American Bankers Association

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

Re: RIN 3064–AD37; Amendment to the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with Opportunity to Opt Out; 12 CFR Part 370; 75 Federal Register 20257, April 19, 2010

Dear Mr. Feldman:

The American Bankers Association (ABA) welcomes the opportunity to comment on the interim rule from the Federal Deposit Insurance Corporation (FDIC) to extend the Transaction Account Guarantee (TAG) Program through 2010, and possibly through 2011. The ABA represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees.

The ABA supports extension of the Transaction Account Guarantee Program, as we recommended in our letter of March 12, 2010, to Chairman Bair.[1] We believe the extension through the end of the year and the flexibility to extend the program for up to another year is appropriate given the still uncertain path of the economic recovery and the need to prepare to carefully unwind the program in a way that limits any adjustment problems. As we noted in our March letter, economic conditions in many parts of this country have deteriorated since ABA wrote last summer in support of the current six-month extension of the TAG Program.

Besides the economic conditions, another important factor supporting extension is the number of bank failures expected this year, the attendant media coverage, and the impact that can have on depositor confidence. Recurring news of bank failures will continue to weigh on the minds of depositors and may trigger deposit outflows. As economic conditions will continue to create stresses for bank customers and for banks themselves, it is important to avoid feeding irrational fears about the safety of bank deposits.

The need for stable sources of bank funding also remains critical. With lingering public insecurity, elimination of the TAG Program at this point could create an unnecessary confidence event that could raise liquidity risks that may be difficult for some banks to manage without significantly reducing lending and other services they provide to their local communities. Thus, the ABA believes the TAG Program should be extended at this time, as proposed.

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[1] ABA President and CEO Edward L. Yingling letter to FDIC Chairman Sheila C. Bair, March 12, 2010, *www.aba.com/aba/documents/news/TAGPextension31210.pdf.*

We understand the desire to make this a temporary program and not to have it become a permanent source of insurance. Finding the right glide-path to achieve this is critical and is to some extent affected by how quickly economic conditions improve. As economic conditions are still very challenging in many parts of this country, ***flexible*** planning is even more important. We believe the opportunity to extend the program further for up to one year, should it be necessary, applies this same principal of flexibility and ABA supports it.

It is essential that the risks of the program be managed, and continuation of a risk-based pricing system remains appropriate for any extension. The extension is not intended to delay the inevitable for seriously troubled institutions – nor should it be. But a sudden termination of the program while uncertainty among depositors still persists could trigger an adverse impact on banks that are viable. Such an outcome is clearly counter to good public policy and outweighs the potential cost of extending the program.

While we support extension of the TAG Program, we recommend some changes in the interim rule:

- Healthy banks should be able to opt back into the TAG Program.
- The cap on interest rates for NOW accounts should remain at 50 basis points or be indexed to reflect current market rates.
- The base for TAG Program assessments should reflect current reporting requirements.

These recommendations are discussed below.

I. Healthy Banks Should be Able to Opt Back into the TAG Program.

At the time the TAG Program was established in October 2008, the expectation was that it would be available for only 14 months. Institutions that decided to opt out of the program did so under the belief that it would be terminated at the end of 2009. At the time they made their decision, there was ***no indication*** that the program would be extended beyond the first year, and no indication that it would be extended further beyond the current period ending in June.

In making their decisions, they had to weigh the adverse competitive consequences of not offering the service. These banks understood that they would have no opportunity to opt back into the program during the year, but later found that they had no opportunity to opt back into the program during the six-month extension. Now these banks find themselves faced with a further extension – which could be as long as another 18 months. They had no control over this decision to extend, yet some banks may feel like their one-year choice has become a two- and even three-year competitive disadvantage. It is unfair to continue to restrict institutions from participation since the program's features have materially changed.

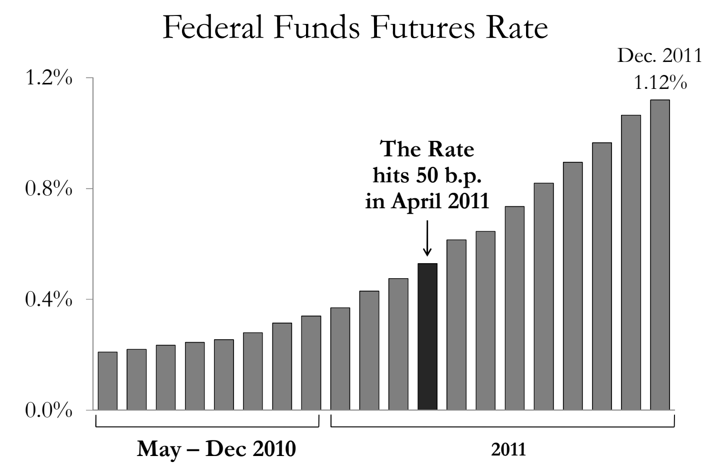
We strongly recommend that institutions that have opted out previously be given an opportunity to opt back in. We understand the concerns of the FDIC not to have institutions opt back in that pose a significantly higher risk to the program. However, we believe that rules could be established to assure that this is not the case. The basic idea is this: if the financial position of the institution is not worse than it was when the original decision was made, that institution should be allowed to opt into the program again. Nearly all banks have been through one examination cycle since the TAG Program started, and there should be ample information to evaluate whether the risks of those seeking to opt in have increased. Re-enrollment by healthy banks would also increase the program's revenues and the size of risk pool for absorbing losses.

II. The Cap on Interest Rates for NOW Accounts Should Remain at 50 Basis Points or Be Indexed to Reflect Current Market Rates.

Currently the TAG Program provides an FDIC guarantee for NOW accounts where the interest rate cannot rise above 50 basis points. For banks that remain in the program after June, the FDIC proposes to lower the ceiling to 25 basis points. Certainly, short-term interest rates have fallen since the inception of the program, and we understand that the recommendation reflects these changes. However, fixing the rate at 25 basis points does not recognize the likely increases in interest rates across the next 6 to 18 months; nor does it recognize the complications related to banks' notification of customers about the coverage. To address these, ABA offers two possible solutions:

1. ***Retain the Rate at 50 Basis Points***
   This would eliminate a further notification of customers that the rules have changed regarding the interest rate on these types of accounts and would avoid confusion among depositors that understand the current rules. If there is a high likelihood that the program will indeed end on December 31, 2010, then retaining this limit would make sense given the short time frame.

2. ***Indexing the Ceiling Rate to Reflect Rising Rates***
   The federal funds futures market suggests that interest rates could rise to over 110 basis points by year-end 2011 (see chart). With rising rates, having a fixed limit at 25 basis points (and even 50 basis points) would result in depositors moving money out of banks into higher-yielding alternatives.



Source: CME Group 30-day federal funds futures rates as of May 19, 2010

   Given the likelihood of increases across the potential time period of the program, indexing the ceiling rate to some market interest rate (*e.g.*, the federal funds rate) and adjusting that rate quarterly would keep the relationship between NOW accounts and other non-interest bearing accounts consistent and would keep in check the incentives of depositors to move money out of banks due to the ceiling restriction. Moreover, it would help to avoid customer confusion that would occur about whether their NOW accounts are insured as market rates rise.

Maintaining flexibility for the rate ceiling would support the FDIC's goal in extending the TAG Program "to maintain stability for [banks] and promote a continuing and sustainable economic recovery throughout the country."[2] If the rate ceiling is set below market rates in the future then covered NOW accounts will become uncompetitive, and the TAG Program will no longer fulfill its goal to restrain deposit outflows.

[2] FDIC, "Amendment to the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program with Opportunity to Opt Out," 75 Federal Register 20259.

III. The Base for TAG Program Assessments Should Reflect Current Reporting Requirements.

The interim rule would change the base for assessments under the TAG Program to the average of daily closing covered balances, from the current base of the end-of-quarter covered balance. Accordingly, each participating bank would be required to report in its Call or Thrift Financial Report the average of daily closing balances in covered accounts in excess of $250,000 and the number of such accounts, and would also have to maintain supporting documentation. ABA believes that this change is appropriate ***only*** for banks that currently report their FDIC assessment bases as the quarterly average of daily closing balances. ***Such a change, however, is not appropriate for banks that report their FDIC assessment bases using end-of-quarter balances.*** Simply put, the base should reflect the current reporting methodology of banks and not impose any additional reporting requirement.

The interim rule notes that only banks with more than $1 billion of assets and those chartered after 2006 are required to report their assessment bases using the average of daily balances. This means that over 90 percent of the industry is not subject to this requirement. For banks that currently report end-of-quarter balances, many do not have, as the interim rule indicates, small numbers of accounts covered under the TAG Program, and there would be significant cost to alter the general ledger systems to be capable of meeting this standard. For a program that may end this December – for a total of just two quarter-end regulatory reporting periods – there is no way to justify the added cost for the over 5,400 participating banks not currently required to report on an average-of-daily-balances basis.

Conclusion

ABA appreciates this opportunity to comment on the interim rule. The ABA supports extension of the TAG Program and urges that the Board consider the changes that allow banks to opt back into the program, keep the cap for NOW accounts at 50 basis points or index the cap, and keep the base used for assessments consistent with the reporting done by banks of different sizes. We are prepared to work with the FDIC staff on this and other proposed amendments to the program.

Sincerely,

Robert W. Strand