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MEMORANDUM

September 14, 2018

To Our Clients and Friends

Re: FDIC Proposed Rule for Reciprocal Deposits

The Federal Deposit Insurance Corporation (FDIC) has requested public comment on proposed rule to conform its brokered deposit rule to the recent amendment to the Federal Deposit Insurance Act that permits FDIC-insured financial institutions, under certain circumstances, to except certain amounts of reciprocal deposits from treatment as brokered deposits.¹ The statutory exemption was effective upon enactment in May 2018.

The FDIC's proposed rule follows the language of the amendment. Reciprocal deposits "are defined as deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks." To qualify for the exemption from the definition of brokered deposits, the deposit must be submitted for placement through a deposit placement network and may not consist of funds that were obtained by or through a deposit broker before submission for placement through a deposit placement network. The proposed rule, like the statute, establishes a cap on the amount of reciprocal deposits that qualify for the exception from classification as brokered deposits. The amount may not exceed the lesser of \$5,000,000,000 or an amount equal to 20 percent of the total liabilities of the institution.

The FDIC's announcement also discusses additional limitations that apply if the depository institution is not well capitalized or did not receive a composite condition of outstanding or good during its last examination.

A copy of the FDIC's *Federal Register* notice is available on our website at <http://www.schwartzandballen.com/news.html>.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Heidi Wicker at (202) 776-0700.

¹ Section 29 of the Federal Deposit Insurance Act made by Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. 115-174 (2018).