March 28, 2009

VIA E-MAIL at 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
Interim Rule on Emergency Special Assessment

Dear Mr. Feldman:

On behalf of Baylake Bank, a $1.1MM bank headquartered in Sturgeon Bay, Wisconsin, I wish to comment on the Federal Deposit Insurance Corporation's (FDIC) interim rule to impose a 20 basis point emergency assessment under 12 U.S.C. 1817(b)(5) on June 30, 2009. The interim rule also allows the FDIC Board to impose possible additional special assessments of up to 10 basis points thereafter to maintain public confidence in the Deposit Insurance Fund (DIF).

We understand the challenges faced by the FDIC to maintain appropriate levels in the DIF during these challenging times and in following a least-cost approach in its resolution activity so as to not unnecessarily jeopardize the DIF levels.

Baylake Bank also understands that we are in extraordinary times and we recognize that difficult times still remain ahead of us. However, we ask that you absolutely reconsider the proposed one-time special assessment of 20 basis points, coupled with the possibility of another special assessment of up to an additional 10 basis points soon thereafter, as set forth in the interim rule. Such a huge, one-time expense will negatively affect all consumer and business customers that are served by community banks like ours. Our institution has already been negatively impacted by an almost 10 fold increase in our regular quarterly premium assessments since 2006. Banks like ours did not cause this financial services industry crisis, yet seem to be the ones that are asked to share more than our share of the economic and negative public perception burden that clouds our industry.

While we appreciate the FDIC's attempts and interests in not having the entire banking industry being painted with a "bailout brush," we believe this has already occurred and if FDIC borrows money from its line with Treasury to help recapitalize the DIF, that action will not adversely affect the already negative perception about banks. Unfortunately from President Obama, to members of Congress, the media and the public, "everyone" believes it is permissible to bad mouth "banks." It is disheartening to hear that very few people in the public eye seem to care to distinguish between the very necessary community banks and the investment banks and others that really helped to cause the economic crisis we are experiencing. At this point, it is more important to look to diverse resources or use different methods than those set forth in the interim rule to recapitalize DIF, rather than continue to punish the industry in the manner this one-time 20 basis point assessment would.

As such, we recommend that the FDIC utilize its line of credit with the Treasury to replenish the DIF as an alternative to the proposed special assessment. If special assessments are necessary beyond the utilization of the Treasury line, we also believe that the FDIC should ask Congress for the authority to levy special assessments on the Too Big To Fail ("TBTF") banks that were primarily responsible for the financial meltdown.

During this challenging economic time, we believe weaker institutions should be partially exempted from any special assessments in the event they the special assessment is determined to be absolutely necessary. These institutions are already struggling, so why place an additional financial burden on those financial institutions, at a time when they can least afford it? However, the reality is that a special assessment of this size hurts all institutions, albeit to varying degrees.

If despite our arguments, the need to assess remains, we would ask at the very least, FDIC to consider modifying the current risk-based structure in such a way that rewards conservative practices and assesses higher premiums on those institutions with riskier operations that pose a potentially greater threat to the DIF. This would necessarily mean either switching to an assessment based on total assets (minus tangible capital) rather than deposits, which would rightfully and fairly impose greater responsibility on the TBTF banks.

Without question, all FDIC assessments, including any special assessment, should take into consideration the assistance being provided to systemically important institutions. These institutions should be paying more for the benefit of FDIC insurance than other institutions who are healthy, as they are already receiving the benefit of federal assistance.

Conclusion

We agree with FDIC that we need a strong, financially secure fund in order to maintain the confidence depositors have in the system. Nonetheless, the timing of this special assessment, with the possibility of another special assessment on the heels of the first one, as outlined in the interim rule, is disastrous for the industry. We are already in a deepening recession, are living with accounting rules that overstate economic losses and unfairly reduce capital, along with regulatory pressure to reclassify assets that continue to perform, on top of managing significant increases in regular quarterly FDIC premiums and the extra premiums for participation in TLGP. The one-time payment is very difficult for any one bank to absorb, particularly community banks like ours at this challenging time economically and on top of the more recent higher premiums we are paying through our regular quarterly assessments. Of course, those most hurt by these huge expenses banks must pay are the customers. The high cost of deposits is a disincentive to raise new deposits. This coupled with other expenses means our ability to lend will be reduced. Any loans that are made will require higher interest rates and terms. Just as importantly, Baylake Banks' contributions to local charities will also necessarily be reduced. The national credit crisis will only continue and the economy will not quickly grow.

We strongly urge FDIC to not levy a special assessment on community banks.

Once again, Baylake Bank appreciates the opportunity to comment on this very important interim rule. Thank you.

Sincerely,

Robert J. Cera
President and CEO