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

Via email : LLPComments@FDIC.gov

Velocity Commercial Capital, LLC ***is a finance company that acquires and owns mortgages secured by commercial real estate. We have our own in house valuation and credit departments to analyze risk and price assets to an appropriate risk adjusted return. Our special servicing department manages our portfolio to handle workouts/modifications for borrowers. We are well capitalized and ready to acquire loans from sellers at reasonable price levels.***

We are responding to the FDIC's request for comments and welcome the opportunity to express our views as to the proposed Legacy Loan Program ("LLP"). We have focused our response on those selected questions raised by the FDIC of greatest concern to Velocity, and we believe similarly situated potential investors in the LLP. For your convenience we have maintained the same numbers used in the request for comment and have repeated the question posed.

2. Should the initial investors be permitted to pledge, sell or transfer their interests in the PPIF? If so, how should the FDIC ensure that subsequent investors meet the program's criteria for investors?

Response: The ability to transfer or pledge an asset increases its value. The goal of the LLP must be to maximize the potential return to those who participate in the program in order to stimulate and expand participation. The greater the participation the greater the benefit that will be delivered to those banks and thrifts that need to move loans off of their books. Accordingly, initial investors must have the right, subject to appropriate criteria, to transfer or pledge their interests in the PPIF. The applicable criteria as to when and how an interest in the PPIF may be transferred or pledged should be set forth with clarity in the regulations governing the LLP. Those criteria should be sufficiently clear to enable a potential transferee or lender to recognize easily whether a transfer or pledge will be within the terms of the program and to enable those within the FDIC who

may be called upon to approve a transfer or pledge to do so without substantial effort. See for example, the process applicable to the transfer of FHA or VA loans.

3. What is the appropriate percentage of government equity participation which will maximize returns for taxpayers while assuring integrity in the pricing by private investors?

Response: Government participation should vary by asset class based on the degree of discount/impairment and the potential for taxpayer recovery.

4. How would a higher investment percentage on the part of the government impact private investment in PPIFs? Should the amount of the government's investment depend on the type of portfolio?

Response: Yes, it is not inappropriate for the amount of the government's investment to vary based on the type of asset involved and the relative risk within the portfolio being acquired for a PPIF. To the extent the amount of government investment varies, thereby creating multiple investment opportunities for private investors, more bidders will be enticed to participate to the overall benefit of the program and the banks and thrifts whose assets will be auctioned. In addition, the FDIC should consider structuring some PPIF's that contain greater risk for the private investor a form of "kicker" for performance of that PPIF above it's initial expectations. This will offer the "win-win" the government and the taxpayer want while also rewarding those investors willing to take a greater risk at inception.

5. How can the FDIC best encourage a broad and diverse range of investment participation?

Response: Smaller, more homogenous asset pools will encourage more bidders, and more bidders will produce greater returns to the banks and thrifts selling loans into the LLP, thereby enhancing the success of the program. Increased interest will result from specificity and regional or local understanding of the credit--the more bidders, the better the pricing, the better the resolution for all. Simple and transparent qualification guidelines will also enable a broad base of potential investors to participate. We strongly encourage the FDIC to open this opportunity to an investor that can/will make smaller purchases. This will not only spread the risk, but allow for regional diversification and minimize concentrations.

The final rules for the LLP must detail the "investor eligibility requirements" and include a process to ensure that they are upheld.

Most importantly, the LLP must include provisions to enable smaller investors, such as ourselves to be eligible investors. The FDIC website collecting investor interest started at $1-5 billion which would be a significant barrier to entry for all firms of our size. In our view, this was a wrong signal to send if the FDIC is really trying to encourage smaller investors to participate. It is counter to the FDIC and Treasury's goal to accommodate a broad and diverse range of participants.

Smaller investors, such as ourselves, are fully capable of providing the judgment and management expertise needed to successfully bid and manage a PPIF containing Legacy Loans. We should not be relegated to participation only through partnering with larger institutions, as that will simply mean that we must subjugate our knowledge and expertise to the large entity with whom we are linked. By precluding smaller institutions from being eligible investors and structuring auctions sized to enable smaller institutions to bid, the LLP will serve to benefit only large money-center institutions at the expense of dozens of regional and local investors whose superior knowledge of their markets may actually result in better overall performance of the pools involved in the LLP. We cannot emphasize enough how important it is for the viability of this program and its broadly based acceptance for it to be structured in a manner that will enable smaller investors such as ourselves to participate directly in the process as initial investors.

We also note that to the extent entities that sell loans into the LLP are also permitted to be eligible investors the program will lose credibility. Our concern is that "gaming" the system could occur with the shifting of additional losses to the UST/taxpayer. Those who are perceived by the public to have caused the problem should not be seen as also those who benefit doubly by a solution – by selling assets and then investing in assets being sold by others, but now with substantial taxpayer assistance. We note in this regard that during the RTC sales, investors that had previously filed bankruptcy or had defaulted under loans to FDIC or FSLIC insured institutions were prohibited from bidding. A similar rule should apply to the LLP as well.

6. How can the FDIC best structure the valuation and bidding process to motivate sellers to bring assets to the PPIF?

We suggest a pre-valuation, preliminary bid "indication" process, where investors could submit a bid based on a data tape so sellers could get an idea of where the market is. Obviously, the bid may change after due

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diligence, but this would improve the efficiency and possibly motivate sellers.

Offering a broad range of deal size to encourage a broad number of investors will engage more investors and thereby encourage sellers to participate. Sellers will certainly be more willing to participate if they perceive more investors will be actively involved in the bidding process.

From the seller's perspective, guidance will be needed regarding the relationship between the auction price and the FASB valuation issues related to the assets. In addition, the FDIC should announce how it will view similarly situated assets for valuation and capital adequacy purposes, whether held by the selling bank or others. Participation in the LLP should not carry with it other negative consequences for sellers or the sellers will be motivated not to participate.

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As for the process—the FDIC already has a process in place that has been working for whole loan sales from failed institutions—why not re-use those work-flow/controls so this program for smaller participants can be implemented quickly. (ie model the due diligence, valuation and bidding process similar to the private loan sale platform currently being utilized by the FDIC).

7. What type of auction process facilitates the broadest investor participation? Should we require investors to bid on the entire equity stake of a PPIF, or should we allow investors to bid on partial stakes in a PPIF? If the latter, would a Dutch auction process or some other structure provide the best mechanism for bridging the potential gap between what investors might bid and recoverable value? If multiple investors are allowed to bid through a Dutch auction, or similar process, how should asset management control be determined?

Response: See our answer to question 6. Multiple private investors in a single PPIF will create decision making and management gridlock. If bidders want partners, they can form their own bidding groups outside of the auction process. Obviously, bids for the entire equity stake will make for quicker disposal of assets and may be appropriate for pools of homogeneous assets.

9. What are the optimal size and characteristics of a pool for a PPIF?

Response: The ideal pool size is somewhere in the $25-75 million size range for smaller investors. The asset classes should be consistent, delineated by specific geography, etc and by specific bank or originator,

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size category, average balances, homogeneous asset class with standard statistics expected by buyer to value/perform diligence, etc. Again, the FDIC would expect that any buyer will perform rudimentary due diligence so provision of specifics is warranted in that regard. Pools of this size are also much more likely to be from a single originator that has applied a uniform set of underwriting and servicing standards, thereby enhancing the ability of investors to more readily value the pool at its maximum value.

10. What parameters of the note and its rate structure would be essential for a potential private capital investor to know at the time of the equity auction to provide equity?

Response: The Note should be provided to the investor with all the terms and conditions clearly enumerated with representations/warranties consist with a voluntary arms-length loan sale program. There should be an agreed upon value (seller sets and confirmed by 3rd party valuation expert to agree to pre-auction) at which threshold the seller must sell. Buyers will lose interest quickly if their time/diligence/valuation efforts are wasted if a reasonable sale does not occur.

13. Should the program include provisions under which the government would increase its participation in any investment returns that exceed a specified trigger level? If so, what would be the appropriate level and how should that participation be structured?

Response: No. If a PPIF pool performs better than originally anticipated it is likely going to be due to the pre-purchase efforts of the investor and its post-purchase management/servicing of the loans in that PPIF. The government should receive its agreed return, and any benefit derived in excess of that anticipated should flow to the investor responsible for that result. If an investor desired to "buy-out" the government early, it would not be unreasonable for the government to receive a premium in that circumstance.

14. Should the program permit multiple selling banks to pool assets for sale?

Response: We will invest in pools that are from a single selling bank because we want the best understanding of the asset(s), its past servicing and many other variables that must be weighed during the valuation process and the transition of future management of the loans. Permitting multiple sellers within a pool will add complexity which most likely will reduce the number of interested bidders and also reduce the valuation due to the greater number of variables that will be in play.

If so, what constraints should be applied to such pooling arrangements? ***N/A***

How can the PPIF structure equitably accommodate participation by smaller institutions?

Response: Smaller, more homogenous asset pools will encourage more bidders. Increased interest will result from specificity and regional or local understanding of the credit--the more bidders, the better the pricing, the better the resolution for all. Simple and transparent qualification guidelines will also enable a broad base of potential investors to participate. We strongly encourage the FDIC to open this opportunity to an investor that can/will make smaller purchases. We recognize that this will increase FDIC involvement, but this will not only spread the risk, but allow for regional diversification and minimize concentrations.

Allow an investor to bid on only what they want, not just a fixed pool of a size too large for smaller investors. If 10 investors will each take 1/10th of a large pool, the pool will be sold and likely at a higher price than if only one investor purchases the entire pool. This will create more bidders/buyers therefore diversification, spread the risk and increase the odds for successful resolution in the long term.

As for the process—the FDIC already has a process in place that has been working for whole loan sales from failed institutions—why not re-use that work-flow/controls so this program for smaller participants can be implemented quickly. (ie model the due diligence, valuation and bidding process similar to private loan sale platform currently being utilized by the FDIC).

15. What are the potential conflicts which could arise among LLP participants? What structural arrangements and safeguards should the FDIC put into place to address or mitigate those concerns?

Response: Don't allow sellers or bail-out recipients to bid as purchasers. Multiple participants with no majority decision maker is a recipe for indecision. Nobody wants another party controlling their money – minority interests will be problematic. If possible, put the private investor in a position to buy out the full portion of the investment in a few years. Get the FDIC out of this risk/role as soon as possible and as whole as possible.

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17. How should on-going servicing requirements of underlying assets be sold to a PPIF and paid for? Should value be separately attributed to control of the servicing rights?

Response: The successful buyer/investor at the auction should be responsible for determining how purchased loans will be serviced. Buyers will not bid as aggressively if they don't have the option of controlling the servicing. If they want to hire the selling bank as the sub servicer, a standard servicing contract and pricing can be included in the bid packages.

18. Should data used by the independent valuation consultant, as well as results of such consultant's analysis, be made available to potential bidders?

Response: Yes—the more information, the better. Alternative modeling and valuations are proposed in many private loan sales to assist in setting valuations and getting a transaction consummated.

Should it be made available to potential sellers prior to their decision to submit assets to bid?

Response: Absolutely -- The only way to create confidence in this process is transparency and disclosure. Investors need to know exactly what they are bidding on and should have the ability to analyze raw data from the loan pool they are interested in to determine if they are comfortable with the risk and what they are willing to pay for the investment being offered.

We thank you for the opportunity to make our views known to the FDIC and hope that the LLP rules, when finally announced, will enable investors such as ourselves to be direct participants in this process.

Sincerely,

Chris Farrar
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