OC06-313

TOMPKINS TRUSTCO INC.

James J. Byrnes
Chairman and
Chief Executive Officer

September 12, 2006

FDIC
SEP 19 2006
OFFICE OF THE CHAIRMAN

Sheila C. Bair, Chairman
FDIC
550 17th Street NW
Washington, DC 20006

RE: Comments on the Proposed Deposit Assessment Program
RIN 3064-AD09

Dear Chairman Bair:

Thank you for meeting recently with us at the New York Bankers Washington meeting, and for your willingness to consider comments on the proposed program.

We would offer the following comments:

- Financial institutions will bear a monetary burden of being regulated by different agencies, as individual CAMEL ratings may not be measured and quantified in identical ways across the regulatory sector. The bank examination process involves some judgments to be made, and could make the process contentious and controversial, as now there would be an incremental financial impact associated with differences in the CAMEL rating process among agencies. This could have the unintended result of institutions "shopping" for regulatory agencies.

- Activities of a bank holding company are often managed at a corporate level, and "pushed down" to affiliated financial institutions as appropriate. Examples of these corporate activities could include treasury functions, capital management and tax strategies. With the proposed program, decisions regarding these activities may be structured to minimize the impact of FDIC insurance costs through the manipulation of risk measures, instead of managing in a more prudent manner. We would recommend an assessment process that acknowledges the bank holding company structure and works to fairly assess insurance premiums of the combined group.

- It seems that very rapidly growing banks should incur some cost to reflect the fact that their strategy is costly to other FDIC members, by reducing the coverage ratio. What follows is an example of an actual plan we have been told of:

  A very large financial institution is currently ramping up an internet banking subsidiary. They are using an ILC charter that may be old enough not to be considered a "start-up". Even if this firm had to pay 7 basis points, it would not cover their planned overall impact on the fund. They plan to grow this bank into tens of billions of dollars over a fairly short period, according to an officer of the company. The parent company is very strong and has access to capital such that their safety and soundness ratings will most likely be good despite the rapid growth. This growth will be augmented by incorporating as a Virgin Island Development Company (we believe that is the term). This will exempt them from U.S. income taxes, boosting profits and capital accumulation. The investment department will "reside" in the Virgin Islands, flying home to New York on weekends, and back down on Monday morning.

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It seems that such institutions should bear some extra cost for growth of the overall assessment requirement. This would be in addition to the "penalty" already proposed where they will not have the credit that is available to older members of the fund. Otherwise, FDIC members will subsidize not only the income tax exemption (through payment of our taxes) but also the FDIC assessment, through higher assessments on all banks.

- We would urge the FDIC not to include Federal Home Loan Bank advances in the definition of volatile liabilities. Advances are not volatile liabilities for FHLBank members. FHLB advances have pre-defined, understood and predictable terms. As set by Congress, the mission of the FHLBanks is to provide financial institutions with access to low-cost funding so they may adequately meet communities' credit needs to support home-ownership and community development. It would be illogical to include FHLB advances in the definition of volatile liabilities given the stability of the FHLBanks, the reliable availability of advances as a source of wholesale funding, and the beneficial and predictable effect of such funding on our business plans. Deposit insurance premiums should be based on an institution's actual risk profile. Banks that are engaged in excessively risky activities should pay a higher premium, regardless of whether those activities are financed by insured deposits, FHLB advances, or alternative funding sources.

- We would also ask the FDIC not to include time deposits greater than $100,000 in the definition of volatile liabilities. Institutions in areas of wealth would be subject to higher insurance premiums, without necessarily any difference in risk profile than institutions in other areas. It could be argued that in areas of wealth, these deposits are essentially core deposits, and should be treated accordingly. In addition, in today's interest rate environment when municipalities are moving funds into higher yielding time deposits, commercial banks and federally-chartered savings banks would be penalized with higher insurance premiums than their New York State-chartered savings bank counterparts, who are generally prohibited from accepting municipal deposits. That, coupled with the deposits essentially being "insured" due to the collateral requirements imposed on institutions holding these funds, would make retaining municipal relationships less attractive. Finally, as we have seen in this current rate environment, municipalities may move deposits from money market accounts into time deposits, or vice versa, effecting change in the assessment levels and therefore the balances in the insurance fund based on rate environment, not levels of deposits or change in risk.

Thank you for considering these comments.

Sincerely,

TOMPKINS TRUSTCO, INC.

James J. Byrnes
Chairman & CEO