OKLAHOMA BANKERS ASSOCIATION

We make bankers better!

ROGER M. BEVERAGE
PRESIDENT AND CEO
roger@oba.com

e

March 24, 2009

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

RE: Assessments – RIN 3064-AD35

Dear Mr. Feldman:

On behalf of our 260 member banks and thrifts, thanks for the opportunity to comment on the proposed special assessment. We appreciate the situation in which the FDIC finds itself, and we offer the following comments as ideas for your consideration.

While we understand some current accounting restrictions may prevent immediate implementation of some of our suggestions, there are other alternatives to a one-time unexpected hit to bank earnings, liquidity and capital. In Oklahoma, that hit translates into about $115 Million in addition to the increased premiums and comes at precisely the wrong time for our member banks. Taken together it represents about 30 percent of the industry's earnings last year.

There's also some question about whether losses to the DIF have been "front-loaded" in years 2009 and 2010. Based on what we've been able to discern, it appears that they have been, and if those projected losses were to be more evenly spaced out, it appears that no special assessment may be needed at all.

I've worked for and with the banking industry for the past 30 years, in various capacities. I was a banking regulator in the mid-'80's and made decisions to close some 20 institutions during that time. As bad as things were then, I cannot recall ever seeing such a high level of frustration, uncertainty and anger among banking professionals.

Rightly or wrongly, community bankers in Oklahoma and elsewhere perceive their reality differently than does Congress and others in Washington. Like a growing number of taxpayers, most Oklahoma bankers are angry. Bankers are angry because they see their banks being punished for the sins of others. For the most part, they've played by the rules, taken care of their customers and served their communities. They resent the actions of some "too-big-to-fail" entities and the "shadow banking industry" whose managers ignored basic banking fundamentals in their rush to put people in houses they couldn't afford, book profits they didn't really earn and reap huge bonuses in the process.

Sometimes perception overshadows one's ability to engage in logical reasoning and debate. I believe this perception is a major factor in explaining how bankers here view the proposed special assessment.

Many of our bankers survived the collapse of the '80's that took down the savings and loan industry. There were no "bailouts" – real or otherwise – for wayward lenders, crashing property values, bankrupt energy firms, high foreclosure rates and an otherwise economic meltdown in our state and the entire Southwest region. But that experience helped guide Oklahoma bankers through this latest lending fiasco. It's one reason why nearly 95 percent of our banks were profitable last year.

Oklahoma banks understand how the Deposit Insurance Fund works, and the need to maintain consumer confidence in the banking system. They are able and willing to do their part. But they also believe there are ***other, reasonable alternatives*** that seem to be trapped in the arcane world of accounting 'rules'. They also believe that "one size" does not fit every bank.

In a recent survey of our member banks we asked bankers whether they preferred to pay the special assessment all at once; pay it, but amortize the payment over an extended period of time, or pay it in equal installments. Eleven percent of our member banks prefer to pay the assessment up front at one time; 23 percent support extending the time over which the payment could be amortized, (a minimum of five (5) years); and 66 percent preferred paying the assessment in equal installments over five years or longer.

1. **Should the Special Assessment be at a rate other than 20 basis points?** Yes. Here are some suggestions for your consideration:

    a. **Create a Procedure By Which the FDIC Could Issue a Form of Preferred Stock to Insured Banks**. The FDI Act authorizes banks to "invest" in the FDIC. Why not develop a procedure allowing the FDIC to issue a form of preferred stock to member banks that the banks could purchase in lieu of (or in addition to some form of) the special assessment? It would give FDIC a permanent margin, perhaps enable it to raise enough capital to replenish the DIF immediately, provide permanent capital for the Agency, and would avoid the one-time "hit" for some banks that might be pushed over the edge by the special assessment.

    b. **Reauthorizing FICO Bonding Authority**. The Financing Corporation was used to help fund the savings and loan collapse. While it was utilized to avoid budget deficit restrictions, perhaps it could be resurrected by reauthorizing bond-issuing authority for the FICO that was used so successfully during the savings and loan collapse. In this manner the FDIC could have its funding immediately, for a larger amount than may be necessary down the road, and insured institutions would be able to pay it off over time.

643 Northeast 41st, Oklahoma City, Oklahoma 73105
Phone: 405-424-5252 or 866-843-5252 • Fax: (405)424-4518 • www.oba.com

c. **<u>Support *H.R. 1349.*</u>** A related suggestion is to support ***H.R. 1349***. The bill would create a Federal Accounting Oversight Board intended to establish and correct accounting rules, principles and standards for financial institutions to the extent those principles create or enhance the nation's 'systemic risk'. This proposal would at least create a regulatory environment where FDIC-insured banks and thrifts could make the case for amortizing this assessment over time, whether it's two years or ten. That ability is the biggest objection that banks in Oklahoma have to its payment as proposed.

d. **<u>Increase the FDIC's Borrowing Authority, and Keep That Issue Separate from Mortgage Cram-Down Authority</u>**. The Association strongly supports ***S. 541*** which will increase the FDIC's borrowing authority to $100 Billion. The Senate's efforts to couple this systemically-important matter with the consumer issue of modifying Chapter 13 bankruptcy procedures for home mortgages should be rejected and the FDIC should help support this principle. Playing "politics as usual" games with the nation's financial system and its ability to withstand further trauma because of an increase in bank failures is nonsense.

e. **<u>Create a Procedure Enabling Oklahoma Banks to "Lend" to Troubled Oklahoma Institutions, to Avoid Failures.</u>** One of the issues the FDIC confronts is the increasing number of problem institutions. The causes are many and vary from region to region, but the net impact of bank failures generally spills over to affect every bank in the nation. One idea is to develop an "open bank assistance program" of a sort that allows a strong bank to help a weaker one. It could be created to allow a local Oklahoma bank (for example) to lend money to another Oklahoma bank designated by the FDIC, with an FDIC-backed "guarantee" of some sort.

   i. It could take the form of an actual loan and include "new management" conditions.
   ii. It could take the form of an "investment" evidenced by a form of preferred stock that would pay a reasonable rate of return to the bank and would also be 'guaranteed' by the FDIC.
   iii. In both cases current management would be replaced or restructured, and the lending bank/investing bank would take a role in managing the institution through its existing problems, if possible.
   iv. Under the new arrangement the lending/investing bank would help work out the problem loans over time, and return the bank to profitability. Its loan would have been paid or its investment redeemed, and the "new" bank would continue to operate under different management.

v. This approach would avoid the "mark-to-market" issues the FDIC faces when a bank is closed, and would reduce the impact on the Deposit Insurance Fund.
vi. Importantly, this idea would reduce the risk of the virulent "cancer" that spreads from a closed bank to other healthy banks in the same region when failed bank assets are 'dumped' on the market.
vii. It would also constitute a form of 'forbearance" that would reduce FDIC's costs and enable the Agency to focus on those entities that would not qualify for this kind of treatment.

f. **Have the FDIC Access TARP Funds.** There are still unused Troubled Asset Relief Program assets that could be made available to the FDIC to bring the DIF back to the statutory level and banks could retire that debt obligation over time at a 5 percent interest rate.

g. **Subject the Special Assessment to a Risk-Based Analysis.** The initial proposal is equally distributed across all FDIC-insured entities. The assessment would be more 'fair' if the better banks and thrifts paid less than the ones who were less than prudent stewards of their customers' money. This would 'reward' the better-performing banks and help change the perception that they are paying for the sins of their larger counterparts on Wall Street.

2. **Should there be a maximum rate?** No. Perhaps one idea to minimize the impact on all banks would be to use an average of deposits over the last eight quarters rather than focus on June 30 numbers. But – and as noted above – better performing banks should not be penalized for the sins of those who were more reckless.

3. **Should weaker institutions be exempted?** No. See responses above.

4. **Should the special assessment be assessed on assets or deposits?** Deposits, using the regular risk-based assessment formula. This move unnecessarily creates an intra-industry war between big banks and small banks, with no clear delineation of where the line would eventually be drawn.

5. **Should there be a special assessment of up to 10 basis points?** No. There should be no special assessment at all. The expenses of the projected losses are front-loaded, and there should be sufficient money in the Fund to cover any loss exposure down the road. This is precisely the wrong time to be assessing member banks if the ultimately directive from Congress and Washington generally is to increase lending.

643 Northeast 41st, Oklahoma City, Oklahoma 73105
Phone: 405-424-5252 or 866-843-5252 • Fax: (405)424-4518 • www.oba.com

6. **Should FDIC assessments take into account assistance being provided to systemically-important institutions?** Yes, to the extent they present more realistic 'risk' to the fund, they should be assessed at a higher rate than community banks that have played by the rules, taken care of their communities and their customers, and that avoided the lure of fast money through speculative excesses that few people understand.

Finally, banks should not be penalized for using Federal Home Loan Bank advancements. This is currently the lowest-cost money that's available.

Thanks again for the opportunity to comment on this proposal. Oklahoma bankers stand behind the FDIC and look forward to being able to work toward a solution that benefits all parties.

Sincerely,

President and CEO
Oklahoma Bankers Association