BNY MELLON

December 30, 2010

Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

RE: RIN 3064-AD66

Notice of Proposed Rule-making – Assessments, Assessment Base and Rates

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 Rule-making regarding revisions to deposit insurance assessments for insured depository institutions (the "Proposal").

As required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), the FDIC has proposed to revise its definition of the assessment base used to determine deposit insurance premiums to average total consolidated assets minus average tangible equity. The Dodd-Frank Act directs the FDIC to adjust the assessment base for custodial banks.

BNY Mellon strongly supports adjustments to the assessment base directed by the Dodd-Frank Act which will help ensure equitable treatment of custodial banks. Custodial banks disproportionately support the current insurance system and will be further disadvantaged under the proposed assessment base without significant adjustments.

As a preliminary matter, it is worth noting that custody banks in general, and BNY Mellon in particular, have incurred disproportionate FDIC assessment burden under the current assessment regime. At Sept. 30, 2010, BNY Mellon incurred insurance assessments on approximately $68 billion of deposits, but only $4 billion of these deposits were covered by deposit insurance. This discrepancy resulted in BNY Mellon incurring assessments on more than 16 times the amount of deposits insured by the Deposit Insurance Fund ("DIF"), a multiple far in excess of that borne by most insured depository institutions. This discrepancy will only be further exacerbated under the proposed assessment base calculation if the relief from additional burden on custody banks included in the Dodd-Frank Act is not effectively designed and then implemented to the fullest extent possible.

The Stability of Custody-Based Deposits Renders Unnecessary the Proposed 30-day Maturity Cap on the Assessment Base Adjustment

The Proposal contemplates a deduction from the statutorily mandated assessment base in an amount equal to high quality liquid assets with a maturity not to exceed 30 days. The relatively stable nature of certain liabilities on a custody bank's balance sheet argues for the elimination of the proposed 30-day maturity cap. We have analyzed our deposit and funding profile which is fundamentally different from most banking institutions, but is more in line with that of a custody bank. The primary differentiator is the fact that the vast majority of our core deposit base is driven by complex, embedded operational relationships with clients that are not easily unwound. The company does not generally raise funds in the wholesale market; rather the strength of our operational relationships and wide array of services drives our core deposit funding. Our deposit balances are tied to unique service offerings. The operational complexity, long-term nature, and high switching costs of these relationships drive the longer-term predictability of balances. The nature of operational complexity of services is significant in almost all cases and varies by client and specific services provided. Accordingly, deposits from custody services offered are largely stable due to the extensive and costly on-boarding process for clients.

For example, the timeline for establishing a typical Custody relationship is roughly three to six months and involves significant investments in technology, platforms and people. Investments are made to mirror the implied maturity characteristics of these highly stable deposits. Due to the stability of these deposits, BNY Mellon invests in highly liquid strong credit quality assets across the maturity spectrum.

Not only does BNY Mellon advocate the elimination of the 30-day maturity cap as unnecessary and inappropriate for custody bank assessments, but we also recommend that the FDIC revise its envisioned custodial bank adjustment to include cash and balances due from depository institutions, held to maturity securities, available for sale securities, federal funds sold and securities purchased under agreements to resell with a Basel risk-weight of 20% or less, regardless of term to maturity. These asset categories equate to lines 34, 35, 36 and 37 on Schedule RC-R in the FFIEC 031.

By their nature, the assets included in these categories are low risk, easily marketable and can be used to meet liquidity requirements. Limiting the deduction to assets that mature within 30 days ignores the extremely low risk nature of these assets. As custodial liabilities are not tied to a universal maturity schedule, the corresponding custody deposits linked to these low risk assets, in most cases, do not follow a 30-day maturity cycle. In aggregate, the life cycle of these liabilities is stable and the balances are not volatile.

This approach will provide the custodial bank assessment relief intended by the Dodd-Frank Act. As previously mentioned, custodial banks are disproportionately assessed. While not correcting this inequity in the assessment process, this approach will better reflect the limited exposure to the DIF of a custodial bank.

An alternative to the 30-day maturity limitation on 0% and 20% risk-weighted assets would be to permit the deduction of all U.S. Treasury securities, U.S. government agency and U.S. government-sponsored agency securities, mortgage backed securities guaranteed by GNMA, FNMA or FHLMC and all sovereign debt securities issued by G-7 countries, regardless of maturity. Permitting the deduction of these securities is consistent with their low risk nature, as well as the Basel Committee's recognition of these securities as liquid assets. In addition, we believe all interest-bearing deposits with banks and the Federal Reserve with maturities of less than one year should be included in the deduction. Permitting the deduction of interest-bearing deposits with banks and the Federal Reserve reflects the short-term liquid nature of these securities.

Clarification of the Deposits to limit Assessment Deduction

The Proposal states that the assessment adjustment must not exceed the daily average value of the deposits identified by the institution as being held in a custody and safekeeping account. We believe that custody banks will be presented with some uncertainty as to exactly what deposits should be considered for purposes of the limitation, and therefore BNY Mellon suggests that the customer deposits to be used for determination of that limitation be clarified to include the fiduciary value of corporate trust and similar services. BNY Mellon, similar to other custody banks, is comprised of several businesses that operate in a fiduciary or agency capacity (Corporate Trust, Shareowner Services and Private Wealth Management) that generate deposits. Corporate Trust engagements are custodial and fiduciary relationships established with corporate, institutional and governmental clients, governed by carefully drafted and often complex documents, most typically involving the issuance of debt securities. Because of applicable cost structures, these are typically large transactions involving multi-million dollar, or sometimes billion dollar financings. Corporate Trust engagements are both permanent and long-term in nature. A trust formed for payments on municipal bonds, for example, can reside with a corporate trust bank for 10, 20 or even 30 years. In addition to the long-term nature, the corporate trust relationship can be complex, requiring highly developed systems in order to cover thousands or tens of thousands of payees in many instances. Shareowner Services acts in an agency capacity in support of investor and employee stock plans for corporations, their shareowners and their employee stock plan participants and in providing those services, holds customer balances. Similar to Corporate Trust, these contractual relationships can be complex, requiring highly developed systems and are difficult to unwind.

As with retail depositors, Corporate Trust and Shareowner Services funds are relationship driven, generally impervious to market stress and importantly (and unlike retail deposits), governed by detailed documents which make them difficult to decouple from the trustee bank holding the funds even in a short-term environment of acute stress.

Wealth Management relationships are primarily fiduciary in nature, but the Wealth Management group also serves only as custodian for some clients. An important factor regarding the investment of cash of fiduciary accounts awaiting investment or distribution in the bank's deposit products is that any cash of a fiduciary account in excess of the amount covered by FDIC insurance must be fully collateralized by the bank with predefined securities. Therefore, in addition to the arguments made above for Corporate Trust arrangements, there is no risk to the fiduciary clients or the FDIC fund for those collateralized deposits.

Clarification of Which Assets are to be Used for Assessment Base

The Proposal explains that the assessment is to be based on the institution's average consolidated total assets minus average tangible equity. While the Proposal contains a definition of average consolidated total assets, we believe the definition should be made more explicit. We recommend that the FDIC use the average assets used for calculating the leverage ratio in the Call Report as the starting point for determining the assessment base. Use of total quarterly average assets for leverage capital purposes will eliminate the double count of goodwill and intangible assets currently imbedded in the proposed assessment base calculation. The quarterly average assets measure in the proposed assessment base unfairly penalizes all depository institutions as such institutions will still incur a reduction in their capital calculation, for the implied write-off of goodwill and intangibles, but will not similarly be able to deduct goodwill and intangibles from the calculation of the assessment base. Use of average total assets for leverage capital purposes in the call report would eliminate this inconsistency while relieving the burden of additional reporting requirements in the FFIEC-031 report.

FICO Assessment

Finally, BNY Mellon disagrees with the use of the proposed assessment base to calculate Financing Corporation ("FICO") assessments paid by depository institutions. FICO premiums are assessed on IDIs to cover interest payments due on bonds issued between 1987 and 1989 to help recover costs associated with the savings and loan crisis. As such, they are not in any way related to the revenue obligations of the DIF, the current financial crisis, or the risk profile of existing banks.

This includes custodial banks which, as previously noted, already pay a disproportionate share of assessments under the deposit-based premium framework. The banking industry has fairly paid FICO premiums in accordance with the existing deposit assessment framework for in excess of 20 years. We believe that it is neither necessary nor appropriate to change this approach due to considerations far removed from the savings and loan crisis. We therefore recommend that the FDIC maintain the current deposit-based assessment framework for the determination of industry FICO premiums.

In summary, BNY Mellon strongly supports reviewing the deposit insurance framework to ensure the equitable treatment of custodial banks. We recommend that:

- the current proposed deductions of assets with maturities of 30 days or less be replaced with a deduction that more appropriately reflects the lower risk, liquid nature of custody banks by including all 20% or less risk-weighted assets in the cash and balances due from depository institutions, securities and fed funds sold and securities purchased under agreement to resell in the deduction;

- the definition of custody and safekeeping deposits be clarified to include the fiduciary value of Corporate Trust, Transfer Agent and Paying Agent and Private Wealth Management deposits;

- the average assets used to calculate the assessment base be clarified to use average total assets for leverage capital purposes, already included in the Call Report, which would effectively eliminate the double count of goodwill and intangibles included in the proposal; and finally,

- the methodology for calculating industry-wide FICO premiums remain unchanged.

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

Sincerely,

John A. Park
Controller

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