THE FINANCIAL SERVICES ROUNDTABLE

Financing America's Economy

1001 PENNSYLVANIA AVE., NW
SUITE 500 SOUTH
WASHINGTON, DC 20004
TEL 202-289-4322
FAX 202-628-2507

E-Mail info@fsround.org
www.fsround.org

November 26, 2010

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

Re: Notice of Proposed Rulemaking on Assessments, Assessment Rates and Designated Reserve Ratio

File Number: RIN 3064–AD63; FR Doc. 2010–27036

Ladies and Gentlemen:

The Financial Services Roundtable (the "Roundtable[1]") appreciates the opportunity to provide the Federal Deposit Insurance Corporation (the "FDIC") with its comments regarding the FDIC's notice of proposed rulemaking regarding assessment rates, the Deposit Insurance Fund (the "DIF"), and the Designated Reserve Ratio (the "DRR") that was published in the Federal Register on October 27, 2010 (the "Notice").[2]

The rules proposed by the Notice would establish a new DRR of 2 percent, permanently suspend the declaration of dividends from the DIF once the DRR exceeds 1.5 percent, and establish assessment rate schedules and associated adjustments for the time periods from the present until the DRR reaches 1.15 percent, 2.0 percent, 2.5 percent, and above. On November 9, 2010, the FDIC issued a new notice of proposed rulemaking that would supersede the specific rates and other terms of the assessment schedules in the October 27th Notice. This subsequent November notice, however, does not propose to change the permanent suspension of dividends once the DRR exceeds 1.5 percent or the designation of a new DRR at 2 percent. Therefore, the Roundtable is providing comments now on these parts of this proposed rulemaking and we will file separate comments on the issues raised by the new notice of proposed rulemaking.

The Roundtable supports the FDIC's goal of restoring the DIF to a healthy, stable, and sustainable level and supports the FDIC's goal of "moderate steady assessment rates

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[1] The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Roundtable member companies provide fuel for America's economic engine, accounting directly for $74.7 trillion in managed assets, $1.1 trillion in revenue, and 2.3 million jobs.

[2] 75 Fed. Reg. 66272 (October 27, 2010).

throughout economic and credit cycles."[3] More specifically, the Roundtable strongly urges the FDIC to implement counter-cyclical assessment policies.[4] The Roundtable expresses its support and appreciation for the FDIC's decision to forgo the uniform 3 basis point increase in initial assessment rates that was scheduled to take effect on January 1, 2011. We believe this step is an appropriately counter-cyclical approach in light of the FDIC's acknowledgment of "the slow and uncertain pace of economic recovery [which] creates a challenging operating environment for [insured depository institutions]."[5]

Designated Reserve Ratio

The Roundtable urges the FDIC to revise its proposal to set the DRR at 2 percent and, instead set the DRR at no more than 1.5 percent. A 2 percent minimum would be a very large increase -- close to doubling the DIF as compared to the pre-Dodd-Frank Act minimum and almost a 50 percent increase over the minimum 1.35 percent required by the Dodd-Frank Act itself. Moreover, the Roundtable urges the FDIC in setting the DRR to consider the potential impact of the extensive new requirements and regulatory authorities that will come into effect under the Dodd-Frank Act. Focusing solely on the severity of previous crises does not give any consideration to the new regulatory environment that will reduce risks in the banking system in the future.

We urge the FDIC to set the DRR at 1.5 percent at most, and to determine whether any additional increases beyond this point are necessary based on a contemporaneous evaluation of the facts and circumstances. The Dodd-Frank Act does not evidence a direction for DRR higher than 1.5 percent. The Dodd-Frank Act did not eliminate the existing statutory presumption that dividends would be paid from the DIF once the DRR exceeds 1.5 percent, and a DRR at that point would still provide a buffer above the minimum ratio required by the Dodd-Frank Act. A DRR higher than 1.5 percent should only come into effect in the future based on the considerations provided by the statute, with a focus on counter-cyclical policies.

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3 *Id*. at 66272.

4 The FDIC has recognized that properly calibrated assessment policy "should mitigate the pro-cyclicality of the current system." FDIC, *Notice of Proposed Rulemaking Regarding the Definition of an Institution's Deposit Insurance Assessment Base*, 6 (November 9, 2010). *See also* 12 U.S.C. 1817(b)(3)(C)(ii) (providing for the FDIC Board in setting the DRR to "take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions"); Benjamin S. Bernanke, Chairman, Board of Governors of the Federal Reserve, At the Federal Reserve Bank of Boston 54th Economic Conference: Financial Regulation and Supervision after the Crisis: The Role of the Federal Reserve (October 23rd, 2009); Bank for International Settlements, Basel Committee on Banking Supervision, *Strengthening the Resiliency of the Banking Sector*, (December 2009)

5 75 Fed. Reg. at 66285.

Dividends

As noted above, the Dodd-Frank Act did not repeal the statutory provisions for the payment of dividends from the DIF when the DRR exceeds 1.5 percent. Instead, the Dodd-Frank Act provides for the FDIC to issue regulations regarding the method for declaration, calculation, distribution, and payment of dividends, and provides that the FDIC Board may, in its sole discretion, suspend or limit the declaration of dividends. Under the Notice, however, the FDIC "is proposing to suspend dividends permanently whenever the fund reserve ratio exceeds 1.5 percent."[6]

The Roundtable believes that such a regulation providing for a permanent and unconditional suspension of dividends is an unnecessary limitation on the discretion the Dodd-Frank Act specifically grants to the FDIC's discretion. Because of the authority already provided under the Dodd-Frank Act, there is no need to establish a permanent and unconditional suspension by regulation. Instead, decisions about dividends should be based on the relevant facts and circumstances whenever the reserve ratio exceeds 1.5 percent. Any other construction would unnecessarily dilute and, perhaps effectively nullify the discretion that the Dodd-Frank Act confers on the FDIC Board to suspend or declare dividends.

If the FDIC determines to proceed with such a regulation, however, the Roundtable urges it to provide that such suspension may be lifted in circumstances that the FDIC deems appropriate or based on appropriate counter-cyclical factors. Such a provision would provide the flexibility to adapt to changing circumstances and give real meaning to the discretion expressly provided to the FDIC under the Dodd-Frank Act.

Conclusion

The Roundtable supports the FDIC's goal of restoring the DIF to ensure that the banking system can maintain its resilience and stability during future economic downturns. With regard to the proposed rule, the Roundtable urges i) a counter-cyclical approach; ii) a DRR at no more than 1.5 percent; and iii) revision of the proposed provision suspending dividends permanently when the DRR exceeds 1.5 percent. We provide our comments in a constructive spirit to offer alternatives that we believe are better designed to meet those objectives.

The Financial Services Roundtable thanks the FDIC for the opportunity to comment on the proposed rule. If you have any questions, please feel free to contact me or Brian Tate at (202) 289-4322.

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6 Id. at 66281.

Sincerely,

Richard M. Whiting

Richard Whiting
Executive Director and General Counsel