August 5, 2024

Federal Communications Commission
45 L Street NE
Washington, DC 20554

RE: CONNECT AMERICA FUND, CONNECT AMERICA FUND PHASE II AUCTION, THE UNIENDO A PUERTO RICO FUND AND THE CONNECT USVI FUND, RURAL DIGITAL OPPORTUNITY FUND, RURAL DIGITAL OPPORTUNITY FUND AUCTION, ESTABLISHING A 5G FUND FOR RURAL AMERICA, LETTERS OF CREDIT FOR RECIPIENTS OF HIGH-COST COMPETITIVE BIDDING SUPPORT OF CREDIT REQUIREMENT FOR FCC PROGRAMS (WC DOCKET NOS. 10-90, 18-143, 19-126, 24-144; AU DOCKET NOS. 17-182, 20-34; GN DOCKET NO. 20-32)

Dear Sir or Madam,

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the Federal Communications Commission's (FCC) request for comment concerning the agency's requirement that banks providing a Letter of Credit (LOC) to carriers participating Universal Service Fund High-Cost programs must have a Weiss bank safety rating of B- or better.[2] **We have serious concerns about the transparency and rigorousness of the bank safety ratings assigned by Weiss Ratings and we strongly urge the FCC to abandon them as a method for determining whether a bank can support participants in FCC programs.**

ICBA Concerns with Weiss Ratings Methodology

Currently, FCC rules require entities authorized to receive High-Cost support to have a LOC from a United States bank with a Weiss bank safety rating of B- or better. Weiss bank safety ratings purport to evaluate the stability of depository institutions and "are designed to help consumers find the best institutions to entrust with their hard-earned savings and retirement money."[3] The FCC requires participants in its programs to have a LOC from an eligible bank in order to provide a

[1] 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. For more information, visit ICBA's website at www.icba.org.

[2] 89 FR 55542, available at: Federal Register :: Connect America Fund, Connect America Fund Phase II Auction, The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Rural Digital Opportunity Fund, Rural Digital Opportunity Fund Auction, Establishing a 5G Fund for Rural America, Letters of Credit for Recipients of High-Cost Competitive Bidding Support.

[3] Weiss Ratings, "Two Kinds of Ratings" (accessed 7/29/2024) available at: https://greyhouse.weissratings.com/help/rating-definitions.

backstop to the FCC if the company fails to satisfy its obligations. The Weiss rating requirement is intended to ensure that the bank will be able to perform according to the terms of the LOC.

We do not believe that Weiss bank safety ratings are sufficiently transparent, rigorous, or unbiased to serve as the basis for eligibility in a federal government program. According to Weiss's website, their ratings are calculated "based on a complex analysis of hundreds of factors," using both "publicly available data and our own proprietary standards for safety."[4]

This vague description of Weiss's rating methodology does not provide sufficient information to assess the validity of their ratings, but we are highly skeptical that an unaccredited and otherwise unregulated firm such as Weiss Ratings could accurately assess the safety and soundness of every financial institution in America. The website provides no information regarding how Weiss weighs its proprietary factors, nor does it appear that it ever directly engages with the banks it grades in order to understand their business.

According to Weiss's current ratings, 2,803 banks – 61.93% of the banks rated by the firm – rate a C+ or below on the Weiss scale and are ineligible to issue letters of credit to carriers that participate in FCC programs. According to the firm, a C rating means that "[i]n the event of a recession or major financial crisis, we feel this company may encounter difficulties in maintaining its financial stability."[5] According to the firm's "shocking and controversial" [their own words] assessment there are up to 5,274 banks and credit unions "at present or future risk of failure."[6]

This is plainly a sensationalist view. In 2010, the worst year for bank failures in the aftermath of the Great Financial Crisis, 157 banks failed. Only 53 banks have failed in the last ten years.[7] To suggest that several thousand banks are at "present or future of failure" in the event of a recession or financial crisis is nothing more than the familiar doomsaying that banks have faced for centuries. Too often, these predictions of financial doom and gloom are financially or ideologically motivated rather than based on a sober assessment of bank balance sheets. Banks are closely supervised by federal regulators to ensure their safety and soundness and prevent failures. In the event a failure does occur, the FDIC is ready to step in to protect insured depositors and to ensure that the failed bank can be safely acquired by a stable bank, often without any interruption of service for depositors and borrowers.

With regards to Weiss Ratings, it appears that both ideology and financial motivation may influence their view of bank stability. For example, affiliate links on Weiss Ratings seem to promise that outsized gains can be had by investing in cryptocurrency, with one promotion touting gains of over 3,000%.[8] This endorsement of highly speculative crypto assets casts the neutrality of Weiss's bank

---

[4] *Ibid.*

[5] *Ibid.*

[6] Martin D. Weiss, "Still MORE Banks at Risk," *Weiss Ratings Daily* (June 5, 2023), available at: https://weissratings.com/en/weiss-ratings-daily/still-more-banks-at-risk..

[7] Federal Deposit Insurance Corporation, "Failed Bank List" (Updated April 26, 2024), available at: https://www.fdic.gov/resources/resolutions/bank-failures/failed-bank-list/.

[8] *See* Weiss Ratings, "Weiss Crypto Daily," July 29, 2024, available at: https://weissratings.com/en/weiss-crypto-daily/our-crypto-experts-can-help-you-find-market-clarity. The promoted link leads to an affiliate website, Weiss

ratings into serious doubt. As pointed out by the Bank Policy Institute in their February 2, 2024 comment letter, the Weiss ratings website regularly demonstrates antigovernment bias and hostility towards traditional banks and their respective federal bank regulators, including by encouraging consumers to move funds "off the grid" and promoting crypto assets as an alternative to traditional banks.[9]

Weiss Ratings is entitled to these views, but the clear prejudice against banks that they demonstrate should preclude them from serving as a gating mechanism for participation in issuing letters of credit to carriers participating in FCC programs.

Proposed Alternatives

The FCC notes that it began using an external rating of banks because its "objective is to protect the Universal Service Fund and expenditures, by ensuring that carriers have an LOC that can be relied upon, while simultaneously permitting carriers to choose from a reasonably wide range of banks that can issue LOCs for purposes of complying with program rules."[10] The FCC can satisfy this goal by deferring to the federal and state regulatory agencies that supervise banks in the United States. These agencies regularly assess the safety and soundness of all community banks, including their capital, liquidity, risk management, and record of adherence to consumer protection laws. Safety and soundness exams are rigorous and are designed to ensure that banks are operated responsibly in order to protect the deposits of banks' customers and the assets of the FDIC Deposit Insurance Fund.

The FCC does not need to rely on a third-party company or ratings agency to duplicate the safety and soundness function of the FDIC, the Office of the Comptroller of the Currency, and the Federal Reserve Board. These agencies would issue enforcement actions to correct any bank that was operating in an unsafe or unsound manner. We do not believe that any third-party is well-situated to assess the safety of banks as rigorously or impartially as these agencies. For this reason, we believe that any FDIC-insured bank should be permitted to issue LOCs to carriers participating in Universal Service Fund High-Cost programs.

In the alternative, if the FCC concludes that federal supervision is not sufficient to protect the Universal Service Fund, it could require banks issuing LOCs to participating carriers to certify to the FCC that it is "adequately-capitalized" under the criteria established in the Federal Deposit Insurance Act.[11] Being adequately-capitalized is an empirical standard of a bank's financial

---

Crypto Investor, featuring the video "Three New Undiscovered Cryptos Ready to Explode Higher," available at: https://weisscryptoalert.com/reports/WCI/undscvr-int-7949-2403/vid-1s/?sc=Weiss&ec=WWCICB04.

[9] *See* Joshua Smith, "Comment Letter Re: Requirement for "bank safety rating" from Weiss Ratings to provide letters of credit," *Bank Policy Institute* (February 2, 2024), available at: https://www.fcc.gov/ecfs/document/10411305838367/1?ref=broadbandbreakfast.com.

[10] 89 FR 55544.

[11] *See* 12 CFR 324.403; 12 CFR 6.4; 12 CFR 208.43. "Adequately capitalized" refers to a financial institution meeting the minimum required levels for various capital measures set by regulatory authorities. Specifically, it means the institution has: (1) total risk-based capital ratio of 8.0% or greater, (2) a Tier 1 risk-based capital ratio of 6.0% or greater, (3) a common equity Tier 1 capital ratio of 4.5% or greater, and (4) a leverage ratio of 4.0% or greater.

condition, established in regulation, and does not require the FCC to rely on the judgment of any third-party ratings company which may inadequately assess banks' safety.

Conclusion

ICBA appreciates this opportunity to provide comments in response to changes to the FCC's rules regarding letters of credit for recipients of high-cost support awarded through competitive bidding. We strongly urge the agency to discontinue its reliance on Weiss Ratings to determine eligibility for participation in FCC programs. Weiss Ratings cannot adequately assess the safety and soundness of community banks.

For this reason, we urge the FCC to allow any FDIC insured bank to issue LOCs to entities authorized to receive High Cost support. In the alternative, we urge the FCC to allow the participation of any bank that can certify that it is adequately capitalized according to established regulatory thresholds. Community banks serve as valuable partners to telecommunication partners in the rural communities that they serve and look forward to continuing in that role.

Sincerely,

M. Marshall

Mickey Marshall
AVP and Regulatory Counsel