AMERICAN BANKERS ASSOCIATION ®

America's Community Bankers Shaping Our Future

THE FINANCIAL SERVICES ROUNDTABLE
Impacting Policy. Impacting People.

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March 13, 2006

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
Attn: Comments/Legal ESS
550 17th Street, NW
Washington, DC 20426

Re: Federal Deposit Insurance Corporation; RIN 3064-AC98; Large-Bank Deposit Insurance Determination Modernization Proposal; 12 CFR Chapter 111; 70 Federal Register 73652, December 13, 2005

Dear Mr. Feldman:

The American Bankers Association ("ABA"),[1] America's Community Bankers ("ACB") [2] and the Financial Services Roundtable ("Roundtable") [3] appreciate the opportunity to comment on the Federal Deposit Insurance Corporation's ("Corporation") advance notice of proposed rulemaking ("ANPR") soliciting public comment on its proposed options to "modernize its deposit insurance determination process, whereby the insurance status of each depositor is determined in event of failure."

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[1] The American Bankers Association, on behalf of the more than two million men and women who work in the nation's banks, represents all types of financial institutions in this rapidly changing industry. The ABA's membership includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks, making it the largest banking trade association in the country.

[2] America's Community Bankers is the member-driven national trade association representing community banks that pursue progressive, entrepreneurial and service oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

[3] The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. The Roundtable's Housing Policy Council is made up of nineteen companies that are among the nation's leaders in mortgage finance. Member companies originate sixty-two percent of the mortgages for American home buyers.

Roundtable member companies provide fuel for America's economic engine, accounting directly for $40.7 trillion in managed assets, $960 billion in revenue, and 2.3 million jobs.

Background

The Corporation predicates this ANPR on its perception that the current deposit insurance determination process imposes significant delays if applied to financial institutions with large numbers of deposit accounts. In order to address this issue, the Corporation suggests three options, any one of which could provide the basis for a future proposed rule. Such a proposal would seek to modernize the determination process initially for those financial institutions with the total number of deposit accounts over 250,000 and total domestic deposits of at least $2 billon. The Corporation calculates that at present this applies to 145 financial institutions.

The Corporation solicits comments on its three options, which in summary are as follows:

1) Option 1 requires affected financial institutions to maintain throughout their existence information which could be made readily available to the Corporation, to include the following depositor data: name, address, and tax identification number, among other relevant information. Such data would be maintained in a standard format, with a unique identifier for each depositor and the accounts' insurance categories. Affected institutions would be required to install on their computers a system that would automatically place temporary holds on portions of large deposit accounts. These institutions would be required to remove the holds and debit the account as needed by the Corporation.

2) Option 2 tracks Option 1 except that it would be limited to information the financial institution "currently possesses" and would not require the unique identifier for each depositor and the accounts' insurance categories.

3) Option 3 would build on either the Option 1 or Option 2 base by requiring additional differentiation for the largest 10 or 20 affected financial institutions. These financial institutions would have 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 addition to the above options, the Corporation seeks suggestions regarding other procedures to modernize the determination process which would be more effective or less costly.

Position

The ABA, ACB and Roundtable appreciate the Corporation's interest in constructing an insurance determination process that in theory will enhance the resolution of failed financial institutions from the perspective of the Corporation, depositors and the public. Each association recognizes that the Federal deposit insurance system's viability depends on the principle that no financial institution is either too big or too small to fail. The development of prudent systems to prepare for and respond to the failure of any size institution is an important component of the Corporation's receivership functions. Further, the Corporation should demonstrate that it is fully prepared to handle even a large bank failure, quickly and efficiently. Instituting systems that can maintain liquidity and confidence in any bank failure without fully protecting uninsured depositors will enhance market discipline and promote stability of the financial system.

However, crafting such a system as proposed would impose high costs on those financial institutions affected by any process presented in the ANPR. Our affected members believe that such costs, both in terms of dollar expenditures and staffing time, must be weighed against the benefits of such a program to the Corporation. The Corporation has not supplied any detailed information associated with these costs and has not provided a cost-benefit analysis that would justify the implementation of any of the options proposed in the ANPR. If the most burdensome of the options outlined in the ANPR were enacted, the day-to-day operational effectiveness of some banks could be undermined, defeating the purpose of the proposal.

The recent history of failures in the banking industry since the important deposit insurance and banking industry reform legislation of the late 1980s and in the 1990s, recently amplified by enactment of the Federal Deposit Insurance Reform Act of 2005, suggests that careful consideration must be given to the costs to individual institutions of the approach advocated by the Corporation. The banking industry is experiencing the longest period without a failure in the history of the Corporation, reflecting the effectiveness of these reforms in preventing bank failures and responding promptly to those that do occur.

Those failures that have occurred in the last few years were among financial institutions that would not be covered by this ANPR. Regulators frequently had knowledge of the problems undermining these institutions and had time to prepare for closure. Sudden failures were more likely to have been caused by fraud or other criminal activity. It is highly unlikely that such a series of similar events could cause a failure of covered financial institutions because of their size, capital strength and diversity of lines of business. Constructing, maintaining and periodically testing the programs proposed under this ANPR solely because of the remote chance of sudden failure resembles an expensive solution in search of a very low probability problem. The Corporation might be better served if it were to develop a mechanism to assist it in future large bank deposit determinations triggered when a bank reaches problem bank status.

In addition, we note that imposition of the regulatory burden associated with implementing the options set forth in the ANPR appears inconsistent with the goals of the Federal banking agencies in the EGRPRA project to reduce regulatory burden.

In conclusion, the ABA, ACB and the Roundtable urge the Corporation to reconsider its program to implement the ANPR.

For additional information or if you have questions, please contact the undersigned or the following individuals: American Bankers Association, John Rasmus at (202) 663-5333 or Rob Strand at (202) 663-5350 and America's Community Bankers, Patricia Milon at (202)857-3121.

Sincerely,

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