# BANK OF TEXAS

March 31, 2009

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Attention: Comments

Re: 12 CFR Part 327; RIN 3064-AD35; Assessments

Dear Mr. Feldman:

Bank of Texas appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) interim rule that proposes the imposition of a 20 basis point emergency special assessment (under 12 U.S.C. 1817(b)(5)) on June 30, 2009.

We understand the importance of having a financially sound FDIC insurance fund, but we are concerned about how the fund will be restored. Texas banks, which did not make subprime loans, are both pillars of their communities and positive forces in economic development. We ***do not believe*** our banks should be punished for a housing bubble caused by irresponsible lenders and borrowers and exacerbated by Wall Street.

The proposed special assessment is a significant and unexpected cost to our bank that will devastate our earnings, particularly at a time when the nation is dealing with a deepening recession. We are dealing with significant increases in regular quarterly FDIC premiums, accounting rules that overstate economic losses and unfairly reduce capital, and regulators who apply pressure to classify assets that continue to perform. Each of these is a large challenge on its own but, collectively, they are a nightmare.

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This special assessment will impact our bank in the following ways:

- The high cost is a disincentive to raise new deposits. Fewer deposits, in turn, hinder the bank's ability to lend.
- The reduction in earnings limits the bank's ability to build capital just when it is needed the most.
- We will be forced to look at ways to lower the cost of other expenses, which may limit our ability to sponsor community activities or make charitable donations—something we have been doing for years.

Given the impact that the proposed assessment will have on the Texas banking industry and Texas communities, we ***strongly urge*** you to consider alternatives that will reduce the banks' financial burdens while still providing the FDIC with its short term funding needs. The following are our recommendations:

- Reduce the special assessment and spread its cost over 10 years. The FDIC should spread out the recapitalization of the fund over a longer time frame as well. We strongly encourage steps be taken, including Congressional action if necessary, to secure changes in accounting rules to allow for this amortization of the special assessment, whether it is 20 basis points, 10 basis points or some other adjusted assessment amount.
- Use FICO-like non-callable bonds, purchased by private investors, as a financing vehicle for the Deposit Insurance Fund to help rebuild the fund, and assess FDIC-insured institutions over time to service the interest and principal payments on the bonds.
- If the fund requires resources in the short run, use the FDIC's borrowing authority with Treasury. This is the purpose of the fund, and it remains an obligation of the banking industry. Moreover, it allows any cost to be spread over a longer period of time.
- Use the revenue that the FDIC is collecting from the Temporary Liquidity Guarantee Program. There is considerable revenue from those banks that are issuing guaranteed debt to help support the FDIC at this critical time.

Making these modifications will ensure that the fund remains secure and will allow our bank to continue to lend in our community. We urge you to take these suggestions into consideration when the Board meets in April to finalize the special assessment rule.

We do not believe taxpayer money should be used to recapitalize the fund because of the erosion of consumer confidence in the banks' ability to maintain the insurance fund and build it up to statutory levels over time. However, these are extraordinary times, and extraordinary measures may be required.

We appreciate the opportunity to comment on the interim rule to impose a 20 basis point emergency special assessment.

Sincerely,

J. Gordon Muir, Jr.
Chairman of the Board
and President

JGM/ml