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MID-SIZE BANK COALITION OF AMERICA

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

Re: *Adjustment Guidelines*,
76 Federal Register 21256 (Apr. 15, 2011)

Dear Mr. Feldman:

On behalf of the Midsize Bank Coalition of America ("MBCA"), I am writing to comment on the above referenced proposal by the Federal Deposit Insurance Corporation ("FDIC") to establish guidelines that would be used to determine how adjustments will be made to the total scores used in calculating deposit insurance assessment rates ("Proposed Guidelines").

The MBCA is a non-partisan financial and economic policy organization of 24 mid-size banks doing business in the United States. Founded in 2010, the MBCA was formed for the purpose of providing the perspectives of mid-size banks on financial regulatory reform. As a group, the MBCA banks do business through more than 3,350 branches in 41 states, Washington D.C. and three U.S. territories. The MBCA's members' combined assets exceed $343 billion (ranging in size from $7 to $25 billion). Together, our members employ approximately 60,000 people. Member institutions hold nearly $258 billion in deposits and total loans of more than $205 billion.

We appreciate the hard work of the staff and the challenges that the FDIC faces as it seeks to implement its Restoration Plan for the Deposit Insurance Fund ("DIF"). In this regard, we believe that the new FDIC assessment rate methodology is a substantial improvement over the previous methodology and that it should provide a fairer and more workable assessment system that will ensure that the DIF is adequately funded on a going-forward basis.

Under the FDIC's new methodology, assessments would be determined by reference to scores based on CAMELS ratings and forward-looking financial measures. However, the FDIC recognizes that adjustments to such scores will be appropriate in certain circumstances. For such cases, the Proposed Guidelines describe the process by which the FDIC would make adjustments to a depository institution's total score. The FDIC's proposal solicits comment on, among other things, how the analysis of scorecard risk measures can be augmented with a review of additional complementary or qualitative risk measures, whether there are additional guidelines that should govern the process, and whether there are qualitative factors that the FDIC could also consider when evaluating potential loss severity.

In this regard, we are concerned that the Proposed Guidelines lack specificity with respect to certain types of loans and the risk mitigating features that frequently accompany them. For example, it is commonly accepted that a high concentration of leveraged, subprime, or interest-only loans may increase a depository institution's risk profile. Yet, a portfolio that includes such loans may pose minimal risk to a bank's safety and soundness, or to the FDIC insurance fund when certain credit enhancements are present. In addition, we believe that the proposed methodology should take into consideration an institution's historical risk and loss data as a further guideline for determining adjustments.

The Proposed Guidelines do acknowledge examples of factors that may warrant downward adjustments, including collateral, guarantees and other enhancements.[1] However, in order to promote uniform treatment among institutions, and so that personnel can reasonably project the impact of portfolio elements on bank assessments, the Proposed Guidelines should provide more detail with respect to the treatment of such mitigants.

Thus, the Proposed Guidelines should provide a methodology for downward adjustments to assessment rates when otherwise "leveraged" loans meet certain criteria that have been recognized by regulators as enhancing credit quality. The methodology should, for example, provide for a favorable adjustment when a financially responsible guarantor provides an effective guarantee.[2] It could also provide for an appropriate favorable adjustment to the

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[1] 76 FR 21258.

[2] For these purposes, the Guidance could provide that a guarantee is effective when (i) the guarantor has the financial capacity and willingness to provide support for the credit through ongoing payments, curtailments, or re-margining; (ii) the guarantee is adequate to provide support for repayment of the indebtedness during the remaining loan term; and (iii) the guarantee is written and legally enforceable. Guidance might also condition adjustments on the maintenance of adequate supporting documentation, including documentation of the guarantor's financial condition, income, liquidity, cash flow, contingent liabilities, other guarantees, and

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extent that a loan portfolio is secured by collateral or cash flow that effectively reduces or neutralizes the risks associated with a default.[3]

Likewise, the Guidelines should be specific in indicating that where an institution's portfolio includes assets that might raise its risk profile, such as interest-only loans, a scorecard adjustment may be appropriate where the loans meet credit standards that the institution applies to the balance of its portfolio, or where the facts establish a known and reliable credit history between borrower and bank. Similarly, the Proposed Guidelines should clarify that adjustments may be proper in cases where loans classified as "subprime" nonetheless exhibit a low likelihood of default, as where a pool of borrowers has high FICO scores.[4]

Finally, we note that the FDIC's new definitions of "leveraged" and "subprime" loans will make the process of applying for adjustments infeasible.[5] Indeed, the new definitions have the dubious result of rendering banks unable to accurately supply Call Report responses. Depository institutions have relied on the definitions of these terms in the 2008 Leveraged Loan Booklet and the 2001 Interagency Subprime Guidance. As processes and controls have been built around these definitions, banks will not be able to retrieve data to respond to information requested in the proposed new forms of Call Reports.[6] Thus, even if an assessment can be made, an institution's ability to apply for an adjustment will be severely hampered. This uncertainly in the process should be removed simply by adhering to the definitions of "leveraged" and "subprime" loans in the 2008 Leveraged Loan Booklet and the 2001 Interagency Subprime Guidance.

We appreciate this opportunity to provide you with our comments and look forward to discussing these matters with you in the future.

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other relevant factors. This treatment would be consistent with the standards described in the Comptroller's 2008 Leveraged Lending Booklet.

[3] Consistent with prior statements by banking regulators, an adjustment could be provided if and to the extent that: (i) the collateral is of such a nature that it provides for a flow of cash that can be captured by the depository institution in the event the collateral must be acted upon, and (ii) the collateral could be readily liquidated, and its documented current fair market value, if applied to the balance of the loan, would cause the loan to no longer be deemed "leveraged."

[4] See 2001 Interagency Expanded Guidance for Subprime Lending Programs, at 3. While the FDIC has stated that FICO scores should not be used in the determination as to whether a borrower is a "subprime" borrower, we believe that a portfolio of borrowers with overall high FICO scores does present less risk and may therefore warrant an adjustment.

[5] 76 FR 10672 (Feb. 25, 2011).

[6] *See* 76 FR 14460 (Mar. 16, 2011).

Yours Truly,

Russell Goldsmith
Chairman, Midsize Bank Coalition of America
Chairman and CEO, City National Bank

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Mr. Peter Ho, CEO, Bank of Hawaii
Mr. John Hope, CEO, Whitney Holding Corp.
Mr. Don Horner, CEO, First Hawaii Bank
Mr. Robert Jones, CEO, Old National
Mr. Bryan Jordan, CEO, First Horizon National Corp.
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