



March 19, 2020

Mr. Robert E. Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street N.W.  
Washington, D.C. 20439

**Re: Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions – RIN 3064-AE94**

Dear Mr. Feldman,

I am writing to respond to the proposed rule the FDIC published in the Federal Register on February 10, 2020 regarding brokered deposits. I am the CFO at Altamaha Bank and Trust, a \$170 million community bank in Vidalia, GA with 4 local branches serving three counties. We are proud to provide credit for our communities, with a focus on small business and agriculture, while also being a community partner to keep our small communities vibrant by donating over \$40,000 to local organizations and charities last year.

Before providing the specific revisions I would like to see incorporated into the FDIC's final rule, I'd like to summarize the public statements FDIC Chairman Jelena McWilliams has made since being confirmed in her role on June 5, 2018 as I believe her comments are instructive backdrop to my recommended revisions.

In her December 4, 2019 statement before the Committee on Financial Services, U.S. House of Representatives, Chairman McWilliams articulated the following three (3) overarching goals for the FDIC:

- Strengthening the banking system as it continues to evolve;
- Ensuring that FDIC supervised institutions can meet the needs of consumers and businesses and
- Foster technology solutions and encouraging innovation at community banks and the FDIC

In statements, speeches or public comments that she has made throughout her tenure, Chairman McWilliams has consistently communicated her desire to lay the foundation for the next chapter of banking by:

- Encouraging innovation that meets consumer demands;
- Promoting community banking;
- Reducing the compliance burden; and
- Modernizing the FDIC's supervisory capabilities.

She has repeatedly talked about the transformative power of technology and how technology, along with partnerships with third party service providers and industry innovators can serve as a "great equalizer" for community banks who often lack the technology, expertise, budgets, resources and economies of scale that our nation's larger financial institutions enjoy.

She has correctly identified "data as the new capital" and how evolving consumer expectations can be met through digitalization, always-on data access, open banking, machine learning, artificial intelligence, personalization and other like capabilities and consumer engagements.

In her June 12, 2019 "If You Build It, They Will Come" speech The Chairman stated:

*"As a matter of public policy, we should encourage banks to leverage technology to reach consumers, improve the customer experience, lower transaction costs, and increase credit availability. There is certainly an opportunity to utilize technology and innovation to both expand the availability of banking services to those who are already banked and to reach consumers who are not. Bringing consumers – particularly those who are disenfranchised – into the banking fold gives those consumers an opportunity to become a part of the system and to benefit from its offerings."*

And, in previewing the Proposal the day before it was announced, the Chairman confirmed the FDIC's desire for insured depository institutions to have direct relationships with individual depositors and that partnerships with third parties that result in a direct relationship being established between a bank and an individual depositor should not result in the depositor's fund being declared brokered.

All of the above are consistent with the Chairman's desire to amend the current brokered deposit rules to reflect the transformative power of new technologies, ever evolving consumer preferences, and today's modern banking practices. Since the requirements for brokered deposits were put in place thirty (30) years ago, the financial services industry has seen significant changes in technology, business models, products, services, delivery capabilities and industry participants and I agree, the current rules must be updated to reflect these changes.

Unfortunately, as I read the currently written proposed rule, it appears that the drafters of the proposed language were NOT focused on fulfilling the Chairman's desire to (a) foster innovation within community banks or (b) ensure the viability of our community banking system.

I don't mean to mischaracterize or misinterpret the FDIC's intentions but, per the written language, the proposed rule clearly restricts my institution's ability to serve my community and support my customers in the manner in which they want to be supported.

Let me share just two examples of my concerns. The proposed new "facilitating" definition indicates that a person would meet the "facilitating the placement of deposits" definition of a "deposit broker" by engaging in any one, or more than one, of the following activities:

- The person directly or indirectly shares any third-party information with the insured depository institution;
- The person provides assistance or is involved in setting rates, fees, terms, or conditions for the deposit account;

As currently written, the proposed language restricts my bank's ability to receive any external information from any third party (and by extension, likely can't receive any associated insights either) about our own customers and / or potential customers. This restriction negates my institution's ability to build holistic understandings of our customers; our ability to deliver personalized messages and alerts containing next-best-actions and/or financial advice; and all but eliminates our ability to deepen our relationships by offering our customers additional products, services and capabilities from their institution. In a world of always-on-marketing, customized messages, consumer convenience and instant digital device access to information I don't understand why is the FDIC prohibiting the exchange of information that make these items possible?

In addition, the proposed rule restricts rather than enables banks from using consulting and/or advisory services to assist us in developing, delivering and improving our retail deposit offerings. Thus, without potentially having our deposits being declared "brokered", banks like mine will no longer be able to engage companies who provide market research; product development; price elasticity studies; profitability assessments; non-interest income; retail optimization services; behavioral and activity insights; asset liability management advice, overdraft protection services; reward and customer loyalty programs.... and the list goes on.

Community banks rely on industry experts to help us with these activities and yet, the proposed rule denies insured depository institutions access to these experienced resources. Rather than providing safety and soundness protections, the proposed language is actually introducing safety and soundness concerns by prohibiting institutions like mine from utilizing industry experts and advanced modeling tools and analysis.

There are other problems with the proposed new rule including the process by which third parties would have to apply for a primary purpose exception from the FDIC for each of its individual lines of business; and, with the Staff's authority to review, eliminate and/or grandfather current FDIC Advisory Opinions post final rule. Left unchanged, the proposed rule would severely interfere with substantial investments that have been made by community banks and industry participants based upon the specific assurances of those Advisory Opinions.

With all of that as backdrop, I respectfully ask the FDIC to consider and implement the following revisions within its final rule:

- Grandfather all current FDIC Advisory Opinions so they remain in full force and effect post final rule.
- Revise the proposed “facilitation” definition as follows:
  - Strike the first prong of the proposed definition altogether. I fail to understand how the exchange of information has an adverse effect on the stability of an individual’s deposits.
  - Alter the third prong of the proposed definition so that it specifically addresses third parties who control the depositor relationship. The language is too broad. Clarify the language so that it captures traditional brokers that own the depositor relationship and negotiate or set the rates, fees, terms or condition of the deposit account on behalf of their depositor customer, rather than the bank establish these items themselves and disclose the account specifics on their own regulatory disclosures.
- Provide overt exceptions for:
  - Transaction account deposits (i.e. checking accounts) and relationship-based deposits (i.e. where a depositor uses multiple services and products from their chosen bank – savings account, loan, debit card, online bill pay, direct deposit, etc.) as these are a very stable source of funds and they are associated with a tangible direct relationship that has been established between the individual depositor and the bank.
  - Third party service providers who do not have any contractual relationship with any depositor to place, manage or control any of the individual’s deposits. Community banks rely on third party service providers to help us develop and offer attractive products and services as we don’t have the same resources, technical expertise and budgets our larger banking brethren have. We should be able to use external resources to build direct relationships with individuals who live and work in the communities we serve.
- Streamline the proposed primary purpose exception application and determination process.
  - As currently worded, the proposed rule is so broadly written that it ensnares a wide range of industry participants. While I realize the FDIC has made some estimates as to the number of financial services firms that will apply for a primary purpose exception, I believe the FDIC will be overwhelmed by the actual number of applicants. In addition, the process effectively puts all third-party innovation “on hold” and harms consumers as all new deposit offerings or relationship building activities that third parties help us with would have to be screened by and approved through the FDIC’s primary purpose exception process.

Thank you for the opportunity of sharing my interpretations and perspectives. I hope my recommendations will be incorporated into the FDIC's final rule so that community banks like mine can continue to provide our communities with the personal service, trusted financial advice and competitive banking products that we have offered for generations.

Sincerely,



John Tyson  
Chief Financial Officer  
Altamaha Bank & Trust