November 21, 2024

Mr. James P. Sheesley
Assistant Executive Secretary
Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Notice of Proposed Rulemaking on Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions—RIN 3064-AF99

Dear Mr. Sheesley,

On behalf of The American Fintech Council (AFC),[1] I am submitting this comment letter in response to the Federal Deposit Insurance Corporation's (FDIC or Agency) Notice of Proposed Rulemaking, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions (Proposed Rule).

AFC's mission is to promote an innovative, transparent, inclusive, and customer-centric financial system by fostering responsible innovation in financial services and encouraging sound public policy. AFC members are at the forefront of fostering competition in consumer finance and pioneering ways to better serve underserved consumer segments and geographies. Our members are also improving access to financial services and increasing overall competition in the financial services industry by supporting the responsible growth of lending and lowering the cost of financial transactions, allowing them to help meet demand for high-quality, affordable financial products.

The Proposed Rule presents significant concerns for AFC and its members in both the manner it was devised and the substantial digression from recently established regulations on the issue of brokered deposits.[2] As will be evidenced further below, AFC believes that the Proposed Rule is misguided, ill-timed, and antithetical to the broader policy goals of the Agency. For these reasons, AFC continues its recommendation—shared by 10 other trade associations representing

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[1] American Fintech Council's (AFC) membership spans EWA providers, lenders, banks, payments providers, loan servicers, credit bureaus, and personal financial management companies.
[2] Federal Deposit Insurance Corporation, "Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions", Fed. Reg. 86, no. 13 (Jan. 22, 2021): 6742.

thousands of companies from across the financial services industry serving millions of consumers each year—to withdraw the Proposed Rule.[3]

I. The Proposed Rule Fundamentally Misunderstands Key Deposit Characteristics within its Analysis

AFC believes that the FDIC developed the Proposed Rule through flawed analysis of both the underlying need to reform the 2020 Final Rule on Brokered Deposits (2020 Final Rule) and the risk of unstable deposits that come through a bank-fintech partnership.[4] This flawed analysis allowed the agency to promulgate the Proposed Rule in a manner that is ill-conceived and without the necessary merit. While the agency claims that the Proposed Rule will potentially improve the safety and soundness of the banking system, as will be evidenced below, this claim is unsubstantiated. In fact, due to the significant impacts that the Proposed Rule would have if finalized, AFC believes that the FDIC may introduce increased risks to the banking system and negative impacts to consumers through the Proposed Rule.

a. Brokered Deposits Were Not a Factor in the 2023 Bank Failures

Within the Proposed Rule the FDIC cites multiple concerns regarding the 2020 Final Rule and the impact of deposits that would be categorized as brokered within the Proposed Rule on the safety and soundness of the banking system. To justify these concerns, the Agency draws from several historical examples of bank failures—namely the bank failures of 2023.[5] However, independent reports from the Federal Reserve Board of Governors (Federal Reserve Board), FDIC's Office of Inspector General (OIG) and the U.S. Government Accountability Office (GAO) covering the causes of the 2023 bank failures do not point to brokered deposits as a precipitating factor in the failures of the banks.[6] In fact, the FDIC OIG's Material Loss Review of Signature Bank and First Republic recommended that the agency should focus on the risks associated with uninsured deposits and reform examination guidance regarding the magnitude and velocity of these types of deposits.[7]

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[3] See, American Bankers Association, American Fintech Council, Bank Policy Institute, et al., "Notice of Proposed Rulemaking, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions; Request for Extension of Comment Period", (Aug. 21, 2024), *available at* https://www.fintechcouncil.org/advocacy/joint-trade-comment-period-extension-request-for-fdic-brokered-deposits-proposed-rule.

[4] Ibid, Brokered Deposits Rule—Fed. Reg. 86, no. 13. Though the Final Rule was issued in the Federal Register in January 2021, it is commonly referred to as the 2020 Final Rule. Thus, for the purposes of this comment letter, we will refer to the previously finalized rule on brokered deposits as the 2020 Final Rule.

[5] The bank failures that occurred in 2023 included First Republic Bank, Signature Bank, Silicon Valley Bank, and Voyager Bank. The Proposed Rule specifically identifies First Republic Bank, Silicon Valley Bank, and Voyager Bank in its analysis, see Federal Deposit Insurance Corporation, "Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions" Fed. Reg. 89, no. 164 (Aug. 23, 2024): 68244-68272.

[6] See, Board of Governors of the Federal Reserve System, *Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank,* (Apr. 28, 2023), *available at* https://www.federalreserve.gov/publications/files/svb-review-20230428.pdf; U.S. Government Accountability Office, *Bank Regulation: Preliminary Review of Agency Actions Related to March 2023 Bank Failures,* GAO-23-106736, (Apr. 28, 2023), *available at* https://www.gao.gov/assets/gao-23-106736.pdf; Federal Deposit Insurance Corporation Office of Inspector General, *Material Loss Review of Signature Bank of New York,* (Oct. 23, 2023), *available at* https://www.fdicoig.gov/reports-publications/bank-failures/material-loss-review-signature-bank-new-york; and Federal Deposit Insurance Corporation Office of Inspector General, *Material Loss Review of First Republic Bank,* (Nov. 28, 2023), *available at* https://www.fdicoig.gov/reports-publications/bank-failures/material-loss-review-first-republic-bank; and U.S. Government Accountability Office, *Financial Services Regulations: Improvements Needed to Policies and Procedures for Regulatory Analysis,* GAO-24-106206, (Jul. 18, 2024), *available at* https://www.gao.gov/assets/gao-24-106206.pdf;

[7] Ibid, Silicon Valley Bank Review, Signature Bank Review, First Republic Review. See recommendation 6 within each of the aforementioned reports.

In addition to the multiple independent reports that do not align with the analysis of the Proposed Rule, multiple senior leaders in the government have noted either directly or indirectly that the analysis in the Proposed Rule is flawed and does not provide the support necessary for the regulatory reforms identified in the Proposed Rule. For example, FDIC Director Johnathan McKernan stated that the Proposed Rule "does a good job of marshalling evidence of the risks posed by brokered deposits. The proposal does not, however, offer any evidence that some of the deposits that this proposal would re-classify as brokered deposits actually present the same or similar risks."[8] Similarly, FDIC Vice Chairman Travis Hill identified a number of flaws within the Proposed Rule's analysis. Specifically on the 2023 bank failures, Vice Chair Hill succinctly noted that "whether a deposit comes to a bank through an intermediary is not the key test in determining what type of risks it presents. For example, SVB suffered a deposit run in part because it relied heavily on large, concentrated, closely networked, uninsured depositors. Whether any such deposits came in through intermediaries was not a relevant factor. In fact, when SVB failed, not a single one of its deposit was reported as brokered."[9] Further, Congressional oversight of the 2023 bank failures—which focused on the causes of the failures and the emergency actions that regulators took in response to these failures—found that it was not issues with brokered deposits or their regulatory treatment that led to the banks' failures, but severe management issues and a lack of adequate examiner oversight that led to the downfall. In fact, neither FDIC Chairman Martin Gruenberg nor Federal Reserve Board Vice Chair Michael Barr noted any issue with brokered deposits when asked at a Congressional hearing on the 2023 bank failures.[10]

b. <u>Deposits Received through Bank-Fintech Partnerships are Stable</u>

Contrary to the views expressed by the FDIC within the Proposed Rule, the deposits taken by a financial institution through their partnership with a fintech company are exceptionally stable and well-documented. Deposits received by financial institutions via their partnership with fintech companies are distinctly different from the deposits for which the Congress, the FDIC, and the Federal Home Loan Bank Board adopted laws and regulations.[11] Historically, brokers offered Certificates of Deposit to retail customers with the promise of high yields and offered these certificates on a secondary market to financial institutions. These and other brokered deposits differ significantly from the deposits taken through bank-fintech partnerships, as these deposits are used as consumers' primary checking and savings accounts. Consumers engage with these accounts just as they would with traditional demand deposit accounts by depositing their paychecks into them and tying the accounts to their debit card transactions. While consumers do typically receive a higher yield on the deposit accounts provided through a bank-fintech

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[8] Statement by Jonathan McKernan, Director, FDIC, Board of Directors, on the Proposed Brokered Deposit Restrictions (July 30, 2024).

[9] Hill, Travis, "Remarks by Vice Chairman Travis Hill at the American Enterprise Institute 'Reflections on Bank Regulatory and Resolution Issues'", Federal Deposit Insurance Corporation, (July 24, 2024).

[10] *The Federal Regulators' Response to Recent Bank Failures*, Before the Committee on Financial Services, 118th Cong. (Mar. 29, 2023).

[11] For a brief history of brokered deposits as it relates to fintech, see Clark, Paul, Casey Jennings, and Nathan Brownback, *Everything that's Old is New Again: FinTech and Brokered Deposits,* Seward & Kissel LLP, May 20, 2021, *available at* https://www.sewkis.com/publications/everything-thats-old-is-new-again-fintech-and-brokered-deposits/; Seward & Kissel LLP, *Brokered Deposits Timeline*, Feb. 14, 2020, *available at* https://www.sewkis.com/publications/brokered-deposit-timeline/; and Barth, James R. and Yanfei Sun, *Bank Funding Sources: A New Look at Brokered Deposits*, (Jan. 2018), *available at* https://stena.utah.edu/wordpress/wp-content/uploads/2023/07/UCFS_Barth_Brokered_Deposit-2018.pdf.

partnership than those at other non-partnered financial institutions, this is a feature of the service. Consumers are not simply rate-shopping with these deposit products. Instead, consumers hold these deposit accounts as they would any deposit account that would be still considered a core deposit under the Proposed Rule. Thus, these deposits do not pose an increased risk to the resilience of the financial institution holding the funds, nor to the Deposit Insurance Fund.

AFC recognizes that not all bank-fintech partnerships are created equal. However, as a best practice, innovative financial institutions—many of whom are AFC members—pursue robust deposit taking processes to identify and monitor their customers and deposits in real-time. While the deposits taken through bank-fintech partnerships may remain in a pooled account, innovative banks, including AFC members, and their fintech partners work collaboratively to ensure that each dollar of a consumer's deposit is accounted for within their systems. Specifically, during the onboarding process, fintech partners engage in thorough know-your-customer processes to identify and verify the depositor. As part of the partnership, the financial institution holds this data as part of their records to ensure compliance with Bank Secrecy Act requirements. In addition, these financial institutions and fintech companies establish robust, transparent account ledger systems that allow both parties to understand the ownership of funds within a given account. In turn, these systems allow both parties to track fund movements in real-time. Further, even when a depositor opts to close their accounts, both financial institutions and their fintech partners have established processes that ensure an orderly wind down of the account in a manner that allows depositors access to their funds while maintaining the resilience of both the financial institution and fintech company.

When combined with the aforementioned depositor use cases for these accounts, the processes and systems established through the bank-fintech partnership ensure that these deposits operate the same as any other core deposit account found at a bank not engaged in a partnership with a fintech company. Thus, to substantially amend the 2020 Final Rule as the Proposed Rule does in order to mitigate "risks" posed by the types of deposit accounts discussed above does not consider the realities found in these types of accounts. Simply put, the deposit accounts generally established through bank-fintech partnerships hold very "sticky" deposits due to the depositor use cases and processes established by both the financial institution and their fintech partner. Therefore, these deposits do not pose the type of risks that the Proposed Rule seeks to address.

Given the preponderance of evidence detailed above, AFC believes that the Proposed Rule was set forth in error and should be promptly withdrawn. We believe that the Agency is better served in dedicating its regulatory efforts on aspects of the banking system that will actually help maintain its safety and soundness, such as managing the role of social media in the velocity of uninsured deposit withdrawals.

II. The Proposed Rule and the Process Pursued by FDIC Pose Significant Concerns and Therefore Necessitate Prompt Withdrawal of the Proposed Rule

AFC recognizes and appreciates the authority of FDIC to engage or re-engage on a regulatory issue periodically to ensure that the existing regulations are well-suited to creating a resilient, consumer-centric financial services industry that encourages robust competition and innovation. It is this perspective that created general acceptance of the FDIC's 2020 Final Rule. However,

the Agency's decision to pursue an abrupt reversal of the provisions put forth within the 2020 Final Rule is cause for significant concern due to its impact on both consumers and industry participants. As will be evidenced further below, the significant issues within the Proposed Rule, which stem from the FDIC's process, necessitate prompt withdrawal of the Proposed Rule by the FDIC Board.

a. AFC Recommends Withdrawing the Proposed Rule because it Creates Significant Market and Consumer Harm

The consistent and continued growth of bank-fintech partnerships, as well as the products and services offered through them, exemplifies the consumer demand for such offerings. According to multiple industry reports, fintech companies and their bank partners have experienced significant growth driven by consumers' desire for digital banking services, and this trend will likely continue to do so for the foreseeable future.[12] For example, a 2024 McKinsey & Company report stated that "revenues in the fintech industry are expected to grow almost three times faster than those in the traditional banking sector between 2022 and 2028".[13] This shift in consumer mindset shows no sign of reversing and necessitates a regulatory structure that encourages responsible innovation.

Crucial to the growth that bank-fintech partners have experienced over the past several years was the 2020 Final Rule. The exemptions established in the 2020 Final Rule properly adapted the existing regulations on brokered deposits to the modern banking system while ensuring that financial institutions remained resilient, and no undue risk was brought to the banking system. Specifically, the 2020 Final Rule's provisions allowed banks to effectively expand existing partnerships with fintech companies, whose primary purposes were for lending or payments products, to include deposit taking activities.

These deposit taking activities leveraged key provisions of the 2020 Final Rule, such as the primary purpose exemption, to greatly improve service offerings to consumers and safely expand the deposit base of partnered financial institutions to more effectively serve consumers—particularly those that have been historically underserved by the financial services industry. In fact, the benefits afforded by the 2020 Final Rule provisions have pushed the whole of the financial services industry to improve their service offerings to consumers. Specifically, as noted by a 2022 report from the Department of the Treasury, deposit accounts operating via a bank-fintech partnerships have offered more attractive yields for consumers, as well as low- or no-fee accounts, bundling of deposit services with other benefits including "expeditated paycheck or money transfer withdrawals, or retail point-of-sale loans".[14] In turn, this has put "competitive pressure on [insured depository institutions] to take similar measures, such as eliminating

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[12] PWC, "PWC's 2021 Digital Banking Consumer Survey", last accessed Oct. 27, 2024, *available at* https://www.pwc.com/us/en/industries/financial-services/library/digital-banking-consumer-survey.html; Kaempfer, Jochen and Sara Elinson, "How Gen Z's Preference for Digital is Changing the Payments Landscape", Ernst & Young, (Jan. 18, 2024), *available at* https://www.ey.com/en_us/insights/payments/how-gen-z-is-changing-the-payments-landscape; and McKinsey & Company, *Fintechs: A New Paradigm of Growth*, (Oct. 24, 2023), *available at* https://www.mckinsey.com/industries/financial-services/our-insights/fintechs-a-new-paradigm-of-growth#/

[13] Ibid, McKinsey & Company.

[14] Department of the Treasury, *U.S. Department of the Treasury Report to the White House Competition Council: Assessing the Impact of New Entrant Non-bank Firms on Competition in Consumer Finance Markets*, (Jan. 2022), page 66, *available at* https://home.treasury.gov/system/files/136/Assessing-the-Impact-of-New-Entrant-Nonbank-Firms.pdf.

overdraft fees."[15] In addition, these innovative fintech companies also leveraged their technology to serve underserved consumer groups including low- and moderate-income and younger consumers. Particularly, these younger consumers who consistently expressed strong desires to engage with digital banking apps as opposed to traditional brick-and-mortar institutions, have increasingly deposited their funds to financial institutions via responsible bank-fintech partnerships and used them as their primary checking accounts.

As previously noted, responsible financial institutions and their fintech partners established clear processes for ledgering and ensuring the deposits that came from these partnerships remained compliant with all relevant laws and regulations, did not introduce risk into the banking system, and were not volatile. However, the reforms to the 2020 Final Rule found in the Proposed Rule will not only stymie the banking innovation demanded by consumers and curtail the significant competition that currently exists in the deposit taking space, but it will also likely result in the introduction of significant risks to the safety and soundness of the banking system. For example, the modifications to the definition of a "deposit broker" combined with the elimination of the "exclusive deposit placement arrangement exception" and amendment of the analysis underlying the "primary purpose exemption" expands the definition of a deposit broker far beyond the current definition. In practice, this will cause significant upheaval in the financial services industry, because financial institutions have developed business models and partnerships around the existing "deposit broker" definition and corresponding exemptions. Also, modifying the 25 percent test to a 10 percent test creates additional regulatory burdens without mitigating any potential risks in a substantial manner. In combination, these reforms would push financial institutions to abandon responsible bank-fintech partnerships. In practice, this would eliminate a robust, consumer-driven subsector of the banking industry. However, some financial institutions may opt to attempt to offer the products and services previously provided in partnership with a fintech company. If the financial institution does not adequately recognize the potential risks that were mitigated through the bank-fintech partnership, such as fraud risk, then the financial institution could inadvertently introduce additional risk into the banking system.

The reforms put forth in the Proposed Rule could also limit the ability of fintech to expand options, create barriers to market entry, and push consumers towards unregulated sectors. The rule would likely lead to significant limitations in the scope of responsible bank-fintech partnerships and make their existing consumer-demanded products and services unviable. In practice, the Proposed Rule could lead to increased fees for consumers, reduced innovation, and a shift in competitive dynamics that could hurt smaller banks and fintech partnerships by severely increasing the costs associated with providing deposit products through bank-fintech partnerships, as well as the capital requirements and liquidity management processes needed to ensure these products operate in accordance with the new regulatory requirements. Eliminating the exclusive deposit placement arrangements exemption will harm consumers, especially those in historically underserved communities. Fintech companies have shown great ability in expanding access to financial services, including deposit products. To ensure these services are viable for the financial institutions and fintech companies, as well as beneficial for consumers, banks and fintech companies have relied on the exclusive deposit placement arrangements exemption. Eliminating the exemption would force these institutions to reorient their fee

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[15] Ibid.

structure for the deposit accounts in a manner that could significantly reduce the benefits for consumers.

Similar to the elimination of the exclusive deposit placement arrangements exemption, eliminating the enabling transactions designated exemption will increase the costs associated with providing deposit services in a bank-fintech partnership. In turn, this will decrease the viability of the deposit services currently offered and would likely require the institutions to substantially modify their deposit account fee structures. Consumers who leverage the deposit accounts for distinct services offered in a no-cost format—unlike those offered at traditional financial institutions—including remittance payments and other cross-border transactions, would incur significant costs due to the elimination of the enabling transactions designated exemption.

In turn, these categorical changes to the deposit products offered through responsible bank-fintech partnerships would likely negatively shift consumer perception of the banking system, once again pushing consumers—particularly those that were new to the banking system or come from communities with a history of poor service by financial institutions—out of the banking system and into predatory alternatives, such as payday loans and check cashing services.

The Proposed Rule and its underlying analysis suffer from material deficiencies that necessitate the immediate withdrawal of the Proposed Rule. As detailed above, the FDIC has categorically misunderstood the role of brokered deposits in the 2023 banking failures and how deposits captured under the Proposed Rule function within bank-fintech partnerships. As a consequence of this faulty analysis, the Proposed Rule fundamentally mischaracterizes the likely impact that it will have on the market if finalized as written.

At a macro level, it is clear that the Proposed Rule, as written, will harm the competition and innovation that is crucial to providing the consumer demanded financial products and services that are creating the future of finance. The significant market harm that would come with the finalization of this rulemaking would be acutely experienced by the innovative banks and fintech companies that hold a significant reliance interest on the provisions finalized in the 2020 brokered deposits rule. Specifically, by limiting the ability of fintech to expand options and creating barriers to market entry, the FDIC will create a competitive disadvantage to pursuing responsible bank-fintech partnerships, which, in turn, will further cement the competitive advantage of the largest financial institutions who already have large national deposit bases. By furthering the competitive advantage of the largest financial institutions, FDIC would also naturally lessen the innovative activities largely conducted by community banks and their fintech partners, which have pushed financial institutions across the industry to improve their products and services.

Further, the impact of the Proposed Rule will be acutely felt by those who have been historically underserved by the financial services industry. As noted in the FDIC's own 2023 National Survey of Unbanked and Underbanked Households

> *"Technology is changing how consumers interact with banks and reshaping the financial services industry by increasing options for using technology to conduct financial transactions and develop business relationships. Smartphones are ubiquitous among*

> *banked consumers, but many are not using them to improve their banking experience. Significant untapped potential exists for banks to engage these consumers and help them use technology to sustain and grow banking relationships. Late adopters might be ready to use more technology for banking, but they are at risk of being left behind if they are not considered part of banks' technology strategies."*[16]

The technological competition that has been a hallmark of bank-fintech partnerships and helped to create a more inclusive financial services industry would be severely stymied if the Proposed Rule is finalized. Without the competition and innovation provided in the current market, both community banks and the overarching financial services industry are less able to serve their customers effectively, particularly those who have been historically unbanked or underbanked. By pursuing the Proposed Rule as written, AFC believes that the FDIC will significantly harm innovation and competition in the financial services industry that has proven quite beneficial for improving banking services to all consumers.

Given the negative market and consumer impacts, as well as the misidentification of risks associated with brokered deposits by the FDIC noted above, AFC believes that the Agency has made critical missteps in the regulatory process that led to the Proposed Rule. Specifically, AFC believes that the Agency conducted a woefully inadequate cost-benefit analysis within the Proposed Rule. Particularly, as evidenced by the flawed analysis previously identified, the Proposed Rule appears rushed due to idiosyncratic events that represent outliers in the banking industry rather than through a defensible review of the data. This rushed pursuit of the Proposed Rule by the FDIC underscores the inappropriateness of this endeavor, especially when considered with areas where improved regulatory activity might improve the resilience of the banking system, namely on understanding the role of social media in deposit volatility. Therefore, AFC strongly recommends that the Proposed Rule is promptly withdrawn from consideration by the FDIC Board.

b. AFC Recommends Withdrawing the Proposed Rule because it Exhibits the Hallmarks of an Arbitrary and Capricious Rule

Based on our analysis of the Proposed Rule, AFC has determined that it also suffers from significant deficiencies that both individually and in their totality show a distinct arbitrary and capricious nature to the Proposed Rule.

Specifically, the aforementioned flawed analysis within the Proposed Rule, when combined with the clear impact that the 2020 Final Rule has had on the market, shows that the Agency did not properly identify and weigh the economic impact that the Proposed Rule would have on the broader financial services industry—particularly "small entities" in the market—which, AFC believes is in violation of the Regulatory Flexibility Act of 1980 (RFA).[17] Many of the fintech companies that would be impacted by the reforms in the Proposed Rule fall under the Small Business Administration's small business size standards. As noted above, these businesses would be significantly harmed if the Proposed Rule were finalized. Also, by increasing the barriers to

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[16] Federal Deposit Insurance Corporation, *2023 National Survey of Unbanked and Underbanked Households,* (Nov. 2024), page 74, *available at* https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-report.

[17] The Regulatory Flexibility Act of 1980 requires agencies to conduct regulatory flexibility analyses for proposed and final rules that will have a "significant economic impact on a substantial number of small entities", RFA ; 5 U.S.C. §§601-612.

entry for new participants into the market—as would be the case due to the reforms in the Proposed Rule—this negative impact to small entities would exist in perpetuity. Given these issues, AFC believes that the Proposed Rule's initial RFA analysis falls woefully short of what is necessary to comply with RFA requirements.

In addition, as previously noted, bank-fintech partnerships developed significant reliance interests on the 2020 Final Rule to which they developed their business models, products, and services accordance with its provisions. The significant reliance interests within the market that flowed from the 2020 Final Rule require more substantial justification for a change in policy than is provided in the Proposed Rule.[18] Simply put, the Proposed Rule does not adequately justify its decision making for the significant directional changes established under the Proposed Rule. Thus, the Proposed Rule bears the hallmarks of being arbitrary and capricious by being haphazard and internally inconsistent.

Further, to relitigate the requirements and exemptions that were established through the 2020 Final Rule less than five years since their establishment in a manner that would clearly cause significant harm to the market that developed under these requirements and the consumers served by the innovative financial institutions and their fintech partners can easily be construed as an arbitrary and capricious endeavor by the Agency and underscores the need for the Proposed Rule to be promptly withdrawn.

If the Proposed Rule is finalized, AFC believes that future administrations will need to reexamine the reforms of the Proposed Rule and make further amendments, thus putting the banking system and the consumers it serves into further unnecessary upheaval. Therefore, AFC strongly recommends that the Proposed Rule is promptly withdrawn from consideration by the FDIC Board.

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As noted above, AFC strongly advocates for the withdrawal of the Proposed Rule by the FDIC Board. We thank you for your consideration of our comments.

Sincerely,

Ian P. Moloney
SVP, Head of Policy and Regulatory Affairs
American Fintech Council

[18] Bridgens, Gary M., "Demystifying Reliance Interests in Judicial Review of Regulatory Change" George Mason Law Review 29, no. 1 (2021), ***available at*** https://lawreview.gmu.edu/print__issues/demystifying-reliance-interests-in-judicial-review-of-regulatory-change/.