



March 24, 2020

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

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

Dear Mr. Feldman,

As Chief Operating Officer and Executive Vice President of Sunstate Bank, I am reaching out to comment on the FDIC's notice of proposed rulemaking regarding brokered deposits restrictions. Sunstate Bank was founded in 1999 as Sofisa Bank of Florida and we adopted our new name in 2007 to enforce our commitment to the communities we serve. We are a full-service, state-chartered commercial bank headquartered in Miami-Dade County with three branches in Palmetto Bay, Coral Gables and West Miami. We offer consumers, businesses and international customers an array of deposit products including checking and savings accounts, CDs, IOTAs, IRAs as well as loan products including commercial mortgages, term and working capital loans, commercial LOCs, residential mortgages, home equity loans and consumer installment loans. Our bank's business is conducted in a safe and sound manner and supported by a high level of capitalization. We were awarded one of the "strongest financial institutions in the nation" by the FDIC in 2016. We also strive to deliver state of the art products and personalized service to our stakeholders. This is where my concern lies with the brokered rulemaking.

As a community bank, we use outside products and vendors to help create our state-of-the-art banking. For example, remote deposits, our mobile banking app, online account openings and bill pay as well as rewards checking accounts, and more are all resources that we rely on third party vendors for, to help us innovate and meet the needs of communities. Without access to third-party service providers, we would have a difficult time offering personalized and differentiated service to our customers.

As I currently read and comprehend the proposed rule, it appears to me that the rule would restrict Sunstate bank and other community banks' ability to use third parties and therefore would impact how we serve our customers especially in today's technology-based economy. I may be misunderstanding the FDIC's goals, but the way it is written, I have concerns with a number of sections within the language.

1. The proposed "facilitating" definition says that a person would be considered a deposit broker if they directly or indirectly share any third-party information with the bank or provides assistance or is involved in setting rates, fees, terms or conditions of the deposit account. Without the ability to receive and use external data and information, I would not be able to have access to customer insights, deliver personalized offerings or target new customers and the list goes on. I don't understand the FDIC's issue with these services.
2. The rule also hampers the use of consulting and advisory services to help us develop and implement retail deposit offerings like our rewards checking/cash back accounts as well as having access to market research, loyalty programs, overdraft protection services and more. We rely on these experienced resources and without them, there will potentially be safety and soundness concerns.
3. I am also troubled by the process by which third parties would have to apply for a primary purpose exemption from the FDIC for each of its individual lines of business and with the Staff's authority to review.

In order to rectify all the discussed issues, I would suggest the FDIC: update the "facilitation" definition; grandfather current FDIC Advisory Opinions; provide exceptions for third-party service providers without any contractual relationship and transaction account deposits and relationship-based deposits; and streamline the proposed primary purpose exemption process. Further details on these steps are provided below:

- The FDIC should revise the proposed rule to avoid covering third-party service providers that enable banks to establish accounts directly with depositors. This change can be accomplished by exempting these types of service providers from the proposed definition of deposit broker altogether and/or by narrowing the proposed definition of what constitutes "facilitating the placement of deposits." The March 2<sup>nd</sup> FDIC Staff Memorandum suggests that it was not the FDIC's intent to ensnare such service providers in the proposed definition, but the broad and vague language of the proposed definition must be revised to reflect that intent.

- The preamble to the FDIC proposal indicates that the FDIC intends to codify existing staff advisory opinions that continue to apply, and to evaluate and rescind those opinions that no longer apply, once the FDIC adopts the rule changes. Rescinding any staff advisory opinions that community banks and their service providers have relied upon for years would interfere with the substantial business and monetary investments made in reliance upon specific assurances from the FDIC's lawyers that particular activities would not make a company a deposit broker under current law, which remains intact and unchanged. I recommend retaining existing advisory opinions which conclude that specific company activities do not make the company a deposit broker. Moreover, replacing existing advisory opinions with the cumbersome and protracted application process described in the proposal would cause material economic harm to community banks and their service providers while they assemble their applications and wait a minimum of 4 months, and likely longer, for a decision.
- From a supervisory standpoint and from safety and soundness perspective, the FDIC encourages banks to build their funding upon individual depositor relationships that are established directly between the bank and the depositor. These relationships are manifested in the deposits residing in transaction and relationship-based accounts (i.e. individuals who use multiple services – checking, savings, direct deposit, online bill pay, debit/credit cards, loans, etc. – from my institution). These individually acquired deposits are stable sources of funds that contribute positively to my franchise value and do not represent the risky “hot money” that is the FDIC's focus. Therefore, these deposits should be exempt from the brokered deposit definition.

By actively participating in this comment period, I hope the FDIC takes my concerns and suggestions seriously when reviewing the proposed rule. Sunstate Bank feels it is our commitment to the communities we do business in to advocate for tools and technology that will allow us to better serve them for years to come.

Thank you for your consideration,



Yvonne Debesa

Executive Vice President and Chief Operating Officer  
Sunstate Bank