Michael P. Smith
President & CEO
New York Bankers Association
99 Park Avenue, 4th Floor
New York, NY 10016-1502
(212) 297-1699/msmith@nyba.com

October 28, 2009

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 Seventeenth St., NW
Washington, DC 20429

Re: RIN 3064-AD 49, 12 CFR Part 327

Dear Mr. Feldman:

In response to the notice of proposed rulemaking and request for comments published in the October 2 Federal Register, the New York Bankers Association (NYBA) is submitting these comments on the Corporation's proposed three-year prepaid assessment plan. While the clear majority of our members support the prepaid premium option as the least undesirable of available funding mechanisms for the Deposit Insurance Fund (DIF), we urge that the Corporation provide an option to those banks that may wish to avoid the potentially severe liquidity pressure that may be caused by prepaying more than three years' worth of deposit insurance premiums. Permitting some banks to opt out of the prepaid assessment and drawing down the FDIC's Treasury line of credit in an amount equivalent to the increase in the Corporation's cash balances that would have resulted if those same banks had prepaid the assessment would provide a more palatable option for a number of our members. In addition, we urge that any final rule that includes a prepayment of insurance premiums include a discount for the current value of those prepaid premiums. Our Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York whose aggregate assets exceed $9 trillion and which have approximately 250,000 New York employees.

The Corporation is concerned that the available cash balance in the DIF is rapidly being depleted. As a result, the Board proposes to require all insured institutions to prepay their estimated quarterly risk-based assessments for the fourth quarter of 2009 and for all of 2010, 2011 and 2012 by the end of December 2009. The FDIC estimates that the total prepaid assessments collected would be approximately $45 billion. The Board also voted to adopt a uniform three-basis point increase in assessment rates effective on January 1, 2011, and to extend the DIF restoration period from seven to eight years. Prepayment of assessments is intended to allow the industry to strengthen the cash position of the DIF immediately, while allowing the capital impact of deposit insurance assessments to be felt gradually over time as the industry improves its own financial position.

NYBA strongly supports the FDIC and is committed to assuring its continued solvency and liquidity. The vast majority of our members support the three-year prepaid assessment proposed by the Corporation and urge that it be adopted. New York banks and thrifts have seen their loan-to-deposit ratios decline by more than 15 percentage points, on average, over the past 18 months. With loan demand at historically low levels and more than adequate liquidity, most of our members are well-positioned to fund the prepaid assessment.

However, we suggest two amendments to the Corporation's proposal. First, a significant segment of the membership, which may be in areas with more robust loan demand, prefers that the FDIC draw down on its line of credit with the Treasury Department in order to preserve bank liquidity. Balancing the interests of these banks and thrifts against those who prefer to prepay the entire three-year assessment, we would suggest that the Corporation provide an option. Those insured institutions that want to prepay the assessment would do so before the end of December. For those who prefer to opt out of prepayment, the Corporation should calculate the amount of drawdown on the Treasury line of credit necessary to fund the equivalent cash balance to that which would have been paid if the institutions did not opt out of prepayment. The opt-out institutions would be responsible for repaying the Treasury drawdown with interest over time, making the Corporation whole while preserving bank capital, earnings and liquidity.

Some of our members also believe that the three-year prepaid assessment would be fairer if the FDIC provided a reasonable discount for interest on the payment. With interest rates at unusually low levels, this discount need not be a significant reduction in the amount of cash balance that would be brought in by the prepaid assessment. However, it would be a very important recognition by the Corporation of the time-value of money and would be consistent with normal banking practice. We therefore urge that the FDIC provide a discount on prepayments of assessment consistent with an appropriate government rate of interest.

We appreciate the opportunity the Corporation has provided to comment on this important proposal. NYBA believes that the continued funding of the DIF by insured banks and thrifts is a fundamental principle that should be maintained. We believe that the FDIC's proposed three-year-plus prepaid assessment would materially enhance the cash balance in the DIF without stifling the ability of most banks and thrifts to continue to make the loans and investments needed to restore the economy to full health. At the same time, we urge that an appropriate discount be provided for the prepaid asset and that those depository institutions that wish to opt out of prepayment be provided the option of funding the Corporation through repayment over time of an equivalent drawdown on the FDIC's Treasury line of credit.

Sincerely,

Michael P. Smith