

Comments submitted by:

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FDIC 26627-2

FDIC Comment Letter on Proposed Increase to Deposit Insurance Assessments

In the proposal, Section II. Emergency Special Assessment

The FDIC views the Treasury line of credit as available to cover unforeseen losses, not as a source of financing projected losses.

How could any of our banks predict these losses when the FDIC itself and the other regulatory agencies could not estimate the amount of losses to be taken. Certainly, this should fit the definition as “unforeseen”. If the FDIC had foreseen, why were credits given to banks last year? There series of events that have transpired in the last nine months are unprecedented and therefore, presumably, “unforeseen.”

Effect on Capital and Earnings

For profitable institutions, the special assessment in 2009 would result in pre-tax income that would be between 10 percent and 13 percent lower than if the FDIC did not charge such the special assessment.

*On a conference call between Chairman Bair and the ICBA Board of Directors, we were told that this ratio was based on 2008 income numbers. First, using 2008 income as a basis seems to be an unrealistic basis since the first six months of 2008 and even the first three quarters of 2008 represent a time of profitability for all banks, especially the Too Big To Fail-Systemically Important Banks because of the inflated values of the assets reported on their balance sheets. 2008 was the boom before the BUST. This is an unfair and disproportionate calculation. When community banks such as ours budgeted for 2009, I can assure we did not make the same economic and market assumptions that were made in the Fall of 2007. Our budgeted income for 2009 was estimated to be less than half of what we booked in 2008. We considered current market conditions and the challenges of funding. We considering the necessity of increasing expenses related to supplement the Loan Loss Reserve. We also included additional expense of the FDIC assessments more than doubling, but how could any bank have estimated an additional FDIC assessment expense arbitrarily imposed in an amount that would be roughly **EIGHT TIMES** what had been assessed the prior year, particularly since the bank had not changed it’s own risk profile and assessment base. In 2008, our bank paid approximately \$121,080 before the FICO assessment of an*

additional \$36,000 in premium expense. With the additional 7 basis points increase already in effect for 2009, that expense grew to \$293,627. Throw the 20bp assessment in there and add approximately \$483,950. Assuming the proposed additional 10bp is assessed at year end, that increases our expenses another \$241,975. **In summary, our 2008 assessment was \$145,245. vs. proposed 2009 \$1,019,552, an increase of \$874,307 or 8X the prior year expense. How could any bank be expected to have foreseen that expense?** That expense will be a direct hit to earnings and capital for 2009 and will virtually wipe out the earnings that could have been leveraged into loans and investments in our local community. This does nothing for Main Street America. We should not be penalized for the sins of Wall Street!

Under Section IV. – Requests for Comments

The FDIC asks that commenters include reasons for their positions.

1. Should the June 30, 2009 special assessment be at a rate other than 20 basis points?

If the FDIC arrived at the 20bp special assessment by basing it on the current assessment formula of assessing domestic deposits, then the assessment base should be changed to include the assets of all institutions so as not to disproportionately penalize and burden the community banks whose domestic deposits make up most of their liabilities vs. the Systemically Important Too Big to Fail Wall Street Banks who have offshore deposits and off balance sheet funding that is not assessed. The 20bp is too high to expect community banks to absorb as a one time lump sum assessment during these periods of economic challenge, decreasing profit margins and demands to increase capital and reserves. Such an assessment will impair banks from the ability to reinforce their balance sheet due to the unanticipated expense and inability to funnel current earnings into leveraging capital for loans and building up reserves.

2. Should there be a maximum rate that the combination of an institution's regular quarterly assessment rate and a special assessment could not exceed? Should the rate be capped at a smaller amount?

The rates on an annualized basis should not exceed 20 total bp assessment on the current formula. Certainly, in our case, we paid an assessment rate of 5.56 before the FICO multiplier. This rate is scheduled to be increased 7bp in 2009 to more than double the previous year's expense. It is unrealistic to think that a bank could absorb going from a rate of 5.56 to $12.56 + 20 + 10 = 42.56$. Eight times what was our rate in a normal environment. This does not include the FICO expense which would inflate the rate even further. The 20bp and 10bp assessment is nothing more than a tax for those banks who managed themselves in a prudent manner. Why should a bank who has historically ranked high CAMEL ratings and minimal risk be asked to take monies from their balance sheet to absorb the losses of those banks whose mismanagement and greed lead to the deficiency in the fund? Additionally, the regulatory agencies should be held accountable, not the banks, for not regulating and recognizing the embedded losses due to activities that the healthy community banks have never engaged in. Banks should be contributors to the fund, but should not be assessed an inflated amount to restore the fund deficiency caused by banks who have a completely different business model and risk profile.

3. Should weaker institutions be exempted, in whole or in part, from the special assessment? For example, should institutions with CAMELS ratings of 4 or 5 be exempted? Should adequately or undercapitalized institutions be exempted? Should institutions that would become undercapitalized (or critically undercapitalized) as the result of the special assessment be exempted?

Weaker institutions should not be exempted from the special assessment. Again, the healthy banks pay for the sins of others and it then burdens the healthy banks to pick up even more of the shortfall, which, in itself, may increase their assessment so much that it would affect earnings, liquidity and capital of their institution. Decreases in each of those areas could result in a downgrade to CAMEL ratings, which would again increase the healthy banks assessment risk rating. Even if the examiners do not downgrade our CAMEL rating, our ratios will be used by public rating agencies which could cause issues for funding and general business contracts, not to mention public perception. It seems that this policy would be a bit self serving for the FDIC, as those weaker banks would not have their capital and income affected and would result in less cost to the FDIC should the institution fail. It is easy to imagine that some of the Too Big To Fail institutions might be considered weaker (as evidenced by the necessity of Treasury funds injections). Consider the burden to be placed on thousands of healthy community banks to offset the special assessment shortfall caused by the exemption of such institutions. This is simply unfair. It is a penalty to those banks who did business in a prudent manner and were contributors to the local economy. Additional expenses for healthy banks would also mean less dollars to lend, less funds for community donations, less funds for the local economy while the weaker exempt institutions had the advantage of growing their income and capital and the ability to have dollars to invest in the community on a disproportionate basis.

4. Should special assessments be assessed on assets or some other measure, rather than the regular risk-based assessment base?

The assessment base is not equitable for all types of institutions. While community banks pay deposit assessment rates on domestic deposits, these make up more than 80% of their liabilities. Conversely, the Big Banks pay just over 60% based on the amount of domestic deposit makeup of their balance sheets. This is a 20% penalty for community banks and it has been going on for decades. It is time to adjust the formula to apply the same standards to every bank, regardless of complexity or balance sheet components. Certainly, there should be risk assessment factors and those should include a systemic risk allocation and assessment.

5. Should there be special assessments of up to 10 basis points? Should some other rate be used? For example, should the rate be the rate needed to maintain the fund reserve ratio at particular value for the reserve ratio?

The increase in a banks assessment should be done over a reasonable period of time. Any special assessments should be an amount which would not overly burden the banks during a period of economic hardship and should be given thoughtful consideration. It does not encourage credit expansion and additional lending if a bank is subject to the government's levy of whatever discretionary amount they

may determine is needed. Again, the healthy community banks on Main Street will be shackled by the imposition of exorbitant fees and will no longer be able to provide the credit services that make up the very fiber of the local economies. Banks should not be subject to an emergency special assessment to keep the reserve ratio at a particular value. Assessing banks with unbudgeted fee expense will hamper the growth and recovery of the economy.

6. Should FDIC assessments, including emergency special assessments, take into account the assistance being provided to systemically important institutions?

YES YES YES. The FDIC assessments are being caused, in a large part, if not entirely to the misconduct of the systemically important institutions. In the event that those SII's have taken TARP injections or other government assistance, the Treasury and/or the Government should have to supplement the fund with the amount of deficiency caused by the actions of those institutions. Community Banks SHOULD NOT have to pay additional assessments and currently a disproportionately higher amount than the Wall Street banks who have already been given considerations including government assistance to avoid failure. The Wall Street banks have already been subsidized. Our special assessments should take that into consideration.