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Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Attention: Comments/Legal ESS

Dear Mr. Feldman:

The Federal Deposit Insurance Corporation ("FDIC") has requested comments on its Advance Notice of Proposed Rulemaking ("ANPR") for a "Large-Bank Deposit Insurance Determination Modernization Proposal." JPMorgan Chase & Co. ("JPMC") is pleased to have the opportunity to offer the following comments on this proposal.

JPMC recognizes that the FDIC is required by statute to effect bank closings in a manner that will incur the least cost to the deposit insurance fund. JPMC is appreciative of the fact that the FDIC is attempting to resolve the difficult issues associated with this requirement by issuing an ANPR rather than a proposed final regulation. We also note that staff of the FDIC has been meeting with representatives of the banking industry, including JPMC, in an attempt to understand issues associated with implementing the various options set forth in the ANPR.

JPMC believes that it is crucial that the benefits of any final rule be carefully weighed against the costs, and possible unintended consequences, of such a rule.

In the abstract, JPMC agrees that all other things being equal it would be desirable for the FDIC to be able to obtain the information and for depository institutions to take the rapid actions described in the ANPR. Least cost resolution is the law of the land and is a policy goal that JPMC supports. However, JPMC believes that the ANPR, like any other regulatory proposal, should be considered in the context of a banking system that is faced with the challenge of complying with a multitude of new regulatory requirements and the need to develop increasingly sophisticated risk management systems.

As we discussed with representatives of the FDIC at the very constructive meeting held in Columbus, Ohio on March 7, 2006, compliance with the terms of the ANPR, particularly option 3, would be very expensive and not practical, specifically for the nation's largest financial institutions such as JPMC. Scoping out the precise cost would in itself be expensive; we have not undertaken this task because it would be premature and inexact given the preliminary nature of the rulemaking. We note that in addition to the initial development costs of the systems and procedures specified by the ANPR, there would be on-going costs that at this time are difficult to quantify. For example, it would be necessary to periodically test the systems' effectiveness. Moreover, audit and compliance departments would be required to review the effectiveness of the systems; and software programs would need to be maintained and from time to time enhanced.

We understand that the FDIC is at the preliminary stages of implementing a new deposit insurance premium system. To the extent large banks would be required to spend significant sums to implement new FDIC-imposed programs, perhaps such banks could obtain a credit against premiums they would otherwise be required to pay.

Based on our very preliminary analysis, the process of determining which accounts are insurable would take weeks, not the hours that the ANPR contemplates. JPMC's retail area currently spends two full weeks with over 100 people "scrubbing" and "householding" our customer data every month to get to the point that we can effectively conduct our business. Applying yet a different set of rules to determine which consumer accounts are insurable would be a monumental task. The FDIC has requested JPMC to provide customer files. We believe that the FDIC would have to spend weeks determining which accounts were insured. It is likely that the FDIC would require substantial input and analysis from JPMC's technology teams. Given the breadth of products and complexity of our customer relationships, this would be a massive undertaking.

A key component of bank management is the prioritization of projects that require use of scarce systems development resources. Competing interests include complying with regulatory requirements, enhancing risk management platforms, and systems that produce income. There are clearly projects that will always remain a very high priority and which will require an allocation of very significant resources, e.g., AML and OFAC compliance. Likewise, if there is a new regulatory requirement with a specific deadline it will have to be given a suitable high priority. At times, the trade off may be to meet a regulatory deadline and upgrading a risk management system that does a good job but which could be enhanced. Bank management will often have little choice but to allocate the resources to the implementation of the system which has the mandatory deadline rather than to a system which will better mitigate risk or increase the profitability (and thereby the capital) of the bank. JPMC suggests that any proposal to implement the ANPR be evaluated in this context.

JPMC respectfully submits that requiring the largest banks in the country to devote substantial, scarce resources to implementing the terms of the ANPR when there is a significant likelihood that at most only a tiny percentage of those implementing the required systems would ever have to put them into effect is not an optimal use of resources and would not increase the safety and soundness of the system as a whole. In fact, it is somewhat of an anomaly that the burdens of implementing these systems and processes would be placed on the banks which are least likely to fail. Today, the largest banks are safer than they have ever been in the past, with new and stronger regulatory controls in the areas of capital adequacy and risk management.

JPMC is concerned that implementation of the ANPR may have unanticipated and undesirable consequences. It is highly likely that sophisticated market participants, which place large amounts of uninsured deposits with banks, would have some advance word of information (or unfounded rumors) that a bank was experiencing financial difficulty. If the ANPR were implemented, the rational course of action would be to withdraw all uninsured funds as soon as possible, increasing the risk of the proverbial run on the bank. Stated another way, implementation of the proposal could well increase the volatility of bank funding. The systemic effect of blocking many accounts in large clearing banks should also be carefully considered.

An underlying assumption of the ANPR seems to be that there is a single moment when a bank ceases business for the day. In point of fact, large banks with multiple businesses in many time zones settle transactions for the day at different times. Any final rule should recognize that fact. Most of the large banks which would be affected by the proposal are global in nature, with essentially around-the-clock operations. There are different start-of-day and end-of-day hours of operations for bank branches and offices in Asia-Pacific, Europe, Africa and the Middle East when they deal with their head offices in the U.S. Thus, U.S. wire payment cut-off hours and cut-off hours for other transactions will differ based on geography.

Adding to the complexity is the thousands of sweep accounts which the large banks typically offer in the U.S. given the regulatory restrictions upon the payment of interest on demand deposits. These accounts sweep into both on-balance sheet and off-balance sheet investments, and the sweeps are highly automated. Shutting down the sweeps or allowing the sweeps to occur post suspension of a bank is an issue which the FDIC will need to address. Stopping the sweeps of thousands of accounts en masse could pose significant, technical, operational and systems issues in addition to liquidity issues, the consequences of which would need to be analyzed.

Should the FDIC decide to implement a form of the proposals described in the ANPR, it should consider not doing so until it is determined to what extent systems can be developed by the FDIC or its agents which would relieve each large banking organization of the obligation to attempt to implement the proposal. Banks should then be given ample time to implement the proposal so that it could be accorded an appropriate priority among the many systems development projects facing the bank.

We are of the strongly held view that before any proposed rulemaking is initiated the FDIC should meet with the banks, perhaps through a public-sector/ private sector task force, to flesh out some of the problems and issues with the proposal and to further consider in a careful and pragmatic manner the cost-benefits of any rulemaking in this arena. In this way, the scope and details of any proposal can be weighed and scrutinized in light of the time, resource and cost issues and burdens it will impose on the banks; and where possible the least cost solution can be found for the banks. JPMC would be pleased to participate in such a task force.

Just as the FDIC has a statutory mandate to seek a least cost solution in connection with bank closings, the private sector banks have a mandate to their shareholders to remain profitable and to spend funds wisely. To state the obvious, a component of the CAMELS rating system is "Earnings." While each of the large banks shares common attributes with the others, the banks are all quite different when it comes to the details of their operations and systems and books of business. Perhaps one thing which may come from the suggested task force would be to customize solutions for each bank or group of banks similarly situated, instead of a "one-size fits all solution" as is currently contemplated. Moreover, a solution which attempts to achieve something less than perfection, but which is considerably less expensive than a perfect solution, would seem to us to be the way to go. For example, for CDs, time deposits and savings accounts, including money market accounts, a solution which does not require extensive processes or automation but which relies on branch or centralized personnel to administer holds on maturing time deposits or to hold savings accounts for up to seven days (which is a required term of all savings deposits per federal regulations) may be a solution.

Once again, we are appreciative of the opportunity to comment on this ANPR and of the FDIC's efforts to reach out to the banking industry on this matter, which clearly has significant public policy ramifications.

Very truly yours,

Donald C. May