

September 26, 2016

The Honorable Randy Neugebauer
Chairman
Subcommittee on Financial Institutions
and Consumer Credit
Washington, D.C. 20515

The Honorable William Lacy Clay
Ranking Member
Subcommittee on Financial Institutions
and Consumer Credit
Washington, D.C. 20515

Dear Chairman Neugebauer and Ranking Member Clay:

On behalf of the members of the American Bankers Association (ABA), I am writing to share our views on a number of important legislative proposals being discussed at the September 27, 2016 hearing to examine “Legislative Proposals to Address Consumer Access to Mainstream Banking Services.” ABA would like to thank you for holding this hearing and to share our views on the proposals which address brokered and reciprocal deposits.

A broad classification of deposits as brokered has significant consequences for our members. The FDIC maintains an overly broad classification of what deposits are “brokered,” going well beyond the intent of Section 29 of the Federal Deposit Insurance Act. Banks of all sizes are required to pay additional deposit insurance assessments for brokered deposits beyond a certain threshold, and may be subject to supervisory limitations regarding the amount of brokered deposits the institution can accept, regardless of its capital position. There are also a variety of capital and liquidity regulations, including the liquidity coverage ratio, the net stable funding ratio, and the G-SIB surcharge, that penalize deposits classified as “brokered.”

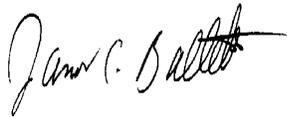
It should not be taken as a given that all deposits the FDIC now designates as brokered are less stable than those originated organically. Modern banking and technology, including an increased diversity of commercial bank affiliations, and significant growth in online, mobile and digital banking, allows banks to gather stable deposits from outside of their branch networks. Although we believe that the FDIC has the necessary flexibility under existing law to tailor its regulation and supervision of banks with respect to brokered deposits, we strongly support efforts to provide statutory clarity in this area. We, therefore, appreciate the work of Representatives Roger Williams (R-TX), Gwen Moore (D-WI), and Scott Tipton (R-CO) in the introducing legislation to provide increased flexibility for brokered and reciprocal deposits.

In particular, we believe that the FDIC should not consider traditional deposit account products involving a direct, continuing relationship between a customer and an insured depository institution as brokered deposits, and we appreciate that H.R. 5660 clarifies this very important point. We likewise appreciate that H.R. 4116 updates the definition of deposit broker to allow a limited exemption for reciprocal deposits, and Rep. Tipton’s proposed legislation would clarify that prepaid card deposits are not brokered. Taken together, these bills provide needed additional flexibility to allow banks to more effectively serve their customers and communities.

As the process moves forward, we look forward to working with the committee to improve these bills. The statutory “primary purpose” exemption should be clarified to make clear that deposits resulting from the customer servicing activities of dual, affiliate, and contract employees are not considered brokered. Moreover, where a bank’s program meets the requirements of the statutory exception or existing FDIC precedent, prior approval of the FDIC should not be required for the deposit to not be considered “brokered.” We believe the definition of “stable retail deposit” in H.R. 5660 should also be broadened so as not to require FDIC approval for products outside of traditional transactional accounts.

Again, we thank you for holding this important hearing and we look forward to working with the Committee and the bill’s sponsors as these proposals move through the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Ballentine". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James C. Ballentine

cc: Members of the House Subcommittee on Financial Institutions and Consumer Credit