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To: LLPComments
Subject: Legacy Loans Program

Thank you for taking comment on the Legacy Loans Program. All Questions and Answers are below.

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?

   A: All assets types on bank balance sheets should be eligible for sale. The real estate assets are seen as the most toxic simply because their values are the most transparent and therefore it is obvious that the banks are upside down on these. As companies report earnings in this economy it will become obvious that C&I credits are upside down as well and the banks are even less capable of dealing with these. These assets need to go to people who know how to deal with it.

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?

   A: They should not be able to sell their interests in the PPIF for some period of time, but they need to have some discretion in disposing of underlying assets. The investors will be the closest to these assets and will be incentivized to dispose of them in the most efficient manner.

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?

   A: 25-40%. The investors need to take the risk and reward of majority control in order for the process to be an efficient market. A significantly higher percentage from the government would encourage option type pricing as the investors are really taking very little risk. It would also force the government to stay more involved in the assets as it still has a majority stake. One of the main goals of this process should be to move these assets back into the hands of the private sector, not create a huge government force that is inefficient in handling these assets.

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

   A: No. In order for this process to work correctly the investor should be taking on an active role in managing the asset and would therefore need to identify itself to the borrower immediately anyway.

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?

   A: The FDIC should use the model it already uses for selling bad loans of banks it has taken over. Publicly announce the sales, make it known that the asset will go to the highest bidder unless there is some unusual circumstance in the middle of the sale process, and make as much information as possible available to the bidders. This process works pretty well and the FDIC has generally been able to sell these extremely toxic assets for a reasonable recovery. There cannot be a reserve price if the market is to work efficiently. Investors have to spend a lot of time and money doing diligence on these sales and if they are not assured that the assets will go to the highest bidder they will not have the incentive to do so.

The alternative would be reimbursing the investors for their time and expense if the assets are not sold, but this alternative would create a lot more problems than it is worth.

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?

   A: See #5 above. Also, the investor should have to bid on the entire PPIF. Trying to sell off percentage equity stakes would be an organizational nightmare for both the government and/or the entity that has to become the agent for the new entity. We need to remove the burden on the government for the management of these assets, not increase it.

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

   A: Doesn't really matter. The process should be set up to remove these assets as quickly as possible.

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

   A: This depends on the size of the assets. Pools should be at least $5mm to get the attention of a wide investor base and could be much, much larger depending on the size of the underlying asset. Pools should include at least 3 relationships in order to provide some diversification within the pool.

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?

   A: The entire loan file needs to be made available to potential investors.

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?

    A: NO. The bank needs to be completely out of the transaction once it closes. The FDIC needs to put up its portion in cash along with the investor so that the bank can completely wash the asset off its books.

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?

A: NO. The FDIC already guarantees this debt through the insurance they provide the bank. The debt to the new entity should be paid a market interest rate and the FDIC should receive a percentage of that interest because of the guaranty they provide. The FDIC does not have the manpower to correctly gauge the amount of risk involved in every asset that is sold, nor should it beef up its staff in order to be able to do so.

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?

    A: NO

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?

    A: No, again this creates more bureaucracy which is completely unnecessary. The banks should put the assets up for sale and with the FDIC backed debt providing liquidity an efficient market will get the banks the highest value for the assets.

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?

    A: This should not be an issue because one investor should hold a majority position with the FDIC holding a minority position which is pari passu with the investor.

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?

    A: The investor should have sole responsibility for choosing, or better yet providing the asset manager for the assets it purchases. In fact the investor should be able to show they have the ability to manage the assets before it is allowed to purchase the assets. Again, one of the main goals of this process should be to lessen the burden of these assets on the government by putting them in the hands of private investors, while providing the government with some upside from the eventual disposition of these assets through it pari passu investment.

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?

    A: See #15 above. Any servicing should be included in the sale package and the investor needs to be able to provide that servicing either in house or have the ability to outsource it. The servicing fee should not be a major decision point in the sale of the assets. The eventual disposition of the assets should dwarf the servicing fee and therefore the most attention needs to be paid on getting the highest disposition possible. The investor needs to have the discretion to change servicers if it does not feel it is getting the best and most valuable service so that it and the government can get the highest return possible for the investment.

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?

    A: As much data as possible should be provided to potential investors in order to make the market as efficient as possible. If data is held back investors will have to discount the price they are willing to pay based on a perceived lack of information.

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