



Missouri Bankers Association

Max Cook
President and CEO

March 16, 2009

VIA E-MAIL at Comments@FDIC.gov

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

RE: RIN #3064-AD35
Interim Rule on Emergency Special Assessment

Dear Mr. Feldman:

The Missouri Bankers Association (MBA) is the largest financial trade association in Missouri, representing approximately 380 state and nationally chartered banks, savings and loan associations and savings banks located in communities throughout the state. MBA appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) interim rule to impose a 20 basis point emergency assessment under 12 U.S.C. 1817(b)(5) on June 30, 2009. The interim rule also allows the FDIC Board to impose possible additional special assessments of up to 10 basis points thereafter to maintain public confidence in the Deposit Insurance Fund (DIF).

MBA and its members appreciate and support the efforts of FDIC to maintain appropriate levels in the DIF during these challenging times and in following a least-cost approach in its resolution activity so as to not unnecessarily jeopardize the DIF levels. MBA further appreciates the changes the FDIC made to its proposed DIF restoration plan to address several concerns raised by the MBA and others in the banking industry. The MBA supports the FDIC in that we need a financially secure fund in order to maintain the confidence depositors have in the system.

MBA and its members understand that we are in extraordinary times and we recognize that difficult times still remain ahead of us. However, MBA believes that the one-time special assessment of 20 basis points, coupled with the possibility of another special assessment of up to an additional 10 basis points soon thereafter, as set forth in the interim rule, must be changed. Such a huge, one-time expense will negatively affect consumer and business customers of banks as our institutions would be absorbing that significant expense on top of already increased regular quarterly premium assessments, in addition to the extra premiums paid for participation in the Temporary Liquidity Guarantee Program (TLGP), all at a time when our banks' balance sheets are stressed due to the effects of this deepening recession. One estimate suggests at the same time the Administration is trying to fund banks and business, the total FDIC assessment for the 2009 year will extract \$27 billion in the form of FDIC assessment from banks. The multiplier for loans is then eliminated on these funds.

While MBA appreciates FDIC's attempts and interests in not having the entire banking industry subject to claims by the public, press and others that any FDIC consideration is a "bailout", MBA believes this has already occurred and if FDIC borrows money from its line with Treasury to help recapitalize the DIF, that action will not adversely affect the already negative perception about banks. Unfortunately from President Obama, to members of Congress, the media and the public, "everyone" believes it is permissible to bad mouth "banks." Very few seem to care to distinguish between the well-run community banks and the investment banks and others that really helped to cause the economic crisis we are experiencing. At this point, it is more important to look to diverse resources or use different methods than those set forth in the interim rule to recapitalize DIF, rather than continue to punish the industry in the manner this one-time 20 basis point assessment would.

The interim rule seeks comment on several questions. Below are MBA's responses to those questions in the order set forth in the interim rule.

Should the June 30, 2009 special assessment be at a rate other than 20 basis points?

Based on Chair Bair's comments during a conference call with the American Bankers Association, MBA understands that FDIC expects \$65 billion of losses over the next five years, with much of those losses occurring on the front-end. If this were to be true, MBA understands the need for a special assessment sooner rather than later and 20 basis points may be the proper amount. In response to this direct question, MBA would just ask FDIC to be sure that they are choosing a figure that is at the bottom of any range of numbers calculated for this purpose. MBA understand that the increased FDIC credit line to \$100 million is linked to a reduction in the special assessment to 10 basis points. Moreover, MBA would expect the FDIC to refund some or all of this special assessment back to the contributing institutions if it were to turn out that part or all of it was not needed because the losses to the DIF in reality were less than currently projected.

Nonetheless, MBA believes it to be unnecessary to collect the entire special assessment, whether it is 20 or 10 basis points, in one single payment. While MBA understands that this is not a payment per se that can be spread out over years due to the anticipated need for this money in the next 18 months, it questions why the special assessment could not be spread out over at least two, if not three quarters beginning September 30, 2009. In addition to spreading the cost out over a few quarters, it is critical to try and spread the cost out over two different tax years. Most banks operate on a calendar year basis so a special assessment split in half, with the first half due on September 30, 2009 and the second half on March 31, 2010 would be more tolerable than what is currently set forth in the interim rule. Handling the special assessment in this fashion will be of benefit to banks in that it is not such a significant hit to a bank's balance sheet in one earnings year, and it still accomplishes the stated goal of getting money into the Deposit Insurance Fund.

MBA would also like to see the FDIC consider changing the assessment base to truly be more of a risk-weighted approach than even what is used in the current risk based approach for regular assessments. Please see our comments below for further discussion of this concept.

Should there be a maximum rate that the combination of an institution's regular quarterly assessment rate and a special assessment could not exceed?

Without question, the triple hit of increased regular quarterly assessments, this one-time special assessment and the extra premiums paid for participation in the TLGP will have a compounded, significant negative effect on banks' earnings in 2009. That is in part why MBA suggests spreading the special assessment out to quarters that occur in two different tax years, or drawing on the line of credit with Treasury. If it is decided to move forward with the special assessment as outlined in the current interim rule, MBA would support a maximum rate for those institutions where the possible annual rate is close to 100 basis points. MBA suggests the rate be capped at a smaller amount so together; the maximum possible annual rate is no more than 50 basis points.

Should weaker institutions be exempted, in whole or in part, from the special assessment?

During this challenging economic time, this is a difficult question to answer. While MBA members do not want to see financial institutions fail, it is difficult to say that institutions should be exempted from this special assessment just because they currently are weaker. The reality is that a special assessment of this size hurts all institutions, in varying degrees. If FDIC would agree, at minimum, to spread the special assessment over a few quarters in both 2009 and early 2010 (assuming FDIC will not borrow from its line of credit with Treasury for this purpose), perhaps that change is enough to not push a weak institution into failure on the basis of the special assessment alone.

Should special assessments be assessed on assets or some other measure, rather than the regular risk-based assessment base?

MBA believes there should be a risk-based approach to special assessments just as there is to regular assessments. Given the rather immediate need for a special contribution to the DIF, MBA is hesitant to suggest a dramatic change in the formula for this particular identified assessment need. Rather, MBA would encourage the FDIC to make such a change in the future. At minimum, special assessments should be determined in the same risk-based fashion that regular assessments are calculated. Moreover, MBA would ask FDIC to consider modifying the current risk-based structure in such a way that rewards conservative practices and assesses higher premiums on those institutions with riskier operations that pose a potentially greater threat to the DIF. This would necessarily mean either switching to an assessment based on assets rather than deposits, or an assessment based on some combination of assets and deposits.

Should there be a special assessment of up to 10 basis points?

No! If, despite MBA's earlier arguments, FDIC decides to continue its current approach of a special assessment on the industry (whether one time or spread out over a few quarters), MBA strongly believes that any additional assessments that may be necessary due to emergency circumstances should then come from the line of credit that FDIC has with Treasury. The special assessment is completely at odds with our banks' efforts to help their communities rebuild from the economic downturn. The cost is so high that it is a disincentive to raise new deposits. Fewer deposits will hinder our ability to lend. The reduction in earnings will make it harder to build capital when it is needed the most. What will change that image is the growing ability of banks to lend money and

be active participants in their communities and with local charities. Assessing the industry with large, one-time, unexpected expenses completely negates their ability to do much of this. If such a future need should arise, it will be due to unexpected losses and that is the purpose of the line of credit with Treasury. Consequently, MBA strongly encourages FDIC to withdraw this portion of the interim rule and not have authority to assess up to an additional 10 basis points on the industry through a future special assessment.

What other options are there to fund the FDIC?

The banking industry has a number of concepts that should be pursued. The FDIC should spread out the recapitalization of the fund over a longer time frame as well. Issue convertible debentures to the banking industry so that the bank carries the debt on its books and only when the loss is realized is the debt converted to capital to offset FDIC losses. MBA has already suggested the FDIC Line of Credit with Treasury to temporarily fund the assessment. The Temporary Asset Relief Program (TARP) funds should be accessed for this assessment. The FICO Bonds used to finance the savings and loan failures in the 1980's, are an example that allowed the 30-year non-callable bonds with a principal amount of approximately \$8.1 billion, to delay the impact on the market and mature from 2017 through 2019. Use the revenue that the FDIC is collecting from the Temporary Liquidity Guarantee Program to partially fund the special assessment. There is considerable revenue from those banks that are issuing guaranteed debt to help support the FDIC at this critical time.

Should FDIC assessments, including emergency special assessments, take into account the assistance being provided to systemically important institutions?

Without question, the FDIC assessments, including this special assessment, should take into consideration the assistance being provided to systemically important institutions. These institutions should be paying more for the benefit of FDIC insurance than other institutions who are healthy as they are already receiving the benefit of federal assistance.

Additional Comments as a result of the ABA Conference Call with the Industry on March 9.

Through polling and an interchange of comments, the ABA established a base line for considering the need increases in this FDIC special assessment. The five points include that 1) the premium is fair to all financial institutions; 2) there will be no taxpayer funds used to subsidize the Deposit Insurance Funds; 3) the DIF will never be permitted to fall to zero; 4) there is a reasonable period of time to pay the special assessments; and, 5) FDIC works with its budget to eliminate unnecessary expenses since its expenses reduce the DIF. We note also that the temporary \$250,000 deposit account coverage can not be built in to the current calculations; this could cost another 10 basis points per year.

Conclusion

MBA and its members agree with FDIC that we need a strong, financially secure fund in order to maintain the confidence depositors have in the system. MBA's members were all affected in varying ways in helping financial institutions through the savings and loan

crisis, and we are ready to support our industry through additional contributions to the DIF again if it is really needed.

Nonetheless, the timing of this special assessment, with the likelihood of another special assessment on the heels of the first one, as outlined in the interim rule, is disastrous for the industry. We are already in a deepening recession, are living with accounting rules that overstate economic losses and unfairly reduce capital, along with regulatory pressure to reclassify assets that continue to perform, on top of managing significant increases in regular quarterly FDIC premiums and the extra premiums for participation in TLGP. The one-time payment is very difficult for any one bank to absorb, particularly community banks at this challenging time economically and on top of new, higher premiums as part of the regular quarterly assessments. Of course, those most hurt by these huge expenses banks must pay are the customers. The high cost of deposits is a disincentive to raise new deposits. This coupled with other expenses means banks' ability to lend is reduced. Those loans that are made are likely made with higher interest rates and terms. The national credit crisis will only continue and the economy will not quickly grow.

MBA strongly urges FDIC to consider lowering the amount of the special assessment, spreading out the assessment in the manner suggested above and repealing the provisions giving FDIC authority to collect up to an additional 10 basis point assessment if necessary in the future and using the various other options for temporally funding the special assessment. MBA would also support a change to the assessment base from deposits to some combination of deposits and assets for both regular and any special assessments.

Once again, MBA appreciates the opportunity to comment on this very important interim rule. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Max Cook", written in a cursive style.

Max Cook
President and CEO