NORTH DAKOTA BANKERS ASSOCIATION

December 16, 2008

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429 Via Electronic Delivery

Re: Federal Deposit Insurance Corporation Notice of Proposed Rulemaking, RIN 3064-AD35, Assessments; 12 CFR 327; 73 Federal Register 61560

Dear Mr. Feldman:

The North Dakota Bankers Association ("NDBA") appreciates this opportunity to comment upon the proposal to adjust deposit insurance assessments upon an individual bank's risk classification. NDBA members are state chartered banks, national banks and federal thrift associations. Our members offer full service banking to North Dakotans through their more than 300 banking offices throughout the state.

North Dakota banks support a strong federal deposit insurance system and one for which the insurance assessment realistically reflects the actual risk to the fund which is presented by an individual institution. We view the proposed rulemaking as being inconsistent with that premise in several respects:

Brokered Deposits/ CDARS Reciprocal Deposits

Reciprocal deposits made through the Certificate of Deposit Account Registry Service (CDARS) offered by Promontory Interfinancial Network, LLC must be distinguished from traditional "brokered deposits" because these two types of deposits do not share the same risk characteristics. Banks that rely on traditional brokered deposits for funding may present greater risks to the deposit insurance fund than banks that fund themselves with "core" deposits because traditional brokered deposits tend to cost more and be more volatile. To be consistent with the rationale that deposit insurance assessment rules should distinguish types of deposits by their risk characteristics, CDARS reciprocal deposits must be treated as core deposits because CDARS reciprocal deposits perform as core deposits. Reciprocal CDARS deposits have a very high reinvestment rate and cost considerably less than typical brokered deposits because the depository bank sets the rate for its depositor. CDARS reciprocal deposits are not hot, high cost money.

North Dakota banks find CDARS participation enables them to provide better service and FDIC insurance protection for local customers. Our banks use CDARS to keep their customers doing business with the bank instead of looking to many distant financial institutions for higher yields and insurance coverage. Because the deposits are reciprocal, the overall deposit level for

CDARS banks is not altered and fundamental risk characteristics do not change in a way that is undesirable. CDARS reciprocal deposits are not hot money and do not fuel unwarranted growth.

The rules for deposit insurance assessment will encourage practices that are rewarded or regarded neutrally and will discourage practices that are penalized by higher assessment rates. Bank participation in CDARS should not be discouraged. CDARS deposits are stable and do not leave a bank because of rumors. They protect customers because they are insured. For these reasons participation in CDARS may actually reduce unwanted volatility and reduce banks' need to seek out traditional brokered deposits to address liquidity issues.

Deposit insurance assessment rules should support banks that use stable, cost effective deposits to fund operations. If the focus of the new risk based assessments is measurable risk, then CDARS reciprocal deposits should be treated as core deposits or evaluated on their own merits. We would support changes to the Call Report form so that CDARS reciprocal deposits are separately reported. In any event, CDARS reciprocal deposits should not be designated as brokered deposits and CDARS banks should not be penalized and pay higher deposit insurance assessments because they offer CDARS service to their customers.

Federal Home Loan Bank Advances

NDBA is also concerned about the proposal to impose higher assessments on banks that use FHLB advances. Many North Dakota banks are longstanding users of FHLB advances and have found them to be a durable source of liquidity and effective tool for managing their overall cost of funds. FHLB advances also allow our banks to better match their funding to longer term loans. These uses of FHLB advances are consistent with principles of safety and soundness and should not be penalized as proposed in the rulemaking. Higher deposit insurance assessments for banks that responsibly use FHLB advances doesn't improve safety and soundness, it simply reduces bank earnings and transfers money that would otherwise be used for loans to the insurance fund.

The proposed rule sets 15% as the threshold for the higher risk classification of banks using FHLB advances. While this may be a reasonable approach, 15% is too low because it takes in too many veteran users. These banks have advances above the 15% level, not because they are misusing the funds, but because having safely used FHLB advances for a long period of time, they recognize FHLB advances as a tool that allows banks to quickly adapt to changing liquidity environments and to better manage enterprise risk. At minimum, the 15% threshold needs to be increased.

Highly Capitalized Banks

NDBA does agree that high levels of bank capital does reduce risk to the insurance fund and endorses the proposal to reflect this reduced risk by a reduction in assessment rate.

Review of Assessment Rates

Frankly, our banks recognize the need for FDIC to act to recapitalize the deposit insurance fund and are willing to do their part in the process. Nonetheless, we are concerned that FDIC may be moving too far too fast. With the proposed changes to the risk based assessment system, it is projected that the deposit insurance fund will reach 1.25% of insured deposits within the next five years. FDIA requires the level to be 1.15%. By being so aggressive in its approach, FDIC is taking capital out of our banks. Every dollar that is transferred to the deposit insurance fund is a dollar that is not available for credit in North Dakota communities. With this in mind, as FDIC reviews future assessment rates, we urge as aggressive acceptance of positive factors as the agency has given to negative factors this time around and to have an acknowledged goal of reducing assessment rates as soon as reasonably possible. North Dakota banks will use money that they don't have to spend on assessments to fund local community growth and development. Circumstances permitting, this is a better use of bank capital.

Conclusion

Upon reevaluation, we urge FDIC to revise its definition of brokered deposits to exclude CDARS reciprocal deposits and to revise the proposed rules to eliminate or substantially reduce the penalty imposed on banks for use of FHLB advances. NDBA appreciates the consideration which FDIC gives to comments.

Sincerely yours,

NORTH DAKOTA BANKERS ASSOCIATION

Rick Clayburgh Marilyn Foss

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