October 21, 2024

James P. Sheesley
Assistant Executive Secretary
Attention: Comments-RIN 3064-ZA42
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Request for Information on Deposits (RIN 3064-ZA42)

Dear Mr. Sheesley:

We, the undersigned organizations and individuals, appreciate the opportunity to comment on the *Request for Information on Deposits*.[1] We are responding to the Federal Deposit Insurance Corporation's (FDIC) options for deposit insurance reforms and deposit data collection. The FDIC is asking for more deposit information from banks supposedly in an effort to avoid future bank failures. However, we view these questions as the potential precursor to new, permanent granular reporting requirements for all banks, which would inflict vast new burdens on the industry. Federal regulators already have access to massive amounts of data on the health and status of financial institutions, much of which was ignored leading up to the bank failures last year. We have concerns about these potential requirements, and feel they are both unnecessary and harmful.

However, we will spend the bulk of our letter focused on the FDIC's options for deposit insurance reform released last year. Among other things, the FDIC is seeking comment on all available options for reform as well as its recommendation that certain types of accounts receive higher levels of coverage. The following comment letter discusses why all efforts to increase the deposit insurance threshold are misguided.

THE FDIC's PROPOSED DEPOSIT INSURANCE REFORMS

Business Payment Accounts

The FDIC's deposit insurance report[2] discusses how business payment accounts could be covered under a program akin to the Transaction Account Guarantee (TAG) program, which was originally created in response to the 2008 financial crisis using the systemic risk exception.[3] The TAG program provided unlimited deposit insurance to noninterest-bearing transaction accounts. In 2012, however, Congress did not reauthorize the TAG program because Senate Republicans opposed it[4] for

[1] 89 FR 63946.
[2] https://www.fdic.gov/analysis/options-deposit-insurance-reform.
[3] https://elischolar.library.yale.edu/cgi/viewcontent.cgi?article=1320&context=journal-of-financial-crises.
[4] https://www.congress.gov/bill/112th-congress/senate-bill/3637.

being the antithesis of free market policy.[5] The TAG program also reduced market discipline. If it had been extended, there would have been "less private sector control of bank risk-taking."[6] Now, the FDIC is proposing to introduce a new TAG program for business accounts. This program cannot be created unilaterally by the FDIC—it requires Congressional action. We would oppose any legislation that would increase federal deposit insurance, even for business accounts, which would carry moral hazard risks and propagate future risk-taking.

Increasing deposit insurance above $250,000 for business accounts is not beneficial. Most small business accounts are already covered under the current deposit insurance framework. Fewer than one percent of bank accounts have more than $250,000.[7] A survey of 600,000 small businesses found that their median bank balance is $12,100—far below the current $250,000 threshold.[8] Additionally, Americans have a median savings account balance of about $5,300 while Black and Hispanic Americans have median savings account balances of approximately $1,500 and $1,900, respectively.[9] **Any new increase in coverage for business accounts would only benefit the wealthy.**

Although the FDIC leaves its proposed coverage of business accounts open-ended, footnote 137 in its report suggests that limit could be $2.5 million.[10] But such a limit would fail to stop runs. Footnote 129 of the FDIC report acknowledges that even if the deposit insurance limit had been $2.5 million when Silicon Valley Bank (SVB) failed, it would not have made a material difference—a run still would have occurred.[11] This defeats the purpose for proposing a targeted increase in the deposit insurance limit. **It also proves that increases in the limit would only benefit the wealthiest Americans.**

Unlimited Coverage

The worst concept in the FDIC's paper is providing unlimited federal deposit insurance. Providing unlimited coverage would effectively socialize the banking sector and subject it to government control. Sen. Elizabeth Warren (D-Mass.) has publicly stated that more federal deposit insurance for banks would have to be accompanied by "tighter regulation."[12] Sen. Warren cited an op-ed specifically calling for banks to be regulated like public utilities.[13] This is a nonstarter.

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[5] https://cei.org/news_releases/tag-bank-bailout-fails-in-senate-taxpayers-win/.
[6] https://www.aei.org/articles/end-the-tag-program-it-puts-banks-and-the-economy-at-risk/.
[7] https://www.cato.org/blog/less-one-percent-accounts-are-above-fdic-limit.
[8] https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/jpmc-institute-small-business-report.pdf.
[9] https://time.com/personal-finance/article/average-american-savings-account-balance/#:~:text=This%20content%20is%20created%20independently,Learn%20more.&text=American%20households%2C%20on%20average%2C%20have,according%20to%20the%20same%20data.
[10] https://www.fdic.gov/analysis/options-deposit-insurance-reforms/report/options-deposit-insurance-reform-full.pdf.
[11] *Id.*
[12] https://www.bloomberg.com/news/articles/2023-03-21/warren-seeks-to-tie-higher-fdic-insurance-to-tighter-regulation.
[13] https://twitter.com/SenWarren/status/1704850132615811427?s=20 (tweeted favorably about *Make banks public utilities*, The Washington Post, Sept. 14, 2023).

Providing unlimited coverage also presents significant moral hazard concerns. According to one paper, "[u]nlimited deposit insurance increases moral hazard and represents a threat to the nation's long-term financial stability. History has shown that unlimited deposit insurance increases the likelihood of banking crises."[14] This egregious proposal would exact insurmountable assessments on banks to pay into the Deposit Insurance Fund (DIF), which will ultimately be paid by consumers in the form of more expensive checking accounts, higher credit card interest rates, and smaller unused lines of credit. Effectively, banking will become significantly more expensive for consumers and credit will be less accessible.

Regulation

More regulation of the banking sector is inextricably tied to an expansion of federal deposit insurance. The FDIC's report argues for more regulation at the expense of economic growth. For example, the report wrongly proposes regressive interest rate controls on deposits. The Regulation Q repeal, a process that took place from 1980 to 2011, removed distortive restrictions on the interest rates banks can pay on certain deposits.[15] This deregulation has been a boon for consumers. The FDIC's proposal to turn back the clock would be a mistake.

The report also proposes requirements for banks to issue more long-term debt that can be converted into equity to cover losses in the event of a bank failure. This debt would increase leverage at banks—propagating instability[16] and exacerbating moral hazard.[17] This overreach is nothing more than another avenue for the federal government to dictate how banks should finance themselves and prepare for difficult economic fluctuations.

Expanding deposit insurance will make the banking sector more reliant on the federal government. If deposits are fully guaranteed, banks will be more heavily regulated and may function more like government-sponsored enterprises, such as Fannie Mae and Freddie Mac. Fully guaranteed deposits will also give the government leverage to both determine which industries banks should favor and manipulate rates on loans. This egregious expansion of government power may lead the U.S. banking system down the road to "de facto nationalization."[18]

Moral Hazard

In economics, the term moral hazard "refers to the tendency for insurance against loss to reduce incentives to prevent or minimize the cost of loss."[19] One study

[14] https://elischolar.library.yale.edu/cgi/viewcontent.cgi?article=9314&context=ypfs-documents.
[15] https://www.investopedia.com/terms/r/regulationq.asp.
[16] https://www.finregrag.com/p/bank-resilience-equity-capital-versus.
[17] https://www.occ.treas.gov/news-issuances/federal-register/2023/88fr64524.pdf, 88 FR 64528.
[18] https://www.barrons.com/articles/banks-deposit-insurance-bailouts-fdic-3330499c.
[19] https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1870&context=faculty_scholarship#:~:text=In%20the%20nineteenth%20century%2C%20addressing,practices%20began%20to%20replace%20individual.

covering 118 countries from 1980-2004 found that when "interacting deposit insurance with credit to the private sector" there is "a positive and significant effect on bank insolvency and bank runs."[20] According to the paper, this suggests "that moral hazard outweighs the positive effect of deposit insurance on banking stability."[21]

The Federal Reserve acknowledged that providing insurance for all depositors at SVB and Signature Bank worsened moral hazard. According to the Government Accountability Office's (GAO) preliminary report on the bank failures, Fed "staff raised concerns about exacerbating moral hazard and potentially weakening the market discipline of many depository institutions."[22] Additionally, GAO pointed out that its report from 2010 showed that regulators' use of the systemic risk exception "may weaken market participants' incentives to properly manage risk if they come to expect similar emergency actions in the future." The 2010 report also states that expanded deposit insurance "could weaken incentives for newly protected, larger depositors to monitor their banks, and in turn banks may be more able to engage in riskier activities."[23] The GAO was incredibly prescient. If depositors are aware that the government will guarantee their deposits, it may lead "them to disregard the creditworthiness of their banks," and contribute to moral hazard.[24]

If the FDIC's reforms were fully enacted by Congress, it would further subject the banking sector to government control and eventual nationalization. These policy proposals must be rejected by lawmakers.

Private Insurance

The FDIC's report discusses how private insurance for excess deposits coupled with federal deposit insurance could be another option to consider. While private insurance could be an option, lawmakers should think twice before mandating banks to offer it as a service. Introducing legislation to mandate private insurance could force banks of all sizes, including community banks, to pay exorbitantly higher assessment fees, which could result in consumers paying higher prices for banking services. Businesses "tend to pass on cost increases far more quickly than cost reductions."[25]

One opinion piece in the *Wall Street Journal* admitted that a new public-private insurance structure could potentially force banks to "pay a substantial premium."[26] This would ultimately raise costs for consumers. This hybrid structure would still largely rely on federal government support. Offering private insurance options

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20 https://www.sciencedirect.com/science/article/abs/pii/S1514032616300137.
21 *Id.*
22 https://www.gao.gov/assets/gao-23-106736.pdf.
23 https://www.gao.gov/products/gao-10-100.
24 https://elischolar.library.yale.edu/cgi/viewcontent.cgi?article=9314&context=ypfs-documents.
25 https://www.cuna.org/content/dam/cuna/advocacy/priorities/documents/True-Impact-of-Interchange-Regulation-CornerstoneAdvisors-June-2023.pdf.
26 https://www.wsj.com/articles/the-private-market-can-add-discipline-to-deposit-insurance-svb-bank-run-crisis-f28a2c01?st=qv0tbqah98gnimp.

should not be forced by the government, instead it should present itself organically and as an alternative to federal deposit insurance.

Conclusion

Increasing the deposit insurance limit is unnecessary and unwise. There already exist private sector solutions that help businesses maximize coverage without increasing moral hazard or enacting new regulations on banks.[27] We fear the FDIC's focus on an area that is best left to Congress is a distraction from its existing responsibilities. The banks that failed last year did so because of gross mismanagement and regulators did not act on the ample information before them. We do not need new data requirements or legislation raising the deposit insurance limit. We need regulators to focus on adequately using their existing authorities.

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We appreciate the opportunity to comment on the RFI. If you have any questions or need any additional information, please contact Bryan Bashur at bbashur@atr.org or James Erwin at jerwin@atr.org.

Sincerely,

Americans for Tax Reform
Americans for Prosperity
Competitive Enterprise Institute
Consumer Action for a Strong Economy
Independent Women's Forum
National Taxpayers Union
Pinpoint Policy Institute
Rio Grande Foundation
Siri Terjesen, Business School Professor, Boca Raton, Florida
Taxpayers Protection Alliance
The American Association of Senior Citizens
60 Plus Association
The American Consumer Institute
The James Madison Institute

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[27] The bipartisan *Economic Growth, Regulatory Relief, and Consumer Protection Act* (P.L. 115-174) largely removed reciprocal deposits from the definition of a "brokered deposit" to unleash bank services that allow more deposits to be insured under the current deposit insurance limit. Currently, reciprocal deposits are considered "nonbrokered" if they amount to no more than $5 billion or 20 percent of a bank's total liabilities, whichever is less. These private sector alternatives protect depositors and avoid exacerbating moral hazard to the same degree as increasing the deposit insurance cap. Congress should allow banks to be able to accept more nonbrokered reciprocal deposits than the current limits allow. This could benefit both household and business depositors while minimizing moral hazard concerns.