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Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, DC 20429

RE: RIN 3064-AD 66

Dear Mr. Feldman:

In response to the notice of proposed rulemaking published in the November 24, 2010 Federal Register, the New York Bankers Association is submitting these comments on the Corporation's proposed new Assessments, Assessment Base and Rates. The new assessment base, required by amendments to the Federal Deposit Insurance Act by the Dodd-Frank Act, would be based in general on the average total assets of an insured depository institution minus its average tangible equity. The current system, in effect since the 1930's, is based on total domestic deposits with certain adjustments. In addition, the proposal would change the adjustments made to the assessment base and alter the rate schedule charged by the Corporation. Our Association is generally supportive of the proposal, particularly supports the Corporation's stated intent that the new assessment base generate no greater revenues than the current assessment base, and agrees with the Corporation's intent to use, to the extent feasible, data already reported on the quarterly Call Reports as the basis for calculating assessments. The New York Bankers Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York. Our members have aggregate assets in excess of $11 trillion and more than 200,000 New York employees.

The Dodd-Frank Act altered the basis for FDIC assessments from total domestic deposits to average consolidated total assets less average tangible equity during the reporting period. It contained two separate adjustments to the base for custodial banks and bankers' banks. The purpose of this rulemaking is to define "average consolidated total assets" and "average tangible equity" and to establish a system of calculating and reporting these new constructs as well as the assessment methodology to apply to them. The FDIC has established three standards for this new methodology: first, that the reported elements of the new assessment base accurately reflect an entire quarter's operations by a reporting depository institution; second, that the definition of tangible equity reflect accurately the ability of the reported equity to provide a true capital buffer for a reporting depository institution; and, third, that the reported elements in the new assessment base require minimal changes in existing reporting requirements. Our Association agrees with these standards.

Consistent with these standards, the Corporation is proposing to define average consolidated total assets using the accounting methodology already in place for reporting total assets on bank and thrift Call Reports. Although, consistent with Dodd-Frank, the proposal would extend averaging of assets from insured depositories with assets of $1 billion or more to those below that amount, we urge that, to ease the increased reporting burden on smaller institutions, and consistent with current Call Report practice for institutions subject to daily averaging, the Corporation permit reporting institutions to choose between reporting the average of daily balances over the quarter or an average of asset balances from a single day each week during the quarter.

The Corporation is proposing to define tangible equity as Tier 1 capital, a definition our Association supports. Because average Tier 1 capital is already calculated as part of Call Report data as an average of month-end capital for larger institutions and as the quarter-end figure for those under $1 billion in assets, using this definition will place no additional reporting burden on insured institutions. It is also a concept familiar to reporting institutions.

The Corporation's proposal is also intended to be revenue neutral, that is, to raise no more revenue in each reporting period than would the current system of assessments on total domestic deposits. The New York Bankers Association strongly supports maintaining revenue neutrality in the conversion of the current deposit insurance assessment system to the new system of asset-based assessments. Proposals to increase or decrease the total revenues of the FDIC deserve to be treated separately from a proposal to establish a methodology for imposing assessments. Whereas the former is intended to establish the total revenues available to fund the FDIC, the latter aims to create a system consistent with Congressional intent which will raise a stated amount of revenue in the least burdensome and most judicious fashion. We support the FDIC's intent to adjust its assessment methodology without changing its revenue stream.

The Corporation also proposes to make several adjustments to the assessment methodology, both to avoid double counting and other inequities and consistent with the requirements of the Dodd-Frank Act. First, the proposal would adjust the assessment base for bankers' banks and custodial banks. For bankers' banks, the adjustment would include a deduction of federal funds sold from the assets of the banks. However, deducting federal funds sold only from bankers' banks could lead to a distortion in the federal funds market because it would reduce the assets of bankers' banks while leaving those of other federal fund sellers unchanged. We would urge that all banks be entitled to reduce their assets by a deduction for federal funds sold.

The proposal would also increase incentives for insured depository institutions' issuing unsecured debt. These incentives are designed to avoid having the change in the assessment base increase the relative cost of unsecured debt, and recognize that such debt can reduce the cost to the FDIC of resolving a failed depository institution. We strongly support the proposal's reducing the assessment rate by the amount of unsecured debt multiplied by 40 basis points plus the initial base assessment rate divided by the amount of the new assessment base.

Unfortunately, the proposal would also create a new disincentive for other depository institutions to purchase unsecured debt from an insured depository institution by imposing a new 50 basis point adjustment on the deposit insurance assessment of an institution that purchases another insured institution's unsecured debt. While we understand the Corporation's view that the total risk to the deposit insurance fund is not reduced when one insured depository buys the unsecured debt of another, the adjustment proposed is higher than the basic 40 basis point adjustment for the issuing institution and does not appear to reflect accurately the risk profile to the FDIC of the debt issuance. It also does not take into account the market judgment that an institution able to issue unsecured debt, all other things being equal, should have a lower risk profile than one that cannot issue such debt. We urge that the Corporation review this element of its proposal and align it more closely with the actual risk profile presented to the FDIC by the issuance and purchase of unsecured debt.

The Corporation's proposal would discontinue the secured liability adjustment. Our Association supports that proposal. However, the proposal would continue to impose a brokered deposit adjustment designed to compensate the deposit insurance fund for the additional risk posed by an insured depository institution that relies heavily on brokered funds. Included in the definition would be matching reciprocal deposit services such as the Certificate of Deposit Account Registry System (CDARS) and ANOVAFunds. Traditional brokered deposits involve a third-party deposit broker splitting a single customer deposit in excess of the deposit insurance limit into individual deposits under the limit and placing those deposits in a sufficient number of insured institutions to provide full deposit insurance coverage for the entire deposit. Matching reciprocal deposit services, by contrast, involve no brokers, are initiated by the depository institution in which the initial deposit is made, and, most important, involve providing deposits matching the maturity, interest rate and other key terms and conditions of the original deposit back into the originating depository institution. Traditional brokered deposits are typically rate-driven, while matching reciprocal deposit services are security-driven.

The New York Bankers Association believes that matching reciprocal deposit services should be excluded from the definition of brokered deposits. Because the depositor is seeking safety for the entire amount on deposit, the deposit is likely to remain on deposit in the bank of initial deposit so long as full deposit insurance coverage can be provided. An alternative to matching reciprocal deposit service is typically not a deposit broker, but collateralizing the account in excess of the deposit insurance limit, so that the entire amount on deposit remains secure. And the proposal already proposes to eliminate the adjustment for collateralized liabilities.

New York banks have found these services allow them to retain deposits that might otherwise seek an alternative deemed a safer haven. As a result, they increase the bank's lendable funds base and serve all the traditional functions of core deposits. We therefore urge that they be excluded from the adjustment for brokered deposits.

In summary, the New York Bankers Association supports generally the FDIC's proposal on deposit insurance assessments, the assessment base and assessment rates. We strongly agree that the proposal, if adopted, should be revenue-neutral, raising no additional funds than would be raised by the current system in a comparable reporting period. We also urge that the Corporation carry out its intent to revise reporting requirements for the new assessment methodology no more than necessary to implement the new system.

We appreciate the opportunity the Corporation has provided to comment on this proposal.

Sincerely,

Michael P. Smith