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JEFFREY TOLL
CHIEF EXECUTIVE OFFICER

April 10, 2009

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

Dear Mr. Feldman:

Roosevelt Management Company LLC ("Roosevelt") is pleased to have the opportunity to comment on the proposed Legacy Loans Program ("LLP"). Roosevelt is a portfolio company of a large U.S.-based investment firm, and is investment manager to certain funds which primarily invest in performing, sub-performing and non-performing first and second lien residential mortgage loans, including HELOCs, and small commercial loans, as well as associated REO (collectively, "Consumer Real Estate Assets"). Roosevelt has more than $350 million (UPB) of Consumer Real Estate Assets under management. The general comments provided below are directed toward investment in Consumer Real Estate Assets through Public-Private Investment Funds ("PPIFs") under the Legacy Loans Program ("LLP"). Our comments on certain specific questions raised by the FDIC are set forth in Appendix I.

General

One of the primary objectives of the LLP must be to align the interests of the Government, taxpayers, investors and servicers while emphasizing home ownership retention and preventing avoidable foreclosures. To achieve this objective, the Government must be able to attract large well-capitalized investors or investor groups (collectively, "Investors") with significant experience in actively managing Consumer Real Estate Assets. Such Investors also should have substantial experience in valuing and investing in such assets. This type of Investor has the ability to value the assets by appropriately identifying and evaluating credit and other risk involved in the investment and management of the assets in a way most likely to maximize profits for both the Investor and the Government while at the same time protecting the taxpayer and preventing avoidable foreclosures. This type of Investor is able to bear the risk of any investment loss. In addition, this type of Investor has the capability to provide the Government with the periodic reports it requires to monitor the performance of the PPIF.

In order to achieve this objectives and goals, the LLP should be structured as follows:

Qualification of Investors

Potential Investors in Consumer Real Estate Assets should meet the following qualification criteria:

- Demonstrated capacity to invest at least $200 million ($100 million if the Government co-invests) in each PPIF Consumer Real Estate Assets pool.
- Demonstrated experience in valuing and investing in Consumer Real Estate Assets pools, including appropriate systems.
- Demonstrated experience in actively managing Consumer Real Estate Asset pools and have at least $200 million in assets under management.
- Demonstrated operational capacity to actively manage Consumer Real Estate Asset pools. This operational capacity requires: (A) appropriate systems and (B) the ability to provide (i) servicer surveillance, (ii) financial reporting and controls, (iii) servicer and asset management reporting, (iv) data security and (v). relevant program and modeling analytics.
- Established relationships with servicers, property valuation experts, REO managers and property repair and disposition specialist.
- Commitment to long-term investment (minimum 3-5 years).

PPIF Structure

In order to maximize participation by qualified well-capitalized Investors, including those which invest through off-shore vehicles such as US pension funds, the LLP must permit flexible PPIF structures. Permissible PPIF structures should include limited liability companies, trusts and REMIC structures.

In addition, leverage offered by the Government should provide long-term value to both the Government and the Investors. Overly aggressive pricing combined with excessive leverage may lead to the loss of the Government's equity contribution and financing. Therefore, we recommend that leverage be between 1:1 and 3:1. In general, leverage should be lower on non-performing asset pools than performing asset pools. Finally, it is necessary that the term of the financing be consistent with the term of the related PPIF assets.

Bid Process

It is essential that the Government provide potential bidders with a strong certainty that the assets will be sold by the selling institution in order to attract experienced well-capitalized Investors to participate in the bid process. This certainty can be provided by having each selling institution announce a Reserve Price either for its Consumer Real Estate Assets pool or specific sub-sets thereof. In addition to providing strong certainty of sale, a known Reserve Price will eliminate unacceptable bids and will reduce both seller and bidder due diligence cost and time.

It also is essential that the Government establish a bid process which provides potential bidders with sufficient information about the assets to be sold to enable potential bidders to accurately value the assets and, thereby, make informed bids. The bid process also should be simple, efficient and cost-effective.

Based on our experience, we recommend that the assets be sold through a competitive auction, but not a "Dutch" auction, similar to current industry practice through a two-step bid process.

- In Phase 1, the Government would invite qualified potential Investors to submit bid indications based on the following information: loan data tapes, due diligence information available on a Government data-site, pre-approved form or terms of the Asset Purchase Agreement and pre-approved form or terms of the Servicing Agreement.

- In Phase 2, the Government would invite two or three bidders (based on bid indications submitted) to conduct any remaining due diligence and submit final bids.

Critical loan and property data related to assets to be sold should be available to all potential bidders through a Government maintained due diligence data-site. The availability of critical data will enable potential bidders to move quickly and accurately value the assets. It will enable potential bidders to quickly determine if their proposed bid indication would meet or exceed the Reserve Price for an asset pool or subset without incurring substantial due diligence cost or spending significant time. Critical data for Consumer Real Estate Assets includes: updated broker price opinions, servicing and collection file comments, current line status and property tax status, second lien data, known legal or compliance issues and 12 month pay histories. Firms selected by the Government or sellers to provide broker price opinions and servicing and collection file data should be firms used by experienced investors in such assets and acceptable to potential Investors.

In addition, in connection with each proposed asset sale, the Government should clearly publish all sale terms which could impact Investor pricing, including, without limitation, terms of the financing, cost of the FDIC guarantee, servicing fees, asset manager fees, required loan modification programs (if any) and required Government reporting.

Each asset pool put out by the Government for bid should be large and limited to assets of the same asset class. Consumer Real Estate Assets should not be combined in a pool with commercial or construction assets. Similar assets of several sellers can be combined in the same asset pool. The offering and management of large asset pools is more cost-effective and efficient.

Asset Management

In order to achieve the objectives of the LLP, the Investor must have control over the management of the PPIF assets, including the selection of the servicer, asset disposition and all economic decisions at the loan level. Asset management control should include the ability to offer Government modification plans as well as other credit rehabilitation programs designed to prevent avoidable foreclosures and reduce the risk of borrower re-default. These credit rehabilitation programs achieve the objectives of the FDIC modification plans in slightly different ways. Credit rehabilitation programs are designed to position the borrower to refinance into government and private loan programs through principal forgiveness, maturity extension, Investor payment of closing costs and other debt payment strategies that enhance the borrower's overall credit position as an alternative to interest rate reductions. In addition, we believe that to reduce the risk of borrower re-default, loan modification plans must use a discount rate in any net present value calculation that closely approximates the market rate of the type of asset and should consider back end debt-to-equity ratios in addition to mortgage debt ratios.

As part of its asset manager function, the Investor must provide the Government with detailed and frequent periodic reports, in an agreed upon form and format. These reports will enable the Government to monitor and audit the performance of the PPIF. These reports should include cash flows and reconciliation, net present values at the loan level, pool and detailed loan information and performance metrics.

Finally, asset manager fees, servicer fees and other third party asset management service provider fees should be largely performance-based to align the interest of service providers with those of the Investor and Government in maximizing returns while preventing avoidable foreclosures.

Thank you for the opportunity to comment. If you would like to discuss our comments further, please feel free to call me at (212) 938-4888.

Sincerely,

Jeffry Tell

Which asset categories should be eligible for sale through the LLP? Are there specific portfolios where there would be more or less interest in selling through the LLP?

All different type of Consumer Real Estate Assets should be eligible for sale through the LLP. Non-performing and sub-performing Consumer Real Estate Assets should be a primary focus of early PPIFs.

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

An experienced well-capitalized investor or investor group with substantial asset management experience and ability (collectively, "Managing Investor") should have at least a 50% equity participation in the PPIF ("Managing Investor Participation"). This will assure that the Managing Investor has a significant equity investment (risk of loss) in the PPIF and is aligned with the Government and taxpayer to maximize PPIF returns. The Government equity participation (on a fully diluted basis after taking into consideration any warrants) should not exceed 50%.

To the extent that the Government elects to include minority equity investors in a PPIF, such minority investment should not exceed 10% in the aggregate and should reduce the Government equity investment percentage. In general, the number of minority investors should not exceed 1 or 2 to facilitate PPIF management and administration. Because investment in a PPIF is risky, minority equity investors should be experienced sophisticated investors capable of understanding the risk of investment and able to bear the risk of loss. We suggest that such minority investors meet the Qualified Institutional Buyer standards of Rule144A or a similar standard. Retail or smaller equity investors can indirectly participate in the PPIF through investment in institutional investment funds, such as mutual funds or pension funds.

<u>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?</u>

In order to attract potential Managing Investors to participate, the Government must provide a strong certainty that the assets will be sold by the selling banks This certainty can be provided by having each selling institution announce a Reserve Price either for its Consumer Real Estate Assets pool or specific sub-sets thereof.

In addition, the bid process must provide potential Managing Investors with sufficient information about the assets to be sold to enable them to accurately value the assets and, thereby, make informed bids. The bid process also should be simple, efficient and cost-effective.

Based on our experience, we recommend that the assets be sold through a competitive auction, but not a "Dutch" auction, similar to current industry practice through a two-step bid process.

- In Phase 1, the Government would invite qualified potential Managing Investors to submit bid indications based on the following information: loan data tapes, due diligence information available on a Government data-site, pre-approved form or terms of the Asset Purchase Agreement, pre-approved form or terms of the Servicing Agreement.

- In Phase 2, the Government would invite two or three potential Managing Investors (based on bid indications submitted) to conduct any remaining due diligence and submit final bids. The losing finalist would be reimbursed by the Government or selling bank for its due diligence costs.

- Bid indications and final bids by potential Managing Investors should be for the entire Managing Investor portion of the PPIF and should include any sub-set pricing as well as loan level pricing.

Critical loan and property data related to assets to be sold should be available to all potential bidders through a Government maintained due diligence data-site. The availability of critical data will enable potential bidders to move quickly and accurately value the assets. It will enable potential bidders to quickly determine if their proposed bid indication would meet or exceed the Reserve Price for an asset pool or subset without incurring substantial due diligence cost or spending significant time. Critical data for Consumer Real Estate Assets includes: updated broker price opinions, servicing and collection file comments, current line status and property tax status, second lien data, known legal or compliance issues and 12 month pay histories. Firms selected by the Government or sellers to provide broker price opinions and servicing and collection file data should be firms used by experienced investors in such assets and acceptable to potential Investors.

In addition, in connection with each proposed asset sale, the Government should clearly publish all sale terms which could impact Investor pricing, including, without limitation, terms of the financing, cost of the FDIC guarantee, servicing fees, asset manager fees, required loan modification programs (if any) and required Government reporting.

To maximize PPIF returns and the number of Consumer Real Estate Assets which can be sold through the LLP, the Government should institute procedures similar to those used in RTC loan sales to "cure" or protect the PPIF against defects and liabilities relating to documentation or compliance issues, including, without limitation, missing interim assignments and assignee liability.

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

Each asset pool put out by the Government for bid should be large and limited to assets of the same asset class. Consumer Real Estate Assets should not be combined in a pool with commercial or construction assets. Similar assets of several sellers can be combined in the same asset pool. Minimum aggregate equity of each PPIF should be at least $200 million. The UPB size of each pool should be a function of minimum required PPIF equity and proposed leverage. The offering and management of large asset pools is more cost-effective and efficient for the Government, the taxpayer, the selling banks and the Investors.

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?

Minimum disclosed parameters of the note rate and structure should include: fixed or floating rate structure (for floating rate structure, minimum parameters include floating rate index, margin, and any rate caps or floors), term to maturity of the debt, and all interest and principal repayment terms necessary to model cashflows of debt under all possible repayment scenarios.

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?

Private investors will consider overall rate of return profile under various scenarios as well as structure complexity in assessing their bid price for the underlying assets. Shifting equity participation interests adds significant complexity to already complex and uncertain equity cashflow streams and could result in lower private investor interest and/or bid prices for the legacy loan assets than less complex structures.

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

The LLP should permit multiple selling banks to pool assets for sale provided the assets are of the same asset class. In such event, each bank would set a Reserve Price for its sub-set of the pool assets. If bidders give pool, sub-set and loan level pricing, each selling bank could determine whether to accept the portion of the bid related to its assets. Each selling bank would receive its pro rata portion of the proceeds based on its subset pricing. However, for a multibank pool sale to close, the final pool size must be sufficiently large to satisfy the minimum PPIF equity requirement.

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

To avoid potential conflicts of interest, selling banks should not be minority investors in PPIFs in which their assets represent more than 10% of the aggregate PPIF assets.

In addition, to avoid potential conflicts of interest, neither banks accessing the LLP for liquidity nor their affiliates should be allowed to be Managing Investors.

Finally, to align the interest of the Government, the taxpayer, the investors, servicers and other asset management service providers, asset manager fees, servicer fees and asset management service provider (REO asset managers, property repair and disposition specialist) fees should be largely performance-based.

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?

The asset manager function should be the responsibility of the Managing Investor. The ability of the Managing Investor to perform this function should be evaluated by the Government as part of investor qualification. Managing Investors of Consumer Real Estate Assets should have the following asset management qualifications:

- Demonstrated experience in actively managing Consumer Real Estate Assets and have at least $200 million in such assets under management.

- Demonstrated operational capacity to actively manage Consumer Real Estate Assets. This operational capacity requires: (A) appropriate systems and (B) the ability to provide (i) servicer surveillance, (ii) financial reporting and controls, (iii) servicer and asset management reporting, (iv) data security and (v). relevant program and modeling analytics.
- Established relationships with servicers, property valuation experts, REO managers and property repair and disposition specialist.

Minority equity investors (if any) and the Government should be passive equity investors.

The FDIC can oversee asset management through required reporting and auditing. The FDIC can promote profitability for both private and public investors investing in Consumer Real Estate Assets by selecting Managing Investors who meet the aforementioned asset management qualifications and by giving them the control and asset management flexibility to maximize PPIF profitability while emphasizing home retention and preventing avoidable foreclosures.

This includes the flexibility to offer credit rehabilitation programs which achieve the objectives of Government modification plans in slightly different ways. Most credit rehabilitation programs offered by major investors today are designed to position the borrower to refinance into government and private loan programs through principal forgiveness, maturity extension, investor payment of closing costs and other debt payment strategies that enhance the borrower's overall credit position as an alternative to interest rate reductions. To reduce the risk of borrower re-default, offered loan modification plans must use a discount rate in any net present value calculation that closely approximates the market rate of the type of asset and should consider back end debt-to-equity ratios in addition to mortgage debt ratios.

How should on-going servicing requirements of underlying assets be sold to a PPIF and paid for?

All Consumer Real Estate Assets should be offered for sale servicing released. Servicing fees should be paid out of the cash flow of the PPIF.

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

Yes, the Government should make independent valuation consultant data and analyses available to potential bidders and sellers. There should be transparency and a level playing field.