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The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-9990

Dear Chairman Bair:

The primary job of prudential financial supervision is to provide discipline against unsafe and unsound financial practices. This is especially true where such practices can have a serious negative impact not just on the institution itself, but also on other members of the industry.

Recent experience has reinforced an important lesson of prudential supervision, that the combination of fast asset growth supported by aggressive deposit gathering strategies is a strong sign of high risk financial activity. Where these factors come together, particularly in the context of a troubled financial institution already experiencing overall financial losses, regulatory supervision needs to be especially vigilant.

In this context we would draw your attention to troubling reports regarding GMAC Bank/Ally Bank. GMAC Bank/Ally Bank has been funding very fast growth in assets (up by more than 2000% over the last 4 years, from \$1.6 billion in March 2005, to over \$36 billion in March 2009) with an equally aggressive effort to gather deposits (deposits growing from a total of \$1.2 billion to \$22.5 billion during the same period). GMAC Bank/Ally Bank is offering interest rates well above the market in order to attract those deposits. For example, according to Bank Rate Monitor for May 18, the national average rate on 6-month certificates of deposit is 0.99%. Ally Bank is advertising rates at more than double this national average, at 2.13%. Rates offered by GMAC Bank/Ally Bank for 1-year and 2-year CDs are generally *the highest in the nation*.¹ At the same

¹ See <http://www.bankrate.com/?advisorid=319709>; see also <http://www.ally.com/compare-savings-cds.html>. Ally Bank's "Advertiser Comments" on Bankrate.com states "Always among the top rates. No monthly fees. Member FDIC." See http://www.bankrate.com/funnel/cd-investments/cd-investment-results.aspx?local=false&prods=14&tab=CD&ic_id=OA OvernightAverages 13 CDs 14 6 Mo CD compare-rates.aspx.

time, the bank's public financial reports have shown the bank to be losing money, with losses of \$112 million for all of 2008, and losses of \$133.5 million in the first quarter of 2009.

This aggressive deposit strategy is particularly egregious when it is used by a troubled bank in which the government holds a controlling interest. Such a bank is significantly shielded from investor and market influences that might otherwise act as a brake on risky financial strategies. In the case of GMAC Bank/Ally Bank, the Treasury Department, through the Capital Access Program, reportedly recently added \$7.5 billion in capital to the \$6 billion of federal money already invested in the firm.

We believe that the situation with GMAC Bank/Ally Bank is analogous to that contemplated in FDIC rules governing brokered deposits sought by troubled banks. Such banks would never be allowed to follow the aggressive deposit strategy being pursued by GMAC Bank/Ally Bank. Congress and the FDIC, mindful of the harm that can arise when a potentially troubled bank tries to grow its way out of problems, have imposed limits on the rates that less than well capitalized banks can offer for deposits. Currently, an adequately capitalized bank, which may not even be troubled and therefore has a waiver to accept brokered deposits, may not pay a rate for such deposits that exceeds by more than 75 basis points either the rate paid for deposits of comparable size and maturity in the bank's normal market area or the national rate. Undercapitalized banks are prohibited from accepting brokered deposits altogether; moreover, they are prohibited from paying a rate for non-brokered deposits that exceeds by more than 75 basis points the rate paid for comparable deposits in the bank's normal market area. These restrictions guard against a troubled bank compounding its problems, and they also protect healthy bank competitors from having to pay unsustainably high and above market rates for deposits to compete against an institution taking advantage of FDIC insurance in an unsafe manner.

Recognizing that the Internet forces banks to compete in a national market for deposits, the FDIC recently issued a proposal to amend its rules by suggesting that a bank, under restrictions on deposit growth, use a "national rate" when determining whether the bank is offering rates that significantly exceed the market rate.² Notwithstanding the government's concern about troubled banks using high rates to solicit out-of-market deposits, GMAC Bank/Ally Bank apparently is permitted to solicit deposits over the Internet by offering rates that are generally the highest in the nation.

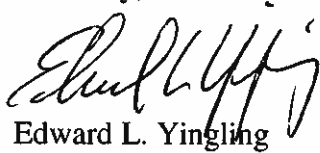
The banking industry has seen what happens when troubled banks, desperate for deposits, are willing to bid up the price of deposits. In the mid-1980s a number of troubled financial institutions sought to grow out of their problems by quickly expanding their assets, funded by attracting deposits with above-market interest rates. Not only did this strategy make conditions worse for the banks employing

² See 74 Fed. Reg. 5904 (Feb. 3, 2009).

it, but these banks also forced other banks in their markets to raise interest rates above market rates in order to retain their own deposit customers. This was called the "Texas premium," since many of the high flyers of the time were located in the southwest. We do not want to repeat that experience.

ABA believes it is completely inappropriate, and indeed risky, for GMAC Bank/Ally Bank to be allowed by the regulators to continue to pay rates well above the market. We urge you to apply the same principles that would apply to other banks in a comparable situation to GMAC/Ally. Thank you for considering our views on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward L. Yingling". The signature is fluid and cursive, with a large initial "E" and "Y".

Edward L. Yingling