PACIFIC COAST BANKERS' BANK

December 29, 2010

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

Re: RIN 3064-AD66

Dear Mr. Feldman,

Pacific Coast Bankers' Bank (PCBB) has reviewed the FDIC's notice of proposed rule making regarding institutions' deposit insurance assessment base issued on November 9, 2010 and is in support of the proposed rule. However, we recommend the FDIC use the bankers' bank definition contained in 12 U.S.C. 461 (b)(9) and the standards contained in 12 C.F.R. 204.121 in lieu of 12 U.S.C. 24 to afford bankers' banks to use the statutory assessment adjustment.

Specifically, our commentary addresses the definitional aspects of the bankers' bank designation and seeks to clarify and allow for a uniform interpretation of the characteristics that determine whether an institution qualifies as a bankers' bank. This is necessary to avoid unintended consequences and to ensure uniform application by various regulatory agencies.

We believe it is not the intent of the FDIC to change an existing regulatory framework that has been used to define a bankers' bank since the 1980's, as contained in 12 U.S.C. 461 (b)(9) and the standards contained in 12 C.F.R. 204.121.

We are requesting that Section III Assessment Base Changes, *Bankers' Bank Adjustments* be amended to clarify that the definition for a bankers' bank will be interpreted consistent with 12 U.S.C. 461 (b)(9) and the standards contained in 12 C.F.R. 204.121.

Under 12 U.S.C. 24 a bankers' bank is required to be **exclusively** owned by depository institutions or depository institution holding companies.

Under the subsequent interpretation contained in 12 C.F.R. 204.121, **only** depository institutions that satisfy all of the following requirements are regarded as bankers' banks:

(i) Is organized solely to do business with other financial institutions;

(ii) Is owned primarily by the financial institutions with which it does business; and

(iii) Does not do business with the general public.

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In addition, under 12 C.F.R. 204.121, in its application of these requirements to specific institutions, regulatory agencies have used the following standards:

(i) A depository institution may be regarded as organized solely to do business with other depository institutions even if, as an incidental part to its activities, it does business to a limited extent with entities other than depository institutions. The extent to which the institution may do business with other entities and continue to be regarded as a bankers' bank is specified in paragraph (a)(2)(iii) of this section.

(ii) A depository institution will be regarded as being owned primarily by the institutions with which it does business if 75 percent or more of its capital is owned by other depository institutions. The 75 percent or more ownership rule applies regardless of the type of depository institution.

(iii) A depository institution will not be regarded as doing business with the general public if it meets two conditions. First, the range of customers with which the institution does business must be limited to depository institutions, including subsidiaries or organizations owned by depository institutions; directors, officers or employees of the same or other depository institutions; individuals whose accounts are acquired at the request of the institution's supervisory authority due to the actual or impending failure of another depository institution; share insurance funds; depository institution trade associations; and such others as the Board may determine on a case-by-case basis consistent with the purposes of the Act and the bankers' bank exemption. Second, the extent to which the depository institution makes loans to, or investments in, the above entities (other than depository institutions) cannot exceed 10 percent of total assets, and the extent to which it receives deposits (or shares if the institution does not receive deposits) from or issues other liabilities to the above entities (other than depository institutions) cannot exceed 10 percent of total liabilities (or net worth if the institution does not receive deposits).

Finally, it is important to note that given the narrow definition provided under the proposed rule, entities that have been operating as bankers' banks for decades could be excluded and there could be additional unintended consequences. These include but are not limited to the following:

1. A strict interpretation of the proposed rule could cause bankers' banks that have received TARP funds under the Capital Purchase Program to be prohibited from receiving the adjustments.

2. A strict interpretation of the proposed rule could cause bankers' banks that participate in the Small Business Lending Fund (SBLF) to be prohibited from receiving the adjustments.

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3. A strict interpretation of the proposed rule could cause a bankers' bank to change status in the event of a shareholder bank receivership. Given that a bankers' bank is an entity owned by financial institutions, shares could be transferred to the FDIC in the event of receivership causing a bankers' bank to change status under the proposal, simply as a result of this action.

4. A strict interpretation of the proposed rule could cause a bankers' bank to be forced to exclude executive officers, employees and directors from owning shares; which is contrary to best practices (and existing compensation plans) intended to align employees' interests with long-term interests of the firm and its stakeholders. A key aspect of such programs includes aligning long-term goals with proper risk management. Restricted stock, vested over a multiyear period and subject to a look-back mechanism (e.g., clawback) designed to account for the outcome of risks assumed in earlier periods is such a risk management tool.

5. For PCBB, we note that 6.5% of the outstanding common shares are not held by depository institutions and are instead held by the FDIC, as well as current and former directors and executive officers under existing equity programs.

Given the factors outlined above, we therefore respectfully request that the FDIC:

1. Modify the definition for a bankers' bank so it is consistent with 12 U.S.C. 461 (b)(9) and the standards contained in 12 C.F.R. 204.121. (Will ensure assessment adjustments are only applied to bankers' banks); and

2. Specify federal capital infusion initiatives such as TARP, the new Small Business Lending Fund, any future federal capital initiatives and FDIC equity ownership of failed institutions are excluded when bankers' banks self-certify they meet the definition. (Will ensure bankers' banks can participate in such programs without jeopardizing the Dodd Frank assessment adjustment treatment).

Doing so will help ensure bankers' banks continue to maintain their critical role in providing ongoing support to our community bank customers and in turn, their small business customers that are so critical to a robust economic recovery.

Respectfully submitted,

Steve Brown
President & CEO
Pacific Coast Bankers' Bank