May 2, 2019

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Submitted via the Federal Rulemaking Portal - www.regulations.gov

RE: RIN 3064-AE94

Dear Mr. Feldman:

I am writing on behalf of the National Association of Health Underwriters (NAHU), a professional association representing more than 100,000 licensed health insurance agents, brokers, general agents, consultants and employee benefits specialists. We are writing in response to the proposed rule and request for comment published in Volume 84, Number 25 of the *Federal Register* on February 6, 2019, and titled "Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions."

The members of NAHU work daily to help millions of individuals and employers purchase, administer and utilize health insurance coverage, including the increasingly popular employer group benefit option of qualified high-deductible health plan (HDHP) coverage coupled with a Health Savings Account (HSA). Our association appreciates the chance to comment on the proposed rule and we respectfully request clarification that HSAs and Treasury-certified HSA trustees and custodians will not be subject to the proposed brokered-deposit rules. This clarification in any final rule is very important, since HSAs are an integral part of employer-sponsored health insurance coverage for over 20 million Americans and HSA custodians and trustees are not primarily responsible for placing funds in deposit institutions. If the FDIC subjects them to the brokered-deposit rules, then NAHU members believe that regional and community banks and credit unions will get out of the HSA business, thereby limiting consumer access to this popular and cost-saving health insurance coverage option.

NAHU believes that HSAs qualify under the employee benefit plan exception. While individually held accounts, HSAs can only be obtained if an individual also has a qualified high-deductible health plan, typically offered through an employer-sponsored group benefit plan. Over the past nine years, implementation of the Patient Protection and Affordable Care Act (ACA) has changed employer plan design, placing an increased emphasis on high-deductible plan choices for group health plan participants. Coupling a qualified high-deductible plan with an HSA is currently a desirable option for both employers and employees to offset high employee out-of-pocket costs and encourage responsible consumerism. According to America's Health Insurance Plans survey data, in 2018, 21.8 million Americans enrolled in qualified high-deductible health plans paired with an HSA via an employer group benefit arrangement. Since the ACA passed in 2010, this market segment has more than doubled in volume.[1]

[1] America's Health Insurance Plans. (April 12, 2018) "Health Savings Accounts and Consumer-Directed Health Plans Grow as Valuable Financial Planning Tools." https://www.ahip.org/2017-survey-of-health-savings-accounts/

HSAs are heavily regulated, and so is how HSA funds may be distributed. HSA deposits and accounts do not involve large sums of money, nor are they the type of account where all of the funds are regularly withdrawn at the same time or transferred elsewhere. While HSA funds can be used to fund medical costs and other expenses in retirement, they are typically low-balance accounts used and viewed by employees as a shield against high out-of-pocket costs in their current-year medical plans. According to the Employee Benefit Research Institute, which developed the EBRI HSA Database to analyze individual behavior in Health Savings Accounts and has been tracking and reporting on this behavior since 2012, 5.9 million accounts with total assets of $13 billion had been identified and cataloged in the database as of December 31, 2017. At that time, the average HSA balance among account holders with individual or employer contributions in 2017 was $2,764. Among accounts with contributions, individual contributions in 2017 averaged $1,949, and employer contributions averaged $895. Seventy-seven percent of HSA owners who made a 2017 contribution also requested at least one distribution during the same year and the average amount distributed was $1,724. Only four percent of HSAs contain any invested assets beyond cash.[2] All of this data shows that HSAs are small, stable and tax-advantaged accounts that provide great value to many Americans. They are limited in purpose and use; it would in no way be practical to use HSAs as a vehicle to avoid other banking regulation. As such, the FDIC should not treat HSAs in the same manner as other brokered deposits.

Unless the FDIC specifies a clear intention to carve out HSA trustees and custodians from the proposed brokered-deposit rules, NAHU believes that regional and community banks and credit unions will cease HSA marketplace operations, since these deposits will now be considered higher risk. To preserve the HSA marketplace and protect consumer access to a wide range of banking options, NAHU urges you to exclude HSA deposits from the scope of any final regulation.

NAHU sincerely appreciates the opportunity to provide information about the adverse impact the proposed rule could have on the HSA marketplace. We hope that it will be helpful to you as you work to make improvements to the banking system. If you have any questions, or if NAHU can be of further assistance to you, please feel free to contact me at 202-595-0787 or jtrautwein@nahu.org.

Sincerely,

[redacted]

Janet Trautwein
Executive Vice President and CEO
National Association of Health Underwriters

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[2] Paul Fronstin. (October 15, 2018) "Health Savings Account Balances, Contributions, Distributions, and Other Vital Statistics, 2017: Statistics From the EBRI HSA Database." Retrieved from: https://www.ebri.org/content/health-savings-account-balances-contributions-distributions-and-other-vital-statistics-2017-statistics-from-the-ebri-hsa-database