



October 18, 2024

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW Washington, DC 20429
Attention: Comments—RIN 3064-AG07

Re: Recordkeeping for Custodial Accounts

To Whom It May Concern,

On October 2, 2024, the Federal Deposit Insurance Corporation issued a Notice of Proposed Rulemaking on Recordkeeping for Custodial Accounts.¹ The proposal would establish new recordkeeping requirements for “custodial deposit accounts with transactional features” at insured depository institutions.² Among other requirements, the rule would require IDIs to maintain records identifying the beneficial owners of these accounts and the account balances, establish and maintain related written policies and procedures, and complete an annual certification and report.

The FDIC explains that the proposal is partly motivated by the bankruptcy of Synapse Financial Technologies, Inc, a financial technology company that provided application programming interfaces and technological infrastructure allowing businesses to integrate banking services into their applications through relationships with IDIs. Upon its bankruptcy, consumers could not access funds placed at IDIs for several months, as many IDIs encountered significant difficulties in obtaining, reviewing, and reconciling Synapse’s records.

¹ 89 Fed. Reg. 80,135 (Oct. 2, 2024).

² The proposed rule identifies these accounts as those established for the benefit of a beneficial owner that holds commingled deposits and that the beneficial owner may authorize or direct a transfer from the account through the account holder to an outside party.

As several of our associations noted in a request for an extension for the joint agency Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses,³ we support the FDIC’s work to consider and address the opportunities and risks posed by bank and fintech relationships. However, we agree with Vice Chair Hill’s observation that the FDIC “should have waited to issue this proposal until first receiving comments from the RFI – both because the comments [the FDIC] receive[s] might help inform [its] policymaking, and because preempting the end of the comment period sends a message to the public that it is a waste of time to invest time and resources to provide feedback if the FDIC is going to move forward with its own predetermined policy changes anyway.”⁴ Signatories are currently allocating time and resources to responding to the Bank-Fintech RFI, and some will respond to other requests for information and comment that the FDIC issued recently. Alongside Vice Chair Hill, we also emphasize that, as a matter of good governance, the FDIC should collect and consider the requested input on bank and fintech arrangements before proposing new custodial recordkeeping requirements that address these same arrangements.

In August, the FDIC issued an NPR on restrictions on brokered deposits and an RFI on Deposits⁵ and recently extended the comment periods for both items.⁶ Given the overlapping NPRs and RFIs that require attention from the same subject matter experts within institutions, the FDIC should ensure adequate time for the public to prepare comprehensive feedback on each request for comment.

In light of these issues, we request that the agencies extend the comment deadline for the Rulemaking on Recordkeeping for Custodial Accounts by 60 days. An additional 60 days will allow banks, financial technology companies, and the public to provide the FDIC with more valuable and comprehensive feedback on the proposal. The FDIC should grant the full 60-day period requested, as a 30-day extension would be of little utility due to the December holiday season (during which many key stakeholders will be unavailable).

We appreciate the FDIC’s recent responsiveness to commenters’ need for sufficient time to provide useful feedback. We urge the FDIC to provide additional time for the public to comment on the Proposed Rulemaking on Recordkeeping for Custodial Accounts as it has done for the other recent proposals related to deposits.

³ 89 Fed. Reg. 61,577 (July 31, 2024).

⁴ Travis Hill, *Statement on Notice of Proposed Rulemaking on Custodial Deposit Accounts with Transaction Features and Prompt Payment of Deposit Insurance to Depositors*, FDIC (Sep. 17, 2024), <https://www.fdic.gov/news/speeches/2024/statement-vice-chairman-travis-hill-notice-proposed-rulemaking-custodial-deposit>.

⁵ 89 Fed. Reg. 68,244 (Aug. 23, 2024); 89 Fed. Reg. 63,946 (Aug. 6, 2024).

⁶ *FDIC Announces Extension of Comment Period for Proposed Changes to its Brokered Deposit Regulations*, FDIC (Oct. 8, 2024), <https://www.fdic.gov/news/press-releases/2024/fdic-announces-extension-comment-period-proposed-changes-its-brokered>; *FDIC Extends Comment Period on Request for Information on Deposits*, FDIC (Oct. 8, 2024), <https://www.fdic.gov/news/press-releases/2024/fdic-extends-comment-period-request-information-deposits>.

Thank you for considering our request for an extension.

Sincerely,

American Bankers Association
American Fintech Council
Bank Policy Institute
Electronic Transactions Association
Financial Data and Technology Association North America
Financial Technology Association
Independent Community Bankers of America
SIFMA

Appendix

The **American Bankers Association** is the voice of the nation's \$23.9 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$18.8 trillion in deposits and extend \$12.5 trillion in loans.

The **American Fintech Council** is the premier trade association representing the largest financial technology (Fintech) companies and innovative BaaS banks. Our mission is to promote a transparent, inclusive, and customer-centric financial system by supporting responsible innovation in financial services and encouraging sound public policy. AFC members foster competition in consumer finance and pioneer products to better serve underserved consumer segments and geographies.

The **Bank Policy Institute** is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

The **Electronic Transactions Association** (ETA) is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S. and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately \$47 trillion annually in purchases and P2P payments worldwide and deploying payments innovation to merchants and consumers.

The **Financial Data and Technology Association North America** (FDATA North America) was founded in early 2018 by several financial technology firms whose technology-based products and services provide more than 100 million American consumers and small businesses access to vital financial services and products. FDATA North America advocates on behalf of its members and their customers for technology-driven financial services solutions.

The **Financial Technology Association** (FTA) represents industry leaders shaping the future of finance. We champion the power of technology-centered financial services and advocate for the modernization of financial regulation to support inclusion and responsible innovation.

The **Independent Community Bankers of America**® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams.

The **Securities Industry and Financial Markets Association** is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital

markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.