

March 9, 2009

Federal Deposit Insurance Corporation
Comments @ FDIC.gov

RE: Part 337-Interest Rate Restrictions – Proposed Rule Making

To Whom It May Concern:

I am writing in opposition to the “proposed” Part 337 Interest Rate Restrictions for institutions that are less than well capitalized.

The proposal fails to take into consideration the actual capitalization level for a bank that is labeled “less than well capitalized”. Because of an enforcement action, our bank is considered less than well capitalized. Our bank’s actual tier one capital exceeds 10%, which is well above some other bank’s capital levels not subject to the same restrictions.

The “national rate and the national rate plus 75 basis points” proposal fails to take into consideration overly competitive banking markets such as Central Kentucky, where there are forty plus financial institutions of all sizes and varieties competing for a limited amount of deposits.

The proposal adversely harms smaller local institutions who receive virtually all of their deposits from competitive banking markets by comparing their rates to larger regional and national competitors who have multiple deposit gathering locations available and are more able to shift the cost of deposits between markets.

The proposal also fails to allow a bank to define its true competition. For example, there are ten credit unions in Central Kentucky who regularly compete against our bank and frequently offer the highest rates in the local market advertised right along side the bank’s rates in the local paper. It is easy for credit unions to offer above market rates since they are not taxed like FDIC insured institutions. However, by definition under the proposal, credit unions are not considered our competition, nor are insurance companies and brokerage firms. These institutions certainly have an impact on the rates local banks are required to offer to maintain liquidity whether or not they are included in a measure of our competitors. Recent customer surveys by our bank indicate that the University of Kentucky Federal Credit Union is viewed as our number one competitor for rate sensitive deposit and loan shoppers.

The FDIC has other regulations under which a more accurate comparison of local competition is defined. One example where all local competitors are taken into consideration in banking regulations is under the Community Reinvestment Act. If the bank's loan and lending rates within its community are going to be compared against mortgage companies, credit unions and finance companies in addition to local, regional and national FDIC insured financial institutions, it is only logical to include these same non-FDIC insured institutions in the comparisons and setting of deposit rates within the local market.

Another option is to allow a financial institution to define its own market, so long as a substantial portion of local deposit market share is represented by the defined market. Requiring a weekly review of all financial institutions in the market would prove to be too burdensome.

Importantly, the interest rate restriction proposal may decrease liquidity for troubled financial institutions whose liquidity is already restricted by limits on brokered deposits including limitations on participation in the CDARS program, negative publicity from enforcement actions and general market uncertainty. Since a lack of liquidity is the most frequent reason for bank failures (even more than a lack of profitability), this proposed rule, intended to protect fragile banks, may actually increase the number of at-risk banks and bank failures.

Finally, while Section 337 Interest Rate Restrictions are listed as a proposed rule open for comment, the Chicago Office of the FDIC is already imposing these limits under current enforcement actions, placing an unfair and unequal burden on already delicate financial institutions.

I urge the FDIC to reconsider Section 337 interest rate restrictions.

Respectfully Submitted,

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