

From: Wade Nash [mailto:wnash@mobankers.com]
Sent: Tuesday, October 12, 2010 6:13 PM
To: Comments
Cc: Wade Nash
Subject: RIN 3064-AD37 Deposit Insurance Regulations

Missouri Bankers Association
207 East Capitol
Jefferson City, Mo 65101

October 12, 2010

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

Comments@FDIC.gov

RE: RIN 3064-AD37 “Deposit Insurance Regulations---Unlimited Coverage for Noninterest Bearing Transaction Accounts”

Dear Sir:

The following letter is submitted on behalf of the Missouri Bankers Association and Missouri’s nearly 340 federally insured banks and savings institutions. We appreciate this opportunity to comment on the proposed unlimited coverage for certain deposits, referenced above.

The MBA supports the proposed regulation, but requests some clarification, in anticipation of questions from banks on the details of complying with the regulation.

Under the proposal, Insured Depository Institutions (IDIs) would be required to give notice by mail to depositors who potentially may lose protection on NOW accounts and IOLTAs which were covered under the Transaction Account Guarantee Program. The proposed regulation states that the notice must be provided no later than December 31, 2010. We request that the FDIC clarify that in the case of joint accounts that only one notice is required for that account, and not a separate notice for each accountholder. Similarly, when depositors have more than one affected account, only one notice to that depositor should be required, as long as it identifies the affected accounts. Also, we request that the FDIC clarify that the notice should be permitted to be included on or with the account statements. A reference to the permissible use of electronic mail would also clarify when that method of delivery would comply with your requirements. These requests all reduce the time and treasure involved in compliance with mailing the above notice provisions and ultimately save the bank customer money.

The supplementary information to the proposed rule states that “The notice may be in the form of a copy of the notice required to be posted in IDI main office, branches and on Websites.” Please clarify that the FDIC intends that the language used in the notice prescribed in section 330.16(c)(1) is the language that is to be used to meet the notice requirement of section 330.16(c)(2).

The proposed rule would encompass “official checks” issued by IDIs within the definition of noninterest-bearing transaction accounts. In the FDIC’s supplementary information to the proposed rule, it states that “the payee of the official check (the party to whom the check is payable) is the insured party. Because these checks meet the definition of a noninterest-bearing transaction account, the payee (or the party to whom the payee has endorsed the check) would be insured for the full amount of the check upon the failure of the IDI that issued the official check.” This language seems contradictory to the language stated in section 330.5(b)(4)(i) (which discusses “negotiation” of the check as a factor in determining ownership) as follows:

(4) *Exceptions--(i) Deposits evidenced by negotiable instruments.* If any deposit obligation of an insured depository institution is evidenced by a negotiable certificate of deposit, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, negotiable traveler's check, letter of credit or other negotiable instrument, the FDIC will recognize the owner of such deposit obligation for all purposes of claim for insured deposits to the same extent as if his or her name and interest were disclosed on the records of the insured depository institution; provided, that the instrument was in fact negotiated to such owner prior to the date of default of the insured depository institution. The owner must provide affirmative proof of such negotiation, in a form satisfactory to the FDIC, to substantiate his or her claim. Receipt of a negotiable instrument directly from the insured depository institution in default shall, in no event, be considered a negotiation of said instrument for purposes of this provision.

Does the FDIC intend to treat official checks under this new rule differently from the existing regulation as the supplementary information seems to suggest? Clarification would be helpful.

Information from the FDIC in the form of Q&As and examples of how FDIC Insurance coverage would be applied during this two-year period would be helpful for both IDIs and the public.

Again, we support the broad purpose of this change in law, as implemented by the proposed regulation.

Thank you for this opportunity to comment on this proposal.

Sincerely,

Max Cook