INDEPENDENT COMMUNITY BANKERS of AMERICA®

July 2, 2010

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

Re: RIN #3064-AD57; Assessments

Dear Mr. Feldman:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on the FDIC's proposal to revise the assessment system applicable to large institutions and to revise the initial base assessment rates for all insured institutions.

Background

The FDIC proposes to revise the assessment system applicable to large institutions to better differentiate the risk profile of an institution. The FDIC proposal would eliminate risk categories for large institutions to allow the FDIC to draw finer distinctions among institutions and would eliminate long-term debt ratings for determining the risk profile of large institutions.

In lieu of risk categories and the use of long-term debt ratings, the FDIC would use a "scorecard" method that would combine CAMELS ratings and certain forward-looking financial measures to assess the risk an institution poses to the Deposit Insurance Fund or DIF. Although the methodology used in the scorecard method would be the same for all large institutions, two separate scorecards would be used: one for most large institutions (i.e., institutions with assets of $10 billion and more) and another for large institutions

[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 ever changing 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.

that are structurally and operationally complex or that pose unique challenges and risks in the case of failure (highly complex institutions).

Each scorecard would consist of a performance component, which would measure an institution's financial performance and its ability to withstand stress, and a loss severity component, which would correspond to the level of potential losses in case of failure. The performance component would include CAMELS ratings, and would measure the ability of an institution to withstand asset-related stress and the ability to withstand funding-related stress. The loss severity score would measure the relative magnitude of potential losses to the FDIC in the event of an institution's failure.

To maintain approximately the same total revenue under the proposed rule as under the current system, the FDIC proposes new initial base assessment rate schedules. For small institutions (i.e., less than $10 billion in assets) in Risk Category I, the initial base assessment rates would be uniformly 2 basis points lower than under the current assessment system; the initial base assessment rate for institutions in Risk Category II would be unchanged; while the proposed initial base assessment rates for Category III and IV institutions would be higher. For large and highly complex institutions, the minimum rate in the proposed range of rates would be 2 basis points lower than the current Risk Category I minimum assessment rate and the maximum rate would be slightly higher than current maximum Risk Category IV assessment rates.

ICBA's Comments

ICBA commends the FDIC for its proposal to eliminate long-term debt issuer ratings as a major factor for determining a large bank's assessment rate. We agree that debt issuer ratings, particularly for the largest institutions, do not respond quickly to an institution's changing risk profile. In our letter to the FDIC dated September 22, 2006 regarding the new risk-based assessment system, ICBA expressed concerns about the use of long-term debt ratings to determine a large bank's risk and the failure of the nationally recognized debt agencies to lower their credit ratings in a timely matter in the cases of Enron, WorldCom, and Orange County, California. Since that year, and as the nation experienced the financial crisis, long-term debt issuer ratings have proven to be an unreliable measure of a financial institution's risk to the Deposit Insurance Fund.

ICBA also commends the FDIC for proposing to eliminate risk categories for large institutions. A scorecard method will allow the FDIC to make finer distinctions between large institutions and will better capture risk at the time an institution assumes the risk. We also agree that there should be two scorecards—one for the large institutions and another for the highly complex institutions—so that even finer distinctions can be made with regard to those institutions that pose the highest risk to the Fund. **However, we do not believe the FDIC should even consider applying the scorecard to smaller institutions until the FDIC has had considerable experience with its use on large institutions and has reliable data to demonstrate its effectiveness at predicting the long-term performance of an institution and the risk of an institution to the DIF. The FDIC would also have to weigh whether the**

scorecard is predictive and accurate for smaller institutions and whether its complexity outweighs the desire for greater simplicity and transparency of the rating factors for smaller institutions.

As indicated by Chart 1 of the proposal, the FDIC's proposed new forward-looking financial measures are much more effective at predicting the long term performance of large institutions over the 2005-2009 period than using only weighted-average CAMELS component ratings or using the existing financial ratios method. While we agree with the inclusion of most of the FDIC's proposed components to the scorecard, we have several suggestions for changes.

First, with regard to the potential loss severity component, **we recommend that that the "loss severity measure" which is the ratio of possible losses to the FDIC in the event of an institution's failure to total domestic deposits be given greater weight when determining the potential loss severity of an institution.** As proposed, an institution's ratio of secured liabilities to total domestic deposits would have equal weight with the loss severity measure when determining an institution's loss severity component to the scorecard.

The loss severity measure is the ratio of possible losses to the FDIC in the event of an institution's failure to total domestic deposits, averaged over three quarters. A standardized set of assumptions—based on recent failures—regarding liability runoffs and the recovery value of asset categories would be applied to calculate the possible losses to the FDIC. While we realize that the greater an institution's secured liabilities relative to domestic deposits, the greater the FDIC's potential rate of loss in the event of failure, we do not believe that measure should have equal status with the loss severity measure, which directly measures the impact on the DIF if an institution fails. Furthermore, we do not think institutions should be unfairly penalized for holding secured liabilities such as FHLB advances.

Second, we think that the size of an institution and the impact that an institution's failure would have not only on the DIF but on the entire U.S. economy (including the collateral damage it could do to other financial institutions), should play a major role in determining an institution's assessment rate. Section 331 of the Conference Report on the Dodd-Frank Wall Street Reform and Consumer Protection Act which has been approved by the House and is expected to be passed in the Senate during the next couple of weeks, would strike Section 7(b)(2) of the Federal Deposit Insurance Act (12. U.S.C. 1817(b)(2)(D)), thus allowing the FDIC to assign the highest assessment rates to the largest depository institutions that pose the highest risk to the DIF. The failure and subsequent bailout of the "too-big-to-fail institutions" created enormous shock waves to the economy that contributed to the subsequent failure of many community banks. These mega institutions should pay substantially higher assessment rates than other financial institutions.

We note that if the proposal is adopted, the assessment system for large banks will become so complex that we wonder if the banks themselves will be able to figure out what the impact would be to their assessment rate as their financial situation changes from quarter to quarter. Some of the FDIC's proposal and in particular the mathematical formulas in the appendices, rival in complexity the Basel II proposal. The FDIC should simplify the components of the scorecard to make them more transparent. While we understand the FDIC's need for discretion to adjust some of the components particularly when there are risk factors specific to an institution that are not adequately captured in the scorecard, nevertheless, **we believe the objective measures of the scorecard should be clearly stated so that they can be accurately determined by both the institution, the regulators, and the investment community.**

Finally, with regard to the proposal to change the initial base assessment rates for all institutions, **we commend the FDIC for proposing to lower the base assessment rates for Risk Category I small institutions and for leaving the rates for Risk Category II institutions the same. However, we believe that the rates for Risk Category III and IV small institutions should also remain the same and that rates for the large institutions should be adjusted to make up the difference**. Nevertheless, we look forward to the FDIC issuing new rules later this year regarding the change in the assessment base that would be required upon enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act so that large institutions will pay more of their fair share of FDIC assessments.

Conclusion

ICBA generally supports the FDIC proposal to revise the large bank assessment system. We agree that long-term debt issuer ratings should no longer be a major factor for determining a large bank's assessment rate since they do not respond quickly enough to an institution's changing risk profile.

ICBA also supports eliminating risk categories for large institutions and using in lieu thereof a scorecard method. We believe that a scorecard method will better capture risk at the time an institution assumes the risk. However, the FDIC should not consider the scorecard method for smaller institutions until the agency has had more experience with its use on large institutions and has reliable data to demonstrate its effectiveness at predicting the long-term performance of an institution and its risk to the DIF, and has otherwise weighed factors appropriate for smaller institutions such as simplicity and transparency.

ICBA has several suggestions with regard to the components to the scorecard. With regard to the potential loss severity component, we believe the loss severity measure should have greater weight than an institution's ratio of secured liabilities to total domestic deposits. Second, we think that the size of an institution and the impact that an institution's failure would have not only on the DIF but the on the entire U.S. economy including other financial institutions should play a major role in determining an institution's assessment rate, particularly since it appears that Section 7(b)(2) of the Federal Deposit Insurance Act is about to be amended. Third, we believe that FDIC should simplify some of the components of the scorecard.

Finally, with regard to the proposal to change the initial base assessment rates for all institutions, we commend the FDIC for proposing to lower the base assessment rates for Risk Category I small institutions and for leaving the rates for Risk Category II institutions the same. However, we urge that the rates for Risk Category III and IV small institutions should also remain the same and that rates for the large institutions should be adjusted to make up the difference.

ICBA appreciates the opportunity to comment on the FDIC's proposal to revise the assessment system applicable to large institutions and to revise the initial base assessment rates for all insured institutions. If you have any questions or need additional information, please do not hesitate to contact me at my email address (Chris.Cole@icba.org) or at 202-659-8111.

Sincerely,

/s/ Christopher Cole

Christopher Cole
Senior Vice President and Senior Regulatory Counsel