Community Bankers Association of Illinois®

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August 19, 2022

Mr. James P. Sheesley
Assistant Executive Secretary
Attentions: Comments-RIN 3064-AF83
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Regarding: Notice of Public Rulemaking - Assessments, Revised Deposit Insurance Assessment Rates – RIN 3064-AF83

Dear Acting Chairman Gruenberg:

The Community Bankers Association of Illinois ("CBAI"), which proudly represents nearly 300 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding the Federal Deposit Insurance Corporation's ("FDIC") Notice of Public Rulemaking - Assessments, Revised Deposit Insurance Assessment Rates ("Assessment Proposal" or "Proposal"). CBAI acknowledges that the FDIC is proposing a rule "that would increase initial base deposit insurance assessment rates by 2 basis points, beginning with the first quarterly assessment period of 2023." The FDIC further states, "The proposal would increase the likelihood that that the reserve ratio would reach the minimum level of 1.35 percent by the statutory deadline of September 30, 2028, consistent with the FDIC's Amended Restoration

Plan to support growth in the Deposit Insurance Fund (DIF or fund) in progressing towards the FDIC's long-term goal of a 2% Designated Reserve Ratio (DRR)." CBAI has serious concerns with this Assessment Proposal which are detailed below.

Overview

Any discussion about the FDIC's Deposit Insurance Fund ("DIF") and its proper funding must acknowledged what has been accurately identified as its greatest threat – namely the nation's largest banks which control the majority of the banking assets/deposits and have been factually designated as too-big-to-fail ("TBTF"). The failure of these mega banks individually, and certainly collectively, could assuredly bankrupt the DIF which would deprive the nation's thousands of community banks and their depositors of the benefit of federal deposit insurance. The account balances at community banks support lending to individuals and small businesses in their communities, which in turn have enabled the American economy to be the largest, strongest, and most successful in the world.

Discussions about the proper level of the DIF (1.35% or 2%), attaining that level by a certain date, and how economic and financial stress can alter the anticipated timelines, is nibbling around the edges of the existential problem TBTFs pose for community banks, the financial system, our economy, and American taxpayers. Policymakers in general, and specifically the FDIC, must address the threat to the DIF caused by the collapse and failure of one or more of these mega-banks and the ramifications of such a catastrophe. CBAI urges the FDIC to approve a plan that would shield the DIF and community banks from the losses of a single or multiple TBTF. The nation's thousands of community banks, which individually and collectively are not systemically important financial institutions, and present minimal risk to the DIF, must be able to rely on this important federal deposit insurance protection in order to continue to serve their customers and communities.

Specific Observations and Recommendations

CBAI has organized its comments to conform to the questions in the Proposal.

1. The FDIC invites comments on its proposal to increase deposit insurance assessments by a uniform 2 basis points, beginning with the first quarterly assessment period of 2023.

The FDIC's rationale for increasing the deposit insurance assessment rates is based in large part on the "extraordinary growth in insured deposits." This triggered the adoption of the September 2020 Restoration Plan to restore the DIF to 1.35% by September 30, 2028. On June 20, 2022, the FDIC Board approved the Amended Restoration Plan which reflected an increase in initial bank assessment rates of 2 basis points, beginning with the first quarterly assessment period of 2023.

This "extraordinary growth" was caused by COVID-19 related pandemic relief which flooded the banking system with deposits. While the reasons for these unprecedented relief measures are well understood, it was truly an extraordinary response initiated by the U.S. government, and not the result of imprudent actions or planned excessive growth by community banks. In fact, the government response would not have been as successful at avoiding even greater harm to individuals and small businesses had it not been for the extraordinary effort by community banks to deliver Paycheck Protection Program funds to their small business customers and their employees.

On the heels of that extraordinary success, community banks are now apparently going to be punished for their elevated deposit levels with increases in their deposit insurance assessment rates. This reminds us of the ironic phrase – *No good deed goes unpunished*, but with an unfortunate and additional twist. Community banks are not only going to be paying increased assessment rates on their existing (pre-pandemic) deposits but also on their elevated (post-pandemic) deposits caused by the government's COVID-19 relief measures.

The outlook for the future level of deposits is, by the FDIC's own admission in the Proposal, "uncertain and depends on several factors." This is sufficient reason to not propose an increase in the assessment rates at this time, which is CBAI's recommendation. (See CBAI's response to Question 2.)

Legitimate questions have been raised about the FDIC's analysis in determining the justification for and amount of the increase in deposit insurance assessment rates. Issues have been revealed regarding gains/losses on the sale of securities, deposit growth rates, and not including the most recent data, which would challenge the conclusions drawn by the FDIC about increasing the assessment rates. These potential flaws in the FDIC's analysis would further support not proposing an increase in the assessment rates at this time.

The Proposal bases its support for specific deposit assessment rate increases to bring the average assessment rate close to "the moderate steady assessment rate … that would have been required to maintain a positive DIF balance from 1950 to 2010." Ordinarily, a historical perspective is beneficial to an analysis but in this case, the composition of the banking industry in the 2020s is so incredibly different from 1950s as to make any conclusions drawn between the two highly suspicious. For example, in the 1950s the banking system was not dominated by a handful of TBTF banks and there were no unprecedented government relief measures that caused significantly elevated insured deposit levels. This is yet another reason not to propose an increase in the assessment rates at this time.

CBAI is concerned by the position in the Proposal that once the statutory minimum is achieved the assessment rate increases will continue until a 2% DRR is reached. We see no reason to join in one rulemaking attainment of a 1.35% level in the DIF to satisfy the Amended Resolution Plan together with attaining a 2% DRR. This Proposal should address the Amended Resolution Plan exclusively and a proposal to achieve the DRR should take place in another rulemaking and at another time. It is difficult enough, as evidenced by the issues with the Proposal highlighted in this comment letter, to predict and plan for now until September of 2028, let alone now until many years beyond 2028.

CBAI is also concerned with the tenor in the Proposal about the certainty of the calculations justifying an increase in deposit insurance assessment rates and the predictions and expected effects on the banking industry. While the calculations and mathematical precision are an important part of the rulemaking process, automatic or excessive reliance on them can be misplaced (i.e., a concept known as "False Precision"), and as a result, there will likely be potentially serious unintended consequences with the implementation of this Proposal. The FDIC should retain a certain degree of reasonable flexibility and well-earned discretion to be able to adjust any proposal to avoid undesirable outcomes. However, flexibility and discretion do not lend themselves to a high degree of precision in calculations. The Proposal, unfortunately, eliminates these desirable features, and the outcomes will, with absolute certainty, not be as expected.

2. The FDIC invites comments on the reasonable and possible alternatives described in the proposed rule. What are other possible alternatives that the FDIC should consider?

The FDIC considered three alternatives in the Assessment Proposal. The first alternative was to maintain the current assessment schedule; the second to increase the rate by 1 basis point versus 2, and the third was a one-time assessment of 4.5 basis points. Each of these three alternatives is unattractive in many respects and they certainly do not represent the universe of legitimate and productive alternatives. CBAI urges the FDIC to consider the alternatives recommended below.

- As highlighted earlier in this comment letter, legitimate questions have been raised about the methodology that the FDIC has used to conclude that an increase in the deposit insurance assessment rates is necessary and justified, as is the amount of the basis point increase. The FDIC should choose not to proceed with this rulemaking until the FDIC has addressed these legitimate criticisms. A minimum one-year delay in this potential rulemaking would be an appropriate period of time to reevaluate and verify that the assumptions the FDIC are using are correct, and an increase in the assessment rates are necessary. This justified delay would make the effective date for any potential assessment increases to be no earlier than the first quarter of 2024.

- If, at a later date, an assessment increase is found to be warranted, and given the unprecedented and uncertain times, particularly the potential for deposit levels to increase at a slower pace or even decrease, a series of incremental increases should be implemented where the FDIC could retain the ability to step it up or down depending on the DIF balance in the previous quarters. The FDIC already has the authority to incrementally adjust assessment rates so congressional approval is not needed. This tailoring of assessment rates is what the regulators should be employing in all their rulemaking, regulations, and examinations of the banks they regulate, and the FDIC should also be utilizing tailoring in determining the sufficiency and funding of the DIF.

- The proposed deposit insurance assessment increases have been characterized as being uniform. CBAI urges the regulators to reflect the increased risk to the DIF from TBTF banks and further tier the assessment rates with SIFIs and near SIFIs paying a premium for the added risk to the DIF caused by their enormous and growing size and interconnections. Asset thresholds are often used as part of appropriately tiering regulations and should be further utilized in setting the deposit insurance assessments.

- If the FDIC will not be persuaded that a deposit insurance assessment increase is unnecessary now, then in recognition of the fact that COVID-19 relief measures have greatly elevated community bank deposits, which was not their fault, the increased assessment rates should discount the COVID-19-related deposit increases and be based on pre-pandemic deposit levels (and post-pandemic increases in total deposits). This would be the tailoring of a regulation, particularly for community banks, which should be embraced by the FDIC in assessing deposit insurance assessments.

Conclusion

While CBAI appreciates the purpose of the recommended deposit insurance assessment rate increases, we urge the FDIC to withdraw the Proposal, monitor deposit levels over the next four quarters, and repropose the rule, if necessary, to properly fund the DIF. If you have any questions or require any additional information, please contact me at davids@cbai.com or (847) 909-8341.

Thank you for considering our observations and recommendations.

Sincerely,

/s/

David G. Schroeder
Senior Vice President
Federal Governmental Relations