Plansmith

ALM ADVISORY SERVICES

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Federal Deposit Insurance Corporation
Attn: Comments-RIN 3064-AE94
550 17th Street NW
Washington, D.C. 20429

To Whom It May Concern:
As a former FDIC bank examiner, current bank director, and consultant to financial institutions, I strongly feel the current regulatory restrictions on the use of brokered deposits (BDs) and "high-rate deposits" (HRDs) are in need of significant revision. As the FDIC notes, the restrictions arose out of concerns that "such deposits could facilitate a bank's rapid asset growth in risky assets without adequate controls" and "once problems arose, a problem bank could use such deposits to fund additional risk assets to attempt to 'grow out' of its problems." While these concerns are certainly valid, imposing such strict restrictions on problem banks often only exacerbates problems, particularly for institutions that had already been relying on BDs and/or HRDs as part of their funding structure. Clearly, the FDIC is warranted to increase oversight and exercise additional control in the case of a problem institution, but essentially requiring a bank to find another funding avenue to replace maturing BDs and HRDs often only increases the likelihood of failure. Rather than forcing such a bank into a liquidity crisis, why not allow the bank to renew any BDs and/or HRDs, and at the same time institute a growth restriction to prevent them from taking on any new BDs or HRDs? That would potentially give the institution time to try to work through its asset quality (or other) problems, while not increasing risk to the Insurance Fund.

Similarly, the FDIC's interest rate restrictions (rate caps) further "handcuff" problem banks, especially in light of the current yield curve and competitive landscape. The method for determining what is a HRD is archaic and clearly not consistent with the current deposit rate environment. By definition, the FDIC rate-cap is determined by adding 75bps to "the average national rate." Per the FDIC, national rates are calculated based on a simple average of rates paid **by all** insured depository institutions **and branches** for which data is available. The FDIC notes that they use RateWatch to gather the data, and it includes "the banks and branches for which [they] have data - **no fewer than 45,000 locations and as many as 81,000 locations reported."** The deposit rates of **credit unions are not included** in the calculation.

While there are less than 6,000 bank in this country, the rate cap calculations use data points from as many branches as available (45,000 to 81,000 as noted in bold). Statistically, more data points might seem like a good idea, but consider what happens if (or in reality, when), the largest banks like Wells Fargo, Chase, Citi, and Bank of America are only paying nominal rates (say 0.50% to 0.75%) on one-year CDs, because they either don't want one-year money, or more likely, they are offering "odd-month" (like 11- or 13-month) CD promos. In many cases, banks do not report their promotional rates to RateWatch. As such, the

"average national rate" is routinely artificially low, and even adding the 75 bps to get to the rate-cap level still results in caps far less than what many banks are seeing in their local markets, not to mention the rates that are available on the internet.

As an example of the weaknesses in the rate cap calculation methodology, in early January 2019, the "average national rate" on 12-month CDs was only 0.61%, and thus, the FDIC rate-cap was 1.36%. So, if a bank was paying more than 1.37% on one-year CDs at that time, all those CDs they booked would be considered to be HRDs. For a little perspective, in the Chicagoland area, at that time, there were 44 banks and an additional 22 credit unions paying more than 1.36% on one-year (or similar) CDs. That means, a bank could have been the 66th highest rate payer with 65 other banks and credit unions paying rates above them, and the FDIC would consider their one-year CDs to be HRDs. Essentially, we again have the same problem that occurred with the FDIC's prior rate cap methodology. That is, the rate cap is artificially low and requires some banks to offer unreasonably low rates, thereby restricting access even to market-rate funding.

Of further concern, FDIC bank examiners are routinely using the HRD definition in well-run, non-problem banks in their evaluation of funding risk and assigning the "L" (Liquidity) rating. They have been grouping deposits in excess of the rate caps together and labeling the aggregate of all such deposits as a "potentially volatile funding source" concentration. This clearly was not the intended use of the HRD definition, and the FDIC has provided virtually no guidance to the industry on this new approach to funding concentrations. Moreover, given the aforementioned weaknesses in the rate cap calculation methodology, using it to cite funding concentrations leads to misidentification of risk.

Clearly, the FDIC's methodology for defining HRDs needs to be revised, especially if examiners are going to continue to use it in their assessment of Liquidity and determining funding concentrations. Perhaps the FDIC should consider reverting to the previous methodology of setting the rate cap at some multiple of comparable U.S. Treasury obligations. At a minimum, the FDIC should find a more reliable source to track true market deposit offering rates. To be functional, the calculation must more properly include promotional offering rates and should not include multiple locations/branches for any one bank. Conversely, the calculation should include offering rates paid by credit unions, since banks routinely compete against credit unions for deposits. Regardless, if the FDIC cannot eliminate the current obvious weaknesses in the calculation methodology, it should not be used for either the evaluation of funding risk or establishing the maximum rates that less than "well capitalized" banks can pay on deposits.

Sincerely,

David Wicklund
Director of ALM Advisory Services