SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465

WWW.SCHWARTZANDBALLEN.COM

TELEPHONE
(202) 776-0700

FACSIMILE
(202) 776-0720

<u>M E M O R A N D U M</u>

December 27, 2018

To Our Clients and Friends

Re: <u>FDIC Proposed Actions on Brokered Deposits</u>

The Federal Deposit Insurance Corporation (FDIC) is requesting public comment on its comprehensive review of its brokered deposit and interest rate regulations in light of changes in technology, business models, the economic environment. The FDIC is asking for the public's view on all aspects of its regulatory approach to brokered deposits and the interest rate restrictions, and how it can approach the topic of brokered deposits in the most effective and efficient manner consistent with the underlying purposes of the law.

The FDIC reports that as of September 30, 2018, 2,221 depository institutions held $986 billion in brokered deposits, which represents 8.0 percent of the $12.3 trillion of domestic deposits. One hundred institutions held over 89 percent of the brokered deposits in the banking system, and five institutions held over 39 percent. Six institutions held brokered deposits in excess of 90 percent of their total domestic deposits; 25 institutions held brokered deposits between 50 percent and 90 percent of their total domestic deposits; and 79 institutions held brokered deposits between 25 percent and 50 percent of their total domestic deposits. The largest concentrations of brokered deposits are in master certificates of deposit, brokered sweep deposits and reciprocal deposits.

A 2011 FDIC study of core and brokered deposits, updated through the end of 2017, concluded that higher brokered deposit use is associated with higher probability of bank failure and higher insurance fund loss rates. Banks with higher levels of brokered deposits are also more costly to the deposit insurance fund when they fail. The FDIC study also indicated that brokered deposits are correlated with higher levels of asset growth, higher levels of nonperforming loans, and a lower proportion of core deposit funding.

The amount of brokered deposits held by an institution may also affect its deposit insurance premiums. For small banks (those with less than $10 billion in total assets), brokered deposits can increase a bank's assessment rate if the bank's ratio of brokered deposits to total assets exceeds 10 percent. For large and highly complex institutions that are not well capitalized, that are not CAMELS composite 1- or 2-rated, brokered deposits can increase a bank's assessment rate if its ratio of brokered deposits to domestic deposits is greater than 10 percent. Depository institutions that are less than well-capitalized are restricted from accepting brokered deposits and from paying interest at rates that significantly exceed their normal market area or the national rate as established by the FDIC.

As part of its review, the FDIC is seeking comment on a wide range of questions relating to brokered deposits. These include:

- Are there types of deposits that are currently considered brokered that should not be considered brokered
- Do institutions currently have sufficient clarity regarding who is or is not a deposit broker and what is or is not a brokered deposit
- Are there ways the FDIC can provide additional clarity through updates to the brokered deposits regulation
- Are there alternatives that the FDIC should consider in addressing interest rate restrictions for less than well capitalized institutions
- How should the rates offered by Internet-based or electronic commerce-based institutions be calculated

For more information, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.