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# Brokered Deposits and the National Rate Cap

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## Issue Update

Enacted in 1989, Section 29 of the Federal Deposit Insurance Act (FDIA) sets restrictions on the acceptance of brokered deposits by institutions with weakened capital positions. Brokered deposits themselves are not defined in the statute or implementing regulations. Instead, the FDIC has issued legal interpretations, examiner guidance, and other materials to indicate what deposits it considers to be "brokered." Section 29 also directs the FDIC to calculate a national rate cap on the interest rates weaker institutions may offer on deposits.

In December 2018, the FDIC issued an advanced noticed of proposed rulemaking (ANPR) on brokered deposits and the national rate cap. The ANPR is a welcome step towards modernizing the FDIC's framework. This is the first time the FDIC has sought to revisit its approach to brokered deposits since they were originally implemented in the early 1990s.

## Why it Matters

The current definition of "brokered" casts too wide of a net, ultimately discouraging heathy banks from gathering stable funding. The FDIC's view on brokered deposits has not kept up with extensive statutory and technological changes that have significantly changed bank structure and the sources of and mechanisms through which banks gather deposits. A broad, outdated concept of brokered deposits has led to increased regulatory costs and supervisory bias against what, as a practical matter, is stable funding.

Regarding the national rate cap, the FDIC's current methodology does not accurately reflect either market share or deposit competition in local markets, which in rising rate environments imposes an artificially low cap. This is problematic for well-capitalized and weaker banks alike. Because examiners use the national rate cap as a proxy for higher risk deposits, banks are often discouraged from raising or holding deposits with a rate higher than the national rate cap. Additionally, a non-competitive rate means that weaker institutions have a reduced ability to improve their condition as they are hobbled in their ability to raise deposits.

## Recommended Action Items

<u>The FDIC should modernize its definition of what deposits are considered "brokered" and revise the methodology behind the national rate calculation.</u>

- Deposit account products involving a direct, continuing relationship between a customer and an insured depository institution should not be considered "brokered" deposits, even if an unaffiliated third-party is involved in the origination of the deposit.

- Deposits resulting from affiliates and subsidiaries of [an insured depository institution or holding company] should not be considered "brokered."

- The national rate cap should be a dynamic market rate that reflect local markets for banks of all sizes;

- Supervisors should take a holistic view of liquidity risk, assessing a bank's funding mix based on its business model and measurement and mitigation of its risks.