Via FedEx and Email

Date: April 9, 2008

To: Robert E. Feldman, Executive Secretary, Federal Deposit Insurance Corporation

From: Diane Citron, Head of Government Affairs, Carrington Capital Management

Re: Requested Comments to the Proposed Legacy Loan Program

Carrington Capital Management, LLC ("Carrington") is pleased to provide comment on the Legacy Loan Program as requested in the Request for Comment posted on the Federal Deposit Insurance Corporation's ("FDIC") web site under the Legacy Loans Program – Program Description and Request for Comments dated March 31, 2009. We have provided background on our firm for your reference, suggested revisions to the announced Legacy Loan Program ("LLP") to encourage broader private sector participation and included responses to the published questions listed on the FDIC web site. We welcome the opportunity to engage in further discussions to assist the FDIC with the development of a program and structure that will maximize Private Investor participation and proceeds to the selling bank while minimizing taxpayer exposure.

Carrington's Background

Established in 2004 by Bruce Rose, a 25-year veteran of Wall Street and the former head of Citigroup/Salomon Brother's non-agency mortgage desk, Carrington was founded to deploy investor capital into the US residential housing market and generate a return by focusing on the long-term investment in non-prime mortgages. Since inception, Carrington has arranged the purchase of over $23 billion of residential subprime mortgages and the structuring and closing of 24 securitizations, two of which are included in the ABX indices. Additionally, the firm manages a fund invested in the non-investment grade cash flows from its underlying securitizations, which at its peak totaled over $1.1 billion in assets under management.

In support of Carrington's business plan the firm developed internal groups focused on asset pricing, diligence, servicer surveillance and REO management. These groups, together with the "Rights of the CE Holder" set forth in the constituent documents of each securitization arranged by Carrington, provided Carrington with the ability to operate as a vertically integrated mortgage company despite not owning or operating a residential mortgage servicer of its own.[1] In March 2007, Carrington formed Carrington Mortgage Services ("CMS") with the intention of acquiring an established residential mortgage servicing platform and in June 2007, Carrington Mortgage Services was successful in acquiring the legacy New Century servicing platform out of a bid and auction process conducted by the bankruptcy courts.

[1] The Rights of the CE Holder permitted the holder of the Credit Enhancement bond access to certain reports and, based on such reports, the right to direct the servicer with respect to decisions regarding defaulted mortgages, including foreclosure decisions and REO disposition.

SEVEN GREENWICH OFFICE PARK, GREENWICH, CT 06830
203-661-6186 203-661-6378 (F)

This acquisition immediately made CMS a significant participant in the subprime residential servicing community with over 80,000 loans with a principal balance in excess of $19 billion on the platform. Since closing the acquisition, CMS has successfully evolved from a process-oriented low-cost servicer into a high-touch special servicer focused on resolving the increasing numbers of delinquencies through loan modifications and other home retention strategies intended to keep borrowers in their homes. As part of the evolution into a high-touch special servicer, CMS made a substantial investment in senior management, adding 13 positions at the vice-president level or above, thus concentrating responsibilities in an effort to increase accountability and maximize asset performance.

The combination of asset acquisition and asset management experience at Carrington, together with the successful build out of a high-touch special servicer at CMS, makes Carrington uniquely positioned to assist the FDIC with the development of, and ultimately participate in, the Legacy Loan Program.

Proposed Revisions to the Announced Framework

After a detailed review of the announced framework, we believe that it is well-crafted and has the ability to be effective in attracting private capital in a meaningful way, subject to a few technical revisions to address how the loans are held, the priority of repayment between the various financing participants, the handling of servicing upon the sale of the assets and the ability of the selling institution to retain an equity interest in the PPIF.

Structure – Allow the PPIF to form a REMIC[2] to hold the loans
In the current proposal, the loans are contemplated to remain in the PPIF, funded by the equity contribution from Treasury and the Private Investor as well as the seller provided financing in the form of a note issued by the PPIF and guaranteed by the FDIC.

Our recommendation is that the FDIC allow the PPIF to create a REMIC trust to ultimately hold the loans. This recommendation is based on our continued success from efficiently investing capital to generate returns from residential mortgages and our desire to see the LLP maximize the amount of capital that can be deployed for this opportunity. Not taking advantage of the REMIC structure may significantly curtail the amount of capital Private Investors deploy to support the Legacy Loan Program.

As opposed to having the investment fund hold the loans directly, the use of a REMIC trust provides the following benefits to the LLP PPIF:

- REMICs are well known and respected by the investment community – allowing for REMIC usage where appropriate should maximize the amount of capital deployed by the private investment community, including tax-exempt, foreign and domestic investors, in the shortest

[2] "A Real Estate Mortgage Investment Conduit (REMIC) is a type of multiclass mortgage-related security in which interest and principal payments from mortgages are structured into separately traded securities. Introduced in the 1980s, REMICs further enhanced the mortgage securities market with their increased efficiency."
http://www.fanniemae.com/mbs/mbsbasics/remic/index.jhtml

amount of time. The introduction of an alternative structure that investors are unfamiliar with will delay the participation of investors as they expend time and money to review and revise the newly proposed structure.

- Using a REMIC trust with a proven body of tax law supporting it will ensure actions in maximizing the value of the loans will be transparent. Everything done will be governed by the tax rules and reported consistent with Section 860 of the Internal Revenue Code to the IRS and investors alike. Additionally, using the REMIC trust assures both the US Government and the Private Investor that the profits will be taxed once and fairly under existing tax rules that have withstood the test of time and audit;

- Foreign capital has long supported the US housing market. This has been encouraged by the Federal government and made practicable through the development and utilization of REMIC trusts. Allowing the use of a REMIC trust for the LLP PPIF ensures this capital base remains available to support the US housing market.

- Utilization of a REMIC provides for the efficient transfer of interests, should the LLP allow for it. REMIC trusts issue Certificates that the capital markets are very familiar with and that are already traded in significant volumes around the globe by financial institutions. The introduction of a new structure may curtail liquidity as it will require a time and monetary investment by global financial institutions as they become familiar with a non-REMIC whole loan structure and learn how to trade it.

- REMICs typically use a trustee for operational oversight and cash distribution. The inclusion of an unaffiliated third-party that has no stake in the economics of the underlying transaction provides investors with a level of comfort that the integrity of the trust is being maintained. While it is possible to have a service provider fulfill this role in a non-REMIC based transaction, traditional REMIC structures already contemplate the role of the trustee. Firms that traditionally act as REMIC trustees are familiar with what is required of them and the capital markets are familiar with the benefits a REMIC trustee can provide.

Our suggested structure is detailed and diagramed as follows:

- PPIF would purchase mortgage loans from the Seller using:
  - cash received from the Private Investor and Treasury;
  - a “to-be-delivered” Class A REMIC Certificate guaranteed by the FDIC;

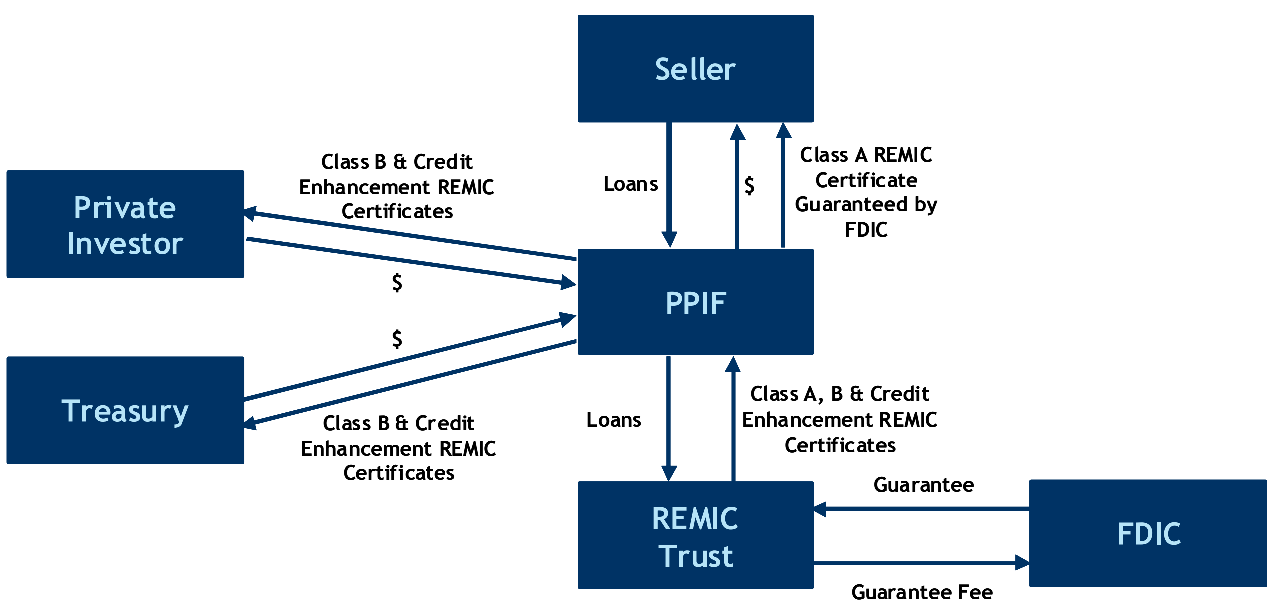
- PPIF would place the loans into a REMIC Trust;

- The REMIC trust would then issue three classes of REMIC Certificates to the PPIF in exchange for the Mortgage Loans;
  - Class A Certificates will be FDIC guaranteed senior Certificates;
  - Class B Certificates will be non-FDIC guaranteed senior Certificates;
  - Credit Enhancement Certificates will represent the junior interest in the trust and entitle the holders to excess cash flow;

- The PPIF will then transfer the REMIC Certificates to the Private Investor, Treasury and the seller according to pool specific leverage ratios;
    - Class A Certificates would be distributed to the selling bank;
    - Class B Certificates would be distributed to the Treasury Department and the Private Investors in proportion to the amount of PPIF equity purchased by each of Treasury and the Private Investor;
    - Credit Enhancement Certificates will also be distributed to the Treasury Department and the Private Investors in proportion to the amount of PPIF equity purchased;

- Consistent with TALF, Class A and Class B Certificates will receive principal on a pro-rata basis until such time as the Certificates are retired;
    - Once retired, all excess cash flow will be split between the Private Investor and Treasury according to their ownership of Credit Enhancement Certificates;
    - Treasury's right to excess cash flow as evidenced by the Credit Enhancement Certificates is intended to mirror the warrants being sought and would take the place of any warrants in the transaction;

- The Class A and B Certificates will receive interest payments supported by the underlying collateral. It is expected that the Class A FDIC-guaranteed Certificate will earn interest at a market clearing interest rate determined either through a true sale of the certificate or by an agreed upon procedure. It is expected that the Class B Certificates would receive a higher interest rate than the Class A Certificates to compensate the Class B Certificate holders for the additional risk they are taking as evidenced by the absence of an FDIC guarantee and the fact that losses accrue to the Class B Certificates before the Class A Certificates. The Class B Certificates interest rate can be set at a fixed spread to the Class A Certificates based upon the implied value of the FDIC guarantee.



Priority of Repayment

A critical component of any investment is the expected risk-adjusted return earned on invested capital. When utilizing a REMIC, the expected return is driven by the investments standing in the capital structure. If, similar to TALF, the Private Investor and Treasury Class B Certificates share equal priority for repayment with the FDIC-guaranteed Class A Certificates, Private Investors would be willing to pay more for their investment than if the Private Investor and Treasury were subordinate to the FDIC-guaranteed Class A Certificates due to the insufficient returns to the Class B Certificates resulting from a delay in return of principal. For this reason, to remain consistent with TALF and to raise the greatest amount of private capital, we believe it is essential to have all of the investors in a Legacy Loan Program PPIF share equally in the return of cash, until all principal is returned, based on their initial contribution to the PPIF. Once all principal is returned, all excess cash flow should be distributed to the Private Investors and the Treasury Credit Enhancement Certificates in proportion to the amount of equity invested in by each.

If there are losses to be allocated they would first be taken from the Credit Enhancement Certificates, then the Class B Certificates and lastly, the Class A Certificates which would be made whole according to the terms of the FDIC guarantee.

Servicing – Transfer on Sale

The ultimate goal of the Private Investors and Treasury is to generate the highest return possible on their invested capital. The fact that this can be accomplished while serving the public interest makes the investment in LLP PPIFs all the more attractive to a broad range of market participants. The key driver of returns for a LLP PPIF will be the mortgage servicers' ability to collect payments from current borrowers, offer successful resolution paths to delinquent borrowers and quickly resolve properties when all attempts to assist a borrower fail to work. An otherwise successfully structured transaction can quickly turn into a disaster for all stakeholders if the servicer fails to bring the appropriate amount of effort to a pool of loans. It is for this reason that control of servicing, not merely ownership of servicing, is essential for the Private Investor and any uncertainty relating to such control will keep investors on the sidelines and work against the success of the LLP PPIF. The best way to deliver control to investors, and thereby maximize potential participation, is to allow for the assets to transfer to an FDIC pre-qualified servicer of the Private Investors' choosing, effective on the day of sale for the pool of loans.

Selling Bank retains an interest in the pool of assets

The intent of the PPIF should be to assist financial institutions with cleaning up their balance sheets in a manner that maximizes proceeds to the selling bank while minimizing taxpayer exposure. Although retention of an interest in loans for sale is an important concept for restarting the securitization markets, the concept is intended to ensure selling institutions make appropriate loans going forward, not reward them for the resolution of assets that already exist and are currently distressed.

In pursuit of the intent of the LLP PPIF, the cleanest program with the fewest participants should be most effective. We believe that the addition of another potential equity participant along side

Treasury and the Private Investor could further limit investment opportunities available to Private Investors and will work against creating a program that brings the most private capital to resolve the situation while potentially rewarding the selling financial institutions. We believe that the Private Investor should have the ability to purchase up to 100% of the equity available in the structure and that the Treasury should only be relied upon if the best bid fails to bid for 100% of the equity. Our suggestion would be that if the FDIC believes the selling bank should participate in the upside of a LLP PPIF, it does so in lieu of Treasury's participation, and in a manner similar to how we envision Treasury's participation.

Response to Questions

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?

The LLP should focus initially on one asset class and over time broaden the program by phasing in new asset classes, one at a time. We believe this type of roll-out will maximize investor participation, minimize market confusion and generate the greatest selling price as a result. Based on the amount of capital we believe we can raise, and anecdotally have been told others have raised, we believe that there will be the greatest demand for homogeneous pools of single-family residential mortgage assets, specifically those that are slightly to more significantly delinquent.

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?

Yes, Private Investors should be able to sell or transfer their interests in the LLP PPIF. Utilizing a REMIC structure will help facilitate this and greatly improve liquidity.

The FDIC may want to limit sales of interests to QIBs or other accredited investors to ensure that subsequent investors meet program criteria.

More important than monitoring investors after the initial sale, the FDIC should remain committed to ensuring that a qualified servicer remains engaged and focused on asset resolution and the FDIC should develop a framework to handle situations where Private Investors wish to transfer servicing at a future date. One possible solution would be to have a pre-qualified list of servicers that Private Investors may use or established criteria for servicers and as long as the servicer is on the list or meets the criteria the Private Investor may use such servicer.

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?

Government involvement in the form of equity participation should be kept to the minimum amount needed to effect a sale. Doing so minimizes taxpayer exposure while providing the Private Investor with the opportunity to deploy a meaningful amount of capital into the opportunity. With the recent economic turmoil we believe there is a substantial amount of cash sitting on the sidelines waiting to be deployed into viable investments. Having the Treasury provide too sizable a piece of a given PPIF or operate under a requirement to participate at a fixed percentage may limit the amount of private capital able to be deployed and expose the taxpayer to unnecessary risk.

The size of the government investment in the equity component of a PPIF may best be determined as a plug figure used to make up the gap between the largest amount of private capital being bid at highest price and the amount of equity being offered. If the highest bidding Private Investor is willing to invest in the entire equity component being offered, we believe that Treasury should remain on the sidelines. If the highest bidder falls short of being able to make an investment equal to the entire equity piece being offered, we believe Treasury should step in and make up the difference, subject to a maximum amount of no greater than 50% of the equity being offered.

4. Is there any reason that investors' identities should not be made publicly available?
It is essential that the FDIC balance the need for transparency on behalf of the taxpayers with Private Investors' need for privacy. If the disclosure would enhance the effectiveness of the program we would support public disclosure. If an attempt at transparency leads to public disclosure without a measurable benefit to the program, we believe Private Investors will stay away, thus negatively impacting the amount of capital available for the program.

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?

<u>REMIC</u> As mentioned earlier, the utilization of a REMIC will eliminate most of the structural uncertainty, providing the market with an accepted structure that should maximize the amount of capital Private Investors deploy, help to maximize proceeds to the selling institution and minimize unnecessary taxpayer exposure.

<u>Transaction Size</u> Larger size block transactions ($100mm+) will likely incent investors with the greatest resources to participate and should realize efficiencies not possible with smaller transactions due, in part, to the high fixed costs associated with the acquisition of whole loan collateral.

<u>Reverse Inquiry</u> Reverse inquiry may have a valuable place in the LLP – We believe that allowing investors to directly approach selling banks to carve out eligible pools of assets and bring an already structured transaction to the FDIC will foster greater participation amongst the selling banks as they know there is a closable transaction available.

<u>Valuation Process</u> An established valuation process that uses consistent and verifiable inputs will provide sellers with confidence that their assets are being fairly valued and may encourage more financial institutions to utilize the LLP PPIF as a way to clean up their balance sheets.

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?

As it relates to single family residential assets, we believe that bids should be all-or-none to a single Private Investor or an already established consortium.

A two-round bidding process similar to the method in which single-family residential loans are currently traded may provide efficiencies not available with a newly introduced methodology. In the current market, a seller approaches one or many potential buyers and markets a pool of whole loans via a mortgage loan “tape” which is a downloadable electronic file of information relating to the assets being offered for sale. In a competitive bidding process, potential buyers are encouraged to submit bids at a precise future point in time. In a negotiated transaction the parties work towards price discovery through a more collaborative process. Sellers may either provide updated valuations from an agreed upon valuation company upfront and ask bids to be based on the updated valuations or ask bidders to make assumptions about the change in housing values from origination through the bid date and provide levels for several housing price assumptions (i.e. down 10%, down 20%, down 30%, etc).

In a competitive sale process under either scenario just presented there will be a clear winner. However, the seller will typically invite the top two or three bidders to perform due diligence where each invitee will perform a file level review on 100% of the loans in the pool in case the lead bidder falls out. If the seller provided updated values, diligence will focus on credit and compliance issues. If the seller did not provide updated values, diligence will include a valuation component in addition to credit and compliance. Upon completion of due diligence, in the case where updated values are not provided upfront, the final price of the pool will be set and, in either case, the pool will be sold to the highest bidder.

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

With housing at the center of the financial crisis we believe it essential to stabilize housing prices before we can enjoy a broader recovery. With delinquent single family residential mortgages clogging the balance sheets of financial institutions that lack special servicing capability, we believe that an initial focus on this asset will provide the greatest benefit to the broader economy while generating the greatest amount of investor interest translating into higher proceeds for the seller and less taxpayer exposure.

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

For single-family residential mortgages, due to the significant fixed costs associated with a transaction, we would like to see pools of at least $100mm, but preferably $250mm and up to, or greater than, $1 billion, that are in some stage of delinquency. Geographic diversity is not required, but preferred. Pools should be able to be offered with limited representations and warranties but at a minimum we would expect representations that taxes are current, there is a valid lien, the loan does not violate any applicable law and the seller has full right, title and authority to sell and transfer the loans. We would expect to see pools trade without advance reimbursement from the buyer but that instead, the seller would be reimbursed outstanding advances as collected.

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?

It is essential to know the order in which the different classes of Certificates are repaid, the order in which losses are allocated and the interest rate obligation of each class of Certificates.

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?

We would be satisfied with the FDIC-guaranteed REMIC Certificate either being sold publicly or placed on the banks balance sheet, whichever is viewed as more favorable execution at the time of the transaction.

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?

We believe it would be appropriate to have the guarantee fee be risk-adjusted. However, we would suggest that the fee calculation be extremely transparent in order to incorporate the fee into the expected economics when analyzing potential transactions.

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?

We feel strongly that permitting the government to increase its participation after the deal has closed, whether through warrants or otherwise, in any manner that dilutes the investment of the Private Investor will have a chilling effect on the availability of Private Investor capital.

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?

Multiple banks should be able to pool assets provided the assets are homogeneous and the banks share a similar view of value. If any of the participating banks has a divergent view of value it will be very difficult to settle the transaction in a manner in which each bank feels fairly treated. If the assets are homogeneous and the banks share a similar view on value, each bank would receive cash and FDIC-guaranteed REMIC interests according to the face value of the assets contributed.

We believe, however, that initially, in order to close successful transactions, the fewer the parties the better. After one program is up and running, permitting pre-organized consortiums should be easier to arrange and control.

If multiple sellers are permitted to pool assets into one transaction it will be essential that the Private Investor have the ability to transfer servicing as of the sale date to a servicer of the Private Investor's choosing to avoid having to deal with multiple servicers in working out the loans.

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?

The FDIC should rely on the use of an independent, third-party trustee to provide oversight. Conveniently, this is a traditional feature of a REMIC structure and another reason why its use could be beneficial to the LLP PPIF.

Regarding conflicts, we would suggest that a Private Investor cannot be an affiliate of a selling party as the affiliate may be unfairly advantaged by non-public information. Likewise, a purchaser in the secondary market of an A, B, or C certificate may be in possession of non-public information with respect to such Certificates and therefore should be proscribed from investing or trading such Certificates in the secondary market without disclosure of any such non-public information to any prospective trading partner or purchaser.

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?

The government should establish criterion that allow for the broadest involvement while ensuring that there are minimum standards of competence at participating institutions. To this end, Private Investors should be selected based upon their experience managing similar assets and the current infrastructure they possess to resolve troubled assets, most specifically the experience, orientation and capacity of their servicing platform. The government and the private sector should be able to pre-qualify servicers and oversee or manage the performance of such servicers through periodic reports relating to, among other things, delinquencies, modifications and asset resolution results.

The FDIC should establish upfront metrics or events of default that are relevant to each asset class and are not subject to revision. Private Investors will know upfront the standard of performance they will be subject to and should have complete flexibility to manage the assets in the LLP provided an event of default is not triggered.

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?

Key to the return of the LLP PPIF is the performance of the servicer. Given this, all asset sales should be conducted "servicing-released", meaning all servicing rights should be sold with the underlying assets and controlled by the Private Investor.

The Private Investors' bid price for their investment should incorporate the value of the servicing rights.

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?

Yes, the data should be available to bidders and sellers. Anything that enhances transparency is welcome. While bidders will be using their own valuation services during diligence the information provided by the independent valuation consultant is another valuable data point that should ultimately contribute to greater proceeds to the seller.