From: Eric Baum - PA [mailto:Eric.Baum@capmark.com]
Sent: Thursday, April 09, 2009 6:13 PM
To: LLPComments
Subject: Legacy Loans Program

Good afternoon,

Based upon FDIC's request for comments on the proposed LLP, I have detailed my thoughts below. My thoughts and comments are based purely from a commercial real estate point of view as that is what our firm focuses on.

1.) I believe that for now, the LLP should focus solely on legacy real estate assets. By allowing multiple asset classes, we would be complicating the entire process and to that end not fulfilling the ultimate goal of the program-to move assets quickly. Once there is an established structure and process (as accomplished by legacy real estate) we would then move into other asset classes. I believe that all of the commercial real estate asset classes (multifamily, office, retail, industrial, hotel and hospitality) will draw interest from investors. The only real estate investments that could be problematic are land loans, construction loans, mezzanine loans and preferred equity.

2.) I believe that in order to provide flexibility and liquidity to potential investors, there should be the ability to pledge, transfer or sell interests in the PPIF. By providing flexibility, we are only enhancing the probability for more investors to purchase the legacy loans. In order to protect the integrity of the program, The FDIC can set up specific "requirements" with respect to potential transferees. I would envision a "qualified transferee" definition being part of the LLP.

3.) I believe that the amount of government equity should be dependent upon the underlying portfolio. Less equity for riskier portfolios and more equity for cleaner pools.

4.) We should make investors names in the LLP public knowledge.

5.) Institutions need to be motivated to move assets from their books. Specifically, we need to be careful with mark to market issues for these institutions when they participate in the LLP as well as potentially allowing these institutions to potentially participate up any realized upside in the pool of loans they moved to the LLP. In addition, the FDIC should also work with outside professionals that have knowledge related to the contemplated asset bases (for example-utilize commercial real estate experts when developing a commercial real estate pool) in order to instill confidence with investors that the pools are appropriately priced, valued and structured.

6.) I believe that one investor should control the equity in a given PPIF. To accomplish this, individual PPIF's need to be of manageable size to accommodate the single/smaller equity investor. By allowing multiple equity investors in a PPF (this would raise control right, profit, and legal issues between the various equity investors), we would be complicating the process and potentially depressing the interest in the program.

7.) In order to move the program towards success, and ultimately flush the system with liquidity, the FDIC should focus the LLP on simplicity. Therefore, the FDIC should look to form loan pools of similar character assets. Specifically, a pool should be comprised of just multifamily, industrial, office, hotel or retail assts vs. a broader pool that includes land, mezzanine, or preferred equity or non commercial real estate. More challenging assets (single family homes and tract development, mezzanine, preferred equity, land, or construction loans) can be pooled either separately or together and the market will determine the appropriate price. By combining assets with different intrinsic risk qualities, we are creating complication and the result of this will be a non-existent or protracted sales process.

8.) I believe the right size of the pools would be in the range of $100,000,000 to $250,000,000 at a minimum level-up to $1 billion. By only having larger pools ($1 billion plus), we are limiting the potential investor base (due to required equity infusion).

9.) I believe that the private investor would want to know about the specific underlying note(s) terms. Examples of items to include for review would be: loan tenure, loan to value, loan sponsor, recourse guaranties, current cash flows, interest rate and minimum interest rate floors, amortization, interest rate caps, extension options, sponsor equity, loan to cost, and fees.

10.) Again, in order to provide simplicity, I believe that the selling bank should take back a note from the PPIF in exchange for the pool of loans.

11.) The FDIC should be paid an annual guarantee fee, and that fee should be based upon the underlying risks of each pool. A flat or common fee wouldn't be prudent across all risk scenarios.

12.) The FDIC should permit a commingling of assets from various banks. By allowing this, the resultant pools will be geographic, sponsor and asset type diverse. The price or value of each asset (within the pool) from each bank will be agreed upon prior to the auction and tracked during the auction until ultimate sale. Proceeds would be allocated back to the banks based upon these final realized prices.

13.) Asset managers should be chosen based upon their expertise and track record with respect to that certain asset type. The government should perform the necessary due diligence on all prospective asset managers. Once chosen, the asset manager should be mandated to provide detailed quarterly reporting to the government as it relates to the pool's overall performance, etc.

14.) Without question, the results of analysis from the independent valuation consultant should be made public for both the investment community and sellers to review. This will only provide transparency to the transaction and ultimately speed up the sales process from both a buyer and seller perspective.

Thank you for the opportunity to submit comments and ideas relating to the LLP. I am happy to assist in any other way possible.

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