July 21, 2023

Via Electronic Mail

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: James P. Sheesley, Assistant Executive Secretary
Comments-RIN 3064-AF93

Re: Comment Letter on the Notice of Proposed Rulemaking on Special Assessment Pursuant to Systemic Risk Determination (RIN 3064-AF93)

Ladies and Gentlemen:

We (Capital One Financial Corporation, The PNC Financial Services Group, Inc., and Truist Financial Corporation) appreciate the opportunity to comment on the Notice of Proposed Rulemaking (NPR) published by the Federal Deposit Insurance Corporation (FDIC).[1]

As noted in the NPR, the special assessment recovers the cost of protecting uninsured depositors under the systemic risk determination (announced by the FDIC on March 12, 2023) following the closures of Silicon Valley Bank and Signature Bank. We understand the FDIC's desire to allocate the special assessment based on uninsured deposits. We note, however, and in particular for any future assessments, that not all classes of uninsured deposits pose the same risks and any methodology that considers uninsured deposits should recognize that certain categories of uninsured deposits are more stable, even in times of stress.

We also understand the use of uninsured deposits reported as of December 31, 2022 in the Consolidated Reports of Condition and Income and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks**, and adjusted to exclude the first $5 billion of uninsured deposits,** as the *"most recently available data reflecting the amount of uninsured deposits in each institution near or at the time [that] the determination of systemic risk was made and the uninsured depositors of the failed institutions were protected."*[2]

---

[1] See Special Assessments Pursuant to Systemic Risk Determination, 88 Fed. Reg. 32694 (May 22, 2023).

[2] See 88 Fed. Reg. at 32697.

To best align with the principles behind the special assessment, we think that the approach to recover the cost of the systemic risk determination should consider both the size of, and each bank's reliance on, uninsured deposit balances. This would better align the special assessment to the banks that benefited the most from the systemic risk determination.

Specifically, we recommend modifying the "fourth alternative" described in the NPR to remove its deficiencies and incorporate each bank's relative reliance on uninsured deposit funding.

The NPR notes a fourth alternative that was considered but rejected. In simple terms, alternative 4 would base the assessment on each bank's *reliance* on uninsured deposits. This reliance measure is defined in the NPR as uninsured domestic deposits divided by total domestic deposits.

As stated: "*A fourth alternative would be to allocate the special assessments among IDIs based on each IDI's estimated uninsured deposits as a percentage of their total domestic deposits reported as of December 31, 2022, as a proxy for reliance on uninsured deposits at the time the determination of systemic risk was made and uninsured depositors of the failed institutions were protected.*"[3]

This alternative was rejected in the NPR with the rationale that it "*would result in institutions of vastly different asset sizes paying a similar dollar amount of special assessments*."[4]

The NPR also notes that it "*would result in some smaller IDIs and banking organizations paying potentially significant amounts of special assessments, and the larger banks that have high amounts of uninsured deposits and benefited the most from the stability provided to the banking industry under the systemic risk determination, but that do not have high uninsured deposit concentrations, paying a smaller share of special assessments.*"[5]

As simply defined in the NPR, alternative 4 <u>would</u> have those shortcomings. However, we would like to point out that one could simply define the applicable population of banks for the assessment base as those banks with more than $5 billion of uninsured deposits. As a potential variation, the principle of this could also be implemented by simply subtracting $5 billion from both the numerator and the denominator. Hence, only banks with more than $5 billion in uninsured deposits would share in the assessment.

[3] See 88 Fed. Reg. at 32705.
[4] Id.
[5] Id.

That said, without some size scaling, smaller banks with a similar adjusted reliance on uninsured deposits could still pay an assessment rate equal to that of larger banks. But, there is a superior approach that combines the “proposed approach” in the NPR and the “alternative 4” or “uninsured reliance” approach just discussed.

This approach would be to begin with the assessment base described in the NPR (i.e., after subtracting $5 billion of uninsured deposits) and then multiply each bank’s assessment base by the ratio of their uninsured reliance divided by the weighted average uninsured reliance of all of the banks in the assessment base (those with over $5B in uninsured deposits).

Adjusted Assessment Base = Uninsured Deposits Less $5 Billion x (Bank’s Reliance on Uninsured Deposits / Industry Weighted Average Reliance on Uninsured Deposits) Reliance = Uninsured Deposits / Total Deposits

We believe that this approach would achieve three key goals:

- Avoid “cliff effects”;
- Assign more of the special assessment to larger banks; and
- Simultaneously slope the assessment based on banks’ reliance on uninsured deposits.

This approach, while modestly more complicated, would better align the costs of the special assessment to the banks that received the largest benefits, as reflected by their relative reliance on uninsured deposits.

It is also worth noting that this approach could apply to any definition of uninsured deposits, including those that take into account the characteristics and risks of different types of uninsured deposits, as described above. For example, the principle laid out here could still apply if collateralized municipal deposits were excluded.

* * * * *

We once again would like to thank you for the opportunity to comment on this NPR. Please contact any of the undersigned if you have any questions or comments.

Sincerely,

Capital One Financial Corporation
Robert Zizka
Executive Vice President, Capital Markets and Analytics
robert.zizka@capitalone.com

The PNC Financial Services Group, Inc.
Ursula C. Pfeil
Deputy General Counsel, Regulatory Affairs
ursula.pfeil@pnc.com

Truist Financial Corporation
Jorge A. Rivera
Senior Vice President, Senior Associate General Counsel for Regulation and Public Affairs
jorge.rivera@truist.com