TCB
THE TRI-COUNTY BANK

Building Your Future...Together!

Stuart | Atkinson | Bassett | O'Neill

November 15, 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 comments on the FDIC's proposed revisions to the 2020 Final Rule on brokered deposits.

I am President & CEO of The Tri-County Bank. Headquartered in Stuart, Nebraska, we are a community-focused financial institution serving the needs of rural Nebraskan communities. With a history rooted in local values and personal service, we offer a comprehensive range of banking products, including personal and business accounts, agricultural loans, mortgages, and wealth management services. Known for our deep ties to the agricultural community, The Tri-County Bank supports local farmers, ranchers, and businesses with tailored financial solutions. Our bank combines modern conveniences like online and mobile banking with our longstanding commitment to building personal relationships with our customers.

With that as introduction to my institution, I'd like to provide a few comments and recommendations regarding the FDIC's proposed rulemaking on the brokered deposit rule.

My primary concerns lie with the overly broad redefinition of the "deposit broker" concept and the restrictions on digital marketing channels—both crucial to remaining competitive in today's financial services landscape.

Disproportionate Burden on Community Banks

If enacted, the proposed rule's expanded brokered deposit classification would disproportionately affect community banks. It would increase reporting requirements, elevate insurance assessments, and subject institutions to heightened regulatory scrutiny. Furthermore, the brokered deposit label carries a stigma that could weaken community trust and potentially harm our institutional reputation.

Additionally, this classification would necessitate the re-evaluation of third-party partnerships that are pivotal in acquiring and retaining customers. Unlike larger institutions, community banks often lack the financial and technological resources to deliver advanced digital and user engagement services independently. By restricting third-party partnerships, or prohibiting appropriate compensation for these partnerships, the proposed rule risks impairing community banks' digital capabilities and, in turn, our ability to meet the evolving needs of our customers.

A recent study in *The Financial Brand*, titled "How to Integrate Digital Delivery and Human Connections to Boost Retention" (October 28, 2023), underscores this challenge by noting that 35% of consumers switched banks last year, primarily driven by digital experience considerations. Without third-party service support, the digital gap between community banks and larger institutions will only continue to grow, risking significant market share erosion.

The restrictions on third-party support for establishing direct depositor relationships are likely to have the greatest impact on community banks that serve rural or underserved populations, imposing counterproductive and punitive limitations on smaller institutions dedicated to community-centered banking.

Overly Broad "Deposit Broker" Definition

The proposed rule expands the "deposit broker" definition by consolidating the existing "placing" and "facilitating" provisions and adding a new "compensation prong." Under this framework, any third party that receives compensation for supporting a bank's deposit-gathering activities could fall under this classification, even if the bank retains full ownership and control of the depositor relationship.

This broad approach risks encompassing practices that do not align with the FDIC's true intent. For example, modest customer referral programs, in which customers receive a nominal incentive for introducing new depositors, would be precluded. These low-risk incentive programs are a standard industry practice, fundamentally different from the speculative and high-stakes behaviors likely intended as regulatory targets.

The proposal, as written, does not distinguish between these minor referral incentives and the aggressive, commission-driven tactics used by traditional deposit brokers. We believe the FDIC's objective is to target high-risk, profit-driven behaviors rather than the modest reward programs community banks employ to foster personal referrals. Accordingly, we urge the FDIC to adopt a more targeted and contextually sensitive approach.

Recommendations for Consideration

To address these concerns, we propose several targeted amendments to the rule's language:

- **Recognize Third-Party Relationships that Facilitate Direct Depositor Engagement**
  We recommend an explicit exemption from the "deposit broker" classification for third parties that assist insured depository institutions (IDIs) in establishing direct relationships with individual depositors. This exemption would apply to third parties that:

  1. Do not control depositor accounts or funds,
  2. Have no role in setting account terms,
  3. Do not manage or direct deposit allocations among institutions, and
  4. Do not act as the system of record for depositor transactions or funds.

- **Embrace Digital Transformation in Banking**
  We urge the FDIC to recognize the critical role of digital resources in today's banking landscape. As consumers increasingly rely on comparison sites and mobile applications to evaluate financial products and services, imposing restrictive limits on these informational resources or narrowly confining compensation for digital marketing channels will hinder community banks' competitive abilities. By relaxing these limitations, the FDIC can empower smaller institutions to compete more effectively with larger financial entities and fintech providers.

- **Formal Recognition of Stable Deposits**
  The FDIC should explicitly exclude reward-based and transaction accounts from the brokered deposit classification, provided these accounts:

  1. Are fully insured,
  2. Are held in the name of an individual depositor,
  3. Are regularly used by that depositor for standard banking activities, and
  4. Are exclusively controlled by the depositor, who holds authority over withdrawals and account closure.

  Such accounts constitute low-cost, stable funding, which we prudently reinvest in local economies. Furthermore, these accounts are integral to our franchise value, as they represent tangible depositor relationships that are fully owned and controlled by our institution. By excluding these accounts, the FDIC would reinforce its objective of promoting safe and sound banking practices.

- **Targeting High-Risk Middlemen**
  To mitigate potential risks posed by "middleware providers," the FDIC could narrow the "deposit broker" classification to focus on entities that directly market or distribute deposit services to end-users when these intermediaries—not the bank's core processor—serve as the system of record for depositor transactions and funds. Such an approach would concentrate regulatory attention on high-risk partnerships while preserving the operational role of traditional third-party service providers that do not control depositor funds.

- **Collaboration with Congress on an Asset Growth Restriction**
  Finally, we encourage the FDIC to work with Congress to explore a more targeted regulatory framework, such as the Asset Growth Restriction Act (S.3962 and S.5347), proposed by Senator Jerry Moran. This legislative approach, supported by both past and current FDIC leadership, could better fulfill Section 29's intent while enhancing regulatory efficiency.

Conclusion

In conclusion, we respectfully request that the FDIC revise the proposed rule to allow community banks to fully leverage third-party partnerships and digital marketing channels for the acquisition and retention of depositors. Additionally, we urge the FDIC to recognize that reward-based and transaction accounts—when tied to singular, direct relationships—represent stable sources of funding closely linked to local residents who rely on our institution as their primary bank. These relationships increase our franchise value and sustain our lending activities.

I am grateful to the FDIC for allowing me to share my perspectives on this important rulemaking.

With appreciation,

[redacted]

Jon Schmaderer
President & CEO