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July 29, 2009 ***By electronic delivery***

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

Attention: Comments

Re: RIN 3064–AD37; Notice of Proposed Rulemaking Regarding Possible Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with a Modified Fee Structure; 12 CFR Part 370; 74 Federal Register 31217, June 30, 2009

Dear Mr. Feldman:

The American Bankers Association (ABA) welcomes the opportunity to comment on the proposed alternatives for phasing out the Transaction Account Guarantee Program (TAG Program). ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $14 trillion in assets and employ over two million men and women.

The Federal Deposit Insurance Corporation (FDIC) has proposed two alternatives for phasing out the TAG Program.[1] Under the first, it would terminate on December 31, 2009, as per the current regulation. Under the second, the TAG Program would be extended until June 30, 2010, so that current participants would be allowed to continue in the program for an additional six months. Higher participation fees are proposed for institutions continuing with the program for the extended period, and the proposal asks about lowering the interest rate ceiling for covered NOW accounts.

[1] The TAG Program is one of two elements under the Temporary Liquidity Guarantee Program (TLGP). The other is the Debt Guarantee Program.

ABA's position on the proposal is as follows:

- Extension of the TAG Program for six months, with current participants allowed to opt out, is reasonable given the continuing economic challenges in many parts of the country.

- The fee for continuing in the TAG Program for the extra six months should be set to cover anticipated program costs.

- The disruption of NOW deposit customers and cost of adjusting bank systems and customer agreements argue against altering the rate ceiling for covered NOW accounts for just six more months.

Before discussing each of these points in more detail below, we reiterate the comment ABA made – which we continue to embrace – in response to the original Temporary Liquidity Guarantee Program (TLGP) proposal:

> [O]f high importance for the FDIC and for the industry is an exit strategy for this program that unwinds it in a way that is not disruptive to markets and the banking industry – and banks' relationships with their customers. By careful and flexible planning, this program should be designed to end as markets normalize.

1. Extension of the TAG Program for six months, with current participants allowed to opt out, is reasonable given the continuing economic challenges in many parts of the country.

ABA supports a six-month extension of the program, through June 2010. In the midst of the financial turmoil and the constant media coverage, individuals and businesses were nervous about the safety of their money and sought the protection of insured deposits. The TAG Program helped to reassure depositors – such as businesses with larger payroll transaction balances – that their money was indeed safe.

There is evidence that, in general, the worst of the market turmoil has passed. For example, risk spreads have come back down toward pre-turmoil levels. Thus, now is an appropriate time to plan for an orderly phase-out of the temporary federal programs that support liquidity, such as the Treasury Department's guarantee for money market mutual funds and the TLGP.

However, some areas of the country continue to suffer the consequences of a particularly severe downturn. Five states have unemployment rates exceeding 12 percent, and it is likely that these rates will not decline markedly over the next year. Moreover, with job losses and business slowdowns and failures, bank credit delinquencies and losses have increased. Unfortunately, this has led to bank failures, and continues to highlight the importance of assuring depositors that their money is safe in their bank. These continuing stresses justify the six-month extension of the TAG Program.

Allowing institutions to opt out of the program, particularly given the significant increase in fees, should accompany any extension.

It is important to note that not all banks support the extension. Many banks chose to participate originally because they were concerned that to opt out would put them at a competitive disadvantage. This pressure does not disappear, and at 25 basis points would represent a high cost for some institutions. Moreover, there is a great deal of concern about the cost of the program and losses that have already been realized. It is essential that the risks of the program be managed and that severely troubled institutions not use this added protection as an avenue to boost their level of deposits insured under the program.

2. The fee for continuing in the TAG Program for the extra six months should be set to cover anticipated program costs.

ABA agrees with the principle that the fees charged should cover the cost incurred by the program. We reiterate the point made in our original comment letter on the proposal:

> As the banking industry must bear the costs of these initiatives, it is important that the risk be closely monitored, the pricing be subject to change so that those that participate pay a fair price to cover costs (and not impose costs on those that choose not to participate), and the program be unwound in a way that is least likely to be disruptive or create additional problems or costs for the industry.

It is clear that some of the consequences and costs of the program – including the significant losses expected for the TAG Program in the Silverton Bank failure – were not fully understood at the outset. Thus, we support the proposal to adjust fees to match more closely the expected cost.

We would also note that at 25 basis points (annualized), the cost is significant, particularly in combination with the regular quarterly risk-based assessment. As a result, many bankers have told us that they may not continue participation in the program. Thus, the revenue expected must take into account the fact that fewer banks will participate, yet the risks and expected losses are unlikely to be reduced correspondingly with the reduced participation. Some bankers have suggested that a risk-based fee be implemented that could encourage participation and increase net program income. Such a risk-based regime would need to be considered were the program to be extended beyond the proposed six months.

Ever since the TAG Program was first announced, bankers have been concerned that, whether they participate or not, they will be required to help cover the cost in case the TLGP runs a deficit. ABA feels strongly that non-participants should not be called on to subsidize the coverage. Congress, in enacting the Helping Families Save Their Homes Act of 2009, authorized the FDIC to make such a determination.[2] It is, of course, preferable that the premiums be set to cover the expected losses to the maximum extent possible, so that the costs are known up front and banks can better assess the benefit of participating.

[2] When the original TLGP program was put into place, the FDIC was required under law to assess the ***entire*** industry for any losses under the program (using a fixed formula). Congress changed the fixed formula for repayment of any costs resulting from a systemic risk exception determination and authorized FDIC to assess those banks and holding companies that benefited from the additional protection provided.

3. The potential disruption to NOW deposit customers and cost of adjusting bank systems and customer agreements argue against altering the rate ceiling for covered NOW accounts for just six more months.

As the FDIC notes, short-term interest rates have declined since the TAG Program was initiated last October. For example, the rate on three-month Treasury bills averaged 0.67 percent last October but is currently 0.19 percent. Thus, the original 50 basis point limit on interest rates for NOW accounts to be fully insured may be to some extent out of date today.

However, such an adjustment must be weighed against the real possibility that customers might be confused by the change. In addition, a number of bankers have indicated to us that there would be significant disruption to NOW customers and appreciable cost for altering deposit programs and working out new arrangements with these customers for just six months more in the TAGP.

Moreover, many bankers are concerned that the current interest rates are artificially low and that one cannot preclude the Federal Reserve from raising short-term interest rates prior to or during the six-month extension (ending June 30, 2010). Such an event could create a problem for banks and their customers. Thus, should the FDIC lower the maximum rate, we believe that it should be indexed to an appropriate interest rate so as to avoid a similar problem that this proposal is intended to address.

Conclusion

The Transaction Account Guarantee Program did provide stability and confidence for many bank depositors at a time when there was significant worry and turmoil in the financial markets. Continuing disruptions in some regions warrant continuation of the program through next June. Therefore, ABA supports the proposed six months' extension of the Transaction Account Guarantee Program, provided that banks that are no longer interested in participating have the opportunity to opt out. As the current financial turmoil abates, we believe that it will be appropriate to find an orderly way to wind down the program, with sensitivity to regional economic conditions where continued access to liquidity and depositor confidence are paramount.

Sincerely,

Robert W. Strand