March 21, 2019

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Application of the National Rate Cap to Healthy Institutions

Dear Chairman McWilliams:

We are writing to bring to your attention a pressing matter for our members related to problems being created by the national rate cap, and particularly its application to healthy banks. It is important to note that the national rate cap is not keeping pace with interest rates and the deposit markets, where there is increasing competition, particularly for community banks. This compounds the problem of the use of the national rate cap as a tool to assess funding and liquidity risk at heathy, well capitalized banks. As you are aware, community banks are a vital source of economic growth and play an important role supporting small businesses and communities around the country. We are concerned that the national rate cap, intended to be a gauge of high cost deposits of concern to the supervision of troubled banks, is becoming a binding constraint that will inhibit healthy, well capitalized community banks from addressing the borrowing needs of their communities and the expectations of their depositors going forward.

We very much appreciate your initiative to reconsider the FDIC's framework for interpretation and classification of brokered deposits. The advance notice of proposed rulemaking (ANPR) is the start of a necessary public dialogue. The national rate cap is a separate but related issue in need of urgent attention. We ask your help in ensuring that the rate cap—not applied by regulation to healthy banks—is not being applied to healthy banks through the supervisory process. We hear recurring reports from well capitalized banks of examiners raising rate cap issues with healthy banks.

The FDIC's current methodology for calculating the rate cap is flawed, with its problems becoming particularly apparent over the recent rising rate environment. The FDIC calculation does not capture local competition or account for market share of deposits. The national rate is currently established by taking a "simple average of rates paid by all insured depository institutions and branches for which data are available."[1] Because banks with the most branches drive the number, that current rate does not accurately reflect the cost of deposits for community banks, and others, that do not have extensive branch networks. In today's rate environment, this means that the FDIC's rates fall significantly *below* those of the market. In fact today, the rate cap on 12 month jumbo CDs is 1.47 percent compared with an effective Fed Funds rate of 2.40 percent and the yield on the 12 month Treasuries of 2.52 percent (data as of March 18, 2019).

[1] https://www.fdic.gov/news/board/may29no8.pdf.

Despite this, we are hearing from many of our banks that examiners are using the national rate caps as a proxy for “high risk funding” in examinations of healthy banks. We understand the need for robust liquidity and other risk management practices. The national rate cap, however, was never envisioned by Congress for such purposes and is a poor fit for such use. As a practical matter, the national rate cap, designed as a brake on risky practices by troubled banks, comes in *below* the current market for deposits. Supervisory use of an artificially low national rate cap is discouraging healthy banks from raising or holding what would otherwise be considered stable deposits.

As part of the process of responding to the ANPR, requests will be made that the methodology behind the rate cap be revised so that it is an accurate gauge of excessively high, above market rates. In the nearer term, however, we urge you to ensure that bank examiners refrain from applying the national rate cap, designed by regulation and intended by statute to apply to troubled banks, to healthy, well capitalized banks.

Thank you for your work to review FDIC supervisory policies to identify where reforms are needed. We will continue to offer our best input in those efforts.

If you have any questions about these comments or would like to discuss anything further, please contact Alison Touhey at atouhey@aba.com or 202-663-5182.

Sincerely,

American Bankers Association
Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
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Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association

South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
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Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
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