



August 16, 2006

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

Re: Assessments
RIN 3064-AD03
71 FR 28790 (May 18, 2006)

Dear Mr. Feldman:

America's Community Bankers (ACB)¹ is pleased to comment on the Federal Deposit Insurance Corporation's (FDIC) proposal designed to make the deposit insurance assessment system react more quickly and more accurately to changes in institutions' risk profiles.² This is one of several proposals recently issued by the FDIC to implement the Deposit Insurance Reform Act of 2005 (Reform Act).³ The proposed rule amends 12 CFR part 327 and alters the timing of assessment collections, mandates an average daily deposit balance method for certain insured institutions, eliminates the float deduction, simplifies the rules for both terminated and newly insured institutions, and eliminates specific payment options.

ACB appreciates the swift, thoughtful, and transparent process the FDIC has used to implement the changes mandated by the Reform Act.

ACB Position

ACB agrees with the proposed changes to the timing of premium assessments, as collecting insurance premiums in arrears will eliminate many of the concerns voiced by depository institutions regarding inaccurate premium assessments. We also support the proposal to make changes in supervisory and capital group ratings effective when the change occurs. This step will help reflect the most accurate assessment of a depository institutions' risk at any particular point.

¹ America's Community Bankers is the national trade association committed to shaping the future of banking by being the innovative industry leader strengthening the competitive position of community banks. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 71 Fed. Reg. 28790 (May 18, 2006).

³ The Reform Act was included as Title II, Subtitle B of the Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 9 (February 8, 2006).

ACB urges the FDIC to raise the threshold for the average daily deposit method requirement to \$1 billion in order so to not impose unnecessary paperwork burden on smaller institutions and to be consistent with the \$1 billion threshold for other FDIC regulations such as the Federal Deposit Insurance Corporation Improvement Act (FDICIA) and the Community Reinvestment Act (CRA). ACB also suggests maintaining the current standardized float deduction for institutions that do not use the average daily deposit method. We urge the FDIC to revisit the calculation for the float deduction in order to have a standardized float that better reflects the actual data for the industry. Finally, ACB supports the remaining proposed revisions,⁴ as they provide for a more streamlined and accurate process for assessing deposit insurance premiums.

ACB urges the FDIC to draw upon the flexibility provided under the Reform Act when implementing the proposed changes to the deposit insurance system. Several of the changes will be significant to all institutions, and some have the potential to cause additional financial burden to depository institutions that will be paying insurance premiums for the first time in 10 years. ACB cautions the FDIC against pressing forward too quickly with alterations that could force depository institutions to encounter more financial burden than they might be able to tolerate without adverse effects.

Background

Deposit Insurance Reform Act. The Reform Act mandates the following key changes:

- Merges the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) into a new fund, the Deposit Insurance Fund (DIF).
- Increases the coverage for retirement accounts to \$250,000 and indexes the coverage limits for these accounts to inflation.
- Grants a one-time assessment credit to each eligible depository institution based on the institution's assessment base as of December 31, 1996.
- Allows the FDIC to price deposit insurance according to risk for all insured institutions at all times.
- Enables the FDIC Board of Directors to establish a Designated Reserve Ratio (DRR) between 1.15 percent and 1.50 percent and allows the FDIC to manage the pace at which the reserve ratio varies within this range.
- Allows the FDIC to update other operational policies concerning deposit insurance for assessment collections, dividend payments and advertising for insured accounts.

The Reform Act was signed into law by President Bush on February 8, 2006. The Act mandates a 270 day implementation deadline, giving the FDIC until November 5, 2006 to put the principles of the Reform Act into practice for all insured depository institutions.

⁴ Remaining revisions not specifically addressed in the ACB Position paragraph include modifying the terminating transfer rule, eliminating special regulations for newly chartered institutions, extending the period of time an institution has to request a review or revision of its assessment, shortening retention requirements, and eliminating prepayments and double payment options.

Assessments. Under the present system, assessments are collected on a semiannual basis in two installments; the first collection at the beginning of the assessment period and the second in the middle of the period. The last assessment collection under the present system would occur September 30, 2006 and would represent insurance coverage through December 31, 2006.

The FDIC proposes to change the timing of assessment collections by collecting assessments in arrears on a quarterly basis. The assessments would be due 90 days after each quarter ends. The first collection under the new system will occur June 30, 2007 and would represent payment for insurance coverage from January 1 through March 31, 2007. Any supervisory ratings change as a result of an examination will be effective the date the change is made rather than applying the new rating to the entire coverage period as is current practice, and the current assessment base – total domestic deposits – will be maintained with minor modifications.

Under the proposal, institutions with \$300 million or more in assets are required to determine their assessment bases using average daily deposit balances rather than the specific quarter end balance. All smaller institutions have the option to adopt this assessment method. This is aimed at eliminating the concern caused by large daily fluctuations in deposit amounts. Call Report and TFR changes will be necessary to collect average daily balance information.

The proposed rule also:

- Eliminates the float deduction;
- Simplifies the rules governing assessments of institutions that go out of business;
- Assesses newly insured institutions for the assessment period that they become insured; and
- Eliminates prepayment and double payment options.

If the proposed rule is adopted, institutions would have 90 days from each quarterly certified statement invoice to file requests for review and requests for revisions. The rules governing quarterly certified statement invoices would be adjusted for a quarterly assessment system and for a three-year retention period rather than the five-year period.

Timing of Assessments

The FDIC's proposal to collect insurance premiums in arrears is designed to more accurately reflect an institution's risk profile and allow for the consideration of more current financial information. The proposal will also prevent institutions from altering their positions at a specific time during a quarter in order to gain a more favorable risk assessment. ACB agrees that this proposed amendment would eliminate many of the concerns voiced by depository institutions regarding premium assessments by creating an assessment system that reacts more quickly to changes in an institution's risk profile.

The FDIC proposes to make changes to supervisory and capital group ratings effective as soon as those changes occur. This change is an important step toward bringing assessments more in line with currently available data. ACB supports such an amendment and believes that as premiums

are calculated in a more time sensitive manner, they will reflect the most accurate assessment of risk held by the depository institution at a particular point in time.

Average Daily Deposit Balance

The FDIC has proposed that institutions with assets greater than \$300 million calculate their assessment base using the average daily deposit method, rather than the actual insured deposit amount as of the end of the quarter being assessed. While ACB understands that an average daily deposit amount would more accurately reflect an institution's typical deposit level, this calculation could be overly burdensome for smaller institutions. We believe the threshold for this requirement should be altered to be consistent with the \$1 billion threshold for other FDIC regulations that have taken into account potential paperwork burden on smaller institutions. We have learned that the proposed threshold was set to maintain consistency with the \$300 million reporting threshold for certain items on the Call Report. However, we suggest that institutions with more than \$1 billion be subject to the average daily deposit balance method.

Regulations implementing FDICIA exempt depository institutions with assets of \$1 billion or less from certain internal control reporting and external auditor attestation requirements. Additionally, regulations that implement CRA allow institutions with assets of up to \$1 billion to be examined under the small bank test. Therefore, ACB requests that the FDIC raise the threshold for the average daily deposit method requirement to \$1 billion.

Float Deduction

The proposed rule eliminates the use of the standardized float deduction when calculating an institution's assessment base. The FDIC has also asked for comment on other options that account for float in an institution's assessment base. These alternatives include instituting an actual float deduction as well as maintaining the current standardized deduction. First, ACB does not support mandating that all institutions calculate their actual float. The additional staff time and data collection that would be required to calculate actual float would indeed be onerous for a large number of our member banks.

Second, regarding the current standardized deduction, ACB agrees that the current float deduction, set at $16 \frac{2}{3}$ percent by Congress over 40 years ago, is outdated as a result of the significant changes that have occurred within the banking industry (e.g., electronic payments, Check Clearing for the 21st Century Act, and other payment system changes). In addition, for institutions that are required to use the average daily deposit method to calculate their assessment base, the float deduction is almost entirely unnecessary, as the float itself would be eliminated through averaging. However, for institutions not required to use the average daily deposit method, a standardized float deduction is still preferred.

Therefore, ACB suggests maintaining the current standardized float deduction for all banks under the threshold for the average daily deposit method requirement and also chose not to opt-in, with the understanding that the calculation for the standardized float deduction will be revisited in the future to more accurately reflect current industry data. We believe that this

approach would better reflect the actual average float for the banks not using the average daily deposit method without imposing additional regulatory burden on community banks.

Other Changes

The FDIC has proposed several other changes to the assessments process including modifying the terminating transfer rule, eliminating special regulations for newly chartered institutions, extending the period of time an institution has to request a review or revision of its assessment, shortening retention requirements, and eliminating prepayments and double payment options. ACB supports the proposed revisions, as they provide for a more streamlined and accurate process for assessment of insurance premiums.

Conclusion

ACB supports the FDIC's proposed rule amending its assessment process and appreciates the opportunity to comment on this important issue. If you have any questions about our comments, please do not hesitate to contact the undersigned at (202) 857-3121 or via email at pmilon@acbankers.org, Jodie Goff at (202) 857-3158 or via email at jgoff@acbankers.org, or Krista Shonk at (202) 857-3187 or via email at kshonk@acbankers.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Milon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patricia A. Milon
Chief Legal Officer and Senior Vice President
Regulatory Affairs