

A Reiteration from the FDIC Concerning Brokered Deposits

by Debbie Walker, Director of Regulatory and Compliance, QwickRate

On January 5, 2015 the FDIC released a Financial Institution Letter (FIL) titled Guidance on Identifying, Accepting and Reporting Brokered Deposits. In a Q&A format, the letter answered recurring queries that the FDIC had received about whether certain types of deposits are considered brokered and core deposits. The communication prompted some questions among QwickRate subscribers. We are addressing them here.

Nothing was changed by the January FIL-2-2015

Many readers interpreted the FDIC's letter to mean that it was introducing new components into the regulatory framework, or updating previous opinions. This was not the case. The letter contained no new "changes" or "updates", no new rulings or opinions. Definitions for brokered and non-brokered deposits remain the same. QwickRate continues to qualify as a non-brokered listing service. Deposits generated directly in our marketplace continue to be classified as non-brokered deposits.

Personal confirmation by the FDIC

QwickRate meets with the FDIC in Washington on a regular basis. At our most recent meeting (the week of March 30, 2015), we mentioned the January guidance. The FDIC said that its sole intent was to provide one comprehensive document that clarifies existing stipulations currently in place (including advisory opinions in the 2011 FDIC Study on Core Deposits and Brokered Deposits) – in other words, to consolidate answers to frequently asked questions in one place.

Still, confusion in the industry lingered. As a result, the FDIC followed up its January FIL with an Industry Call on April 22. During the Call, the FDIC shared a slide presentation, a portion of which covered the distinctions between brokered and non-brokered deposits. The FDIC noted the marked difference between merely providing information about deposit accounts (what QwickRate does) and facilitating the actual placement of a deposit into a specific institution (what third-party brokers do). No new regulations, opinions, rules or reclassifications were mentioned.

The long history of the non-brokered deposits classification

Since the inception of brokered deposit regulations during the 101st Congress in 1988-1989, deposit listing services have been evaluated in light of the regulatory restrictions placed on brokered deposits. On an ongoing basis, regulators have determined that the direct deposits generated through listing services should continue to be classified as non-brokered deposits. To follow is a brief history.

- **1989 – Financial Institution Reform Recovery and Enforcement Act (FIRREA)**

This legislation contained the original regulations designed to curtail the use of brokered deposits.

<https://www.fdic.gov/regulations/laws/rules/8000-3100.html>

Although deposit listing services were not addressed specifically in FIRREA, previous bills submitted to Congress excluded deposit listing services from the definition of a "deposit broker", including a 1988 bill to apply the deposit insurance limitation

to deposits by deposit brokers. Later, the FDIC would reference these bills as a basis for other opinions. <http://thomas.loc.gov/cgi-bin/query/z?c101:S.398.IS:>

- **1990 – FDIC-90-24 – First FDIC Advisory Opinion on deposit listing services**

The FDIC issued its original advisory opinion on deposit listing services in response to a specific inquiry from QwickRate about the application of the brokered deposit regulations to our product. In this opinion, the FDIC noted that each listing service must be examined individually to determine whether it meets the parameters of a “brokered deposit”, and further specified that the inquiring listing service (QwickRate) is not acting as a deposit broker. <http://www.fdic.gov/regulations/laws/rules/4000-5420.html>

- **1992 – FDIC-92-50 – Initial distinctions between deposit listing service and deposit broker**

Again addressing the topic of listing services, the FDIC began developing the criteria to differentiate a deposit listing service from a deposit broker. <https://www.fdic.gov/regulations/laws/rules/4000-7410.html#fdic400092-50>

- **2002 – FDIC-02-04 and 2004 – FDIC-04-04 – Criteria for qualification**

The FDIC established four concise, formal criteria that listing services must meet to qualify as a non-brokered source of deposits: 1) the service’s compensation comes only from subscription or listing fees; 2) only flat fees are charged; 3) no additional services are offered beyond the gathering and transmission of information on available deposits; 4) the listing service is not involved in the placement or confirmations of deposits. <https://www.fdic.gov/regulations/laws/rules/4000-10160.html#fdic400002-04>

Over the years, QwickRate has had to consistently meet the specific criteria required for a listing service to be considered a non-brokered source of deposits; namely, we have ensured that our institutional CD marketplace is non-transactional, non-facilitating and unbiased-information-only in nature.

The FDIC has demonstrated that it will continue to enforce the requirements that earn qualified listing services their non-brokered status.

Indeed, the FDIC’s recent guidance emphasizes the fact that examiners agencies are constantly reviewing and evaluating all types of financial products and services to determine whether they are being facilitated by a third party, and whether they are being properly classified and reported by financial institutions. It is clear that any company developing new products and offerings, and any institution employing those new products as part of its funding strategy, should be aware that failure to comply with the FDIC’s listing service criteria will relegate the deposited funds to the brokered deposit classification.

If you have any additional questions about this or other topics, please call us at 800.285.8626.

Call us at **800.285.8626** or schedule a walkthrough of the Marketplace at www.bankliquiditysource.com.



About QwickRate

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