

December 18, 2008

Sent Via Electronic Mail to: Comments@FDIC.gov

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

Re: RIN 3064-AD35
Notice of Proposed Rulemaking: Assessments, 12 C.F.R. Part 327

Dear Mr. Feldman:

T. Rowe Price Savings Bank (“**Bank**”) welcomes the opportunity to comment on this notice of proposed rulemaking regarding potential changes in the FDIC’s assessment system (“**Notice**”).¹ Of particular interest to the Bank, given the FDIC’s historically broad interpretations of activities that may render deposits as “brokered deposits,” is the proposal to incorporate an “adjusted brokered deposit ratio” for Risk Category I institutions in light of concerns over brokered deposits “that are used to fund rapid asset growth.”²

Brokered Deposits and Risk

The Bank understands the rationale for an emphasis on brokered deposits *to the extent* brokered deposits are the actual cause of rapid asset growth *and* increased risk. There certainly are financial institutions where heavy reliance on brokered deposits has supported or contributed to risky behavior. However, it is not clear that the proposed calculation would limit increased assessments only to those financial institutions that are the cause of the underlying concerns. We recognize that it can be difficult to identify those brokered deposits which actually cause rapid asset growth *and* risk, but we are concerned that the approach outlined in the proposal uses a simplistic ratio of two separate balance sheet elements that may, in fact, have no causal relationship.

For example, even for a financial institution with brokered deposits, rapid asset growth could have nothing to do with the activities of such brokers, and some functions of deposit brokers could have nothing to do with rapid asset growth. The Notice sets forth a hard ratio (i) asset growth and (ii) percentage of brokered deposits in excess of 10% of domestic deposits. This

¹ *Notice of Proposed Rulemaking and Request for Comment: Assessments*; RIN 3064-AD35; as published in 73 Fed. Reg. 61560 (Oct. 16, 2008).

² 73 Fed. Reg. at 61563, first column.

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ratio, while easy to calculate, does not take into consideration, for instance, the recent rapid increase in bank deposits caused by events in the financial markets, the so-called “flight to quality.” Under the proposal any financial institution which happened to have over 10% of domestic deposits from deposit brokers and then received significant deposits directly from its own marketing efforts could be subject to increased FDIC assessments, with no evidence of increased risk stemming from the brokered deposits. A similarly situated institution with just under 10% of brokered domestic deposits would not face an increased assessment, even if its overall deposit growth was larger. In the current market conditions it is very likely financial institutions, particularly smaller institutions, could exceed the 20% growth asset test over four years with little to none of it coming from brokered deposit activities.

Definition of Deposit Broker

The Notice indicates that brokered deposit would continue to be defined as in Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(1)(a)) and as used in the quarterly Thrift Financial Reports. This includes deposits obtained directly or indirectly through “any person in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions . . .” For a well capitalized financial institution, the definition of deposit broker and the amount of its brokered deposits historically have been a routine issue with no financial impact. If brokered deposits now are going to have a possible financial penalty, it is important for the FDIC to focus on those behaviors that actually add risk to a financial institution and the deposit insurance fund.

The FDIC has a series of legal opinion letter stretching over several decades that have adopted a very broad view of activities that render a person in the business of placing deposits or facilitating the making of deposits. For instance, the FDIC has indicated that an investment management/broker-dealer affiliate of a financial institution is acting as a deposit broker when it refers its customers to the affiliated financial institution, even when there was no compensation directly paid to the affiliate.³ To the extent that any such accounts opened over time prove to be long-term deposits, the financial institution could have over 10% of its domestic deposits in such accounts. However, it does not follow that such accounts add risk per se to the financial institution or the deposit insurance fund. To the contrary, they can simply be a source of secure, long-term accounts with the same rates paid as accounts opened through the financial institution’s direct marketing efforts.

The definition of brokered deposits in the Federal Deposit Insurance Act was written to ensure that certain restrictions were placed on all but well-capitalized institutions vis-à-vis brokered deposit activities. Use of that definition, particularly as interpreted by the FDIC over the years, in this new and different context is overly broad and not appropriate for the purposes stated in the Notice as to Risk Category I institutions. The Notice makes no distinction between brokered deposits that are the result of shopping deposits to the highest bidder versus brokered deposits that can result from innocuous activities of others that do not increase the risk profile of the institution.

³ FDIC Interpretive Letter No. 94-15 (Mar. 16, 1994).

This proposal could create a financial penalty -- increased assessments -- resulting only from standard marketing activities among affiliated companies. As such, it would be beneficial and consistent with the FDIC's stated purposes if increased assessments applied only to those Risk Category I institutions experiencing rapid growth caused by brokered deposits that create risk, and not to those that do not create risk. Examples of brokered deposits that create risk in this context may include those that pay higher rates than otherwise made available by the financial institution to the public generally or that are obtained from a deposit broker substantially engaged in brokered deposit activities. Examples of brokered deposits that do not create risk in this context may those that pay identical rates and that stem from the placement of deposits as an ancillary affiliate marketing activity.

We appreciate the opportunity to comment. If you have any questions concerning our comment letter, or need additional information, please feel free to contact the undersigned.

Sincerely,



Karen Nash-Goetz
Vice President and Compliance Officer
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