EnerBankUSA

SALT LAKE CITY, UTAH • MOORESVILLE, NORTH CAROLINA

Mr. Robert E. Feldman
Executive Secretary
Comments
Federal Deposit Insurance Corporation
550 17th St.
Washington, DC 20429

VIA EMAIL TO: comments@FDIC.gov

Re: RIN 3064-AE37 Request for comments regarding proposed rulemaking to amend 12CFR part 327 to refine the deposit insurance assessment system.

Dear Mr. Feldman,

We appreciate the opportunity to respond to the Request for Comments published in the Federal Register on July 13, 2015 beginning on page 40838 and are submitting the following comments on behalf of EnerBank USA.

EnerBank USA is an industrial bank that specializes in providing unsecured home improvement loan programs for homeowners through nationwide dealer networks of leading home improvement manufacturers, distributors, and franchisors as well as through home improvement contractors and retailers. Headquartered in Salt Lake City, Utah, EnerBank USA has approximately $1.1 billion in assets. Our parent company, CMS Energy Corporation (NYSE: CMS), is a Michigan-based company that owns an electric and natural gas utility, Consumers Energy Company, as its primary business and also owns and operates independent power generation businesses. EnerBank USA represents 3% of CMS Energy's net assets.

We applaud the goals of the FDIC in the proposed rule-making to reduce "the subsidy that lower-risk banks provide higher-risk banks and provide incentives for banks to monitor and reduce risks that could increase potential losses to the DIF." However, we are concerned that instead of out-performing the existing methodology, the proposed methodology could actually incentivize banks to add riskier assets to their balance sheet and could, like in the case of EnerBank USA, significantly increase the degree to which a lower-risk bank subsidizes the deposit insurance of higher-risk banks.

Due to these concerns, we request that the FDIC maintain the existing deposit insurance assessment methodology until a better statistical analysis can be completed or incorporate our proposed changes.

Reasons Banks Fail.

The vast majority of bank failures can be tied to asset quality or a liquidity crisis. The proposed methodology could actually incent banks to become more risky in these two areas and increase the likelihood of failure while reducing their deposit insurance assessment.

When contemplating asset quality, we believe that the proposed "Loan Mix Index" provides incentives for banks to originate risky loans. By applying the category of loan's historical weighted average industry-wide charge-off rate to a bank's loan portfolio, it reduces the incentive to originate high quality loans. EnerBank USA originates high quality unsecured installment loans to consumers for the purpose of home improvement. The average FICO score at origination is 760. Our 12 month net charge-off rate is 0.63%. Under the proposed methodology, a charge-off rate of 1.46%, more than double our existing rate, would be applied to our high quality loan portfolio. On the other hand, a bank desperate to increase yield could originate sub-prime pay day loans with double digit charge-off rates and their far riskier portfolio would be treated the same as ours in the Loan Mix Index, creating the exact subsidy situation the FDIC is seeking to avoid, since the lower-risk bank would be paying an assessment based on assets riskier than its own, and the higher-risk bank would be paying based on assets less risky than its own.

If the goal is to reduce the impact of cyclicality in the new methodology, the methodology could include a bank's 10 year weighted average net-charge-off rate or 1 year net-charge-off rate, whichever is higher, in the Loan Mix Index. Using a 10 year weighted average net-charge-off rate would generally include at least one recession and thus avoid solely using low charge-off rates experienced in good economic conditions. For banks with less than 10 years of history in a particular loan category, an industry loss rate or their actual 1 year net-charge-off rate, whichever is higher, could be used.

Core Deposit to Total Asset Ratio

When contemplating a liquidity crisis, we believe that the Core Deposit to Total Asset Ratio is founded on an ideology that is not based on fact. The ideology assumes that brokered deposits cause failures when in fact the liquidity crisis that is most likely to cause a bank failure is a "bank run," where depositors, en masse, withdraw their non-maturity deposits from an institution due to public concerns about the institution, which may or may not be accurate. A "bank run" is impossible with a bank funded by brokered certificates of deposits because these deposits can only be withdrawn in the case of the death of the depositor or if the depositor is deemed incompetent by a court of law. Instead of penalizing these types of deposits, banks with these deposits and satisfactory Sensitivity to Market Risk ratings should be charged a lower assessment rate.

Proposed Assessment Methodology is Inconsistent with Well-Established Ratings.

The IDC Financial Publishing, Inc. (IDC) uses its unique CAMEL rankings of financial ratios to determine the safety ratings of banks, bank holding companies, savings institutions, and credit unions. IDC's methodology for ranking financial institutions for safety is an open platform, allowing banks, savings institutions, credit unions, and any client to understand financial ratios and rank for a specific institution. IDC produces a score from 1 to 300, with a 1 being assigned to banks on the verge of failure and 300 being a perfect score. EnerBank USA has an IDC score of 300, yet the proposed assessment methodology would increase our deposit insurance assessment by a whopping 62%. This is completely inconsistent with the ratings from a well-respected entity.

Proposed Assessment Methodology Would Penalize Highly Successful Institutions.

EnerBank USA is a highly rated bank by the FDIC, with a long history of strong earnings, high asset quality and excess capital. Currently it has a Tier 1 Leverage Ratio of 10.8%, a Net Income before Taxes ratio to Total Assets of 3.4%, a ratio of Non-Performing Loans and Leases to Total Assets of 0.11% and a ratio of Other Real Estate Owned to Gross

Assets of 0.0%, yet the proposed assessment methodology would increase EnerBank's deposit insurance assessment by a staggering 62%. We think that EnerBank USA has one of the lowest risks of failure in the next three years, and reiterate our concern that the proposed methodology would create substantial inequities between lower and higher risk banks.

The weightings on the Core Deposit to Total Asset Ratio and Loan Mix Index do not seem logical, especially considering the incorrect assumption regarding "core deposits" and the failure of the Loan Mix Index to take into account the underwriting criteria and servicing strategies specific to each institution.

The type of deposits utilized or growth experienced by banks do not cause banks to fail; poor loan quality, insufficient capital and insufficient liquidity cause banks to fail. In the cases of the 472 FDIC insured banks that failed between 2004 and 2013, publicly available financial data published by the FDIC shows a clear and dramatic progression from lower troubled asset ratios to higher troubled asset ratios (on average from 20.6% to 241.5%) from three years prior to an institution's failure date to the quarter ended immediately prior to that date. The same group of banks experienced an equally clear and dramatic progression from higher reserve ratios to lower reserve ratios (on average from 958.6% to 25.0%) from three years prior to an institution's failure date to the quarter ended immediately prior to that date.

The FDIC's Study on Core Deposits and Brokered Deposits states, "there should be no particular stigma attached to the acceptance by well-capitalized banks of brokered deposits per se and that the proper use of such deposits should not be discouraged." If this is the case, why is a well-capitalized, highly profitable bank going to be charged 62% more for deposit insurance under the proposed methodology in large part due to the Core Deposit to Total Asset Ratio? That feels like quite a stigma.

Conclusion

We commend the FDIC's goals to reduce "the subsidy that lower-risk banks provide higher-risk banks and provide incentives for banks to monitor and reduce risks that could increase potential losses to the DIF." However, in order to achieve this goal, the new methodology will need to be based on more complete studies. The NPR states that 1 and 2 rated banks are not penalized for brokered deposits unless their growth exceeds 40%, but that is not an accurate statement if the Core Deposit to Total Asset Ratio severely penalizes 1 and 2 rated banks for brokered deposits. Banks rated a 3 experience double jeopardy for using brokered deposits. There is no legitimate basis for the Core Deposit to Total Asset Ratio to penalize 1 and 2 rated banks. We propose that the Core Deposit to Total Asset Ratio should not be applied to 1 and 2 rated banks with the Uniform Amount being adjusted down by an amount that would be revenue neutral.

Utilizing weighted average industry-wide charge-off rates in the Loan Mix Index would provide incentive for banks to lower their underwriting standards. We propose that the calculation use each bank's 10 year weighted average net charge-off rate or 1 year net-charge-off rate, whichever is higher, instead of the industry rate in order to capture loss rates during different economic conditions while rewarding banks that maintain prudent underwriting standards and penalizing banks with lower standards.

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We are confident that the FDIC has no intention of increasing the deposit insurance assessment on highly rated, highly profitable, well-capitalized banks with high quality loan portfolios and we hope that you will thoughtfully consider our proposed changes.

Thank you for your consideration.

Sincerely,

Charles E. Knadler
EnerBank USA
Executive Vice President & CFO

Louise P. Kelly
EnerBank USA
President & CEO