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December 17, 2008

By E-Mail to Comments@FDIC.gov

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

Re: Proposed Rule on Risk-Based Assessments
(RIN # 3064-AD35)

Ladies and Gentlemen:

Deutsche Bank AG, Frankfurt, Germany (“**Deutsche Bank**”) appreciates the opportunity to comment on the proposed amendments to 12 C.F.R. Part 327 that would alter the way the FDIC differentiates for risk in its risk-based assessment system; revise deposit insurance assessment rates; and make other changes to the rules governing the risk-based assessment system.¹

Deutsche Bank’s comments are focused on the FDIC’s request for responses to the specific question of whether certain sweep accounts should be treated as “brokered deposits” for purposes of the proposed rule. Before addressing that question, we acknowledge the difficult choices facing the FDIC stemming from the requirements of the Federal Deposit Insurance Reform Act of 2005 that the designated reserve ratio be maintained at not less than 1.15 percent of estimated insured deposits. Nevertheless, we question whether it is a good idea at this time to adopt a rule that will increase insurance premiums to banks at a time when other governmental programs have been adopted to inject funds into banks to counteract the destabilizing impact of the current disruptions in the credit markets, and agree with the comments of The Clearing House Association and the American Bar Association that the FDIC should exercise its statutory authority to extend the time within which the ratio is restored to 1.15 percent.

¹ *Assessments; Proposed Rule; Establishment of FDIC Restoration Plan; Notice*, 73 Fed. Reg. 61560 (Oct. 16, 2008).

In the proposal, the FDIC notes that the definition of brokered deposits for purposes of both the adjusted brokered deposit ratio and the brokered deposit adjustment would include sweep accounts and deposits received through a network on a reciprocal basis that meet the statutory definition of a brokered deposit. The FDIC has asked, specifically, whether such sweep accounts and reciprocal deposit arrangements should be excluded from the definition of brokered deposits for purposes of the adjusted brokered deposit ratio or the brokered deposit adjustment.²

Deutsche Bank's New York state chartered member bank subsidiary, Deutsche Bank Trust Company Americas ("DBTCA") operates a program (the "Program") by which funds of clients of other financial institutions – predominantly U.S. registered broker dealers – are swept to insured interest bearing accounts at unaffiliated banks ("Program Banks"). The idea is to provide brokers' clients with the alternative of sweeping idle funds into FDIC-insured bank accounts instead of into money market mutual funds, with the customers being the beneficiaries of FDIC insurance on a pass-through basis. Currently, there are approximately 90 Program Banks in DBTCA's program. There are other programs, sponsored and administered by different administrators.

Under DBTCA's program, only well capitalized banks can accept deposits, and all banks pay the brokers' customers a substantially similar interest rate, with any differences resulting only from the market rates on the date a particular depository institution agrees to accept deposits under the program (i.e., all banks entering the program at the same time pay the same rate). This eliminates the prospect of a weak or aggressive bank raising rates to attract additional deposits at a time when it is in weakened condition. DBTCA's program, and others like it, have proven to deliver a very stable source of deposits to the participating insured institutions and act very similarly to other core deposits. This prevents a weak or aggressive institution from increasing the risk to the insurance fund by paying higher interest rates to attract deposits that otherwise would not have been placed with the institution, eliminating the principal moral hazard associated with brokered deposits. Thus, exemption of deposits generated under DBTCA's program, and other like it, as brokered deposits for purposes of the proposed rule is fully consistent with the purposes of the proposed rule.

The presence of an independent administrator makes this type of sweep program at least as consistent with the concerns underlying the brokered deposit rules as sweeps between affiliated depository institutions and securities brokers. Also, DBTCA's program, and others like it, make the advantage of stable deposit sources from securities firms' customers available to smaller, well-run insured institutions that are not affiliated with such firms. Accordingly, there is no reason to treat sweeps involving unaffiliated depository institutions and brokers less favorably than sweeps between affiliates for purposes of requiring supplemental premiums for brokered deposits.

² 73 Fed. Reg. at 61579.

Accordingly, Deutsche Bank proposes that the FDIC exclude the following from inclusion as brokered deposits:

A deposit will not be regarded as a brokered deposit if:

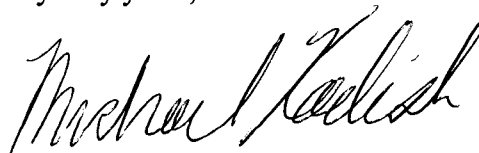
1. It is offered by an insured institution that is well capitalized;
2. It is a "savings deposit" as defined in 12 C.F.R § 204.2(d) or a "NOW Account" as defined in 12 U.S.C. § 1832(a);
3. The insured institution is one of a number of affiliated or unaffiliated insured institutions accepting deposits from another financial institution under a program documented in writing, where:
 - i. the deposits represent funds of customers (or of customers of such customers) of the financial institution making the deposit that are swept to the insured institution on a predetermined basis;
 - ii. the interest rate paid is established under the program without regard to the identity of any particular insured institution;
 - iii. the program sponsor and any person acting as the insured institution's agent with respect to the program is subject to examination by the insured institution's primary federal regulator to the same extent as if such services were being provided by the insured institution itself on its own premises; and
 - iv. any person performing services for the insured institution with respect to the program is required to conduct operations consistent with principles of safety and soundness applicable to the insured institution.

* * * * *

December 17, 2008

Deutsche Bank appreciates the opportunity to comment on the proposed rule. We would be pleased to provide additional information upon request. Should you have any questions about the matters discussed in this letter, please do not hesitate to contact the undersigned at (212) 250-5081 (e-mail: michael.kadish@db.com).

Very truly yours,

A handwritten signature in black ink, reading "Michael Kadish". The signature is written in a cursive style with a large, prominent initial "M".

Michael L. Kadish
Managing Director & Senior Counsel