Compass Bank

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Jerry W. Powell
General Counsel/Secretary

December 17, 2008

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429
Attention: Comments Re: RIN # 3064-AD35

Re: Assessments – Notice of Proposed Rulemaking and Request for Comments

Ladies and Gentlemen,

This letter is submitted by Compass Bank ("Compass") to comment on the Notice of Proposed Rulemaking and request for comment (the "NPR") issued by the Federal Deposit Insurance Corporation (the "FDIC" or "Corporation") regarding proposals to: (1) alter the way in which it differentiates for risk in the risk-based assessment system; (2) revise deposit insurance assessment rates, including base assessment rates; and (3) make technical and other changes to the rules governing the risk-based assessment system.

Compass supports the FDIC's efforts to better align risks posed by insured institutions to the deposit insurance fund (the "DIF") with the assessments they pay into the DIF with riskier institutions paying more. We do, however, want to express our concerns about some of the assumptions in the NPR and a few of the specific proposals. With some modification, we believe the final rule could be more effective and more supportive of recent efforts by various federal agencies to encourage confidence and liquidity in the credit markets.

A. Replenish the DIF over a Longer Period and Moderate any Immediate Increases

Compass urges the FDIC to consider delaying material increases in assessment rates until after 2009. The increase in assessments, while necessary, is badly timed right now and runs counter to federal efforts to stimulate lending and foster an economic recovery. The Reform Act (as defined in the NPR), allows the FDIC flexibility both in determining the reserve ratio for any year, and in designing a DIF restoration plan. In setting a reserve ratio, the Reform Act directs the Board of Directors of the FDIC to "take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be

appropriate by the Board of Directors" (12 U.S.C. 1817 (b)(3)(C)(ii). Further flexibility is allowed under 12 U.S.C. 1817 (b)(3)(E)(ii). This section states that a DIF restoration plan meets the requirements of law if it

> "provides that the reserve ratio of the DIF will meet or exceed [1.15 percent of estimated insured deposits] before the end of the 5-year period beginning upon the implementation of the plan (or such longer period as the Corporation may determine to be necessary due to extraordinary circumstances)."

Given the extraordinary circumstances we are experiencing in the current economic environment, the FDIC has authority to set a reserve ratio closer to 1.15 percent of estimated insured deposits and to extend the period of time that a DIF restoration plan may take to reach such a ratio. Compass urges the FDIC to do both. A strong DIF is, of course, essential but the approach to restoring mandated levels, insofar as there is flexibility, ought to take into account current economic conditions and not undermine the extraordinary recent efforts to maximize bank resources for lending. At a minimum, we urge the FDIC to increase the length of time to restore the DIF to levels described in the proposal from five years to ten.

In addition, Compass urges the FDIC to implement a DIF restoration plan in a gradual manner, starting with increases smaller than those proposed and progressively increasing assessments over an extended period after 2009.

B. Increase in Assessment Rates Should be More Progressive

Compass supports the goal of basing the FDIC's assessment plan on the risk posed by certain institutions. The proposal, however, increases assessments on well capitalized and well managed institutions at a far greater rate than those levied on riskier institutions. Compass suggests reducing the rate of increase on assessments for Risk Category I institutions and increasing it on assessments for Risk Category III and IV institutions. The current assessment rate for Risk Category I institutions ranges from 5 to 7 basis points. The proposal would increase base assessments for Risk Category I institutions to a range of 10 to 14 basis points, representing a 100% increase in assessments on the least risky institutions. Risk Category III and IV institutions have their base assessment rates increase from 28 to 30 and from 43 to 45 basis points, respectively. This represents increases of merely 7.1% and 4.7%, respectively. While it is true that the least risky institutions are paying lower assessment rates on an absolute basis, the doubling of their assessment rates seems punitive. We urge the FDIC to review its proposed base assessment rates and consider a more risk-weighted approach in implementing increases.

C. Brokered Deposits for Risk Category I and the Brokered Deposit Adjustment

Well managed and well capitalized institutions that manage their diverse sources of funding, including brokered deposits, in a safe and sound manner should not be penalized. The correlation drawn by the FDIC between use of brokered deposits and bank failure is too simplistic and ignores those institutions that manage this funding tool properly and manage their growth responsibly. Depository institutions of all stripes endeavor to manage liquidity risk in a prudent manner. Part of this management involves diversifying funding across many different types of liabilities with many different maturity characteristics. Brokered deposits are just one of the many tools depository institutions utilize to manage this liquidity risk. Compass urges the FDIC to modify its proposal in several key ways.

First, there should be no financial ratio based on use of brokered deposits and asset growth for Risk Category I institutions. Risk Category I institutions, by definition, prudently manage most or all aspects of their balance sheet. These institutions have proven their ability to manage their institutions in a safe and sound manner and should not be burdened with additional assessments based simply on their use of a particular funding source and their growth rates.

Second, to the extent the FDIC does decide to add the adjusted brokered deposit ratio to its financial ratios method used for Risk Category I institutions, Compass urges the FDIC to increase both the rate of growth and the ratio of brokered deposits that trigger increased assessments. The preamble to the NPR states that "[t]he 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." Taking the growth rate first, a 20% rate of growth over the past four years would appear merely to reflect the rate of growth of the US economy during that period.[1] Institutions with well managed and diverse sources of funding should not be penalized for mirroring the growth of the general economy. In the preamble to the NPR, it is even stated that the FDIC expects a 5% rate of growth in insured deposits over the next four years. It is difficult, therefore, to see how a 5% annual growth in assets could be described as "rapid asset growth." The rate of growth that would trigger increased assessments should be increased. Alternatively, and at a minimum, the change in a bank's total assets over the four-year period should be calculated in current dollars and "deflated" using a methodology similar to that used when calculating real or "constant dollar" GDP growth.

Compass also is concerned that the 10% ratio allowed for brokered deposits is too low when well managed and well capitalized institutions, which make up Risk Category I, are involved. Institutions with good ratings and experienced and prudent management

[1] In current dollars, the U.S. GDP for 2003 was $10.961 trillion and for 2007 it was $13.808 trillion. Over this four-year period of time, GDP grew 26%. The annual growth rates each year were 6.6%, 6.3%, 6.1% and 4.8%, respectively. Source: U.S. Department of Commerce, Bureau of Economic Analysis.

should be free to manage their liquidity risk with the best tools available at any given time, including brokered deposits at ratios above 10%, regardless of the rate of growth experienced.

Finally, Compass urges a more nuanced and graded approach to regulating use of brokered deposits by Risk Category II, III and IV institutions through its proposed brokered deposit adjustment. We suggest that the FDIC allow Risk Category II institutions more flexibility to utilize brokered deposits than Risk Category III and Risk Category IV institutions. The threshold for brokered deposits should be higher for Risk Category II institutions relative to Category III and IV institutions. In addition, the assessment adjustment should be higher for Risk Category IV institutions than for Risk Category III institutions, and those for Risk Category III higher than those for Risk Category II institutions. This might well require that the maximum brokered deposit adjustment be more than 10 basis points for some Risk Category IV institutions.

D. Secured Liabilities Adjustment

We would like clarification on certain points regarding the secured liabilities adjustment. The NPR states that, "[s]ecured liabilities for banks include Federal Home Loan Bank advances, securities sold under repurchase agreements, secured Federal funds purchased and other borrowings that are secured as reported in banks' quarterly Call Reports." Since deposits are liabilities, we would like for the FDIC to clarify in the final rule that deposits of states, counties, municipalities and the like are not included in the definition of "secured liabilities." We would also like clarification as to whether TIO, TAF and Discount Window borrowings are considered "secured liabilities."

Regarding the secured liability adjustment, Compass believes that a secured liability adjustment should not be imposed on Risk Category I institutions. The reasons are similar to those offered above for eliminating the brokered deposit adjustment. Institutions with good ratings, prudent management and a record of managing risk in a safe and sound manner should not be penalized for tapping one of a variety of funding sources to manage their liquidity.

In addition, we urge that FHLB advances and repurchase agreements specifically be excluded from the definition of "secured liabilities." These instruments allow financial institutions not only to manage liquidity risk prudently, but their interest rate risk as well. As just one example, financial institutions may borrow money from their FHLB that is prepayable by the borrower. Longer term fixed rate advances that are prepayable can be used to fund residential mortgage lending. One problem with funding fixed rate mortgages in a high interest rate environment is that homeowners have the ability to refinance (prepay) the mortgages when interest rates fall. To the extent a financial institution has funded mortgage loans with longer term "core deposits" (e.g., certificates of deposit), the institution will experience a severe interest margin compression as its higher rate earning assets refinance into lower rate assets while the institution is stuck with long-term high rate deposits that it cannot prepay. Many other examples could be

given, but the point remains the same. Financial institutions are managing a myriad of risks and constraining the ability to use some of the most useful liabilities is counterproductive.

E. Unsecured Debt Adjustment

The FDIC has asked for comment as to whether there should be an unsecured debt adjustment. Compass Bank agrees that there should be a reduction in assessment rates for unsecured debt.

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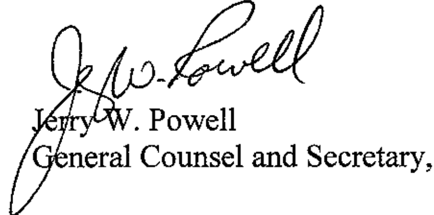
Compass supports the goal of the NPR to enhance the risk-based focus of the assessment process. We sincerely appreciate the opportunity to comment on the proposal.

Very truly yours,



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