From: Kathleen Murphy [mailto:kmurphy@mdbankers.com]
Sent: Monday, March 30, 2009 4:48 PM
To: Comments
Subject: Opposition to RIN 3064-AD35: Proposed FDIC Special Assessment pursuant to 12 CFR Part 327

Kathleen Murphy
President & CEO
Maryland Bankers Association
186 Duke of Gloucester Street
Annapolis, MD 21401-2515

March 30, 2009

Robert E. Feldman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Robert Feldman:

On behalf of our members, the Maryland Bankers Association (MBA) respectfully submits the following comments regarding the Federal Deposit Insurance Corporation's proposal to charge banks a one-time, 20 basis point special assessment to help recapitalize FDIC. MBA represents banks and savings and loans that hold 90 percent of the FDIC-insured deposits in the State with 1,800 branch offices over $96 billion dollars in deposits among our charter members (state-chartered banks, national banks, federally-chartered thrifts and state banks chartered outside of Maryland). We appreciate the opportunity to make comments on the proposal and look forward to discussions to ensure that the FDIC special assessment functions to help replenish the FDIC insurance pool, but does not overly burden institutions. The Maryland Bankers Association and our members are committed to assuring that the FDIC is financially secure.

The FDIC has proposed an emergency special assessment of 20 basis points on all banks and savings associations as a means to restore the Deposit Insurance Fund (DIF). The assessment is in addition to an increase in premiums. The additional assessment costs will have a real impact on FDIC insured institutions, particularly during the economic downturn when banks are a critical source of credit. MBA's member banks reported the assessment combined with the special assessment has a significant impact on their costs. One institution's quarterly FDIC assessment costs currently stand at $300,000 - with the additional increases from the special assessment resulting in this amount tripling in one year. Furthermore, our members have indicated that the 20 basis point special assessment will reduce projected earnings for the year between 40 and 100 percent.

MBA urges the FDIC to consider alternatives that may reduce the burden to the industry of rebuilding the fund while still ensuring that the FDIC has the resources it needs to address ongoing problems in the system. For example, FDIC requested an increase it its borrowing authority from the current $30 billion to $100 billion on a permanent basis. MBA strongly supports an increase to FDIC's borrowing authority and has submitted letters of support for S. 541 - Depositor Protection Act to Maryland's U.S. Senators. With this increase in borrowing authority, the FDIC could reduce the size of the special assessment while still maintaining appropriate assessments at a level that supports the DIF with funding from the banking industry.

The banking industry will still pay assessments to the DIF to cover projected losses and rebuild the DIF over time; however a lower special assessment would help mitigate the negative impact on banks and communities in Maryland. Our members have indicated that in order to manage the unanticipated costs from the special assessment, they are considering reducing charitable giving; slowing expansion plans for new branches as well as the resulting personnel hiring; reducing employee benefits and salaries; reducing interest paid to depositors; and shrinking deposits, which in turn would impact our members' ability to lend. These potential measures are weighing heavily on our members at a time when FDIC-insured institutions are working very hard to serve their customers and communities as they help to propel our State out of the economic recession. Loans made by Maryland-headquartered banks increased 12% from year-end 2007 to year-end 2008. We believe it is essential that lending to qualified borrowers continue.

We encourage the FDIC to consider other alternatives to the special assessment as well as to avoid future special assessments. Such alternatives would include equity investments by banks and a FICO-like structure to issue bonds. We believe to the extent possible that individual banks should be given options to choose from in order to meet their obligations. In addition, we urge the FDIC to establish a reasonable recapitalization period which could extend to 10 - 15 years should the $250,000 level of FDIC insurance coverage be made permanent.

Pressures on the industry have forced banks to cut costs significantly and the FDIC should do the same. We urge the FDIC to dispose of assets in failed banks in a judicious manner, weighing the consequences of holding assets for some short time-period versus offloading them on the market. The FDIC should continue seeking least-cost resolutions of failed banks and provide details so the industry and the public understand the costs incurred. Furthermore, costs of the TLGP, PPIF and other programs should be fully borne by fees paid for those programs by the participants in those programs rather than causing the full industry to pay for potential losses resulting from those programs in which banks may not participate.

Our members are very concerned about the impact of the FDIC special assessment on bank examinations. When examining banks, bank examiners should look at earnings in terms of earnings before paying any special assessment, particularly with regard to the CAMELS ratings.

We are very encouraged by the proposed accounting rules changes recently issued by the Financial Accounting Standards Board (FASB) and are hopeful that they will provide further relief during these unprecedented times. This relief will not only be felt by banks but also reduce the potential losses to the Deposit Insurance Fund. FASB's proposed "other than temporary impairment" (OTTI) guidance would change how OTTI is recorded for securities. Under the proposal, if OTTI exists, then the security is marked to market; however, if there is no intent to sell the security, the credit portion of the loss is recorded in earnings and the non-credit portion of the loss is recorded in "other comprehensive income." This change would allow the income statement to better reflect economic losses and provide an improved GAAP basis upon which regulatory capital is based. In addition, MBA believes improvements can be made to the proposal, such as basing OTTI on credit losses rather than mark to market losses, and that the proposal should apply to securities with OTTI at the effective date rather than prospectively.

The Maryland banking industry values the important role of the FDIC during these unprecedented times. We appreciate your consideration of our comments. Please contact me (phone: 443-837-1601 / e-mail: kmurphy@mdbankers.com) if you have questions regarding this letter.

Sincerely,

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