KBA Kentucky Bankers Association
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March 27, 2009

Mr. John Dugan
Administrator of National Banks
Office of the Comptroller of the Currency
250 E. Street S.W.
Washington, D.C. 20219

RE: **RIN 3064-AD35**
74 FR 9338; FDIC Interim Rule on Special Assessment

Dear Mr. Dugan:

Please accept the following as additional comments, on behalf of the banks and thrifts in Kentucky, regarding the proposed special assessment and efforts to re-fund the Deposit Insurance Fund (DIF). We submitted comments immediately after the proposal and interim rule were published, but the fluidity of the discussions regarding possible solutions makes it necessary to submit additional comments.

In just three weeks—since our first comment letter—it has become apparent that the effect of a 20bp special assessment would be devastating to the safe and sound community banking industry at the worst possible time. Kentucky banks and thrifts fully understand the need for a strong, viable and ongoing DIF and the urgency of the situation, but any strategy for accomplishing this must be made without weakening the strong financial services sector of community banks.

Any special assessment, instituted at this time, will have exactly that effect on our community banking industry. The recession has hit no industry as hard as it has hit ours. Bankers are faced with record high regular assessments; record new deposits as consumers move their assets out of non-FDIC insured accounts; low consumer interest in borrowing because of employment uncertainties; and accounting rules that have overstated losses, which results in capital reductions. Any special assessment, when compounded by these other negative factors, risks driving our industry into a downward spiral from which we may not be able to recover.

The recognition of this certain disaster that would result from a special assessment, imposed at a time that is unlike any other we have ever experienced, caused an immediate demand from the industry for alternative solutions. And, we appreciate your willingness to consider these alternative solutions. As a result, discussions among bankers, trade associations, regulators and legislators have made it clear that there is no single solution—no "silver bullet"—that will resolve the DIF funding issue. It is more likely that a responsible plan would include a number of strategic moves, such as the ones already being developed by the FDIC (including legislative increase to the FDIC line of credit with Treasury, TLGP surcharges and the Legacy Loan Program), as well as others.

The programs already implemented are a step in the right direction towards a resolution, but there are even more alternatives available. We encourage you to more fully investigate the possibility, as well, of a FICO-like bond issuance or some other equity investment by the banks into the FDIC that could be funded over time. These additional options would go further towards re-funding the DIF and maintaining the history of bank-funded insurance.

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A special assessment is not the answer. ***Any*** special assessment magnifies the current market recession, and requires safe and sound banks to immediately fund a problem that is expected to occur over time and which has been building over time, through no fault of the banks expected to pay. Community banks have been and remain strong, even through these difficult financial and economic times. However, with increased regulatory and financial burdens imposed upon them for problems that did not begin with or involve them, even the healthiest community banks can expect to lose a large portion if not all of their expected earnings for 2009 leaving the bank with little liquidity, capital or ability to cope with any other economic emergencies. Community banks will have virtually no ability to invest in bonds or community projects when such investments are needed to bolster job creations, virtually no ability to make much needed charitable contributions for those who need it now more than ever, virtually no ability to pay dividends at a time when we are trying to increase and encourage shareholder investments, and no opportunity to grow in a time when the financial services are needed more than ever.

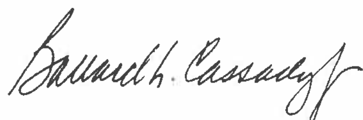
In addition to our grave concerns regarding the currently proposed special assessment, we are also concerned about advance authority to impose additional special assessments. Special assessments, due to their very nature—that of an emergency effort—must be scrutinized thoroughly, in the regular notice and comment process. To do otherwise would be inequitable and would place banks in an undesirable and dangerous position relative to necessary strategic planning.

Finally, even though this was not specifically addressed in the proposal and interim rule, we would request that Chairman Bair issue a formal forbearance directive to district offices and examiners. During an ABA-hosted telephone conference last week, FDIC representatives indicated that examiners would certainly allow some leeway on safety and soundness examinations to account for the extraordinary nature of these times. This was stated in a very matter of fact way, giving the impression that to do otherwise would be unlikely. However, it has been our industry's experience that, unless a directive is issued, examiners are not necessarily "tuned in" to the efforts and concerns of Washington. This may be a simple matter of being too entrenched in the details to recognize policy shifts or concerns, but regardless it is a real problem. Inflexible attitudes towards examinations may result in additional perceived risk, which may result in additional bank failures—further compounding the problem.

The Kentucky Bankers Association and our membership appreciate the opportunity to further comment on the FDIC special assessment proposal and appreciate the opportunity to participate in ongoing discussions analyzing other alternatives. We cannot, however, state often or forcefully enough that special assessments applied to safe and sound banks are not the answer. Banks are more than ready and willing to assist with re-funding. Re-funding, however, should take into account the responsibility of the bad actors to bear their fair portion of the recovery, a plan that allows for a reasonable period over which funding can be capitalized, and a variety of funding opportunities that benefit the entire system with the least amount of disruption.

We look forward to continued participation in the process towards resolution.

Sincerely,



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