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Action Alert

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CBA of Georgia Signs a Joint Letter Supporting Legislation Providing Fairness on Deposit Insurance Assessments / Your Help Needed to Get Co-sponsors for Bill

The Community Bankers Association of Georgia (CBA) has signed a joint letter with the Independent Community Bankers Association of America (ICBA) and a number of sister community bankers associations in other states asking Chairman of the House Committee on Financial Services, Barney Frank, and Ranking Member of the Committee, Spencer Bachus, to **support the passage of H.R. 2897, the Bank Accountability and Risk Assessment Act of 2009, introduced by Rep. Luis Gutierrez. The bill would permanently change the deposit insurance assessment base used by the FDIC from domestic deposits to a bank's total assets less tangible equity. It is significant to note that presently, despite the significant benefits to community banks, the American Bankers Association (ABA) and a number of its state affiliates are not supporting this bill.**

Per analysis by ICBA, **over 8,000 banks nationwide would pay lower FDIC insurance premiums under such an assessment base, while only 132 would pay more.** Over 99% of banks with less than \$1B in assets would pay lower premiums under the new assessment base, with 95% saving more than 20% on their premiums. You may recall that FDIC used an asset based assessment when they approved the special assessment earlier in the year. However, the FDIC apparently does not believe it has the flexibility to change the assessment base for regular deposit insurance assessments without statutory change.

Under H.R. 2897 community banks would realize substantial savings by implementation of a more equitable method of deposit insurance assessment. Generally, FDIC is forced to resolve a bank failure due to bad assets on a bank's books, even though the funding for a substantial portion of those bad assets may be supported by some other type of funding than domestic deposits. The average community bank obtains well over 80% of its funding base from domestic deposits. For most community banks, it is over 90%. However, most of the larger banks obtain less than 50% of their funding from domestic deposits and some of the largest banks fund less than 25% of their balance sheet with domestic deposits. Clearly, the new assessment system proposed by H.R. 2897 using total assets less tangible equity would be a more equitable assessment system. Further, it would help to ensure that the "too-big- to-fail" banks pay their fair share of regular deposit insurance assessment premiums.

In addition to changing the assessment base for deposit insurance premiums, H.R. 2897 would require a separate systemic risk premium for all "too-big to-fail" banks (TBTF). These TBTF banks receive superior deposit insurance coverage that is received by community banks because all of their deposits are effectively insured, even if they are over the coverage limits. Therefore, **the TBTF banks should pay extra premiums for this superior coverage.**

Congressman Gutierrez is seeking co-sponsors for his bill, H.R. 2897. The CBA wrote an e-mail letter in July to each member of the Georgia delegation asking each Congressman to consider co-sponsoring this legislation. Our letter also raised our concerns with the Consumer Financial Protection Agency that is being proposed as a part of the administration's Regulatory Reform Plan. We also wrote to Georgia's two senators asking for their support of the bill when it reaches the Senate. **We urge each of you to consider contacting your Congressman and ask them to consider becoming a co-sponsor of H.R. 2897 today. It will likely mean significant cost savings to your bank well into the future.**

The following resources are available to assist you in writing your letter and/or in contacting your Congressman and your Senators:

- A sample letter for your bank to send to your Congressman can be found on ICBA's website at its Grassroots Advocacy Center at the following link: <http://capwiz.com/icba/issues/alert/?alertid=13717946&PROCESS=Take+Action>.
- A sample copy of our letters to the Georgia delegation can be accessed on the CBA website, at the following link: <http://www.cbaofga.com/admin/files/Letter%20on%20HR%202897.doc>
- A copy of the more recent joint letter can be accessed at the following link: <http://www.icba.org/files/ICBASites/PDFs/ltr100709.pdf>
- Additionally, a Frequently Asked Questions Document regarding H.R. 2897 can be accessed on the ICBA website at the following link: <http://www.icba.org/files/ICBASites/PDFs/HR2897FAQ.pdf>.
- Copies of a customizable [op-ed](#) and [letter to the editor](#) developed by ICBA for community bankers to use with their local media outlets to help build public support for legislation promoting deposit-insurance fairness and systemic-risk regulation.

FDIC's Prepayment Plan to Restore the DIF Raises Critical Issues/Underscores Importance of H. R. 2897

As I am sure you know by now, the **FDIC Board of Directors proposed last week that banks prepay three years of regular assessments to fund the Deposit Insurance Fund**. At its Sept. 29 meeting, the board also agreed to increase regular assessment rates three basis points across the board beginning Jan. 1, 2011. The prepay plan would allow exemptions for banks if prepaying assessments would threaten the bank's safety and soundness or liquidity or would otherwise create a significant hardship. Additionally, the agency voted to extend the DIF restoration plan from seven to eight years, with a target of returning the fund to a 1.15 percent reserve ratio (the minimum required by law) by the first quarter of 2017. **Comments on the proposed rule are due Oct. 28. More details on the plan and how the prepaid assessments would work are outlined below and you may read the FDIC Press Release and its entire proposal at <http://www.fdic.gov/news/news/press/2009/pr09178.html>.**

While it is certainly a plus that the FDIC was able to avoid another emergency special assessment this year and while this proposal is preferable to what would likely have been a series of emergency special assessments over the next two years, it is still clearly a burden and may raise critical issues for many of Georgia's community banks. **The FDIC's proposal also underscores the importance of H.R. 2897 pending in Congress, which would implement greater fairness in the deposit insurance assessment system by changing the assessment base used by the FDIC for regular deposit insurance assessments from domestic deposits to a bank's total assets less tangible equity.**

More details on the prepayment proposal and DIF restoration plan: Under the plan, banks would prepay their estimated regular quarterly assessments for the fourth quarter of 2009 and all of 2010-2012 on Dec. 30, when the regular third-quarter assessment payment is due. The prepayment would be based on an institution's assessment rate and assessment base (e.g., total domestic deposits) for the third quarter of 2009, assuming a 5 percent annual growth in deposits each year. While the FDIC plan would maintain current assessment rates through 2010, effective Jan. 1, 2011, the rates would increase by three basis points across the board (e.g., Risk Category I banks paying 12-14 basis points for 2010 would pay 15-17 basis points).

Banks would record the entire amount of their prepaid assessment as a prepaid expense (asset) as of Dec. 30, 2009, so there would be no earnings or capital impact as of that date. As of Dec. 31, 2009, and each quarter thereafter, each institution would record an expense (charge to earnings) for its regular quarterly assessment for the quarter and an offsetting credit to the prepaid assessment until the asset is exhausted. Once the asset is exhausted, the institution would resume recording an expense and an accrued expense payable each quarter for its regular assessment, which would be paid in arrears to the FDIC at the end of the following quarter. Since the federal banking agencies' risk-based capital rules permit an institution to apply a zero percent risk weight to claims on U.S. Government agencies, FDIC staff believes the prepaid assessment would qualify for a zero risk weight.

The FDIC proposed the prepaid assessments as a means of collecting enough cash to meet upcoming liquidity needs to fund future resolutions. As of June 30, 2009, while total assets of the DIF had increased to almost \$65 billion, cash and marketable securities had fallen to about \$22 billion. The agency is projecting \$100 billion in failure costs from 2009 to 2013, with most occurring in 2009 and 2010.

To obtain enough cash to meet future liquidity needs, the FDIC would have had to impose several special assessments, which insured banks would have been required to expense immediately at the time imposed. This would have severely reduced industry earnings and capital when the industry is already under stress. The FDIC views requiring institutions to prepay

assessments as preferable to borrowing from Treasury. The agency said borrowing from Treasury should be reserved for unforeseeable emergency situations. Because the FDIC can project the DIF shortfall, it does not think this option is appropriate. Prepayment of assessments also ensures that the deposit insurance system remains directly industry-funded.

Resources available to help community banks evaluate proposed prepayment plan include:

- **FDIC Assessment Calculator:** The FDIC has added a new spreadsheet to its assessment rate calculator to help banks calculate their prepayment requirement. Click on the “Prepaid Assessment” tab on the updated calculator to determine an estimate under the proposed rule. [Access FDIC Assessment Rate Calculator.](#)
- **Recording of FDIC Conference Call on Proposal:** A recording of FDIC’s conference call on the agency’s proposal to restore the Deposit Insurance Fund is available for listening toll-free at (866) 372-3813, or from outside the United States at (203) 369-0252. The recording is available for 30 days.
- **Frequently Asked Questions on Proposal:** ICBA prepared a frequently asked questions document on the FDIC’s proposal. The FAQs cover due dates, assessment rates, the assessment base, accounting treatment and a variety of other issues. [Access ICBA FAQs.](#)
- **Customizable Comment Letter:** The ICBA is in the process of developing a customizable letter which community banks may find useful in making comments on the proposal. We will be working with them on that letter.

Remember comments are due on the proposed rule by October 28, 2009.

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