May 19, 2010

Robert E. Feldman, Executive Secretary
Attention: Comments
550 17th Street, NW
Washington DC 20429

Re: RIN #3064-AD37; Interim Rule Amending the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program

Dear Mr. Feldman:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on the interim rule to extend the FDIC's Transaction Account Guarantee (TAG) Program.

The Federal Deposit Insurance Corporation (FDIC) adopted the Temporary Liquidity Guarantee Program (TLGP) to address unprecedented disruptions in credit markets. The Transaction Account Guarantee (TAG) Program is one component of TLGP and fully guarantees noninterest-bearing transactions accounts and certain NOW accounts until December 31, 2010. This guarantee is in addition to and separate from coverage provided under the FDIC general deposit insurance rules.

Summary of Interim Rule

The FDIC issued an interim rule extending the TAG program for six months through December 31, 2010, for banks that currently participate in the program, with the possibility of an additional 12-month extension without further rulemaking at the discretion of the Board upon a finding of a continuing need for the TAG program.

[1] The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an everchanging marketplace.
With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Banks that currently participate in the TAG program had a one-time, irrevocable opportunity to opt out of this extension. If a bank decides to remain in the extended program, it is obligated to remain in the program through December 31, 2010, and will also be obligated to remain in the TAG program for the additional 12 months, through December 31, 2011, if the Board further extends the program.

Currently, the TAG program provides for an FDIC guarantee of NOW accounts with interest rates no higher than 0.50% at banks that have committed to maintain that rate for the duration of the program. The FDIC reduced the interest rate on eligible NOW accounts to a maximum of 0.25% after June 30, 2010 to align covered NOW accounts with current market rates.

Although the interim rule makes no changes to the amount of the fee for a bank's continued participation, it modifies the assessment basis for calculating the risk-based fee. Currently, participating banks report the total dollar amount and the total number of TAG-qualifying non-interest bearing transaction accounts as of the end of the calendar quarter. The interim rule provides that participating banks will be required to report the total dollar amount of TAG qualifying accounts and the total number of accounts as average daily balance amounts. Documentation supporting the amounts used in the calculation of the average daily balance amounts must be retained and be available upon request by the FDIC or the bank's primary Federal regulator.

ICBA's Position

The ICBA appreciates FDIC's extension of the TAG Program as it has had a positive and stabilizing effect on the banking industry. Terminating the program at this time would be premature, given the current state of the nation's financial recovery. As we previously stated, the TAG Program is important to community banks competing with too-big-to-fail institutions. Already at a disadvantage from large banks for access to stable deposits, community banks do not enjoy the defacto unlimited guarantee of deposits that the large, too-big-to-fail institutions currently have. The TAG Program helps even the playing field by providing community banks the same opportunity as the large too-big-to-fail banks to guarantee their customers' transaction accounts.

The ICBA also supports an additional 12-month extension without further rulemaking and moreover, believes the TAG Program should be extended through December 31, 2013, as offered by the Johnson-Enzi amendment to the "Restoring American Financial Stability Act of 2010." This would restore confidence in the long term stability of our industry and favorably impact the availability and cost of credit, which is particularly important for the small business and municipal customers of community banks that frequently hold amounts in excess of the regular insurance limit in payroll and other operating accounts.

Interest Rates on NOW Accounts

The interim rule reduces the interest rate on NOW accounts eligible for the TAG Program guarantee from a maximum of 0.50 percent to a maximum of 0.25 percent. Participating banks must commit to maintaining that rate for the duration of the program through December 31, 2010 or December 31, 2011, if the Board further extends the TAG Program. At the inception of the TAG program, 0.50 percent was viewed as a low rate of interest and a NOW account paying no more than this rate would be substantially similar to a noninterest bearing transaction account. The FDIC lowered the maximum interest rate to align covered NOW accounts with current market rates. The prevailing nationwide average rates for regular interest-bearing checking accounts currently have lower rates while premium interest bearing accounts held by large transaction account holders such as municipalities and school districts range from 0.26 percent to 0.29 percent.

Community banks are divided on their support of reducing the maximum interest rate on NOW accounts. While lowering the rate would not adversely affect some community banks whose rates fall at or below the proposed maximum rate, others note that community banks, already at a disadvantage from large banks for access to stable deposits, must pay higher rates to attract and maintain deposits.

However, whether or not community banks support a reduced rate, a primary concern is the inflexibility of a rate that may become too low for the market. While many institutions do not consider NOW interest rates to be as sensitive as other deposit rates, mandating a rate for a significant length of time presents a certain amount of risk into the system, against which regulatory agencies have been cautioning. The FDIC should commit to revisiting the maximum rate from time to time for the duration of the program.

Opting Out and Assessment Base

The interim rule provided participating banks a one-time irrevocable opportunity to opt out of this extension. Banks that did not opt out and are currently participating in the TAG Program will not have another opportunity to opt out if the Board further extends the program, and will be obligated to remain in the program for an additional 12 months, through December 31, 2011. ICBA believes banks should be given an additional opportunity to opt out if the FDIC extends the program. It is important to permit participating institutions to review their individual circumstances and to opt out of each TAG extension. Since the program will mean continued fees for banks, an additional opt out would enable banks to determine whether continuing to participate in the TAG Program for an additional year would be cost beneficial to their specific circumstances.

In order to monitor and assess fees based on the ongoing risk exposure of the Depository Insurance Fund, participating banks must report the total dollar amount of TAG-qualifying accounts and the total number of accounts as an average daily balance. Participating banks currently report the total dollar amount and the total number of TAG-qualifying non-interest bearing transaction accounts as of the end of the calendar quarter. While the change in the assessment base may create additional administrative burdens on smaller banks, the change would more accurately reflect the TAG amounts of these fluctuating and volatile accounts.

ICBA appreciates the opportunity to comment on the TAG Program extension. If you have any questions or need additional information, please do not hesitate to contact me at Lilly.Thomas@icba.org at (202) 659-8111.

Sincerely,

Lilly Thomas
Vice President and Regulatory Counsel