Massachusetts Bankers Association

April 2, 2009

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: RIN 3064–AD35: Assessments

Dear Mr. Feldman:

On behalf of our nearly 200 commercial, savings and cooperative banks and federal savings association members located throughout Massachusetts and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to comment on the FDIC's interim rule that would impose a special assessment of 20 basis points effective June 30 on all FDIC-insured institutions. MBA has serious concerns about this proposal, which imposes significant costs on the banking industry throughout Massachusetts and the nation during a deepening recession.

MBA believes the Deposit Insurance Fund (DIF) must remain strong and secure during these challenging economic times in order to maintain public confidence in the deposit insurance system. However, the vast majority of our member institutions did not participate in the high-risk practices that led to the current economic crisis and have served their communities in a responsible manner. These institutions are now being unfairly penalized by the FDIC's proposal.

The cost of the special assessment is so high that it is a disincentive to raise new deposits, which will inhibit our members' ability to lend. Current projections estimate that if the special assessment remained at 20 basis points, approximately $15 billion in capital would be shifted from the banking industry into the DIF. Since each dollar of capital supports seven dollars of lending, the special assessment might stifle more than $100 billion in lending capacity. At a time when policymakers at the local, state and federal levels are urging traditional lenders to provide liquidity in the markets and credit to borrowers, the added burden of the special assessment will force some institutions to curtail their lending activities.

The assessment may also impact the ability of the banking industry to continue its traditional levels of charitable giving at a time when many nonprofit institutions and social service agencies are facing decreases in donations and higher demand for services. These actions will have negative consequences on local communities throughout Massachusetts and the nation at the very time that banks are being asked to stimulate the economy.

Given the impact of the proposed special assessment, MBA strongly encourages the FDIC to consider alternatives that may reduce the burden of rebuilding the fund while still ensuring that the FDIC has the resources it needs to address ongoing issues in the system. Specifically, we believe the agency should consider the following options:

<u>Increasing the FDIC's Line of Credit</u>

We appreciate Chairman Bair's public statements that the assessment will be lowered to 10 basis points pending the advancement of legislation in Congress to increase the FDIC's line of credit with the Treasury

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Department. MBA strongly supports such action, which was included in legislation that passed the House of Representatives and is now pending in the Senate. Increasing the FDIC's line of credit will help address short-term funding issues at the DIF, and allow time for the agency to undertake a more comprehensive study of possible alternatives to an industry-wide special assessment.

Risk-Weighting the Special Assessment

In addition to reducing the special assessment to at least 10 basis points, we also believe that the FDIC should institute a risk-weighting that places less of the burden on the healthy institutions and more on those banks that pose the greatest risk to the DIF. For example, if the FDIC instituted a special assessment with a base rate of 10 basis points, a risk-weighting of between 7 and 12 basis points could be instituted based on current risk categories. This would ensure that banks in the lower risk categories continue to pay some assessment without overburdening banks in the higher risk categories.

Extend the DIF Recapitalization Process

While the FDIC board approved an extension of the recapitalization process from five to seven years, MBA strongly believes the agency should consider extending that further, to at least 10 years. This action, combined with an increase in the FDIC's line of credit, would mitigate some of the impact of recent losses in the fund, while still ensuring that the agency has sufficient working capital to address anticipated bank failures and other issues.

Funds from the TLGP and PPIP Program

On March 17, the FDIC Board instituted an Interim Rule to alter the Temporary Liquidity Guarantee Program (TLGP). The adoption of this rule will produce revenues for the insurance fund. Since the entire banking industry is obligated to pay for any losses incurred by the TLGP, we believe it is appropriate to apply any additional funds to the DIF if the FDIC determines that the revenue is exceeding the expected losses of the guarantees.

Another potential revenue source are fees collected under the Public-Private Investment Program (PPIP) Legacy Loan Program. These initiatives, which were announced on March 23 by the FDIC and the Department of the Treasury, again make the entire banking industry responsible for any losses suffered by the programs. It is therefore our position that a significant portion of the fees generated by these programs should be used to recapitalize the DIF.

Bonds or Equity Investments

MBA believes the FDIC should consider using a bond, similar to the FICO bonds, or a convertible debt or equity investment option that might allow banks to write off the expense over time or only when the funds are actually needed. For example, using an equity investment approach, banks would provide the FDIC with a significant injection of capital that would be treated as an asset for the institution, not as an expense.

An approach similar to the original Financing Corporation (FICO) to issue bonds and invest the proceeds into the insurance fund could also be used. This would provide a lower initial payment by the banking industry and would again represent an investment in an asset, rather than an expense against earnings. The original FICO bonds were sold directly to the public. In a similar scenario, new bonds could be publicly issued or sold directly to banks by the FDIC.

Increased Premiums for Recent Entrants to the DIF

We also recommend that the FDIC explore the possibility of imposing premiums for new, higher-risk entrants to the DIF based on assets over a certain time-frame as opposed to deposits. With the changes in the financial services industry that have occurred over the last several months, several institutions obtained bank charters and now have access to FDIC deposit insurance. This helped dilute the fund, and further reduced the reserve ratio. Calculating the premiums for these new entrants based on assets instead of deposits will increase premiums on institutions that obtained bank charters over the last several months and reduce the burden on institutions that have historically contributed to the insurance fund.

Additional Comments

Finally, MBA is strongly opposed to Section III of the interim final rule that gives the FDIC the authority to impose an additional 10 basis point special assessment at any time and without public comment. While we understand that the agency needs flexibility in managing the fund, we do not believe this supersedes the need for public and industry comment. Given that the interim rule provides for any such special assessment to be imposed on the last day of a quarter and not collected until approximately three months later, we believe that the FDIC would have ample time to provide at least a 30-day public comment period on any additional special assessment.

Conclusion

MBA believes that these recommendations ensure that the DIF remains secure, funded by member institutions, and will not place such a large burden on banks in Massachusetts that continue to serve their local communities. We urge the FDIC to take these suggestions into consideration when the Board meets to finalize the special assessment rule.

Thank you for the opportunity to comment on the proposed rule. If you have any questions or would like additional information, please contact me at (617) 523-7595 or via email at jskarin@massbankers.org.

Sincerely,

Jon K. Skarin
Director, Federal Regulatory & Legislative Policy