



March 24, 2020

Mr. Robert E. Feldman  
Executive Secretary  
Attention: Comments  
Federal Depository Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429

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

Dear Mr. Feldman,

I welcome the opportunity to share our thoughts and recommendations on the FDIC's proposed new rule regarding brokered deposits. This is an extremely important topic because community banks like ours often don't have the same resources, technological expertise, digital knowledgebase and product development budgets that our fintech and mega bank competitors do. As such, it is vital that we maintain the ability to utilize industry innovators and third-party service providers without fear that such engagements will result in the deposits that they help us gather being deemed to be brokered.

Let me introduce myself and my bank prior to offering my understanding of the proposed rule and my recommendation for appropriate revisions that I believe will result in a more reasoned final rule.

I am the Chief Operating Officer of Suncrest Bank. Our institution was founded in 2008 by a group of Central Valley business leaders and professionals who recognized and responded to critical economic issues at the time – the need to provide financing to local businesses during a depressed economy while large national banks were abandoning our markets.

In our first five years, Suncrest put over \$100 million into the local economies of Visalia and Porterville, helping small business customers acquire farmland and commercial real estate, finance equipment purchases, inject working capital into their operations, and undertake new construction and development projects. By committing to local small businesses in this way, and sticking with them during a difficult economic period, our bank has thrived, grown stronger, and has continued expanding to meet the needs of an ever-growing personal and business customer base throughout the Central Valley.

The success of our business is based entirely on building relationships with our customers and our communities and keeping our customers money circulating in our communities, and lending that money to customers in our communities to help our customers businesses and our communities grow. In short, we only succeed when our customers and communities succeed. This is our purpose, why we are in the business of building relationships, why we are invested in people and committed to Community, this is our culture.

Having read the FDIC's proposed new rule regarding brokered deposits, I must share with you the reservations I have if the rule, as currently written, were to be enacted. Unless I am unintentionally misreading, misunderstanding or mischaracterizing the language, the proposed rule will severely impair my bank's ability to serve the needs of the people and businesses operating in Fresno, Kingsburg, Lodi, Porterville, West Sacramento, Visalia and Yuba City, California.

By focusing on the activities of third parties who may be involved in the deposit gathering process rather than concentrating on the direct depositor relationships that these external resources help us establish with individuals who live and work in the communities we serve, the rule inappropriately restricts our ability to support and expand our local economies. The exceedingly broad and ambiguous language found within the



proposed "facilitating the placement of deposits" definition seems to restrict my ability to receive and utilize valuable information from third parties that helps me to understand my current and potential customers; prohibits me from engaging outside expertise to help me optimize my deposit offering and restricts services rendered during any stage of the deposit gathering process to nothing more than tracking and accounting activities, lest we risk all deposits that are related to any such services we receive from a third party to be determined and treated as brokered.

I respectfully recommend the FDIC revise the propose rule so that it overtly recognizes the direct relationships that third-party service providers help my institution establish with individual depositors. This can be accomplished in a number of ways, three of which I have summarized below:

- **Exclude Deposits Associated with Direct Depositor Relationships Established & Owned by My Bank:** As I read the proposed rule, it was clear to me that the rule intended to stay true to the intent of the original statute by trying to address situations where a third party, not the bank, owned and controlled the depositor relationship and was actively involved in the placement of the depositors' funds and continued to maintain authority over those funds even after the deposit account was opened. We agree with the intent as such supervision would address traditional deposit brokers and the "new wave" of brokers like Chime, SoFi Money and others who own the depositor relationships and use participating banks behind the scene as transaction processing and deposit insurance "utilities." The "utilities" don't own the relationship, the upfront entity (i.e. Chime) owns the relationship and can easily terminate any deposit account and subsequently move money from one "utility" institution to whatever other institution it wants to partner with.

Here is how I think you can make the appropriate revisions to the proposed rule to honor the direct relationships that my institution establishes:

- Create an overt exclusion to the "deposit broker" definition or an expressed primary purpose exception for third-party service providers who enable me to offer deposit products and establish direct relationships with individual depositors provided that the third party has no contractual relationship with the individual depositor to place, manage or control that individual's deposits. I could easily verify and confirm that no such relationship exists between any depositor and the third party by requiring that information to be disclosed as part of my due diligence and vendor management program. This would limit the compliance and reporting burden that the proposed rule's primary purpose exception.
- The FDIC should exclude from the definition of "brokered deposits" all sources of stable and relationship-based deposits – specifically all deposits residing in transaction accounts that are opened by an individual, held in the name of that same individual, is utilized on a monthly basis for deposit and payment transactions and who has the sole authority to authorize withdrawals to be made from the account. The active nature of such a singularly held account indicates that the depositor is using the account as his / her primary financial account and my institution as their primary financial institution.
- Similarly, deposits that reside in deposit accounts (i.e. savings accounts, CDs) associated with individual depositors who have an extensive relationship with my bank as evidenced by her/his use of multiple banking products or services offered by my institution – i.e. direct deposit, credit cards, online banking, payment services, loans, etc. should also be excluded from the definition of "brokered deposits." These deposits are "sticky" and increase my institution's franchise value as they are associated with bone fide individual customer relationships that I own.



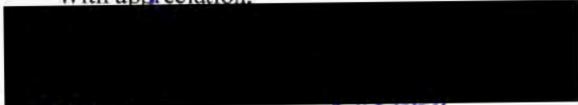
Implementing the above recommendations would also enable the FDIC to clarify the language and narrow the proposed "facilitation" definition to address third parties that play an active role in the opening of an account and maintain control of that depositor relationship and the associated funds after the account is opened.

I also request that the FDIC not eliminate the Advisory Opinions that are currently in place. Banks as well as a wide range of industry participants have made substantial financial and operational investments in these relationships so we can provide innovative financial products and service our customers and our communities.

By incorporating all of the above recommendations, the FDIC could also limit the need for industry participants having to apply for a primary purpose exceptions as the bright-line standard of (i) requiring third party to have no contractual relationship with any depositor to place, manage or control their deposits and (ii) offering products and performing services that enable insured depository institutions to establish, develop, deepen and maintain direct relationships with individual depositor that the institution owns, would be established so all industry participants – the regulators, banks, fintechs and third party service providers would easily be able to identify who is and who is not a deposit broker.

I wish to communicate my gratitude for being able to communicate my concerns and my suggestions. Community banks like Suncrest play a vital role in and are often the economic engine that enables our local community economies to thrive. I respectfully ask that the FDIC incorporate these changes so that our institution can continue to fulfill our purpose to invest our time, our capital and our energy into our staff, our customers and our communities to help them survive thrive and grow.

With appreciation,



Steve C Jones  
Chief Operating Officer