the unintended consequences of forcing community banks to shed stable deposits to reduce brokered deposits exposure, thus reducing access to necessary and stable liquidity sources.

II. Receiving a fee should not be a determining factor for whether a third party is a "deposit broker."

Many community banks utilize third parties to provide the online and mobile banking services their customers want and need, and that the market demands. But the FDIC is proposing that these third parties will now be deemed "deposit brokers" if the third party receives a fee for deposit placement services. Receiving a fee for deposit services is a basic and fundamental condition of doing business that should not capture virtually all third party relationships as "deposit brokers." By expanding the definition of "deposit broker," the Proposal inexplicably limits community banks' abilities to use third parties and online channels to attract depositors, compete with larger institutions, and continue to offer competitive deposit products to their customers. Simply stated, this Proposal ignores the realities of modern, digital banking, and will ultimately harm consumers by reducing access to deposit services and increasing costs.

III. Rescinding approved PPE applications and notices will materially disrupt third party relationships, increase the volume of PPE applications the FDIC must review, and force community banks to bear unnecessary costs to reapply.

The FDIC proposes to rescind PPE applications and notices that the agency previously approved under the 2020 framework. Community banks that built business models in reliance on approved PPEs will have no choice but to disrupt, pause, or forgo those models and relationships and reapply. This is an entirely unnecessary and costly exercise. Reapplications will result in a higher volume of PPE applications that the agency must process, which will cause further delay and material disruptions to business, as community banks must draft new applications and wait for the agency's decisioning queue to clear.

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If finalized, the Proposal will harm community banks and their customers – the FDIC should withdraw this misguided Proposal and preserve the 2020 final rule.

Sincerely,

Independent Community Bankers of America

Alabama Bankers Association
Arkansas Community Bankers
California Community Banking Network
Independent Community Bankers of Colorado
Connecticut Bankers Association
Community Bankers Association of Georgia
Florida Bankers Association
Idaho Bankers Association
Community Bankers Association of Illinois
Indiana Bankers Association
Community Bankers of Iowa
Bluegrass Community Bankers Association
Community Bankers Association of Kansas
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Community Bankers of Michigan
BankIn Minnesota
Mississippi Bankers Association
Missouri Independent Bankers Association
Montana Independent Bankers
Nebraska Independent Community Bankers

New Hampshire Bankers Association
New Jersey Bankers Association
Independent Community Bankers Association of New Mexico
Independent Bankers Association of New York State
North Carolina Bankers Association
Ind. Community Banks of North Dakota
Community Bankers Association of Ohio
Community Bankers Association of Oklahoma
Oregon Bankers Association
Pennsylvania Association of Community Bankers
Independent Banks of South Carolina
Independent Community Bankers of South Dakota
Tennessee Bankers Association
Independent Bankers Association of Texas
Vermont Bankers Association
Virginia Association of Community Banks
Community Bankers of Washington
Community Bankers of West Virginia
Wisconsin Bankers Association
Wyoming Bankers Association