First **PREMIER** Bank
Member FDIC

Email address comments@fdic.gov
Subject Line "Assessments RIN 3064-AD35

March 27, 2009

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

RE: RIN 3064-AD35, Proposed FDIC Special Assessment Pursuant to 12 CFR Part 327Dear

Mr. Feldman:

We have reviewed the interim rule regarding the 20 basis point special assessment to be collected on September 30, 2009 and have several comments regarding the method of determining the assessment and the unintended consequences that such an assessment will have on community banks. We believe that the FDIC should strongly consider changes for both the timing and methodology before adopting a final rule.

We do want to state that although we have very serious concerns about this proposal, we also believe that in the long run, maintaining a strong financially secure fund enhances the confidence that depositors have in the system.

The key concerns with this proposal include:

<u>Failure to Assess based on Systemic Risks:</u>

This assessment places a blanket charge on all banks within the system based on their deposit size on an equal basis even though the systemic risks are definitely not the same. It does not consider the risk that the larger banks create through the use of market based funding structures such as securitizations, private equity placements, external debt and other funding sources that are outside the normal deposit gathering function typically utilized by community banks. Thus, a methodology based only upon deposits unfairly targets institutions that did not contribute to stress on the fund balance.

- This type of broad based assessment creates a competitive disadvantage and penalizes banks who have maintained a safe and sound institution. We pay the additional costs even though we did not participate in these high risk activities nor did we take any federal assistance. What a message it would send if the FDIC and the media would indicate that the highest special assessment rates would be for the riskiest banks. We understand that the base assessments deal with risk, but this proposed special one does not.
- This is fundamentally unfair and unconscionable that the "to-big-to-fail" banks who have received billions of TARP money will have the ability to use the liquidity received from taxpayer funds to pay for the special FDIC assessment. They are already abusing their use of these bailout funds by offering below market rates on loans and higher rates on deposits that directly compete with community banks (ie GMAC Bank!!).
- Chairman Bair indicates that that statue restricts the FDIC from discrimination against an institution because of its size. This assessment would do just that. It would discriminate against the community banks that have prudently managed their assets and protected their depositors while the larger banks are bailed out with federal money.
- A high percentage of community banks have maintained consistent and disciplined lending standards and have service their communities responsibly for years and are now being penalized for the irresponsibility of principally the larger institutions.

Unintended Consequences:

- With this type of assessment, the FDIC is establishing a precedent to reward failure and punish success. Institutions who have not been managed well receive government bailouts and well run banks with strong management teams receive a bill.
- The rate of assessment creates a disincentive to raise new deposits because of the cost. Again, this will further limit lending activities as the banks buckle in, shrink their balance sheets, and ride out the economic storm.
- Adopting this assessment will be in direct conflict with the objective of the Federal Government, which is to increase capital and liquidity for banks so that they can in turn lend to get the economy moving forward again.
    - The message is inconsistent. One agency is pumping money in to banks to stimulate the lending while another agency is taking money out of banks with this special assessment.
    - This level of assessment will be a shock that has the potential to devastate earnings of some community banks that have historically been moderate to strong performers. This makes it very difficult to build capital when it is needed the most and restricts lending activities to small and medium sized business on main street who are the core group of people that will help us work out of this recession.
    - The impact of an immediate assessment will drains earnings, liquidity, and capital which will take money away from the banks who are best positioned to help the economy recover.

- Banks are already experiencing significant increases in base FDIC premiums, a deepening recession, and reductions in consumer spending behaviors that decrease revenue. Adding this special assessment, especially now and at this level, would simply make the problem worse when the system can least afford more financial stress.
- With the magnitude of the increased assessment rates and the size of the potential special assessments, banks will feel a material impact to earnings and capital. This impact may actually impair capital to some banks in such a manner to increase their FDIC premium rates even more. The FDIC needs to serious consider how they could become a contributor to further degradation of instability in the banking system.

Alternatives & Timing:

- In the short run, the FDIC should utilize its borrowing capabilities with the Treasury before any special assessments are contemplated to avoid further deterioration and instability within the banking system. We need to assist with maintaining the financial strength of the banks within the system.

- Use the revenues that the FDIC is collecting from the Temporary Liquidity Guarantee Program (TLGP) to supplement the DIF.

- It appears that this discussion has already been started, but the assessments on guaranteed debt should be much higher because these are not core deposit activities, nor are they typical core banking activities.

- If determined to be necessary, this type of special assessment should be spread out over several assessment periods rather than one large immediate drain on earnings, liquidity and capital.

- An option for assessment would be to base it upon total assets rather than simply deposits. This would begin to capture the risks in the bank's assets that are funded by other means and are not related to the level of core deposits.

We encourage you to review our discussion points and I'm sure the comments made by many other bankers across the country, and strongly consider eliminating this special assessment until all other options have been exhausted. It would be more prudent to utilize the credit availability with the Treasury, earnings from the TLGP and other short term options in lieu of an immediate earnings and capital impact to banks. if a special assessment is needed in the future, that assessment should be a more a targeted risk based calculation rather than a deposit only calculation and evenly spread out over an extended period.

Thank you for your consideration.

Sincerely,

First PREMIER Bank

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