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Federal Deposit Insurance Corporation (assessments@fdic.gov)
Donna Saulnier, Manager, Assessment Policy Section, Division of Finance (703) 562-6167;

RE: FIL 58-2009. Prepaid Assessments and Notice of Proposed Rule Making.

Specific areas for comment requested by FDIC.

1. As an alternative to prepaid assessments, should the FDIC meet its liquidity needs by imposing one or more special assessments? ***YES, I believe this is a valid action as FDIC is supported by the fees paid by the member banks. Losses should be timely covered by assessments in the period the losses are determined with a reasonable degree of certainty. If this action is not taken, then the appropriate matching of income and expense is not completed. If politicized accounting procedures are used, the clarity and transparency of the financial situation is not properly disclosed to financial statement users.***
2. Should the FDIC pursue one or more of the other alternatives to the prepaid assessments, such as borrowing from Treasury or the FFB? ***YES. Prepaid assessments are not the correct accounting procedures to account for this financial condition. How many banks do the regulators allow to record prepaid expenses for three plus years?This is NOT appropriate especially when the exact time period or the exact amount the prepayment covers is not defined-it is open ended and the benefit could be used sooner or later than the period covered (2009-2012). The use depends on how quickly FDIC recognizes the failing banks by closing them. This recognition will depend on the political climate and the investors/banks willing to partner with FDIC to soften the impact to FDIC's financial condition. REMEMBER CLARITY AND TRANSPARENCY. If the special assessment is not used then other sources have to be used.***
3. Should prepaying assessments be voluntary rather than mandatory as currently contemplated, and, if so, how would the FDIC ensure that it receives sufficient cash to fund resolutions of failed insured depository institutions? (If prepayment of assessments were optional, the FDIC believes that it would affect the accounting treatment as a prepaid expense.) ***Please explain the accounting facts to conclude the voluntary treatment would create vs the mandatory treatment. Banks and other businesses make the decision everyday to prepay expenses without asking FDIC or other banks if they can or cannot do it. This is a business decision based on the actual facts. I do not see the voluntary or mandatory requirement determining the accounting treatment. If the expense is prepaid and qualifies for prepayment, it would be properly accounted for. If FDIC exempts one bank from paying the assessment, does this mean all banks are precluded from mandatory prepaid accounting treatment? I do not think so. Providing cash to FDIC should consider various methods and <u>should not</u> be mandatory. FDIC should allow all banks that elect to advance funds to FDIC to do so-whatever you describe it to be. The next alternative to assure adequate cash is to allow the banks to loan funds (amounts determined by each bank) to FDIC at an acceptable interest rate (use an auction to determine the acceptable interest rates with time period responsible for the rate. Obviously if you pay higher returns you will receive all the funds and more than you most likely will need. If the rate is higher than the Treasury funding costs then the Treasury becomes a player). If the voluntary treatment does not create adequate funds for FDIC, then FDIC would use the Treasury line of credit until adequate funds are created from the banks. If using voluntary requests and the Treasury is an unacceptable method (mostly political reasons), then a mandatory loan/advance program with acceptable interest rates would be a better method than prepayment. Prepayment accounting is not acceptable accounting in this situation. The banks are loaning funds to the FDIC until the periodic assessments are made by FDIC. The other option is special assessments for the timely matching of assessments and expenses (losses). CLARITY AND TRANSPARENCY.***
4. For purposes of calculating the prepaid assessment, should the FDIC estimate the growth in the assessment base at a rate other than 5 percent for 2009, 2010, 2011 and 2012? Should the FDIC use different assessment rate assumptions than those proposed***? NO. Can a prepaid amount be variable? In this proposal the amount can increase or decrease based on actual experience and the timing of the actual losses. If the FDIC uses prepayment, how can the amount to be prepaid be variable based on some factor not yet determined?***

Again the prepayment treatment is not acceptable therefore 4,5,6 or 10% is not valid. CLARITY AND TRANSPARENCY.

5. As proposed, the FDIC would require prepayment of estimated assessments for the fourth quarter of 2009 and for all of 2010, 2011 and 2012 based on its current liquidity needs projections. Should the FDIC require prepayment of estimated assessments over a different period or in installments? ***Do NOT require prepayment of an amount that is not determined at this time. Prepayment of an expense indicates there is a value received for a determined time period. In this situation FDIC cannot guarantee the time period or the monetary amount the prepayment will cover so how can you prepay an amount that is not determined? If prepayment is elected, full disclosure has to be made in a footnote. CLARITY AND TRANSPARENCY is very vague in this situation. FDIC is guessing (professional, educated guesses) and wants to classify this as a prepayment. A loan/advance to FDIC or a Reserve for estimated FDIC premiums would be more appropriate accounting for this situation with the required footnotes for CLARITY AND TRANSPARENCY.***

6. Should the FDIC's Amended Restoration Plan incorporate a provision requiring a special assessment or a temporarily higher assessment rate schedule that brings the reserve ratio back to a positive level within a specified time frame (one year or less) from January 1, 2011, when the FDIC projects industry earnings will have recovered? ***YES. Again FDIC needs to timely match revenue with expenses. If the appropriate reserve is not maintained then special assessments or increased assessments must be created to keep FDIC in business. If FDIC is never to use taxpayer funds, the insured member banks have to be responsible for the financial health of FDIC which could bankrupt some of the weaker banks during stressed economic periods.***

If FDIC’s knowledge and estimate for future losses are close to correct and FDIC has to look to three plus years of normalized future assessments to possibly cover the estimated future losses and to keep the reserve at the appropriate level, FDIC should consider the following actions:

1. For clarity and transparency for the American taxpayer, who is the real guarantor for this ongoing financial storm, FDIC should present to the public their loss projections that create the need for this unusual action to provide additional cash flow to FDIC. If FDIC were a private business, FDIC would fall in the TOO BIG TO FAIL category and be rescued by the taxpayer. FDIC has another cash flow source, being the banks, prior to borrowing funds from the American taxpayer.
2. Since you are requesting a one time special cash injection (hopefully one time), you should first request from all banks the amount each of them will loan/advance the FDIC and at what interest rate. Create this cash flow as an advance from the banks willing to take this action. Why should banks make an interest free advance (call it prepaid assessment but it is a loan/advance until the actual FDIC assessments are determined) to FDIC. The banks that truly need the liquidity to stay in business will not and should not loan/advance funds to the FDIC or any other borrower.
3. If funds received from this procedure (#2) are inadequate, then an involuntary advance will be required from all banks proportionately based on the qualifying deposits (similar to the assessment procedures).
4. As the periodic and or special assessments are made and collected from the banks, then the appropriate accounting entries will be made by the banks and FDIC, and cash flow will be generated between FDIC and each bank based on the advances and FDIC’s current periodic or special assessment.
5. Borrow the funds from the Treasury and make the appropriate assessments as the losses are reasonably determinable? This makes the accounting process for FDIC and the banks much simpler. Most likely this would not be politically acceptable.
6. Establish a Reserve for FDIC Assessments (asset) at each member bank and analyze it quarterly. Advances to FDIC would fund the Reserve and FDIC periodic assessments would use (deplete) the reserve and create the appropriate expense for the bank. Similar to the ALLL.

A conflict of interest is obviously being created. If FDIC uses the cash acquired in this special action via losses from the bank failures prior to the established proportionate amortization of the prepayment, will the appropriate regulator require the banks to expense the remaining balance immediately or charge off the FDIC loan/advance immediately? FDIC may have the crystal ball everyone is searching for and be able to manage their loss timing (not allowed for the banks and private businesses) and not create a disproportionate loss recognition and question of the bank asset quality. Obviously this would never happen to appease the political process.

Respectfully Submitted for FDIC Consideration,

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