

**Congress of the United States**  
**Washington, DC 20515**

July 26, 2018

The Honorable Jelena McWilliams  
Chairman  
Federal Deposit Insurance Corporation  
550 Seventeenth St, SW  
Washington, D.C. 20554

Dear Chairman McWilliams,

We write today to raise concerns on the Federal Deposit Insurance Corporation's (FDIC) interpretations and regulations surrounding brokered deposits. The limitations on brokered deposits at the FDIC were implemented before the turn of the millennium and have not been adequately updated to reflect technological, legal, business model and product range changes in the period since. Although the FDIC issued an updated interpretation in a Frequently Asked Questions (FAQs) page<sup>1</sup> in June 2016, the agency's new interpretation is inconsistent with the FDIC's own statutory authority and regulations. The supervisory limits and additional deposit insurance assessments placed on products subjected to standing brokered deposit regulations are restrictive and costly. These requirements interfere with innovation and have diminished banks' access to stable sources of deposits, unnecessarily limiting the funding banks can make available for lending to small businesses and consumers.

Further, the FDIC maintains an overly broad classification of what deposits are "brokered," and this has significant consequences for institutions of all sizes. The diversity of products that fall under the agency's new brokered deposit classification means that banks offering either traditional or innovative financial services will likely come into contact with a brokered deposit of some kind, potentially subjecting the bank to additional deposit insurance and higher capital and supervisory limitations regarding the amount of brokered deposits the institution can accept, regardless of the actual risks posed by such deposits. This has in turn reduced the number of banks who can afford to participate in certain markets, and has limited consumer access to financial products as a result.

We encourage the FDIC to revisit its brokered deposit FAQs in light of the rapid technological changes in the banking and payments industry. In doing so, we encourage the FDIC to take a second look at the statutory definition of "deposit broker," and to reevaluate the classification of

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<sup>1</sup> Federal Deposit Insurance Corporation, Frequently Asked Questions on Identifying, Accepting and Reporting Brokered Deposits. (June, 2016) Available at <https://www.fdic.gov/news/news/financial/2016/fil16042.pdf>.

products that do not currently meet a new, narrow interpretation of “brokered deposit.” Accordingly, we encourage the FDIC to use its authority to make it clear that the agency will consistently apply the same “facts and circumstances” test when it comes to brokered deposits that it applies in other contexts.

Further, we encourage you to pursue this process with the participation of industry stakeholders and covered institutions under your purview.

Very Respectfully,



Scott Tipton  
Member of Congress



Blaine Luetkemeyer  
Member of Congress