CALIFORNIA BANKERS ASSOCIATION ESTABLISHED 1891

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April 2, 2009

Via electronic mail
Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington D.C. 20429

Re: RIN 3064—AD35; Interim Rule on Assessments

Mr. Feldman:

The California Bankers Association (CBA) appreciates this opportunity to provide comments on the FDIC's interim rule for an emergency special assessment of deposit insurance premiums on financial institutions. CBA is a non-profit organization established in 1891 and represents most of the depository financial institutions in the state of California. While CBA and its members strongly oppose the special assessment as proposed, we do not lose sight of the importance of the stability and viability of the deposit insurance fund (DIF).

The availability of FDIC deposit insurance since the days of the Great Depression has been a stabilizing force for the banking industry and a source of confidence for the public. The banking industry has a strong stake in maintaining the public confidence in the FDIC, and is committed to continue to meet its obligations to the insurance fund. Unfortunately, the proposed special assessment comes at the most inopportune time, though we understand that is the nature of insurance. The key challenge is how to support the fund to ensure that it is available during these trying times, and yet avoid placing undue stress on an industry that needs to make loans and support economic recovery.

The Proposal came as a surprise at the beginning of 2009 after banks have already established their budgets and made funding and other commitments. The unexpected 20 basis point assessment will have a significant impact on earnings, and comes on top of the regular enhanced risk-based quarterly premiums as well as premiums for the Temporary Liquidity Guarantee Program (TLGP). While many banks would be able to absorb the expense without jeopardizing their financial condition, some banks may see their earnings almost wiped out.

The special assessment may also impair some banks' financial ratios and negatively affect their CAMELS ratings. Among other things, this would lead to even higher premiums assessed against them. We share the FDIC's concern that the special assessment may even threaten a number of institutions' viability, such that the assessment in such circumstances may be counterproductive to the FDIC. We recommend that the final rule make a provision to moderate the effect of any special assessment on banks' ratings, for example by disallowing examiners from downgrading a bank's CAMELS rating solely because of the impact of any special assessment.

As noted above, the proposed assessment also comes at a time when banks need to provide more credit in their communities. This becomes difficult because the assessment substantially raises the cost of funding. The assessment may even discourage some banks from raising deposits, and this would reduce their capacity for lending. Any reduction in earnings, in turn, affects capital. Other consequences of the extra expense include fewer charitable contributions and even staff reductions, all of which would exacerbate the economic downturn.

Congress has expressed interest in expanding the FDIC's $30 billion line of credit from the Treasury to $100 billion. This is a proposal that CBA strongly supports. The increased credit line would give the FDIC access to more working capital and thus reduce its need to draw funds from the DIF. This development should relieve some pressure on the FDIC to make a large special assessment. Premiums paid to support the TLGP should also be made available to, and incorporated with, the DIF since the banking industry is obligated to pay for losses emanating from either the DIF or the TLGP.

As of the writing of this letter, FASB announced changes to its guidance on fair value accounting and other than temporary impairment for investment securities. These important changes should result in more accurate accounting of economic losses by banks, which should reduce the level of unwarranted write-downs that have negatively affected banks' capital. This means that fewer banks would be inaccurately characterized as problem banks, and those banks that do fail should prove less costly to the FDIC. All this will have a salutary effect on the DIF.

The Proposal also includes the authority for the FDIC to charge additional special assessments. It suggests that further emergency special assessments of up to 10 basis points each are possible in future quarters. CBA believes the FDIC should undergo the normal notice and comment procedures in order to make special assessments. Extraordinary special assessments have significant impacts on banks. Their unexpected nature makes it impossible to budget for and thus can be extremely disruptive to banks and their investors.

We understand that the American Bankers Association has been developing alternatives to the special assessment that CBA believes should receive careful consideration. Whereas, as already discussed, the consequences of a straight expense to banks of such magnitude can be deleterious, an equity investment into the fund would allow banks to carry the cost as an asset. Such an investment would be expensed if the DIF balance falls below the aggregate of bank equity investments. There are several issues that would have to be clarified, and they could be addressed through a new proposed rulemaking.

Another alternative is to provide capital to the FDIC through a structure like the Financing Corporation (FICO) bonds that was used to capitalize the former Federal Savings and Loan Insurance Corporation. If either alternative is adopted, CBA asks that banks be given an option to meet their obligations to the DIF by paying premiums or by investing as discussed as their individual circumstances dictate.

As a way to minimize the industry's deposit insurance premiums burden, CBA also urges the FDIC to endeavor to recapitalize the insurance fund over a longer period of time than five years. Banks have an immediate need to make more credit available in their communities and they would be hampered by the concentrated 5 year obligation. In the 1990s Congress established a 15 year period to capitalize the insurance fund at 1.25%, and we recommend a similar period at this time.

CBA and its members commend the FDIC for the leadership it has exhibited during this economic crisis. We concur with the FDIC's mission to restore the DIF, and we appreciate that the FDIC will consider our comments stated herein.

Sincerely,

Leland Chan
General Counsel