BNY MELLON

October 27, 2009

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

Attn: Comments

Re: RIN 3064-AD49: Notice of Proposed Rule Making – Prepaid Assessments

Dear Mr. Feldman:

The Bank of New York Mellon Corporation ("BNY Mellon") appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's ("The FDIC") Notice of Proposed Rulemaking requiring FDIC insured institutions to prepay their quarterly risk-based assessments from the fourth quarter of 2009 through the fourth quarter of 2012 on December 30, 2009 ("Proposal").

BNY Mellon applauds the FDIC for their innovative proposed solution to help the DIF Fund meet its liquidity demands while avoiding the pro cyclical impact that an emergency special assessment would cause.

Below are our responses to some of the Proposal's requests for comment as well as further comments and suggestions on the Proposal.

> Questions 1. – 3.: (1) As an alternative to prepaid assessments, should the FDIC meet its liquidity needs by imposing one or more special assessments? (2) Should the FDIC pursue one or more of the other alternatives to the prepaid assessment? (3) Should prepaying assessments be voluntary rather than mandatory?
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> BNY Mellon is strongly opposed to the FDIC meeting its liquidity needs by imposing one or more special assessments on its insured institutions at this time. As mentioned, we support the Proposal's objective to meet liquidity needs, rather, through mandatory deposit assessment prepayments. Mandatory prepayment is appropriately counter cyclical and spreads the burden over all banks. We do not believe at this time that it is desirable or necessary to employ such other alternatives as borrowing from the Treasury or the Federal Financing Bank.
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> We strongly recommend that the calculation of the prepaid assessment be based on the domestic deposits of insured institutions rather than total assets of such institutions as was the June 30, 2009 Special Assessment. Reasons for this include: (1) Deposits clearly represent the actual dollar amount being insured; (2) There is not a proven correlation between Total Assets and Insured Deposits for all institutions; (3) Given the potential balance sheet gross-up impact of FAS 166 and 167, there is the distinct possibility that any correlation which existed between total assets and insured deposits would become invalid for certain institutions, or that there would be further disparity, and (4) a calculation based on total assets shifts more burden toward the largest institutions and less toward the smaller institutions whereas the payout history evidences smaller institutions cause disproportionately more claims on the Deposit Insurance Fund ("DIF").

Questions 4. And 5.: (4) Should the FDIC estimate the growth in assessment base at a rate other than 5 percent? And, should the FDIC use different assessment rate assumptions than those proposed? (5) Should the FDIC require prepayment of assessments over a different time period or in installments?

BNY Mellon recommends a reduced growth rate or no growth rate in the final rule. A five percent growth rate, which builds upon a higher than usual level of deposits at September 30, 2009, may ultimately result in overstated assessment prepayments.

In regards to an increase in the assessment rate, as the need for an increased rate in the future is not certain, BNY Mellon recommends maintaining the current assessment rate for the prepayment proposal. The decision on an assessment rate increase should be deferred until it can be determined if one is necessary.

BNY Mellon believes that the prepayments should more closely match the actual liquidity needs of the DIF Fund. As the period of anticipated need is three years, spreading the prepayments over at least a one year period would ease the impact on insured institutions' liquidity as well as provide additional opportunity for earnings.

Question 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?

BNY Mellon supports the FDIC's Amended Restoration Plan allowing the DIF up to eight years to restore the reserve ratio to 1.15 percent. However, we do not agree with a requirement to restore the DIF Fund from negative to positive within a one year time frame from January 1, 2011. Though we are hopeful that the economy will be well on its way to recovery by then, it is too early to know for sure.

In addition, BNY Mellon supports the FDIC's position of applying a zero percent risk-weighting on prepaid assessments and believes that a zero percent risk-weighting should also be extended to TLGP-guaranteed obligations. We agree that the risk on these obligations is similar to claims on U.S. government agencies.

Thank you very much for your consideration of our comments. If you have any questions, please call me at 212-635-7080.

Sincerely,

John A. Park
Controller

jp/dtc