



JACK A. HARTINGS
Chairman
REBECA ROMERO RAINEY
Chairman-Elect
R. SCOTT HEITKAMP
Vice Chairman
PRESTON KENNEDY
Treasurer
J. MICHAEL ELLENBURG
Secretary
JOHN H. BUHRMASTER
Immediate Past Chairman
CAMDEN R. FINE
President and CEO

July 24, 2015

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

Re: Large Bank Deposit Insurance Determination Modernization; Advance Notice of Proposed Rulemaking

Dear Mr. Feldman:

The FDIC is seeking comment on whether large insured depository institutions that have more than two million accounts should be required to undertake actions to ensure that, if one of these banks were to fail, depositors would have access to their FDIC-insured deposits in a timely manner. The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on this advance notice of proposed rulemaking.

The FDIC proposal would apply to those large insured depository institutions that have more than two million accounts. The two million account threshold would affect about 37 banks as of December 31, 2014. The FDIC is seeking comment on what additional regulatory actions should be taken to ensure that deposit insurance determinations can be made promptly when banks with a large number of deposit accounts fail. Specifically, the FDIC is requesting comment on whether these banks would have to (1) enhance their recordkeeping to maintain (and be able to provide to the FDIC) substantially more accurate and complete data on each depositor's ownership interest by right and capacity for all of the bank's deposit accounts, and (2) develop and maintain the capability to calculate the insured and uninsured amounts for each depositor by deposit insurance capacity for all deposit accounts at the end of any business day.

¹ The Independent Community Bankers of America®, the nation's voice for more than 6,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.6 trillion in assets, \$2.9 trillion in deposits, and \$2.4 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

The Nation's Voice for Community Banks.®

WASHINGTON, DC ■ SAUK CENTRE, MN ■ NEWPORT BEACH, CA ■ TAMPA, FL ■ MEMPHIS, TN

1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org

ICBA's Position

ICBA agrees with the FDIC that additional measures are needed beyond those set out in Section 12 CFR 360.9 to provide assurance that a deposit insurance determination could be made promptly and accurately. While provisional holds on accounts, which are authorized by 12 CFR 360.9, might help resolve one large bank failure, they would not be sufficient to mitigate the complexities of a number of large bank failures that occurred at one time. The recent crisis has proven that large bank failures can happen with little notice and time for the FDIC to prepare. For instance, WAMU and Wachovia Bank both deteriorated very quickly in 2008 and if they had not merged with healthier banking institutions, the FDIC would have had a very difficult time making deposit insurance determinations and resolving those banks. Provisional holds could have helped some in those situations but would not have guaranteed a quick resolution.

ICBA also agrees that recent industry consolidation has made some of the megabanks even more complex and their systems more challenging to deal with. In some instances, these megabanks have been through so many mergers that they are now subject to numerous “legacy” software systems that keep track of their deposits. Using the FDIC’s information technology systems to make deposit insurance determinations at a failed bank with a large number of deposit accounts requires the transmission of massive amounts of deposit data from the bank’s systems to the FDIC’s systems. In the case of a large bank failure, the FDIC simply would not have the time to process the data and make an insurance determination either on the night of the closing or during a closing weekend. **Because delays in insurance determinations can lead to bank runs or other systemic problems, we agree with the FDIC that more needs to be done to ensure prompt deposit insurance determinations at failures of banks with a large number of deposit accounts.**

Further complicating large bank insurance determinations is the significant expansion of pass-through coverage accounts in recent years, particularly with respect to prepaid card account programs. ICBA is concerned about the use of pass-through FDIC deposit insurance in connection with the national distribution of cards by certain large businesses, such as Wal-Mart, that function as checking and debit alternatives. Often the agent or custodian of these programs holds the necessary information about the actual owners of these accounts making it almost impossible for the FDIC to make a prompt deposit insurance determination. The need to obtain information from the agents or custodians not only delays the calculation of deposit insurance but also makes it likely that the FDIC would be forced to overpay the insured accounts in an attempt to resolve the bank in a timely manner, resulting in numerous erroneous overpayments.

For these reasons, ICBA believes that additional regulatory actions should be taken to ensure that large bank deposit insurance determinations can be made promptly and accurately. **We recommend that the largest banks—those with more than 2 million**

The Nation's Voice for Community Banks.®

WASHINGTON, DC ■ SAUK CENTRE, MN ■ NEWPORT BEACH, CA ■ TAMPA, FL ■ MEMPHIS, TN

1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org

deposit accounts—(1) maintain data on all closing night deposits, including official items, that are sufficiently accurate and complete to allow the determination of insured and uninsured amounts for each depositor by deposit insurance right and capacity at the end of any business day, and (2) develop and maintain an information technology system that can calculate the insured and uninsured amounts of closing night deposits for each depositor by deposit insurance category at the end of any business day.

Furthermore, with respect to large banks that have pass-through coverage accounts, ICBA believes that those banks with over 2 million in deposit accounts should have to maintain up-to-date records sufficient to allow immediate or prompt insurance determinations for all pass-through accounts. This is particularly important in the case where the agent or custodian of a bank holds the necessary information for the pass-through account and the bank does not, thus making it impossible to determine deposit insurance coverage on closing night.

In the case of large banks with prepaid card account programs, they should be required to maintain current records on each prepaid cardholder’s ownership interest. In other words, no longer should these banks be allowed to rely on their agents or custodians for a record of the cardholder’s ownership interest. These records should be maintained by the bank so that examiners can check them periodically for accuracy. This way, if the large bank fails, these records will be immediately available to the FDIC and the FDIC can promptly and accurately make an insurance determination.

While the above recommendations, if implemented, would require these systemically important banks to make substantial changes to their recordkeeping and information systems, ICBA believes it is necessary to the safety and soundness of the banking system that these changes be implemented. For this reason, we would recommend an appropriate phase in period—not to exceed two years--to give these large banks the opportunity to change their software systems and implement the new requirements. As mentioned before, the banking system in the United States has grown more concentrated and complex. If a number of these banks were to fail at one time, under the current requirements, the FDIC would not be in a position to promptly and accurately make insurance determinations resulting in delays and long depositor lines that could escalate into bank runs. Public confidence in the banking system would be significantly impaired if a number of large banks failed and their resolutions were held up or delayed by the FDIC.

As the ANPR clearly states, none of these requirements should apply to community banks because the FDIC has not had problems with resolving those banks and making prompt and accurate insurance determinations on a closing night or over a weekend. This ANPR and these recommendations only should apply to the very largest banks—those that have over 2 million in deposit accounts-- because these banks have become so large and their systems so complicated that any delays to closing them if one or more of them failed would likely have an adverse impact to our entire banking system.

The Nation’s Voice for Community Banks.®

WASHINGTON, DC ■ SAUK CENTRE, MN ■ NEWPORT BEACH, CA ■ TAMPA, FL ■ MEMPHIS, TN

1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org

Conclusion

ICBA supports the FDIC's proposal to require banks that have a very large number of deposit accounts to (1) maintain data on all closing night deposits that are sufficiently accurate and complete to allow the determination of insured and uninsured amounts for each depositor by deposit insurance right and capacity at the end of any business day, and (2) develop and maintain an information technology system that can calculate the insured and uninsured amounts of closing night deposits for each depositor by deposit insurance category at the end of any business day. Furthermore, those banks with pass-through deposit accounts and in particular large prepaid card account programs should be required to maintain records of account or cardholder ownership and not rely on an agent or custodian for those records. We believe these requirements are important to maintain the safety and soundness of the banking system.

ICBA appreciates the opportunity to comment on this ANPR. If you have any questions or would like additional information, please do not hesitate to contact me by email at Chris.Cole@icba.org.

Sincerely,
/s/ Christopher Cole

Christopher Cole
Executive Vice President and Senior Regulatory Counsel

The Nation's Voice for Community Banks.®

WASHINGTON, DC ■ SAUK CENTRE, MN ■ NEWPORT BEACH, CA ■ TAMPA, FL ■ MEMPHIS, TN

1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org