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ATTORNEYS

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

Attention: Comments – RIN 3064-AD35

Re: Notice of Proposed Rulemaking - Deposit Insurance Assessments

Dear Mr. Feldman:

I am writing on behalf of the Independent Bankers Association of Texas ("IBAT"). IBAT is a trade association representing over 500 independent community banks domiciled in Texas. IBAT is concerned that the FDIC proposal to increase deposit insurance premiums and apply potentially higher premiums on banks that use brokered deposits and secured liabilities will penalize prudently operated banks that are responding to growth in their marketplace. Further, IBAT believes that the rule as drafted will have the unintended consequence of making credit less available during this recessionary period by discouraging important tools for managing liquidity.

Brokered Deposits. First, premiums will be adjusted for banks that have aggregate asset growth equal to or greater than 20% over the last four years and which use brokered deposits in an amount greater than 10% of the bank's domestic deposits. IBAT has concerns about this for several reasons. First, the growth factor is not a high one but rather a normal growth factor in Texas where there is a reasonably healthy economy and a healthy demand for responsible credit. Next, the threshold for use of brokered deposits is far too low given the significant amount of deposits which fall within the brokered deposit definition.

In order to review the brokered deposit concerns adequately, it is first critical to revisit the history behind brokered deposit limitations. This issue was addressed in the FDIC Improvement Act of 1991. At that time, Congress and the FDIC were responding to the phenomenon of truly "hot" deposits fueling unrealistic loan growth and irresponsible lending. IBAT does not question the premises that irresponsible deployment of volatile deposits presents a higher risk to the Deposit Insurance Fund ("DIF"). However, we would suggest that each aspect of this premise be carefully evaluated.

First, the critical premise is that volatile deposits are used to fund irresponsible lending. In order to address this issue, it is more appropriate for the FDIC to review CAMELS ratings and capital adequacy of insured institutions rather than to assume that brokered deposits are improperly deployed. The significant risk to the health of the fund is the quality of the assets or loans and the risks that such loans will not be repaid.

Next, it is also critical to determine whether items categorized as brokered deposits are truly volatile. If they are "hot" money," then they do not constitute core deposits and they increase the cost of resolution of a failed institution. Thus, they would present an additional risk factor to the DIF. However, we would suggest that not all items that currently fall under the category of brokered deposits are in fact volatile and increase risk.

One problem with the brokered deposit categorization is that it is very sweeping and includes any funds where a third party has "facilitated" the deposit. Under FDIC interpretative letters, this concept of facilitation of a placement of deposits includes virtually any activity other than a mere rate listing service. When the definition was created in 1991, the significant deployment of internet banking programs did not exist. While the definition was probably very appropriate at that time, it now captures a tremendous array of what have become normal marketing programs under the rubric of brokered deposits.

In addition, the concept also includes reciprocal deposit placement services such as the Certificate of Deposit Account Registry Service (CDARS). In Texas, 160 members of IBAT are members of CDARS and rely on these deposits as a stable source of core funding, totaling billions of dollars. Other comment letters have adequately described the CDARS program and its place in an appropriate liquidity program. We will not repeat all of that discussion and arguments. However, we incorporate that discussion and would strongly suggest that a reciprocal deposit such as those through CDARS are not volatile and do not present the risk to DIF that should trigger higher risk assessment. These deposits are extremely stable and typically come within a bank's geographic footprint through established customer relationships. Typically, these are used with local depositors who have funds to deposit in interest-bearing accounts that exceed the insurance cap. While the insurance limit has been temporarily increased to $250,000, this is only temporary and it does not adequately protect a great many of the customers of community banks who are concerned about security for their funds. Particularly with all of the concerns with the economy currently, customers are especially desirous of assuring that their retirement funds and investments in their local community banks be adequately protected. Using a reciprocal placement service is one way to maintain that confidence in the banking system that is so critical to the stability of banking in the United States.

Secured Advances. Next, IBAT is concerned about the surcharge for secured liabilities including Federal Home Loan Bank ("FHLB") advances and securities sold under repurchase agreements as well as secured federal funds purchased and other secured borrowings. This surcharge is triggered at a ratio of only 15%. In fact, this is far below the average use of secured borrowings such as repos and FHLB advances among community banks. In particular, prudent banks use repos and FHLB advances as consistent, reliable sources of reasonably priced funds. Penalizing this usage at a time when the markets are volatile and uncertain could result in a host of unintended negative consequences. By contrast, simply delaying the rule implementation as it relates to FHLB advances until markets settle makes more sense. The factors that motivated this proposal may no longer be relevant. In fact, increasing assessments based on FHLB advance usage may prove unnecessary as well as undesirable.

Banks must have a sound asset liability matching program. Many community banks use FHLB advances as a way to match maturities and meet that requirement. In short, FHLB advances are an important liquidity tool that are significantly less volatile in today's marketplace. Texas banks remember too well the bidding wars that can occur for deposits when customers become concerned about their deposits and when banks are competing against each other for funding sources.

Assessing higher costs on FHLB advances and repos could result in significantly lesser use of such funding sources and thus less liquidity. In turn, that means that less credit will be made available. This is a terrible result at the very time that Congress and indeed the FDIC itself are pressuring banks to make more credit available at a reasonable cost in order to mitigate the current recessionary trends. On November 12, an Interagency Statement on Meeting Needs of Creditworthy Borrowers was issued. It states: "At this critical time, it is imperative that all banking organizations and their regulators work together to ensure that the needs of creditworthy borrowers are met." Certainly, banks could continue to use these funding sources but they would be more expensive due to the increased assessment costs. In turn, this would increase the cost of credit at the very time that credit needs to be more reasonable, not higher cost.

Alternatives. IBAT would suggest that there are various other options that the FDIC could consider rather than the current proposals. First, the proposal to increase risk assessments based on use of secured liabilities such as FHLB advances could be suspended for 12 months. At the end of that time, the FDIC could re-evaluate market conditions and determine whether using FHLB advances as a risk factor makes sense in light of market trends.

Second, the FDIC could use its power under its "extraordinary circumstances" authority to extend the time period to rebuild the Deposit Insurance Fund from five to 10 years. Certainly, assessments must go up to some extent in the short term in order to begin rebuilding the fund. However, this extension will limit unnecessary financial stress on insured depository institutions at this critical turning point in our economic history.

Next, the 15% threshold as a risk trigger for secured advances should be revised upward. It is our understanding from reviewing this factor with ICBA that approximately 25% of the banking industry uses FHLB advances in at least this amount. It is also worthy of note that Congress has encouraged the use of FHLB advances through provisions in the Gramm Leach Bliley Act as a way to promote community lending. The 15% threshold will discourage such lending activities through the increased assessment cost.

The FDIC could segregate FHLB advances and repos from other secured lending in its rule as it relates to the risk assessment factor for secured lending. IBAT believes that these are more reliable, flexible and better priced than other sources of funding.

Finally, the FDIC should refine its rules relating to the brokered deposit assessment by fine-tuning the definition of the types of brokered deposits that will affect the assessment factors. In addition, the threshold of 10% should be revised upward and the growth factor should also be reconsidered. As noted earlier, an aggregate 20% growth over four years is normal, not excessive in a healthy economy.

On behalf of its community bank members, IBAT thanks you for this opportunity to comment. We strongly encourage your fine tuning of this important proposal.

Sincerely,

Karen M. Neeley

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