ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA

July 30, 2009

Robert E. Feldman, Executive Secretary
Attention: Comments
550 17th Street, NW
Washington DC 20429

Re: RIN #3064-AD37; Notice of Proposed Rulemaking Regarding the Possible Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program

Dear Mr. Feldman:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on the proposed rule to amend the FDIC's Temporary Liquidity Guarantee Program (TLGP) to extend the Transaction Account Guarantee (TAG) Program.

The Federal Deposit Insurance Corporation (FDIC) adopted the TLGP as a temporary program to address unprecedented disruptions in credit markets. The Transaction Account Guarantee (TAG) Program is one component of TLGP and fully guarantees noninterest-bearing transactions accounts, certain NOW accounts and IOLTA accounts until December 31, 2009. This guarantee is in addition to and separate from coverage provided under the FDIC general deposit insurance rules.

Summary of Proposal

To phase out the TAG program, the FDIC is proposing two alternatives. One alternative would be to discontinue the program on December 31, 2009 with no increase in fees and the other would be to extend it for six months until June 30, 2010 but with higher fees. Under the second alternative, participating depository

[1] The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an everchanging marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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institutions would have a single opportunity to opt out of the TAG extension. Institutions wishing to opt out would be required to send an email that included specific information notifying the FDIC of their intent. The extended guarantee would apply only to the eligible transaction accounts maintained at depository institutions that do not opt out of the extended program.

The TAG program has been an important source of stability for community banks with large transaction account balances and has also been very successful with over 7,100 participating institutions and approximately $700 billion in non-interest bearing transaction accounts (that would not otherwise be insured currently) subject to the FDIC guarantee.

Community banks located in areas of the country that have been significantly impacted by the economic downturn such as in Georgia, Florida, California and the Southwest have reported to ICBA that the program has been very beneficial for attracting and retaining large transaction accounts. Also, community banks located in states that require that municipal deposits be held in secured accounts have also said that the program has been very helpful in attracting and maintaining those types of deposits.

ICBA's Position

The TAG program is important to community banks competing with too-big-to-fail institutions particularly in those areas significantly impacted by the economic downturn and should be extended. The program is a valuable tool for protecting and promoting the interests of small and large businesses by guaranteeing payroll accounts and enabling banks to make loans to creditworthy borrowers. However, we are concerned that an expiration date of June 30, 2010 would not provide enough time to restore and maintain liquidity and customer confidence to the banking system**. Particularly in those areas of the country like Georgia, Florida, California and the Southwest, it is very important that this program continue an additional 12 months to allow additional time for those areas to stabilize.** Overall, the economy and financial system are continuing to recover and additional time is needed before unemployment rates decrease and people begin to borrow more.

The TAG program ensures that community banks are not at a competitive disadvantage in this fragile economy. The safety of transaction accounts continues to be one of the most important concerns for customers, which too-big-to-fail institutions can provide since the public perceives that those institutions will ultimately be bailed out if they become financially unstable. Community banks should be afforded the same opportunity to guarantee their customers' transaction accounts.

If the TAG program is extended, the FDIC is proposing to increase fees for all banks that participate to an annualized rate of 25 basis points. **A 25 basis-point rate is too onerous and would impose an undue burden on those**

community banks that compete with the larger banks for core deposits. Furthermore, in this low interest rate environment, much of the 25 basis points would fully impact the income statement of community banks as an expense since it would be very difficult if not impossible for any bank to pass along that fee to its consumer or business customers.

We believe setting TAG fees based on risk is a fairer way of assessing banks for participating in the program. We recommend that FDIC establish premium rates that are commensurate with the risk profile of the bank as determined under the FDIC's risk-based assessment system as of the end of the quarter commensurate with the collection. We recommend that Risk Category I banks pay a TAG fee of between 10-14 basis points, Risk Category II banks pay a flat fee of 16 basis points, Risk Category III, 20 basis points and Risk Category IV banks 25 basis points. For instance, assuming that Risk Category I institutions pay assessments for the fourth quarter of between 12-16 basis points, a bank paying an annual assessment of 12.331 basis points which is at the lowest end of the Risk Category I rates would pay 10.331 basis points for participating in the TAG program (multiplied, of course, by the amount of non-interest-bearing transaction account deposits that exceed $250,000).

<u>Interest Rates on NOW Accounts and Opting Out of TAG</u>

The NOW accounts that are eligible for the TAG program are those with interest rates that do not exceed 0.50 percent. The interest rate limitation was set at that level because it was comparable at the time to the average effective Federal funds rates and significantly below the one month CD rates and money market fund rates. However, at this time, the Federal funds rate, one month CD rates and money market deposit account rates have dropped. The FDIC is seeking comment on whether the maximum interest rate for eligible NOW accounts should be reduced. **We believe the interest rate cap for eligible NOW accounts should remain at 0.50 percent.** Many institutions do not consider NOW interest rates to be as sensitive as other deposit rates and do not vary the rates as the market fluctuates. For instance, many institutions still pay .50 percent on their NOW account money even though interest rates have dropped.

The FDIC is also proposing to offer participating institutions a single opportunity to opt out of the TAG extension. A bank that wishes to opt out of the TAG extension would be required to provide the FDIC with notice of its intent to opt out by submitting an e-mail that includes specific information. **The ICBA agrees it is important to permit participating institutions to opt out of any TAG extension.** Some banks, particularly in those areas of the country not significantly impacted by the economic downturn, may prefer to opt-out of the program. Since the program will mean significantly higher fees from some banks, an opt-out would enable banks to determine whether participating in the TAG program for several more months would be cost beneficial to their specific circumstances.

Conclusion

The TAG program has been an important source of stability for community banks with large transaction account balances. The program has been particularly important for community banks that compete with too-big-to-fail institutions in those areas significantly impacted by the economic downturn. We therefore urge the FDIC to extend the program one additional year to December 31, 2010 to allow additional time for the economy to stabilize. If the FDIC extends the TAG program, we strongly recommend the fee be risk-based to more fairly assess participating institutions. ICBA also agrees that that participating institutions should have the opportunity to opt out of the TAG program if it is extended and that the interest rate cap for eligible NOW accounts should remain at 0.50 percent.

ICBA thanks you for the opportunity to comment on the proposed extension of the TAG program. If you have any questions or need additional information, please do not hesitate to contact me (Chris.Cole@icba.org) or Lilly Thomas (Lilly.Thomas@icba.org) at (202) 659-8111.

Sincerely,

/s/ Christopher Cole

Christopher Cole
Vice President and Senior Regulatory Counsel