

June 16, 2020

The Honorable Jerry Moran  
United States Senate  
Washington, D.C. 20510

Dear Senator Moran:

On behalf of the members of the American Bankers Association (ABA), I write to express our support for your legislation S. 3962, which would amend the Federal Deposit Insurance Act by replacing Section 29 with limitations on asset growth and the removal of brokered deposit restrictions. This is a much-needed measure to ensure that banks of all sizes have access to a stable and diverse funding base, and are able to innovate to meet the needs and expectations of their customers.

Section 29, enacted in 1989, has not been updated in over 30 years and no longer aligns with modern banking. Since its enactment, there have been significant statutory changes including the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994<sup>1</sup> and the Gramm-Leach-Bliley Act<sup>2</sup>, which expanded bank footprints and affiliations. These changes, together with significant technological advances, have reconfigured markets, spurred new services and banking models, and led to an increase in the types of mechanisms that banks use to gather deposits.

Today, a deposit classified as brokered is labeled as such due to an outdated legal construct, rather than any enhanced risk characteristics. The result is that even well-capitalized banks are strongly discouraged from holding an otherwise stable source of funding by the prospect of higher deposit insurance assessments, adverse treatment under liquidity and capital regulations, unnecessary and increased scrutiny from bank examiners, and negative treatment by credit rating agencies and bank counterparties. Restricting asset growth at troubled institutions —instead of trying to apply a regulatory framework created in the 1980s to modern banking and technology — enhances the banking agencies' ability to identify and mitigate unsafe and unsound banking practices by allowing them to focus on a bank's entire balance sheet, rather than the presence of an arbitrary type of deposit. Moreover, it does not penalize well-capitalized banks from using modern technologies to serve their customers and engage in the business of banking. Replacing Section 29 with an asset growth restriction is a legislative solution that has been endorsed by Federal Deposit Insurance Corporation Chairwoman McWilliams as one that accomplishes the public policy goals Congress intended to address, while creating an easier framework for the FDIC to administer.<sup>3</sup>

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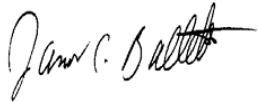
<sup>1</sup> P.L. 103-328, 108 STAT. 2338.

<sup>2</sup> P.L. 106-102, 113 STAT. 1338.

<sup>3</sup> *Keynote Remarks by FDIC Chairman Jelena McWilliams on "Brokered Deposits in the Fintech Age" at the Brookings Institution, Washington, D.C* <https://www.fdic.gov/news/news/speeches/spdec1119.html>

S. 3962 modernizes the statutory treatment of brokered deposits and would help ensure that banks have access to a stable and diverse funding base. We applaud you for introducing this legislation and urge Senators to join in your efforts to address this important issue.

Sincerely,

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

James C. Ballentine

cc: Members of the United States Senate