From: Mike Rossi [mailto:mike.rossi@nexbank.com]
Sent: Monday, November 03, 2008 1:31 PM
To: Comments
Subject: Assessments - RIN-3064-AD35

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

Re: Federal Deposit Insurance Corporation Notice of Proposed Rulemaking, RIN 3064-AD35

Dear Mr. Feldman:

We truly appreciate the opportunity to comment on Proposed Rule 3064-AD35 (FDIC Restoration Plan).

Many of my colleagues who have already submitted comments have extolled the benefits of the CDARS program and how many banks use that as a dependable funding source. Given its similarities to CDARS, I'd like an opportunity to comment on brokered CD's (and FHLB advances), and the impact they will have on the proposed premium increase.

Brokered CD's Are Made Up of the Same Consumer Deposits Which Used to Reside Directly in Banks
The brokered CD market is much more efficient & transparent than it was years ago. And, the rapid growth of the brokered CD market is a testament to this efficient market. Whereas a customer may have previously held their deposits in multiple financial institutions to achieve full FDIC insurance, those customers can now get this in one place. Their stock broker can instantly get a customer millions of dollars of competitively priced, fully-insured CD's. By helping their client with a brokered CD portfolio, those CD's will all be on one statement, and the customer will not have to open up accounts at multiple banks.

Examiners argue that these are not "relationship" deposits. These depositors *do* have a relationship: They have a relationship with a financial advisor who helps them place their idle cash into fully-insured brokered CD ladders. Until this form of deposit aggregation is outlawed, brokered CD's will only continue to grow.

Brokered CD Market and the "New" Bank Customer
Before the FDIC starts assessing penalties in the form of increased insurance premiums, it should take a look at the entire deposit aggregation business, and it should also examine the "new" bank consumer. The "new" bank customer is highly rate sensitive, very well-

informed, and will open a CD at an online bank across the country for 5 basis points in rate. This is a stark change to how banking worked 20 years ago.

For example, in the Dallas market, the current one year retail CD market is 4.25% whereas one year brokered CD's are currently 3.85%. And, the retail CD customers are very transient, whereas the brokered CD market continues to be a dependable source of liquidity.

Penalizing Banks for Using FHLB Could Encourage Undesired Behavior
The proposed legislation proposes a premium adjustment for banks which use FHLB advances. What? Wasn't the FHLB established to ensure liquidity in the markets and to encourage home ownership and home lending in America? This seems like a dangerous time to discourage banks from utilizing a safe and reliable funding source like FHLB. Furthermore, this provision may ultimately backfire. FHLB rates are currently significantly below most banks' retail or promotional deposit rates. So, instead of offering silly rates to attract "core" deposits, a bank can currently utilize more FHLB advances, pay slightly higher FDIC insurance premiums on its other deposits, but save 150-200 basis points in funding costs.

Minimal Capital Adjustment
The most discouraging aspect of the proposed premium increase is that surplus capital has only a minimal impact on a bank's rate. An overcapitalized bank will generally weather a storm much better than a marginally well capitalized bank. Furthermore, surplus capital reduces the FDIC's exposure to insured institutions on a *dollar for dollar* basis. Therefore, surplus capital should have a more meaningful impact on the proposed FDIC premium calculations.

Conclusion
The bottom line is that every bank is different. The FDIC itself has acknowledged that brokered CD's, CDARS and FHLB advances, if used properly, are a dependable source of funding for financial institutions. The proposed premiums shouldn't single out banks based on arbitrary circumstances which don't take all facts into account. For example, should a bank with 15-20% capital pay increased premiums simply because it uses brokered CD's and/or FHLB advances? An institution's examination, which does takes all factors into account, should be used to determine a bank's premiums.

Furthermore, if the FDIC starts taking steps to assign deposit insurance surcharges to specific items, the industry will simply find a way to get around these rules. It seems like we're entering a minefield if we base the premiums on anything other than an institution's examination ratings.

Finally, the proposed rules, if enacted, would only, exacerbate an already-unfair FDIC premium regime. The current rules strongly favor the mega-banks, and the proposed surcharges would only widen this disparity. Our bank, for example, currently makes a healthy 1% return on assets. However, this new proposed premium would increase our rate from 6 basis points to 15. In dollar terms, that would be approximately 2 months of

current profits. We therefore strongly urge the FDIC to reconsider its proposed legislation, and take a broader look at how banks are obtaining funding in this “new” economy.

Respectfully Submitted,

Mike Rossi

Mike Rossi, Chief Financial Officer
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