From: Cathy White [mailto:cathyw@legacy-bank.com]
Sent: Wednesday, April 01, 2009 4:15 PM
To: Comments
Cc: info@icba.org
Subject: Assessments, RIN 3064-AD35

April 1, 2009

Mr. Robert E. Feldman, Executive Secretary

Attention: Comments

Federal Deposit Insurance Corporation

550 17th, NW

Washington, D.C. 20429

Re: RIN 3064-AD35 Assessments

Dear Mr. Feldman:

Legacy Bank appreciates the opportunity to comment on the FDIC's interim rule that would impose a special assessment of 10 or 20 basis points on the banking industry. Legacy Bank is a $220,000,000 community bank chartered in Colwich, Kansas.

While I have serious concerns about this proposal, I first want to emphasize that Legacy Bank is fully committed to re-building and maintaining the FDIC Fund. We also fully support the view of the FDIC that we need a strong, financially secure Fund in order to maintain the confidence of depositors in the system. Most community banks were never involved in subprime lending and have served their communities in a responsible way for many years and are now being unfairly penalized.

That being said, I feel that this is the wrong time to take this huge amount of money out of our local economy. Legacy Bank is already dealing with a recession, accounting rules that overstate economic losses and unfairly reduce capital, regulatory pressure to classify assets that continue to perform, and a significant increase in regular quarterly FDIC premiums.

The following demonstrates that the special assessment would have a big impact on the earnings and capital of Legacy Bank. If the special assessment were 20 basis points, the total dollars taken out of Legacy Bank would be in excess of $300,000. That figure represents about 14% of the total pre-tax budgeted earnings of Legacy Bank for 2009. We believe those dollars are far better off staying in the local economy, helping our state and country to come out of the current economic recession. In addition, the reduction in earnings will make it more difficult to build capital when it is needed the most.

There are several things that can be done to alleviate this situation and I will briefly discuss two of those items:

1) I would urge you to look for and if necessary advocate for ways to improve the projections for bank failures.

    - In our opinion, mark-to-market accounting is the principle reason that our financial system is in a meltdown. The destructiveness of mark-to-market, which was in force before the Great Depression, led FDR to suspend it in 1938. He understood that it was unnecessarily destroying banks. We do not believe the timing of the re-implementation of mark-to-market in the fall of 2007 and the current economic crisis are coincidence.

    - The concept of a "bad bank", or the ability to separate the bad assets from the good ones would seem to have merit and would allow problem assets to be dealt with separately and systematically, while other banking operations could continue under a transparent and focused framework.

2) I would urge you to seek ways to "smooth out" the assessment collection process. Again, we know the Fund needs to build up to statutory levels, but, as we stated earlier, collecting a large portion all at once is very harmful to our local economy.

Thank you for your consideration of lowering the special assessment if Congress increases the line-of-credit utilized by the FDIC. This is one way to spread the collection of assessments over time. I understand the stated reluctance to utilize the line-of-credit because of the appearance of taxpayer money being used to "bail-out" the fund. However, we would argue that extraordinary times such as these are exactly what the line-of-credit was designed for. The line-of-credit is a type of loan that is utilized by businesses all over the country to help with unexpected cash flow deficiencies. Utilization of the line-of-credit would not nullify the use of bank funds to re-capitalize the Fund. Rather, it would be a loan that the banking industry would repay, and could be a tool that would help "smooth out" the funding process.

Making these modifications will ensure that the Fund remains secure and will allow our Bank to continue to lend within our community. Thank you for allowing Legacy Bank to express its concern and to make suggestions. We know that you will keep these things in mind when the Board meets in April to finalize the special assessment rule.

Sincerely,

Frank A. Suellentrop

President & CEO