



David Dowd
President / Chief Executive Officer
NMLS ID 535709

May 12, 2020

Robert E. Feldman
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-AE94

Dear Mr. Feldman,

I want to express my appreciation for having the opportunity to provide feedback to the FDIC on its proposed new rule regarding brokered deposits.

My name is David Dowd and I am the President of Cross County Bank. Established in 1891, Cross County Bank was the second bank ever chartered in eastern Arkansas. Today, along with our sister institution, First Commercial Bank, we've been serving the financial needs of our communities for over 125 years. With locations in Blytheville, Wynne, Jonesboro, Manila, Brinkley, Osceola, Cherry Valley and Hickory Ridge, Arkansas, our institution exists for the enrichment of our customers, shareholders, employees, and the communities we serve and it is for that reason that I write to you regarding the FDIC's propose rule regarding brokered deposits.

I am requesting that the following revisions be made to the proposed rule for, as I read the written language, the proposal harms community banks by limiting our ability to engage third party service providers and industry participants – lest we risk having a large portion of our deposits being declared brokered.

Unless I am simply misreading the proposed “facilitating the placement of deposits” definition, the language appears to restrict me from being able to use any third parties in my deposit gathering activities for anything other than reporting services and it eliminates my ability to create data driven prospect and customer communication as well as restricts my ability to solicit advice regarding my deposit offering from consultants and industry experts. Rather than providing the bright-line clarity that FDIC Jelena McWilliams touted in her December 11, 2019 “Brokered Deposits in the Fintech Age” speech, the ambiguous language within the proposed rule has caused uncertainty within the banking community at a time where we are facing an extended economic crisis due to the Coronavirus pandemic.

We don't need uncertainty; we need the freedom and flexibility to engage external resources to firm up our operational funding so we can meet the financial needs of our communities' citizens and provide our small businesses with the credit they need to reopen their businesses and employ our neighbors. Given the passage of the CARES Act in response to our nation's Coronavirus struggles, community banks are going to play a vital role in extending credit to small business. While maintaining safety and soundness protections, we need to be able to expand our deposit gathering capabilities and as such I respectfully as for the following revisions be made within the FDIC's final rule:

- Ensure All Advisory Opinions Remain In Place Post Final Rule: In a time of economic unrest and recovery, now is not the time for the FDIC to review and eliminate long-standing determinations that industry participants

DOWNTOWN WYNNE
1 Cross County Plaza
P.O. BOX 9
Wynne, AR 72396-0009
(870) 238-8171
FAX (870) 238-4052

NORTH WYNNE
2098 Cross County Bank Blvd.
P.O. BOX 9
Wynne, AR 72396-0009
(870) 238-3248
FAX (870) 238-2485

HICKORY RIDGE
108 N. Flora
P.O. BOX 8
Hickory Ridge, AR 72347-0008
(870) 697-2234
FAX (870) 697-2575

CHERRY VALLEY
3826 Highway 1
P.O. BOX 157
Cherry Valley, AR 72324-0157
(870) 588-4300
FAX (870) 588-4352

have come to rely on to build, offer and support financial products and services that support our customers. Keep all current Advisory Opinions in place.

- Exclude Third-Service Providers From The Deposit Broker Definition: Unlike the FinTech companies and large banks we compete with, many community banks do not have the same financial budgets or technical resources to design, build, deploy and support the modern banking products that consumers desire. We rely on external resources to help us offer these capabilities to our communities. As such, all third parties who enable us to offer financial products, services and capabilities and help us establish direct relationships with individual depositors – relationships that we own, nurture and maintain – should be excluded from the “deposit broker” definition. These providers are “enablers” – they help us build long lasting individual depositor relationships. Provided that they do not have any contractual relationship with any depositors to place, move, manage or control that individual’s funds, we should be able to engage their services without running afoul of the brokered deposit rule.
- Exclude Transaction & Multi-Service Account Deposits from the “Brokered Deposit” Definition: Community bankers embrace a relationship-based business model. We know our communities, the business operators who provide employment for our citizens and we are actively involved in civic organizations and events. We build relationship one individual at a time and those relationships typically begin with a transaction (i.e. checking) account and then expand to include other deposit accounts (i.e. savings, CDs) and additional banking services (i.e. direct deposit, credit cards, loans, online banking, remote deposit capture, etc.) Because they are associated with individual depositor relationships that we own and nurture, the deposits that are associated with these relationships are an extremely stable source of funds upon which our institution can operate in a safe and sound manner. As such deposits residing in transaction and other relationship-based accounts should be excluded from the “brokered deposit” definition within the FDIC’s final rule.

If the FDIC is unable to expressly exclude third-party service providers and stable sources of funding from their respective rule definitions, then, at minimum, the FDIC should create an expressed exception for third-party providers who assist us establish direct depositor relationships and who help us secure relationship-based deposits that enable us to fulfill our role as an economic engine within our communities.

I wish to point out that my recommendations are not new. While worded differently, the FDIC received similar guidance from a wide range of industry participants in response to the agencies initial request for comments when it issued its December 19, 2018 Announced Notice of Proposed Rulemaking (ANPR) regarding its intention to look at modernizing the current brokered deposit rule.

As a reminder I have quoted to organizations that offered similar request in 2019:

- Comment Letter # 92 - US Bank: *“A third-party partner is not automatically “engaged in the business of” placing or facilitating the placement of deposits for purposes of being considered a deposit broker merely because a bank engaged it to assist the bank in connecting with potential customers, including those who are not currently utilizing the banking system. Third parties should not be classified as “engaged in the business” of a deposit broker simply because that third-party partner co-produces or assists in the distribution of materials describing banking services available to potential customers and how they can access those services, or partners with banks to deliver those services to customers. These actions are not focused on short-term deposit gathering and do not yield high-denomination, “hot money” deposits of the type Congress intended to address under Section 29. Rather, their focus is engaging with new customers in new ways to create a long-term and broad relationship that meets the needs and expectations of our customers.*

In the ordinary course of the business of banking, banks may also work with other third parties that are well-placed to help banks identify and reach unbanked or underbanked consumers to introduce them to deposit products. Banks engaging in various forms of customer outreach through marketing and referral arrangements to establish relationships with new customers should not need to evaluate every third party with even a tenuous

connection to those efforts as a potential deposit broker-Congress did not intend to impede ordinary course customer outreach programs under Section 29.”

- o Comment Letter # 98 - Middlesex: “Another approach would be to exclude all “relationship deposit accounts” from the definition of brokered deposit, defined as transactional deposit accounts where the depositor obtains at least one other banking service from the institution, such as a debit card, another deposit account, a loan, a bill payment service, automated clearing house services, or wire transfer services. This would be consistent with the regulatory recognition, as reflected in the LCR regulations, that such deposits are stable and do not present liquidity risks.”

In her October 1, 2019 “The Future of Banking” speech at the Federal Reserve Bank of St. Louis, Chairman McWilliams stated: “The FDIC stands ready to take on the challenge of innovation and to create a regulatory environment that will make it easier for small banks to adopt new technologies and thrive.”

I encourage the FDIC to incorporate the reasoned recommendation I (and other industry participants) believe are warranted. As currently worded, the proposed rule creates funding uncertainty and in a time where our communities are reeling from the effects of the rapidly spreading Coronavirus, community banks need to be able to attract relationship based deposits so we can lend them back to our neighbors and business owners who are suffering so we can re-energize our local economies.

Respectfully,



David Dowd
President/CEO