September 29, 2019

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

Re: Assessments: RIN 3064-AF16

Dear Mr. Feldman:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the notice of proposed rulemaking that would amend the deposit insurance assessment regulations that govern the use of small bank assessment credits (small bank credits) and one-time assessment credits (OTACs)[2]. Under the proposal, once the FDIC begins to apply small bank credits to quarterly deposit insurance assessments, such credits would continue to be applied as long as the FDIC's Deposit Insurance Fund (DIF) reserve ratio is at least 1.35 percent, instead of, as currently provided, 1.38 percent. In addition, after small bank credits have been applied for eight quarterly assessment periods, the FDIC would remit the full value of any remaining small bank credits in lump-sum payments to each bank holding such credits in the next assessment period in which the reserve ratio is at least 1.35 percent, and would simultaneously remit the full value of any remaining OTACs in lump-sum payments to each bank holding such credits.

[1] *The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. With more than 52,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 760,000 Americans and are the only physical banking presence in one in five U.S. counties. Holding more than $4.9 trillion in assets, $3.9 trillion in deposits, and $3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers' dreams in communities throughout America. For more information, visit ICBA's website at www.icba.org.*

[2] *Pursuant to the Federal Deposit Insurance Reform Act of 2005, the FDIC provided OTACs to insured depository institutions that existed on December 31, 1996 and paid a deposit insurance assessment prior to that date. The OTAC was a transitional credit to recognize the contributions that certain institutions made to capitalize the Bank Insurance Fund and the Savings Association Insurance Fund when those two funds were merged. Currently, only two banks have outstanding OTACs totaling approximately $300,000.*

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Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) raised the minimum reserve ratio for the DIF to 1.35 percent from the former minimum of 1.15 percent. Because of ICBA's advocacy, a provision was added which required the FDIC to "offset the effect of the increase in the minimum reserve ratio on insured depository institutions with total consolidated assets of less than $10 billion" when setting assessments. The purpose of this provision was for the large banks to indemnify the smaller banks from the costs of raising the new statutory minimum reserve ratio to 1.35 percent.

Consequently, the FDIC published a final rule on March 25, 2016 that, among other things, provided assessment credits to banks with assets less than $10 billion for the portion of their regular assessments that contributed to the growth in the reserve ratio between 1.15 percent and 1.35 percent. Pursuant to the final rule, upon reaching the statutory minimum reserve ratio of 1.35 percent, small banks were awarded small bank credits for the portion of their assessments that contributed to the growth in the reserve ratio from 1.15 percent to 1.35 percent. However, the FDIC regulation provides that these small bank credits would be applied to quarterly deposit insurance assessments when the reserve ratio is at least 1.38 percent.

As of September 30, 2018, the DIF reserve ratio reached 1.36 percent triggering the vesting of small bank credits in the outstanding amount of $764.4 million. Each small bank was notified of their individual credit allocation in January 2019. However, small banks were unable to have these credits applied to their assessments during the last quarter of 2018 and the first quarter of 2019 because the DIF reserve ratio remained below 1.38 percent. It was not until the second quarter of 2019 that the DIF reserve ratio exceeded 1.38 percent and the credits were applied to offset assessments.

ICBA's Comments

ICBA commends the FDIC for proposing to amend the deposit insurance assessment regulations so that the application of small bank credits to a bank's deposit insurance assessment would be suspended only if the reserve ratio falls below 1.35 percent rather than 1.38 percent. We agree with the FDIC that the proposal would result in more predictable application of credits to quarterly assessments and would simplify the FDIC's administration of the DIF.

During the last quarter of 2018 and the first quarter of 2019, banks with assets of less than $10 billion were frustrated because the DIF reserve ratio remained above 1.35 percent but never reached 1.38 percent. They were notified in January 2019 that their credits were vested but they had to wait until the DIF reserve ratio reached 1.38 percent for the credits to be applied to offset FDIC premiums. Since it only takes a small change in interest rates or a small growth in insured deposits to cause the reserve ratio to fluctuate one or two basis points above or below 1.38 percent, we agree the present regulation should be changed so that it is easier for most community banks to predict each quarter whether their deposit insurance assessments will be offset by credits.

Furthermore, it does not appear that the proposed changes would materially impair the ability of the FDIC to maintain the required minimum reserve ratio of 1.35 percent. The FDIC has concluded that the application of small bank credits in future quarters will only have a minor impact on the DIF reserve ratio and that each application would not be sufficient on its own to cause the reserve ratio to ever fall below 1.35 percent which is the statutory minimum reserve ratio. In the near term, the FDIC is bullish on the banking sector and does not believe there will be a significant increase in the number of problem banks or bank failures.

ICBA also agrees with the FDIC that after small bank credits and OTACs have been applied for eight quarterly assessment periods, the agency should remit to each bank still holding such credits a lump sum representing the full balance of the remaining credits. This would not only be a benefit to the banks that have such balances but would allow the FDIC to conclude both the small bank credit and OTAC programs at the same time, thereby simplifying the FDIC's administration of the DIF.

Conclusion

ICBA strongly supports the FDIC proposal and believes that lowering the reserve ratio threshold at which the application of small bank credits is suspended would permit the FDIC to balance its goal of adequately maintaining the reserve ratio while increasing the likelihood that the application of small bank credits to quarterly assessments would remain stable and predictable over time. ICBA also supports the FDIC's idea of fully remitting any remaining small bank credits after eight quarterly assessment periods and supports the FDIC making the proposal effective upon the publication of the final rule.

ICBA appreciates the opportunity to comment on this proposed rulemaking. If you have any questions or would like additional information, please do not hesitate to contact me at (202) 821-4431 or Chris.Cole@icba.org.

Sincerely,
/s/Christopher Cole

Christopher Cole
Executive Vice President and Senior Regulatory Counsel