



February 21, 2024

VIA E-MAIL

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Rural Digital Opportunity Fund (RDOF)

Dear Chairwoman Rosenworcel:

The Wisconsin Bankers Association (“WBA”) is the largest financial trade association in the state, representing nearly 200 state and nationally chartered banks, savings banks, and savings and loan associations of all sizes located in Wisconsin, their branches, and over 30,000 employees. I write to request a change to a requirement in the Federal Communications Commission’s (“FCC’s” or “Commission’s”) regulations implementing the RDOF relating to the eligibility of United States (U.S.) banks that may issue an irrevocable standby letter of credit (“LOC”) to an RDOF provider applicant. Specifically, I refer to the provision in §54.804(c)(2)(i)(B) that the U.S. bank must have a “bank safety rating issued by Weiss of B- or better”. We are concerned that this requirement excludes the community banks in rural communities that are best positioned to provide banking services to an RDOF provider applicant in such communities. Ideally, WBA is respectfully requesting that the FCC remove the “safety rating” requirement altogether through the issuance of an Interim Final Rule to take effect on the date of publication.

As you are no doubt aware, § 54.804(c)(2)(i)(B) is part of a broader set of regulations issued by the FCC implementing the RDOF for rural telecommunications providers and which appear in Subpart J of Part 54 of Subchapter B of Chapter 1 of Title 47 of the U.S. Code of Federal Regulations. One of the elements of the RDOF process is that any “eligible telecommunications carrier” can apply to the FCC to receive financial support to, as stated by the FCC “.....ensure continued and rapid deployment of broadband networks to unserved Americans, we establish the Rural Digital Opportunity Fund, which will commit up to \$20.4 billion over the next decade to support up to gigabit speed broadband networks in rural America.”

In the application process, the applicant must get a letter of credit essentially to back-up the application. The letter of credit must be issued by an “eligible bank” and part of that requirement is that the bank have a “safety rating” issued by Weiss of B- or better. In looking at the final rulemaking implementing this, there is no explanation as to why a “safety rating” from any organization is needed, nor is there an explanation as to why a rating from the Weiss organization is prescribed.

Wisconsin is one of many rural states served by community banks with longstanding relationships with local telecommunications providers. WBA has learned that for what it believes to be subjective reasons, Weiss has recently downgraded many financially sound Wisconsin banks to a rating below B-, causing the providers to contact the banks questioning their ability to continue to provide these letters of credit. While WBA is unfamiliar with Weiss ratings, we note that it is not a nationally recognized statistical rating organization (“NRSRO”) that is registered with the U.S. Securities and Exchange Commission. Furthermore, in reviewing their website, we believe their analysis appears to be questionable, irresponsible, and lacks any form of transparency.

For example, the Weiss website warns that 4,243 U.S. depository institutions could be vulnerable to failure. Among them, 1,210 (28.5%) received a red warning flag from Weiss, signaling risk of imminent failure. And 3,043 received a yellow warning flag from Weiss, indicating risk of failure in a financial crisis or recession. In sum, 45% of all banks and credit unions were deemed vulnerable by Weiss. As a point of reference, from 2018 through 2024, there have been a total of 13 bank failures across the entire country. Furthermore, Weiss rates bitcoin as an A on their webpage as of today. I would be surprised if the FCC would want letters of credit somehow connected to cryptocurrencies instead of issued on traditional paper by regulated, FDIC insured banks.

As another example, one of the Wisconsin banks with a recent drop in their rating by Weiss is reflected on their site with “weak” liquidity. For this bank, this indicator is actually the exact opposite. This bank runs a very clean balance sheet relying solely on local deposits to fund the bank. There are no wholesale borrowings or brokered deposits, something nearly unheard of in today's world. This bank also has strong on-balance sheet liquidity as it runs a lower loan-to-deposit ratio than most banks. Again, of all the categories, liquidity for this bank would be one of their strongest categories.

The most relevant type of rating related to Letters of Credit are long term debt ratings. Weiss ratings, which are not long-term debt ratings, are not in any way comparable to long term debt ratings from NRSROs. For example, Fitch assigns an A+ rating to Wells Fargo's long-term debt yet Weiss assigns them a C+ making them ineligible for the RDOF.

Given that Weiss is not an NRSRO, and they do not appear to give ratings based on debt, are the services being provided to the telecommunications companies even relevant to the Weiss rating? Even if it is determined that Weiss ratings provide some substantive value, WBA believes it is very odd to require the use of these ratings when they are determined based on equity, crypto and profitability of banks rather than debt.

Moreover, the bank “safety rating” provision is at cross-purpose with the stated objective of the RDOF which is to bridge the digital divide to efficiently fund the deployment of broadband networks in rural America because very often, the community banks that will be willing to issue letters of credit to the rural telco providers already provide essential banking services in “rural” America. To cut them off because of an arbitrary rating which is issued with zero transparency is both less than effective and unfair.

Given the recent change in many community banks' ratings by Weiss, it is imperative that FCC promptly acts to review this matter as these rural telco providers are currently caught in a difficult position without meaningful alternatives. Given the subjective nature of this rating service, WBA believes FCC should remove the “safety rating” requirement altogether and strongly urges FCC to do so promptly through the issuance of an Interim Final Rule.

As you and your staff review WBA's request, I am available to engage in further discussions. Thank you very much for your prompt and careful consideration of WBA's request.

Sincerely,

A handwritten signature in cursive script that reads "Rose M. Oswald Poels".

Rose Oswald Poels
President and CEO

cc: The Honorable Brendan Carr, Commissioner, FCC
The Honorable Geoffrey Starks, Commissioner, FCC
The Honorable Nathan Simington, Commissioner, FCC
The Honorable Anna M. Gomez, Commissioner, FCC
P. Michele Ellison, General Counsel, FCC
Rebeca Romero Rainey, President/CEO, Independent Community Bankers of America
Rob Nichols, President/CEO, American Bankers Association