March 13, 2007

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
Attn: Comments/Legal ESS
550 17th Street, NW
Washington, DC 20429

Re: Federal Deposit Insurance Corporation; RIN 3064-AC98; Large-Bank Insurance Determination Modernization Proposal; 12 CFR Chapter III; 71 Federal Register 74857, December 13, 2006

Dear Mr. Feldman:

America's Community Bankers (ACB)[1] appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) advance notice of proposed rulemaking (ANPR) soliciting public comment on its proposed alternatives to improve depositor access to funds in case of a failure. ACB recognizes the challenges that consolidation within the banking industry has posed towards managing risk, but urges the FDIC to consider carefully the added burdens any new requirements would place on banks with respect to the expected benefit derived from the change.

Background

In 2005, the FDIC issued an ANPR on large-bank insurance modernization very similar to this most recent proposal. The 2005 ANPR requested comment on three options intended to increase the efficiency with which customers at large institutions would receive access to their funds if that bank failed. The FDIC's proposals are focused on complex institutions with a large number of customer accounts. According to the FDIC, these institutions also have complex deposit systems and the need for rapid resumption of deposit operations in the event of a failure in order to protect the institution's franchise value.

In 2005, Option 1 required affected financial institutions to maintain throughout their existence information which could be made readily available to the FDIC to include the depositor data:

[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*.

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name, address, and tax identification number, and other information. The affected financial institutions would need to standardize their information systems to track this data, assign a unique identifier number to each depositor and the account's insurance category, allow automatic temporary holds on portions of large deposit accounts, as well as removing those holds and debiting the account as needed by the FDIC.

In 2005, Option 2 was similar to Option 1 except that it would be limited to information already possessed by the financial institution and would not require the assignment of a unique identifier number for each depositor and the account's insurance category.

In 2005, Option 3 would have added to either Option 1 or Option 2 by requiring the largest 10 or 20 financial institutions to "know the insurance status of their depositors at any given point in time and have the capability to automate the placement of hard holds and debit insured funds as specified by the FDIC upon failure."

In a joint comment letter with the American Bankers Association and the Financial Services Roundtable, ACB strongly opposed the 2005 ANPR. In the letter, we noted that although the aims of the ANPR were understandable, the proposed requirements in all three options would place a large financial burden on financial institutions that is not commensurate with the benefit derived for the effort. The joint respondents urged the FDIC to reconsider the ANPR.

The ANPR issued on December 13, 2006 is similar to the 2005 proposal. The new proposal is directed at the 152 largest financial institutions, having over 250,000 deposit accounts and total domestic deposits of at least $2 billion, as well as seven institutions with fewer than 250,000 accounts but total assets over $20 billion and domestic deposits of at least $2 billion. A total of 159 financial institutions would be subject to the changes in this ANPR.

The FDIC has divided the financial institution community into three tiers. The first tier would include the largest and most complex of the 152 financial institutions having more than 250,000 deposit accounts and more than $2 billion in domestic deposits identified previously. The second tier would include smaller and less complex financial institutions among the 152 not assigned Tier 1 status and the seven large financial institutions with smaller deposit account volumes. All other financial institutions would be determined to be Non-Covered Institutions and not subject to this ANPRM.

Tier 1 institutions would be required to:

1. Provide a unique deposit identification for each depositor;
2. Implement automated provisional holds against deposit accounts;
3. Supply a standard data framework;
4. Remove provisional holds;
5. Supply an agreed upon standardized data structure to compute a trial balance; and
6. Post holds and debits in batch mode resulting from the deposit insurance determination results.

Tier 2 institutions would be required to comply with all of the Tier 1 standards, with the exception of providing unique deposit identification for each depositor.

Position

ACB appreciates the FDIC's attempt to ensure a smooth insurance determination process following a bank failure and recognizes that the FDIC removed from this most recent ANPR the provision that would have required financial institutions to know the insurance status of each depositor on a continuous basis. That provision was strongly opposed by ACB and the banking community.

However, although one onerous provision was not included in the most recent ANPR, the proposal still mandates requirements that would place tremendous burdens on financial institutions with limited benefit to the public or the industry. Each one of the requirements placed on Tier 1 and Tier 2 financial institutions would impose significant costs on the affected banks. The ANPR contains a summary of cost estimates received during the prior ANPR's comment period. The FDIC received a total of five cost estimates from four banks for the different options. The costs for Options 1 and 2 in the prior ANPR, the scenarios that most resemble Tiers 1 and 2 in the new ANPR, ranged from $60,000 to "$2 mm or more." More information is needed to allow accurate cost estimates to be compared to the benefits of implementing the requirements. However, it is clear that the cost of compliance will be high.

Moreover, the ANPR does not include any additional information regarding the benefits of compliance. Since the first ANPR was issued more than a year ago, there have been no failures and the largest failure in the past ten years, Superior Bank, FSB, was not large enough to qualify for inclusion in either Tier 1 or Tier 2 of this revised ANPR.

Therefore, ACB suggests that the FDIC focus its efforts on financial institutions that are likely to, or are approaching failure. The benefit of ensuring an efficient handoff of assets would be clear if the financial institution were troubled. ACB also sees merit in having the banking industry and the FDIC work together on developing voluntary data format elements that could be integrated into all bank systems. This would be an economically efficient way to ensure that the FDIC could get the information it requires from financial institutions with little expense or burden on the banks.

As noted in our response to the original ANPR, this recent ANPR appears inconsistent with the goals of the Federal banking agencies in the EGRPRA project to reduce regulatory burden.

For additional information, or if you have any questions, please contact the undersigned at (202) 857-3148 or skenneally@acbankers.org or Patricia Milon at (202) 857-3121 or pmilon@acbankers.org.

Sincerely,

Stephen K. Kenneally

Stephen K. Kenneally
Vice President, Payment Systems