

Billing code: 4810-25-P

DEPARTMENT OF THE TREASURY

Development of a guarantee program for troubled assets.

AGENCY: Department of the Treasury, Departmental Offices.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury invites the general public to comment on a program to guarantee the timely payment of principal of, and interest on, troubled assets originated or issued prior to March 14, 2008, as authorized by Section 102 of the Emergency Economic Stabilization Act of 2008 (EESA).

DATES: Written comments should be received on or before October 28, 2008 to be assured of consideration.

SUBMISSION OF COMMENTS:

Please submit comments electronically through the Federal eRulemaking Portal – “Regulations.gov.” Go to <http://regulations.gov> to submit or view public comments. The “How to Use this Site” and “User Tips” link on the Regulations.gov home page provides information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

Please include your name, affiliation, address, e-mail address and telephone number(s) in your comment. All statements received, including attachments and other supporting

materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: TARPIinsurance@do.treas.gov.

SUPPLEMENTARY INFORMATION: Section. 102 of the Emergency Economic Stabilization Act of 2008 (Pub. L. 110-343) (EESA) charges the Secretary of the Treasury to develop a program to guarantee the timely payment of principal of, and interest on, troubled assets originated or issued prior to March 14, 2008. The Secretary is authorized to set and collect premiums from participating financial institutions by category or class of asset, taking into consideration the credit risk characteristics of the asset being guaranteed. The premium must be sufficient to cover anticipated claims, based on actuarial analysis, and ensure that taxpayers are fully protected. The structure of the guarantee program may take any number of forms and may vary by asset class.

The Treasury Department is soliciting comments to assist in the development of the guarantee program. The Treasury Department is particularly interested in comments on the specific questions set forth below.

1. What are the key issues Treasury should address in establishing the guarantee program for troubled assets?

- 1.1 Should the program offer insurance against losses for both individual whole loans and individual mortgage backed securities (MBS)?

- 1.2 What is the appropriate structure for such a program? How should the program accommodate various classes of troubled assets? Should the program differ by the degree to which an asset is troubled?
 - 1.2.1 What are the key issues to consider with respect to guaranteeing whole first mortgages?
 - 1.2.2 What are the key issues to consider with respect to guaranteeing HELOCs and other junior liens?
 - 1.2.3 What are the key issues to consider with respect to guaranteeing MBS?
 - 1.2.4 What are the key issues associated with guaranteeing financial instruments other than mortgage related assets originated or issued before March 14, 2008 that could be important for promoting financial market stability?

- 1.3 What are the key issues to consider with respect to setting the payout of the guarantee?

- 1.3.1 Should the payout be equal to principal and interest at the time the asset was originated or to some other value? What should that value be? What would be the impact of offering guarantees of less than 100 percent of original principal and interest?
- 1.3.2 Should payout vary by asset class? If so, please describe using the same asset classes as enumerated under 1.21-1.24.
- 1.4 What event should trigger the payout under the guarantee? Should the holder be able to present the claim at will or should there be a set date? Should this date differ by asset class? Should this date differ by the degree to which the asset is troubled?
- 1.5 Should the holder be permitted to sell the troubled asset with the program guarantee? If appropriate, should asset sales be restricted to eligible financial institutions or should there be no restrictions to promote liquidity in the market place?
- 1.6 What are the key issues the Treasury should consider in determining the possible losses to which the government would be exposed in offering the guarantee? What methodology should be used to determine possible losses? Does it differ by asset class? If so, please describe using the same asset classes as enumerated

- under 1.21-1.24. Does it differ by the degree to which the asset is troubled?
- 1.7 What are the key elements the Treasury should consider in setting premiums for this program? Is it feasible or appropriate to set premiums reflecting the prices of similar assets purchased under Section 101 of the EESA?
 - 1.7.1 If use of prices of similar assets purchased under Section 101 of the EESA are not feasible or appropriate, should premiums be set by use of market mechanisms similar to (but separate from) those contemplated for the troubled assets purchase program? How would this be implemented? If not feasible or appropriate, what methodologies should be used to set premiums?
 - 1.7.2 Do these considerations of feasibility or appropriateness vary by asset class? If so, please describe using the same asset classes as enumerated under 1.21-1.24. Should the premiums vary by the degree to which the asset is troubled?
 - 1.8 How and in what form should payment of premiums be scheduled?
 2. How should a guarantee program be designed to minimize adverse selection, given that the program must be voluntary? Is there a way to limit adverse selection that avoids individually analyzing assets?

3. What legal, accounting, or regulatory issues would such a guarantee program raise?
4. What administrative and/or operational challenges would such a guarantee program create?
 - 4.1. What expertise would Treasury need to operate such a guarantee program? Please describe for all facets of the program.
5. What are the key issues to be considered in determining the eligibility of a given type of financial institution to participate in this program? Should these eligibility provisions differ from those of the troubled asset purchase program?
6. What are the key issues to be considered in determining the eligibility of a given asset to be guaranteed by this program? Should eligibility provisions of assets to be guaranteed under this program differ from those of the troubled asset purchase program?
7. Assuming the guarantee is priced to cover expected claims, are there situations (perhaps created by regulatory or accounting considerations) in which financial institutions would prefer this program to the troubled asset purchase program? Please describe.

7.1 Does this preference differ by type and condition of the asset? For what troubled assets might financial institutions choose to participate in the guarantee program rather than sell under the troubled asset purchase program? Is accommodating this choice likely to best promote the goals of the EESA? Does it adequately protect the taxpayer? If not, what design feature should be included to assure these goals are met?

Dated: October 10, 2008

Lindsay Valdeon
Deputy Executive Secretary
Treasury Department