



P. O. Box 2300  
Tulsa, Oklahoma 74102-2300

October 15, 2010

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

Re: **FIL-59-2010** – Notice of Proposed Rule: Temporary Unlimited Coverage for Non-Interest Bearing Transaction Accounts

Dear Mr. Feldman:

BOK Financial Corporation (BOKF) appreciates the opportunity to comment on FDIC's proposed rule changes to 12 CFR part 330 to implement Section 343 of the Dodd-Frank Act, which provides temporary unlimited coverage for non-interest bearing transaction accounts (Proposed Rule). BOKF is a \$24 billion regional financial services company based in Tulsa, Oklahoma. The company's stock is publicly traded on NASDAQ under the symbol: BOKF. Our assets are centered in seven full-service banks - Bank of Oklahoma, Bank of Texas, Bank of Albuquerque, Bank of Arkansas, Bank of Arizona, Colorado State Bank and Trust and Bank of Kansas City.

BOKF recognizes the importance of actions designed to assist in the stabilization of the nation's financial system. BOKF was the largest commercial bank in the country not to participate in the Treasury's Trouble Asset Relief Program (TARP). We also opted out of the FDIC's Transaction Account Guarantee Program (TAGP) - the FDIC's program providing unlimited coverage for "non-interest bearing transaction accounts", similar to the Proposed Rule, that was scheduled to expire December 31, 2010. As the Proposed Rule states, all insured depository institutions (IDIs) were initially participants in TAGP, but the FDIC later allowed IDI's to opt out.

While we acknowledge the important differences between the Proposed Rule and TAGP, we opposed Section 343 of the Dodd-Frank Act and so must oppose the Proposed Rule in principle because it effectively extends TAGP until December 31, 2012, and once again mandates that all insured depository institutions are participants.

BOKF generally favors programs that protect depositors as long as such programs are designed to address a relevant systemic or specific risk; and the cost of such programs is allocated to IDIs



proportionate to the risk involved. For instance, we favored Section 335 of the Dodd-Frank Act which permanently increased the insured deposit amount from \$100,000 to \$250,000. We agreed that the prior \$100,000 limit was outdated and posed a systemic risk to depositors and IDIs, large and small. We also found it reasonable that all IDIs should be participants in the *permanent* increase to \$250,000, and we found it reasonable that the cost should be proportionate to an IDI's deposit base (asset base under Dodd-Frank Act), subject to the FDIC's general assessment under its risk-based assessment system.

**BOKF Opposes the Proposed Rule and Section 343 of the Dodd-Frank Act because we view it unnecessary, disproportionately costly, burdensome and potentially harmful to the bank, the industry and customers.**

BOKF's opposes Section 343 of the Dodd-Frank Act and the Proposed Rules that provide *temporary* (through December 31, 2012) *unlimited* coverage for non-interest bearing transaction accounts for the following reasons:

1. The Proposed Rule does not address the systemic or specific risk that *temporary unlimited* coverage for non-interest bearing transaction accounts is designed to resolve. While we understand that deposit risk may exist for customers with more than \$250,000 in certain IDIs, we believe that deposit risk in well capitalized IDIs, such as BOKF, is low. This is evidenced by the significant numbers of IDIs that opted out of TAGP, as permitted by the FDIC and accompanying regulation.

Furthermore, the *unlimited* and *temporary* (through December 31, 2012) nature of this proposal seems immeasurable and arbitrary. In these highly uncertain regulatory times, and extremely low interest rate environment, customers may opt for *unlimited* protection over interest. This could lead to deposits moving from savings accounts to transaction accounts, or from larger banks to smaller banks. The unintended consequences could be harmful to the deposit insurance fund, to the banks and potentially to consumers and businesses. Because of the *temporary* nature of the Proposed Rule, customers are left with another decision on December 31, 2012 when this coverage expires.

BOKF respectfully requests that the FDIC further explain in its Final Rule how the unlimited coverage solves a systemic or specific risk through December 31, 2012.

2. The Proposed Rule does not provide for an opt-out and provides for no special assessment. BOKF understands that the Proposed Rule *will take into account the cost of this additional coverage in the general assessment the FDIC charges IDIs*, but the Proposed Rule does not adequately explain how this will impact the general assessment.

We certainly appreciate "no special assessment" since BOKF opted-out of TAGP. However, as the Proposed Rule explains, 2,555 small entities that opted-in to TAGP will realize an average annual cost savings of \$2,373 because of no special assessment. The



Proposed Rules states that these entities and all IDIs will *gain additional insurance coverage with no direct cost*. It states that the Proposed Rule *would not have a significant economic impact on a substantial number of small entities*. The Proposed Rule does not explain the impact on well capitalized, mid-size or large banks.

This implies that starting December 31, 2010, the cost of the increased coverage for IDIs that opted-in to TAGP will effectively be shifted, indirectly, to all IDIs including BOKF.

BOKF respectfully requests that the FDIC address this disproportionate treatment in its Final Rule. We understand the FDIC is scheduled to meet to discuss the revised assessment base for banks with assets more than \$10 billion in accordance Section 334 of the Dodd-Frank Act. We urge the FDIC to describe the cost of this coverage to the deposit insurance fund, and to allow banks to comment on any portion of this cost that will be included in the revised assessment base.

3. The Proposed Rule does not adequately address the potential impact of Section 627 of the Dodd-Frank Act, which ends the prohibition of interest on demand deposit accounts effective July 21, 2011. Customers of BOKF and other well capitalized IDIs may not perceive a benefit from unlimited deposit insurance coverage for non-interest bearing accounts because BOKF is well capitalized. These customers may then be compelled to move their funds to interest bearing accounts as of July 21, 2011, notwithstanding the low rate environment. Customers of smaller IDIs, such as those that opted-in to TAGP, will likely continue to perceive benefit in unlimited coverage for non-interest bearing accounts. This is damaging to IDIs, such as BOKF, on three fronts:
  - a) BOKF, and other well capitalized IDIs, will not benefit from unlimited deposit insurance coverage for non-interest bearing accounts, yet we must indirectly pay for the cost of such coverage through increased FDIC general assessments, as discussed in 2, in addition to the cost and burden of the required disclosures.
  - b) BOKF, and other well capitalized IDIs, may see a shift from non-interest bearing to interest bearing transaction accounts effective July 21, 2011, which could increase deposit costs.
  - c) BOKF, and other well capitalized IDIs, may see a shift or movement in customer deposits based not on product, service or financial condition, but on regulatory changes. This increases the level of risk and uncertainty in asset and liability management programs for IDIs, large and small. This has the potential to reduce net interest margins and capital of IDIs, as certain deposits traditionally considered long-term become short-term and must be funded by short-term securities with lower yields.



The Dodd-Frank Act will almost certainly compel BOKF, and other IDIs, to develop new and different product offerings to attract and retain customers that may be incented by regulation to move. Such an effort could present competitive opportunities, but not without risk and significant capital outlay.

BOKF respectfully requests that the FDIC further explain in its Final Rule the potential impact of Section 627 of the Dodd-Frank Act on the Proposed Rule.

Secretary of the U.S. Treasury Geithner outlined six guiding principles of the Dodd-Frank Act in a recent August 2, 2010 speech in New York. BOKF believes that the Proposed Rule fails three of those guiding principles:

- “We will not simply layer new rules, on top of old outdated ones”.
- “We will make sure that we have a more level playing field”.
- “We will assess the overall burden (regulations) present to the benefits they offer”.

**While BOKF opposes the Proposed Rule and Section 343 of the Dodd-Frank Act in principle, BOKF generally agrees with the FDIC’s *Interpretation* of Section 343 of the Dodd-Frank Act. However, BOKF is concerned that the lack of an option-out, and no special assessment for banks that benefitted from TAGP, disproportionately benefits small banks at the expense of banks like BOKF. BOKF is also concerned that certain disclosure requirements will be overly costly, burdensome and a potential source of confusion to customers.**

While we oppose the Proposed Rule in principle, we understand that changes to the rules are necessary in order to implement Section 343 of the Dodd-Frank Act, to resolve differences with TAGP and to announce the technical expiration of TAGP. To that end, BOKF acknowledges and appreciates the FDIC’s efforts and we offer the following comments with the FDIC’s specific interpretations contained in the Proposed Rules:

- Amendments to deposit insurance rules – BOKF agrees with the FDIC’s amendments, subject to our disagreement in principle with Section 343 of the Dodd-Frank Act.
- Definition of noninterest-bearing transaction account – BOKF agrees with the FDIC’s definitions, subject to our disagreement in principle with Section 343 of the Dodd-Frank Act. We agree with the definition under Section 343 of the Dodd-Frank Act that excludes NOW accounts, IOLTA’s and MMDA’s from coverage under the Proposed Rule. We also agree with the Proposed Rule’s position on swept accounts and “reserve sweeps”.
- Insurance coverage – BOKF agrees with the FDIC’s interpretation, subject to our disagreement in principle with Section 343 of the Dodd-Frank Act.
- No opting out – BOKF disagrees. See 2 above.



- No separate assessment – BOKF disagrees. See 2 above.
- Disclosure and notice requirements - BOKF agrees with the disclosure and notice requirements number 1 and 2 in the Proposed Rule, subject to our disagreement in principle with Section 343 of the Dodd-Frank Act.

Regarding disclosure requirement number 3 in the Proposed Rule, BOKF agrees generally with the requirement to provide notice to *depositors whose coverage on non-interest bearing accounts is affected by IDI action*. However, BOKF is concerned that such disclosure will be costly and burdensome on BOKF, and potentially confusing to customers. BOKF expects that many *IDI actions* affecting depositors will be initiated by depositors. Other *IDI actions* affecting depositors will be initiated by BOKF, such as new products, product changes or implementation of forthcoming regulation such as Section 627 of the Dodd-Frank Act. Such IDI actions and their affect on non-interest bearing transaction accounts will be continuous. BOKF believes the burden to comply with the disclosure requirements will outweigh the benefit to BOKF of unlimited coverage for noninterest bearing transaction accounts, particularly since the Proposed Rule is *temporary* (through December 31, 2012). Regarding your invitation to comment more specifically on disclosure matters (a) through (e) as described in the Proposed Rule, BOKF is unable to comment at this time, as we have not yet determined the time or cost of compliance with these disclosure requirements.

Again, BOKF appreciates the opportunity to comment on this important rule. We welcome the opportunity to work with the FDIC to improve the Proposed Rule. Should you have any questions regarding our recommendations or need further detail, please contact me at 214-346-3958, Tally Ferguson at 918-588-6522, or Jeff Harjo at 918-588-6546.

Sincerely,

A handwritten signature in cursive script that reads "Chuck P. Garcia".

Chuck P. Garcia, EVP, Treasury Services

Cc:

Stan A. Lybarger, President and CEO, BOK Financial Corporation

Blake J. Paulson, Assistant Deputy Controller, Office of the Comptroller of the Currency

Edward L. Yingling, President and CEO, American Bankers Association

Frederic E. Dorwart, Dorwart Lawyers, General Counsel to BOK Financial Corporation