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From: Loida C. Kirkley, CCIM (lkirkley@ccim.net)

To: LLPComments@FDIC.gov.

Subject: Legacy Loans Program

Thank you for your efforts in overhauling the financing system in order to help bring the US economy back on track again.

I am writing to you in my capacity as a Syndicator for commercial real estate investors. I represent smaller investors that would have the opportunity of investing in larger commercial properties (less than $30M) only when they form a larger group. As a CCIM (Certified Commercial Investment Member) designee, I have the skill sets to locate and analyze investment opportunities for the groups that I syndicate.

I am pleased to submit my comments as follows:

1. Which asset categories should be eligible for sale through the LLP? Should the program initially focus only on legacy real estate assets or should any asset on bank balance sheets be eligible for sale? Are there specific portfolios where there would be more or less interest in selling through the LLP?

Comment: Any asset category should be eligible for sale through the LLP provided they are grouped into small pools and according to 'performance' as this relates to value. Smaller pools would open the opportunities to smaller investors and thus a wider range of market.

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?

Comment: Absolutely. This would enhance a wider market acceptance as it follows the spirit of free enterprise. However, in order to ensure that opportunities would fall into the right hands, subsequent investors should also be evaluated using the same criteria as the original ones.

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? 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?

Comment: US is a market economy; there is freedom of private businesses being able to operate competitively for profit with minimal governmental regulation. It follows therefore that there should be at least 51% (majority) held by private investors in order for them to appreciate participation in the PPIF.

4. Is there any reason that investors' identities should not be made publicly available?

Comment: Yes and No. Identities may be made public if the entity is publicly traded (e.g., REIT's, Wall Street companies), otherwise (non-public, e.g., individuals, families or other groups), identities should not be disclosed. Again, the objective would be to open opportunities to wider and un–inhibited market, which also enhances value.

5. How can the FDIC best encourage a broad and diverse range of investment participation? How can the FDIC best structure the valuation and bidding process to motivate sellers to bring assets to the PPIF?

Comment: Assets should be categorized according to investment size (e.g., smaller investors could participate in individual assets and/or they could also form groups to afford investments in bulk with the appropriate total investment value), location, and property type, among others. It is important to note that investors and asset managers appreciate specific property types and location that they are most familiar with thus such categorization would catch more interest.

The bidding process could be structured such that there is minimum (floor) price set by sellers who are more familiar with their market. Floor prices could be lowered after a set number of days if there are no takers; this would be fair to sellers but may cause a slower process.

6. 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?

Comment: Consistent with my comment in Item (5) above, asset categorization with manageable pool size should enhance participation as opposed to allowing investors to bid partially and/or entirely on equity stakes that they may not be familiar with. Asset management control would then come out almost naturally if investors and assets are categorized this way.

7. What priorities (i.e., types of assets) should the FDIC consider in deciding which pools to set for the initial PPIF auctions?

Comment: I recommend prioritizing according to categories such as- property type (enhances asset management control), asset size (to attract participation from both smaller and institutional investors), and geographic location (investors familiarity with performance), among others.

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

Comment: Depends on the geographic location of the pool. For example in the state of California where I work, individual investors are in the $5 and below range; whereas if these smaller investors are grouped into 10, they could afford up to $30M investment value. Of course there are also certain limitations to raising capital, as there are securities law issues, which then affect affordability.

9. 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?

Comment: Information as to what investor profile is expected, if any (or is debt automatically granted to the winning bidder?). Note that in Item (2) above, we spoke of 'program's criteria for investors', therefore, it seems that initial investor/s profiles would have to be determined to ascertain if the investor and investment are suitable for each other. The parameters of the note should therefore be defined, among others: required debt coverage ratio, fees and charges involved, interest rate, term, whether assumable or not (here-a brief statement of subsequent investor criteria in order to qualify), and information as to remedies in cases of default.

10. Would it be preferable for the selling bank to take a note from the PPIF in exchange for the pool of loans and other assets that it sells? Alternatively, what would be the advantages and disadvantages of structuring the program so that the PPIF issues debt publicly in order to pay cash to the selling bank? Would a public issuance of debt by the PPIF limit its flexibility compared to the issuance of a note to a selling bank?

Comment: Save a step – the selling bank should take a note from the PPIF in exchange of the toxic assets.

11. In return for its guarantee of the debt of the PPIF, the FDIC will be paid an annual fee based on the amount of debt outstanding. Should the guarantee fee be adjusted based on the risk characteristics of the underlying pool or other criteria?

Comment: Yes – it is just fair to have borrowers 'pay a premium' in exchange of the guarantee. Once the debt has been reduced to a certain safe level though the fee has to go.

12. 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?

Comment: Absolutely not. Respective participation or interest at the onset of the 'partnership' (between public and private equity) should remain and thus later enjoy equitable return.

13. Should the program permit multiple selling banks to pool assets for sale? If so, what constraints should be applied to such pooling arrangements? How can the PPIF structure equitably accommodate participation by smaller institutions? Under what process would proceeds be allocated to selling banks if they pool assets?

Comments: They may be permitted, provided: (1) the concept of pooling, i.e., categorization previously mentioned is followed, (2) The selling banks would agree among themselves as to respective percentage allocation coming in and out of the process.

14. 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?

Comments: I suppose 'LLP participants' here refer to the 'selling banks" (or is it?). I think foremost would be the way the value of their assets are determined. Therefore, criteria and specific methodologies should be formulated and set with regard to valuation.

15. What should the relative role of the government and private sector be in the selection and oversight of asset managers? How can the FDIC most effectively oversee asset management to protect the government's investment, while providing flexibility for working assets in a way which promotes profitability for both public and private investors?

Comment: At the onset, both government and private sector should, through their respective representatives (one for each), select an asset manager for each investment pool, decide on the manager's fee structure and possibly incentives based on profit. As in any regular management assignment there should be a periodic review of performance of the asset manager as well as the assets in the pool.

16. 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?

Comments: Everything should be sold and transferred to the PPIF. It is up to the PPIF to evaluate its options after the fact.

17. Should data used by the independent valuation consultant, as well as results of such consultant's analysis, be made available to potential bidders? Should it be made available to potential sellers prior to their decision to submit assets to bid?

Comments: Absolutely. Such information would help potential bidders to make decisions quicker and enable potential sellers to evaluate their options prior to submitting assets to bid.

Thank you for the opportunity of submitting my comments to these urgent issues.

Best wishes,

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