THE FINANCIAL SERVICES ROUNDTABLE

THE CLEARING HOUSE
Advancing Payment Solutions Worldwide

AMERICAN BANKERS ASSOCIATION

Via comments@fdic.gov

April 16, 2008

Mr. Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Re: RIN 3064-AD26; Notice of Proposed Rulemaking: Processing of Deposit Accounts and Insurance Determination Modernization; 73 Federal Register 2364; January 14, 2008

Dear Mr. Feldman:

On behalf of the American Bankers Association, the Financial Services Roundtable, and The Clearing House Association L.L.C. (collectively, the "Associations"), we appreciate the opportunity to comment jointly on the above mentioned Notice of Proposed Rulemaking ("NPR"). The membership of our Associations accounts for essentially all of the banks that would be classified as "covered institutions" under the NPR. Each organization heard strong sentiment on the proposal from its member banks, which was reflected in our individual comment letters. This joint comment letter (supplemental to individual letters submitted by each association on behalf of its membership) illustrates the consensus of industry concerns.

The Associations support the intent of the NPR to provide in a bank failure for timely deposit insurance determination, prompt release of depositor funds, and least costly resolution. Nonetheless many of the NPR's proposals would be very costly for banks to implement. We recommend adoption of elements from the NPR only where demonstrated benefits justify the cost, and request that the FDIC make every effort to limit the burdens on banks and provide flexibility to accommodate the variety of bank systems.

In this letter, the Associations wish to emphasize these themes. In addition, in their letters to FDIC on the NPR, each association expressed other important points that the FDIC should take into consideration together with these joint views.

Cutoff Time

The NPR proposes a single, arbitrary cutoff time for the FDIC to make a determination of deposit account balances in the event of a bank failure. This concept is both unnecessary and problematic because it would create uncertainty and inconsistency in how accounts are handled in a bank failure. Each institution has different cutoff times depending on the type of transaction as well as geographic location. The Associations instead support the proposed general approach for determining deposit account balances based on the closing ledger balances after the normal processes of the failed bank are completed for the day.

Cost and Burden Outweigh Potential Benefit

The Associations appreciate the steps the FDIC has taken to address some of our comments on the previous proposals and its intention to limit costs. However, we continue to have serious concerns that the FDIC has not yet reached the right balance between the burdens of the proposed system modifications for banks as compared to any potential benefits.

The NPR would require institutions to augment their deposit control systems, test to ensure that these systems are working properly, and perform additional staff training. Our members estimate that these changes could cost in excess of $10 million per institution and may increase over time to maintain such systems. The FDIC has not demonstrated that the potential benefits outweigh these costs. If, nonetheless, the FDIC decides to proceed with the proposal, we feel strongly that it must take steps to limit the burden on institutions.

Sweep Transactions

The NPR includes a number of new proposals relating to the treatment of sweep products that are problematic for the financial services industry. Sweep transactions provide benefits both to banks and to their consumers: banks are able to secure substantial funding at reasonable costs, while customers can achieve their financial objectives. Since the proposed changes are complex and significant and have not been included in prior proposals, the Associations recommend that the sweep provisions be removed from the NPR and reconsidered in a separate proposal.

Provisional Holds

The NPR contains a number of proposals regarding provisional holds on accounts. Institutions would need to make major adjustments to their current systems to be capable of applying holds in batch. The Associations therefore support the proposal to allow manual holds for account systems servicing a small number of liability accounts. We all oppose a requirement that affected institutions be capable of informing depositors of provisional holds, which would be an unproductive additional burden on banks. The Associations further recommend that the FDIC coordinate with foreign banking authorities on the proposed treatment of foreign accounts because the proposed scheme would present technical and legal problems.

Implementation Period

Due to the complexity of the NPR, as well as the costs and burdens associated with compliance, the implementation period of 18 months is not sufficient. The Associations reemphasize their view that appropriate and effective implementation would require a period of at least three years.

Thank you again for the opportunity to comment on behalf of the banking industry. We would be happy to meet with you as you examine these issues further to discuss our comments in detail.

Sincerely,

Wayne Abernathy
Executive Vice President
American Bankers Association

Richard Whiting
Executive Director & General Counsel
The Financial Services Roundtable

Norman R. Nelson
General Counsel
The Clearing House Association L.L.C.