



August 19, 2024

Submitted Electronically

Ms. Marlene Dortch
Secretary
Federal Communications Commission ("FCC")
45 L Street NE
Washington, DC 20554

Re: WC Docket Nos. 10–90, 18–143, 19–126, 24–144; AU Docket Nos. 17–182, 20–34;
GN Docket No. 20–32; FCC 24-64; FR ID 226925

Dear Secretary Dortch:

The Wisconsin Bankers Association ("WBA") is the largest financial trade association in Wisconsin, representing nearly 190 state and nationally chartered banks and savings institutions, and their 30,000 employees. WBA appreciates the opportunity to submit a reply comment on the above referenced Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC")¹.

WBA repeats its conclusions already submitted to the FCC as part of its NPRM in this reply letter, urging the FCC to discontinue its requirement that a bank obtain a Weiss safety rating in order to be eligible to provide a letter of credit ("LOC") to recipients of the FCC's Rural Digital Opportunity Fund ("RDOF"). WBA believes the existing bank regulatory structure and supervision of banks provides the FCC with strong assurance that banks that issue a LOC do not present risk of failure. Nonetheless, if the FCC insists on retaining some verification method as part of its bank eligibility rules, WBA presents two options that are superior to the Weiss rating system that will be described in more detail later in this reply letter.

Comments Submitted as Part of the NPRM Echo WBA's Position Regarding the Weiss Bank Safety Rating.

In reviewing the record of filed comments with the FCC, nearly all are in support of eliminating the Weiss bank safety rating requirement altogether. It is the consensus of the majority of commenters that the Weiss bank safety rating is one that can no longer be relied upon. Indeed, WBA along with 74 other banking associations, the ABA and ICBA, noted the lack of transparency and questionable research as two concerns among others in continuing to rely on the Weiss organization.

Other commenters outside of the banking industry also agree that the FCC should no longer use the Weiss bank safety rating to determine whether a bank is eligible to extend an LOC to a recipient of the RDOF. The Coalition of RDOF Winners – a coalition of internet service providers that made successful bids in the FCC's Phase I auction – urged the FCC to "altogether eliminate the B- or above Weiss bank safety rating requirement" because "Weiss Ratings lacks the experience, methodology, and objectivity necessary for its role in determining which banks

¹ 89 Fed.Reg. 55542, July 5, 2024 ("FR Release").

qualify for FCC programs.”² USTelecom stated that the Weiss safety rating is “not the best tool to determine whether banks are sufficiently sound to issue LOCs to RDOF support recipients.”³ USTelecom urged the FCC to adopt a credit rating from one of the three dominant credit ratings agencies: Standard & Poor’s, Moody’s Investor Services, and Fitch Group.⁴

Importantly, the FCC’s Weiss bank safety rating requirement is having a concrete, negative effect on RDOF recipients. One RDOF recipient – DOCOMO PACIFIC, Inc. – stated that, “[a]fter an extensive search, during which time the Company’s RDOF support was withheld by the Commission,” DOCOMO PACIFIC was able to find only **one bank** that met the Weiss bank safety rating requirement.⁵

As WBA previously stated, nearly sixty percent (60%) of its members found themselves suddenly ineligible to issue LOCs as a result of the unexplained change in their Weiss bank safety rating leaving rural telecommunications providers stuck with no meaningful alternative until the FCC issued its Order on March 12, 2024⁶, partially waiving the requirement of a Weiss bank safety rating of B- or better. Not every bank in Wisconsin or across the country engages in this line of business. This sudden change impacting so many banks in Wisconsin, and over sixty-five percent (65%) of the banks across the country, left rural telecommunications providers with no meaningful alternatives harming their ability to continue their broadband infrastructure work.

The Letter Filed by Weiss Does Not Respond to Concerns Raised by Commenters; Instead the Letter Confuses and Misdirects Readers Citing Decades-Old Unrelated Research and Events.

WBA notes that there is nothing substantive in the Statement⁷ filed by the Weiss organization that is responsive to the concerns raised by many regarding the ongoing use of the Weiss bank safety rating. Furthermore, there is nothing in the statement filed by Weiss to provide any insight into how they arrive at their bank safety ratings. The letter consists of many generalizations yet never answers questions that have been raised including how they specifically determine their bank safety ratings or why they should continue to be relied upon.

Moreover, in an attempt at third party validation of their work, the letter cites a *Wall Street Journal* article written in 2005 – nearly 20 years ago – that ranked Weiss high in the performance category for stock research. According to Weiss’ own website, their stock research is a separate function from their bank safety ratings, so this ranking is not on point or relevant to the issue at hand. Moreover, this occurred nearly 20 years ago so, again, it has no relevance to support the bank safety ratings issued by Weiss occurring within the last year.

² Comment of Coalition of RDOF Winners 7-8 (filed Aug. 5, 2024), <https://www.fcc.gov/ecfs/document/1080603363143/1>. (quoting Letter from Joshua Smith, Vice Pres., Ass’t Gen. Counsel, Bank Policy Institute, to Jessica Rosenworcel, Chairwoman, FCC, WC Docket Nos. 17-182 and 20-34, at 2 (filed Apr. 10, 2024)).

³ Comment of USTelecom 2 (filed Aug. 5, 2024), <https://www.fcc.gov/ecfs/document/10805058108616/1>.

⁴ *Id.* at 3-4.

⁵ Comment of DOCOMO PACIFIC, Inc. 2-3 (filed Aug. 5, 2024), <https://www.fcc.gov/ecfs/document/10805285917034/1>.

⁶ Order Issued on March 12, 2024, *In the Matter of Connect America Fund; Connect America Fund Phase II Auction; The Rural Digital Opportunity Fund Auction*, DA/FCC #:DA-24-244, Docket Number: 10-90, 17-182, 20-34.

⁷ Statement of Weiss to FCC, <https://www.fcc.gov/ecfs/search/search-filings/filing/10806641105649> (filed August 6, 2024)

In addition, the letter attempts to use a GAO study done in **1994** comparing Weiss' insurance company ratings to those of other organizations. Again, this study done 30 years ago in regard to insurance company ratings has no bearing on the Weiss organizations' **bank safety ratings** issued in the last year. The Weiss letter is written in such a way to deflect focus away from the primary issue and questions raised in FCC's NPRM. Moreover, the Weiss letter does not respond to reasonable concerns raised by many reputable organizations and relies on irrelevant reports and rankings that are decades old as validation of its work in the bank safety rating area today.

The Weiss Statement refers readers to information on its public website as to the factors that help determine a bank's safety ratings. On its website, it states that: "Weiss Bank and Credit Union ratings are safety ratings based on a complex analysis of *hundreds of factors* that are synthesized into five indexes: capitalization, asset quality, profitability, liquidity and stability... In order to help guarantee our objectivity, we reserve the right to publish ratings expressing our opinion of a company's financial stability based exclusively on publicly available data and *our own proprietary standards* for safety (*emphasis added*)." Nowhere does it describe those "hundreds of factors" nor does it explain their "own proprietary standards."

For one of WBA's member banks negatively impacted by this change in their bank safety rating, the Weiss website reflects that this institution has "weak" liquidity. This is one of the five indexes cited by Weiss that they use in their rating. Yet, 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 environment. 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. So, what other "proprietary standard" did the Weiss organization use to incorrectly downgrade this bank in this category?

Finally, the Weiss Statement indicates that they do not receive compensation from the rated institutions. Yet this statement raises the question as to how they are getting paid. Every organization needs to be paid somehow in order to remain in business, and Weiss has been in business for 53 years. WBA encourages the FCC to ask the question as to how they are getting paid in order to identify potential conflicts of interest that really may exist.

Conclusion

The long-standing relationships that Wisconsin's banks have with their rural telecommunications providers are important to preserve and maintain. WBA remains extremely concerned about the reliability, transparency, research and motives of the Weiss organization. As a result, WBA strongly urges the FCC to discontinue any further use of any Weiss bank safety rating requirement.

While WBA does not believe FCC needs any third-party rating requirement in its final rule, WBA repeats its alternative suggestion of a two-pronged approach. WBA believes the FCC should amend its bank eligibility rules to allow banks to qualify in one of two ways: have a rating issued by a nationally recognized statistical rating organization that is equivalent to a BBB- or better rating by Standard & Poor's, or provide an affidavit signed by an officer of the issuing bank stating that the bank is "adequately capitalized" or "well capitalized" as of the date the LOC is issued, along with a representation that the bank officer will promptly notify the telco provider customer if the bank's capital ratio changes such that it is less than "adequately

capitalized.”

WBA appreciates the opportunity to submit these reply comments for the FCC’s careful consideration.

Sincerely,

A handwritten signature in black ink that reads "Rose Oswald Poels". The signature is written in a cursive, flowing style.

Rose Oswald Poels
President and CEO