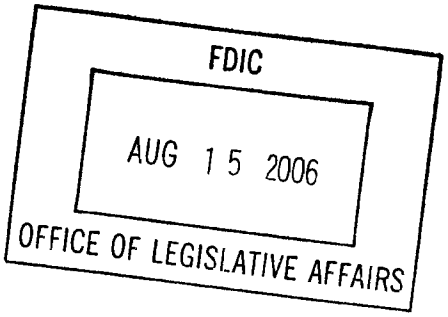
LA06-363

United States Senate

WASHINGTON, DC 20510

August 15, 2006

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th St., NW
Washington, DC 20429



Dear Chairman Bair:

We are writing to express our concern about the FDIC's recently issued Notice of Proposed Rulemaking on the One-Time Assessment Credit, 12 CFR 327, as required by the Deposit Insurance Reform Act of 2005, P.L. 109-171.

As you know, Section 7(e)(3) of this law requires the FDIC to provide a one-time assessment credit for "eligible" institutions based on the assessment base as of December 31, 1996. The purpose of this provision was to compensate financial institutions which had helped recapitalize the Bank Insurance Fund in the wake of the Savings and Loan crisis.

During consideration of the legislation as originally drafted, we became concerned that banks which purchased a significant amount of the deposits of another institution might not be considered eligible to receive the credits associated with those deposits, even if they paid a substantial price for them. Equally important, we were concerned that banks which sold a large amount of their deposits might automatically receive credits for deposits they no longer hold, essentially forgoing premium payments for years to come and receiving a "free ride" on the Deposit Insurance Fund.

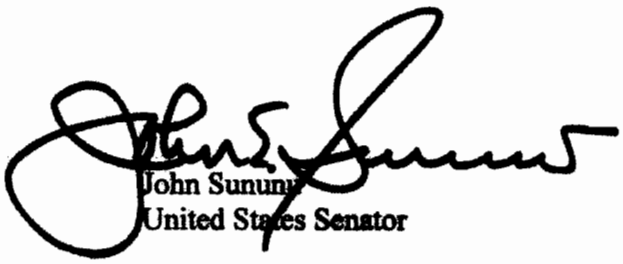
Therefore, we supported language requiring the FDIC to fully examine this issue and conduct a rulemaking process to determine under what conditions a bank could be deemed a "successor" and, correspondingly, eligible to receive assessment credits.

We are concerned that the FDIC has fashioned a proposed rule that provides absolutely no opportunity for a bank that purchased deposits to receive credits for those deposits, regardless of whether the purchasing bank paid a large premium for those deposits, whether deposits are easily traceable, or whether awarding credits to the selling bank would create a windfall for that selling bank and create a new free rider on the Fund.

We ask that the FDIC reexamine its position taking into account what is both fair and equitable to insured institutions, consistent with the intent of Congress, as well as what is best for the long term health of the Fund.

Sincerely,

Jack Reed
United States Senator



John Sununu
United States Senator