TexasBankers
Association

March 16, 2009

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

Attention: Comments

Re: 12 CFR Part 327; RIN 3064-AD35; Assessments

Dear Mr. Feldman:

The Texas Bankers Association (TBA) appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) interim rule that proposes the imposition of a 20 basis point emergency special assessment (under 12 U.S.C. 1817(b)(5)) on June 30, 2009. TBA represents the Texas banking industry—from the smallest bank in the nation, Oakwood State Bank, with less than $3 million in assets, to the largest bank in the nation, Bank of America, with nearly $1.5 trillion in assets. Out of 699 banks doing business in Texas, 603 are TBA members, which represents an 86 percent membership penetration. Although we represent banks of all sizes, more than 98 percent of our membership is comprised of Texas-based community banks, with a median asset size of $114.4 million.

Bankers understand the importance of having a financially sound FDIC insurance fund. Bank premiums, and the earnings on those premiums, have been the sole source of funding contributions to the fund since the FDIC was created 75 years ago. Texas banks have been, and continue to be, prepared to meet their obligation to keep the FDIC insurance fund strong, but our members are concerned about how the fund will be restored. Texas banks, which did not make subprime loans, are both pillars of their communities and positive forces in economic development. We ***do not believe*** our banks should be punished for a housing bubble caused by irresponsible lenders and borrowers and exacerbated by Wall Street.

The proposed special assessment is a significant and unexpected cost to our member banks that will devastate their earnings, particularly at a time when the nation is dealing with a deepening recession. Our members are dealing with significant increases in regular quarterly FDIC premiums, accounting rules that overstate economic losses and unfairly reduce capital, and regulators who apply pressure to classify assets that continue to perform. Each of these is a large challenge on its own, but collectively, they are a nightmare.

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This special assessment will impact Texas banks in the following ways:

- The high cost is a disincentive to raise new deposits. Fewer deposits, in turn, hinder the bank's ability to lend.
- The reduction in earnings limits the bank's ability to build capital just when it is needed the most.
- Banks will be forced to look at ways to lower the cost of other expenses, which may limit their ability to sponsor community activities or make charitable donations—something banks have been doing for years.
- In order to compensate for the lost earnings, some banks may find it necessary to lay off employees or reduce salaries.
- Healthy banks that are in a position to help their communities rebuild from this economic downturn may be harmed.

Given the impact that the proposed assessment will have on the Texas banking industry and Texas communities, we ***strongly urge*** you to consider alternatives that will reduce the banks' financial burdens while still providing the FDIC with its short term funding needs. The following are our recommendations:

- Reduce the special assessment and spread its cost over 10 years. The FDIC should spread out the recapitalization of the fund over a longer time frame as well. We strongly encourage steps be taken, including Congressional action if necessary, to secure changes in accounting rules to allow for this amortization of the special assessment, whether it's 20 basis points, 10 basis points or some other adjusted assessment amount.
- Use a convertible debt option, whereby the FDIC could convert debt borrowed from the banking industry into capital to offset losses as they may occur. This would allow banks to write off the expense only when the funds are actually needed.
- Use FICO-like non-callable bonds, purchased by private investors, as a financing vehicle for the Deposit Insurance Fund to help rebuild the fund, and assess FDIC-insured institutions over time to service the interest and principal payments on the bonds.
- If the fund requires resources in the short run, use the FDIC's borrowing authority with Treasury. This is the purpose of the fund, and it remains an obligation of the banking industry. Moreover, it allows any cost to be spread over a longer period of time.
- Use the revenue that the FDIC is collecting from the Temporary Liquidity Guarantee Program. There is considerable revenue from those banks that are issuing guaranteed debt to help support the FDIC at this critical time.

Making these modifications will ensure that the fund remains secure and will allow Texas banks to continue to lend in their communities. We urge you to take these suggestions into consideration when the Board meets in April to finalize the special assessment rule.

Our volunteer leadership does not believe taxpayer money should be used to recapitalize the fund, not only because of the erosion of consumer confidence in the banks' ability to maintain the insurance fund and build it up to statutory levels over time, but also because of the potential media backlash. However, these are extraordinary times, and extraordinary measures may be required.

The TBA appreciates the opportunity to comment on the interim rule to impose a 20 basis point emergency special assessment. We stand ready to work with the FDIC to find alternatives that will recapitalize the fund without harming our banks. Should you have questions or seek further explanation of our recommendations, please do not hesitate to call me or John Heasley, TBA's Executive Vice President and General Counsel, at 512-472-8388.

Sincerely,

Fredrick M. (Rick) Smith
President & CEO