November 19, 2007

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

Comments@FDIC.gov

Re: ANPR on Assessment Dividends

Dear Mr. Feldman:

The under-signed FDIC-insured institutions submit this joint comment letter in response to the Advance Notice of Proposed Rulemaking ("ANPR") published by the Federal Deposit Insurance Corporation ("FDIC") in the September 18, 2007 *Federal Register*[1]. Through publication of the ANPR the FDIC invited the public to comment on alternative methods that the FDIC might use to calculate and award "assessment dividends".

The FDIC-insured institutions submitting this joint comment letter (Charles Schwab Bank, Countrywide Bank, ING DIRECT and Nationwide Bank) were all either chartered or experienced significant growth in deposits after December 31, 1996 and together held approximately $127 billion of FDIC-insured deposits as of June 30, 2007. The regulation that ultimately evolves from the process initiated by the ANPR currently out for comment will have a significant impact on all FDIC-insured institutions; however, the potential for adverse consequences that could flow from this rulemaking are of particular concern to the signatory institutions and other similarly situated institutions.

We offer the following recommendations to assist the members of the FDIC Board in crafting a proposed regulation designed to avoid unnecessary or unintended negative consequences on the financial services industry as a whole or on any individual FDIC-insured institution.

---

[1] One or more of the signatories of this letter may also submit separate letters expanding upon matters raised in this letter or addressing additional issues not addressed in this joint letter.

This ANPR presents two general approaches to allocating dividends. We urge the FDIC to adopt the "payments method" as modified below.[2]

- **Shorter Premium Period.** We recommend that the FDIC utilize a significantly shorter timeframe than the 15 years suggested in the ANPR. Specifically, we recommend a five-year premium period. We suggest five years because, unlike the 15 years contained in the ANPR, five years generally mirrors the approximate length of a "business cycle" as measured from peak to peak by the National Bureau of Economic Research.

  While we concede that there is no single universally-accepted definition of "business cycle", the National Bureau of Economic Research's data suggests that post-World War II business cycles have lasted, on average, 60 months.[3] Tying the premium period to a business cycle would certainly be appropriate and reasonable, since, based upon historical data, a business cycle would presumably allow sufficient time for the FDIC's insurance fund to rebound from the effects of any one particular period of expansion or recession.

- **Include the Years from 1997-2006.** We believe that excluding premiums paid during the 1997 – 2006 time period would set a very poor precedent, since even if only a small number of institutions actually paid premiums during that timeframe, *all* insured institutions enjoyed the benefit of government insurance during that time period. Since the FDIC will not be able to foresee and thus exclude comparable time periods in the future, we recommend that the FDIC not exclude these years from the initial calculation.

- **Exclude "Credits."** We strongly believe that the FDIC should not include assessment credits as part of the dividend calculation. It seems only logical to conclude that once an institution's assessment credits have been used to off-set premiums that otherwise would be due and payable, those credits are no longer available for further use by the

---

[2] The "payments method" in the rulemaking is further divided into two variations – our recommendation and comments relate to "Variation 2." 72 Fed. Reg. 53,181, 53, 192 (Sept. 18, 2007).

[3] *Macroeconomics, 4th Edition,* Richard N. Waud, p. 132 (1989). ("The eight cycles since the end of World War II had an average duration of 60 months. The average length of the expansion phase of these cycles was 44 month, and the average length of the recession phase was 11 months."). Current data from the NBER is posted to their Web site at www.nber.org/cycles.html/. Data from the Web site's most current table suggests that the length of business cycles post-World War II has expanded slightly to an average of 67 months. www.nber.org/cycles.html/.

> institution. To allow use of already expended assessment credits in calculating dividend payments would elevate such payments to the fabled status of a "gift" that "keeps on giving".

For the reasons set forth above, we urge the FDIC to adopt "Variation 2" of the "payments method" with our suggested modifications. Additionally, we look forward to future rulemakings related to this issue (such as timetables for determining and paying dividends) and plan to provide the FDIC with our unique industry insights and recommendations.

Respectfully,

The following institutions have each authorized the submission of this letter:

Charles Schwab Bank	Countrywide Bank
ING DIRECT	Nationwide Bank