



September 8, 2006

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

Re: Penalty for Failure to Timely Pay Assessments
RIN 3064-AD06
71 FR 40938 (July 19, 2006)

Dear Mr. Feldman:

America's Community Bankers (ACB)¹ is pleased to comment on the Federal Deposit Insurance Corporation's (FDIC) proposal concerning the penalty for failure to timely pay assessments for all insured depository institutions.² This is one of several proposals recently issued by the FDIC to implement the Deposit Insurance Reform Act of 2005 (Reform Act).³

Since 1950, a late assessment penalty could not be more than \$100 per day for each institution; in 1996, this amount was adjusted to a \$110 penalty per day. The Reform Act contains the first major statutory changes to the late assessment penalty provisions. This proposal states that an insured depository institution which fails or refuses to pay an assessment equal to or greater than \$10,000 shall be subject to a penalty of not more than 1 percent of the assessment due for each day the violation continues. For amounts of less than \$10,000, the FDIC authorizes penalties up to \$100 per day for each day the violation continues.

The FDIC provides an exception if the failure to pay results from a dispute with the FDIC over the amount of the assessment and the institution deposits satisfactory security with the FDIC. In addition, the FDIC may use its discretion to compromise, modify, or remit any penalty that the FDIC may assess upon a finding that good cause prevented the timely payment of an assessment. ACB fully supports this provision in light of recent events, such as Hurricane Katrina and other natural disasters, which would have affected numerous insured depository institutions' ability to pay assessments in a timely manner.

¹ America's Community Bankers is the national trade association committed to shaping the future of banking by being the innovative industry leader strengthening the competitive position of community banks. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 71 Fed. Reg. 40938 (July 19, 2006).

³ The Reform Act was included as Title II, Subtitle B of the Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 9 (February 8, 2006).

ACB believes that the current structure for penalty assessments is in need of updating. We do not have any significant concerns related to the proposal as issued and support the FDIC in moving forward with this new system.

ACB appreciates the opportunity to comment on this important issue. If you have any questions, please do not hesitate to contact the undersigned at (202) 857-3121 or via email at pmilon@acbankers.org or Jodie Goff at (202) 857-3158 or via email at jgoff@acbankers.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Milon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patricia A. Milon
Chief Legal Officer and Senior Vice President,
Regulatory Affairs