November 10, 2008

Mr. Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.,
Washington, DC 20429
Docket No: RIN 3064-AD35

Re: Assessments; Establishment of FDIC Restoration Plan; Docket No. RIN 3064-AD35

Dear Mr. Feldman:

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 300 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA particularly appreciates the opportunity to comment on FDIC's proposed rule regarding assessments and establishment of a restoration plan, given that WBA shares FDIC's goals of both strengthening the Deposit Insurance Fund (DIF) and improving the flow and availability of credit in the marketplace.

Background

In February 2006, the President signed two laws within a week of each other that made changes to various deposit insurance regulations. Those laws, collectively referred to as the "Reform Act", give FDIC the ability, through rulemaking, to better price deposit insurance premiums for risk. The Reform Act continues to require an assessment system to be risk-based and allows FDIC to define risk broadly. It defines a risk-based system as one based on an institution's probability of causing a loss to the DIF due to the composition and concentration of the institution's assets and liabilities, the amount of loss given failure, and revenue needs of the DIF. To implement the risk-based system provisions of the Reform Act, FDIC issued a final assessment rule in November 2006 which created Risk Categories I, II, III and IV into which financial institutions are categorized. These categories are based on capital levels and supervisory ratings.

Before the passage of the Reform Act, the DIF's target reserve ratio, the designated reserve ratio (DRR), was generally set at 1.25 percent; however, under the Reform Act, FDIC was given authority to set the DRR within a range of 1.15 percent to 1.50 percent of estimated insured deposits. If the reserve ratio were to drop below 1.15 percent, or if FDIC expected it to do so within six months, then within ninety days it must establish and implement a plan to restore the DIF to 1.15 percent within five years, absent extraordinary circumstances.

4721 South Biltmore Lane
Madison, WI 53718

P. O. Box 8880
Madison, WI 53708-8880

608-441-1200
Fax 608-661-9381

www.wisbank.com

As part of a separate rulemaking in November 2006, FDIC set the DRR at 1.25 percent, effective January 1, 2007. In November 2006, FDIC projected that the assessment rate schedule established by the 2006 assessments rule would raise the reserve ratio from 1.23 percent at the end of the second quarter of 2006 to 1.25 percent by 2009. However, recent failures have significantly increased the DIF's loss provisions, resulting in a decline in the reserve ratio. In fact, as of June 2008, the reserve ratio stood at 1.01 percent. Therefore, to fulfill the requirements of a restoration plan to restore the reserve ratio to at least 1.15 percent, FDIC is now proposing increases to assessment rates it currently charges.

Under the proposal, an institution's initial base assessment rate would be calculated based upon the institution's risk category. This initial base rate may then be adjusted by one or more of the following to arrive at an institution's total base assessment rate: unsecured debts; secured liabilities; and brokered deposits. In addition, FDIC has proposed other changes to the assessment system in an effort to ensure that institutions with higher risk ratings would bear a greater share of the proposed increase in assessments.

WBA recognizes the requirements imposed upon FDIC to reestablish a reserve ratio threshold of 1.15 percent, at minimum. We generally agree with FDIC's position that riskier institutions should bear a greater share of the increased assessments; however, WBA strongly encourages FDIC reconsider several aspects of its proposal, as more fully discussed below.

Brokered Deposits Adjustments

As discussed earlier, FDIC proposes to calculate an institution's initial base assessment rate and then possibly adjust that rate, by a variety of factors—one of which is brokered deposits.

For Risk Category I institutions, FDIC proposes to add a new financial measure, the adjusted brokered deposit ratio, to the financial ratios method, that would measure the extent to which brokered deposits are funding rapid asset growth. The "adjusted brokered deposit ratio" would affect only those established Risk Category I institutions whose total assets were more than 20 percent greater than they had been four years previously, after adjusting for mergers and acquisitions, and whose brokered deposits made up more than 10 percent of domestic deposits. Generally speaking, the greater an institution's asset growth and the greater its percentage of brokered deposits, the greater would be the increase in its initial base assessments rate.

FDIC stated it has proposed this new risk measure for a couple of reasons. First, apparently many institutions that have failed in recent years experienced rapid asset growth before failure and funded this growth largely through brokered deposits. FDIC also rationalized that statistical analysis reveals a significant correlation between rapid asset growth funded by brokered deposits and the probability of an institution being downgraded from a CAMELS composite 1 or 2 rating to a CAMELS composite 3, 4 or 5 within a year.

FDIC has also proposed that institutions falling into Risk Category II, III or IV would be subject to brokered deposit adjustments. The adjustment would be limited to those

institutions whose ratio of brokered deposits to domestic deposits is greater than 10 percent. For institutions in these categories, asset growth rates would not affect the adjustment. Moreover, the adjustment would never be more than 10 basis points.

WBA acknowledges FDIC's concern of the potential risk that significant amounts of brokered deposits may present when utilized improperly, in certain limited applications; however, WBA respectfully argues that brokered deposits provide institutions with a critical source of liquidity that, if used prudently, do not harm an institution's balance sheet.

Many Wisconsin financial institutions use brokered deposits as an effective liquidity tool to meet the credit needs of their communities, and do so in a prudent and responsible manner. Some of these institutions have a ratio of brokered deposits to domestic deposits in excess of 10 percent. WBA is concerned that FDIC's proposal will act as a disincentive for institutions to utilize brokered deposits at current levels because of the proposed new risk measure in setting fees. WBA fears this will immediately result in the tightening of credit available to Wisconsin consumers—a consequence governmental agencies and institutions are working so very hard to avoid.

WBA believes that an institution's responsible use of brokered deposits coupled with FDIC's continued review and supervision of institutions' quarterly reports of condition and overall asset quality can effectively identify any trends pointing toward an institution's potential downgrade. If, upon review, FDIC believes a downgrade is possible, it can take necessary corrective actions at that time. Thus, WBA believes it to be unnecessary to incorporate brokered deposits into any risk measure analysis. The proposed wholesale approach penalizes the majority of institutions that prudently use such deposits to directly help meet their communities' credit needs. For these reasons, WBA urges FDIC to remove brokered deposits from its risk assessment analysis.

If FDIC is unwilling to remove brokered deposits from its risk assessment analysis, WBA recommends FDIC reconsider its arbitrary 10 percent ratio of brokered deposits to domestic deposits. WBA believes this ratio is far too low. Wisconsin institutions (again, some with ratios in excess of 10 percent as of June 30, 2008) have successfully managed the use of brokered deposits without harming their financial stability; thus proving that prudent management and overall asset quality can result from effective use of brokered deposits without loss. Therefore, if FDIC fails to entirely remove brokered deposits from its risk assessment analysis, WBA strongly recommends it consider raising the ratio of brokered deposits to domestic deposits from the proposed 10 percent to a more reasonable level of 35 percent. Doing so will permit continued prudent use of brokered deposits without subjecting institutions to unnecessary excessive fees.

In addition to WBA's recommendation to raise the proposed brokered deposit to domestic deposit ratio from 10 percent to 35 percent, WBA further requests FDIC exclude from its brokered deposit assessment calculation those deposits which have many of the same characteristics of core deposits, such as reciprocal deposit placement services offered through programs like CDARS®. Such programs do not carry the risk FDIC perceives accompanies "brokered deposits" in general and therefore, such deposits should be excluded from the definition of a brokered deposit.

Secured Liabilities Adjustment

FDIC has proposed to raise an institution's base assessment rates based upon its ratio of secured liabilities to domestic deposits. An institution's ratio of secured liabilities to domestic deposits, if greater than 15 percent, would increase its assessment rate. Ratios of secured liabilities to domestic deposits for any given quarter would be calculated from the report of condition filed by each institution as of the last day of the quarter. For banks, FDIC has proposed secured liabilities to include: Federal Home Loan Bank (FHLB) advances; securities sold under repurchase agreements; secured federal funds purchased; and "other secured borrowings" as reported in banks' quarterly CALL Reports. Thrifts also report FHLB advances in quarterly Thrift Financial Reports (TFRs), but at present do not separately report the other three items. Until the TFR is revised, any of these secured amounts not reported separately from unsecured or other liabilities by a thrift in its TFR would be imputed based on simple averages for CALL Reports filed as of June 30, 2008.

At present, an institution's secured liabilities do not directly affect its assessments. In general, under the current rule, substituting secured liabilities for unsecured liabilities raises FDIC's loss in the event of failure without providing increased assessment revenue. FDIC has also rationalized that substituting secured liabilities for deposits can lower an institution's franchise value in the event of failure, which also increases FDIC's losses, all else being equal.

WBA understands FDIC's rationale for its secured liabilities adjustment proposal; however we strongly urge FDIC to exclude FHLB advances from the deposit insurance assessment base. At a time when other government agencies are actively developing programs designed to alleviate the current liquidity shortage, FDIC should not impose penalties on institutions for utilizing a reliable liquidity source—FHLB advances. FHLB advances are a source of accessible, dependable funding for our institutions in difficult times. WBA strongly believes that for FDIC to include FHLB advances in the calculation for the secured liabilities adjustment is in direct opposition to other government agencies' efforts to promote liquidity and to continue to make credit available to meet the needs of communities.

Restoration Plan of DRR

As previously mentioned, before the passage of the Reform Act, the DRR was generally set at 1.25 percent. Under the Reform Act, FDIC may set the DRR within a range of 1.15 percent to 1.50 percent of estimated insured deposits. If the reserve ratio drops below 1.15 percent, or if FDIC expects it to do so within six months, FDIC must implement a plan to restore the DIF to at least 1.15 percent within five years, *absent extraordinary circumstances*. As recently as March 2008, the FDIC Board voted to maintain the existing assessment rate schedule which was still estimated to reach the 1.25 percent target in 2009. However, FDIC has acknowledged that recent bank failures and deterioration in banking and economic conditions have caused a decline in the reserve ratio to 1.01 percent as of June 2008.

WBA urges FDIC to recognize that these are indeed times of extraordinary circumstances and to consider both extending the timeframe by which the DRR must be restored and setting the target rate to 1.15 percent rather than 1.25 percent.

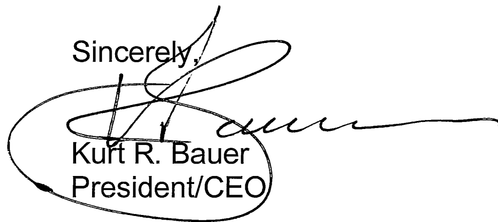
Making these adjustments will mitigate the impact increased assessments will have on institutions. Financial institutions are actively working to ensure proper management of existing credit portfolios while trying to meet the credit needs of their communities. WBA wishes to again voice concern over how excessive fees will only result in a reduction in the amount of funds institutions will have available to meet their customers' credit needs.

Conclusion

WBA recognizes the requirements imposed upon FDIC to reestablish a reserve ratio threshold of 1.15 percent, at minimum. We generally agree with FDIC's position that riskier institutions should bear a greater share of the increased assessments; however, we are concerned that excessive fees on sources of liquidity that are reliable and, often, low-cost, will only result in a restriction in the amount of funds institutions would otherwise have available to meet their customers' credit needs. For these reasons, WBA strongly encourages FDIC to carefully consider its recommendations made today.

Once again, WBA appreciates the opportunity to comment on this very important proposal.

Sincerely,



Kurt R. Bauer
President/CEO