CDBA Community Development Bankers Association
1801 K Street NW ▪ Suite M-100 ▪ Washington, DC 20006 ▪ (202) 689-8935 ▪ (202) 689-8938 fax

April 10, 2009

Mr. Robert E. Feldman
Executive Secretary
Attn: Comments, FDIC
550 17th Street, NW
Washington, DC 20429

By e-mail: LLPComments@FDIC.gov

Dear Mr. Feldman:

On behalf of the Community Development Bankers Association (CDBA) and our communities, we write to comment on the Federal Deposit Insurance Corporation (FDIC) Notice of Proposed Rulemaking on the Legacy Loans Program.

Who We Are

The Community Development Bankers Association represents Federal and state chartered banks and thrifts that are Community Development Banks (CDBs, a.k.a. CDFI banks). Our members serve as engines of economic inclusion throughout the United States. We share a common mission of improving communities and lives. All of our members are certified by the U.S. Treasury Department's Community Development Financial Institutions (CDFI) Fund as targeting 60% or greater of our total business activity to low income communities and people.

CDBs make a difference – perhaps the difference – in the lives of tens of thousands of people in the communities we serve. Our members are often the only source of credit and financial services in these communities. We make loans to build and renovate housing so that people have a decent place to live. Our housing lending, in turn, sparks revitalization of other housing in our neighborhoods. We make loans to small businesses so that people will have jobs. The businesses we lend to, in turn, act as magnets that draw other businesses into the community. Our lending has a ripple effect throughout the community far beyond our direct customers, changing a community's dynamic.

Our member institutions are small banks (the largest is under $3 billion in assets). We serve low- and moderate-income communities that have been hard hit by the current economic downturn. We have been serving these communities with quality financial products—both consumer and business—for many years, generally holding loans in our portfolios. We appreciate the FDIC's stated desire to make the program useful to smaller banks.

Our primary comment relates to the size and type of pools that would be eligible for the program. Representatives of our banks have sat in on the conference calls the FDIC has held, and we are concerned that the proposed minimum pool size (there was mention of a minimum of $1 billion!) will make it extraordinarily difficult, if not impossible, for our banks to use the program, especially if pooling across institutions is not permitted or limited. We understand that large pool sizes may be more economically efficient for investors, but we believe that by creating an alternative structure for CDFI Banks (or smaller banks more generally) some or all of the costs can be streamlined, especially for small investors who know the selling lending institutions, their communities and even specific loans and borrowers. Many of our members have successfully sold troubled loans to local investors in the past. We believe by lowering the pool size and allowing the participation of local investors to truly manage the liquidation of pool assets will be advantageous for all participants. The banks would receive better pricing; the FDIC and the Treasury would incur lower losses on the pools due to the depth of knowledge and experience of the local investors; and the local investors would be able to take on larger projects due to the co-investing by the Treasury and the presumably more favorable terms available on the FDIC backed debt financing.

We propose the following:

- Allow pools as small as $10 million, with as few as a single loan
- The selling bank should be able to solicit potential buyers, including individuals.
- The pool would then be offered at auction, with the price proposed by the buyer as the reserve price.

The buyer and seller will have mutual interests in reaching a fair price, but the subsequent auction will ensure that the price the buyer proposes is not unrealistically low.

In addition, we believe the FDIC and Treasury should facilitate special types of pools that might appeal to special kinds of investors. For example, pools of loans in low- and moderate-income communities may appeal to investors who either are subject to the Community Reinvestment Act, or who might be concerned about CRA obligations in the future such as insurance companies. Multi-bank pools of loans of specific types (e.g., hotel loans, condominium conversion loans) or in specific locations (e.g., Cleveland) might also enable smaller institutions to participate and draw more investors at better prices than would sales by a single institution.

With respect to both these suggestions, we suggest the FDIC might want to consider a pilot program for CDFI Banks; we would be interested in discussing this with you.

With respect to the question of the form of payment from the pool to the seller, we urge that selling lenders have the option to demand cash and/or a note that is negotiable, and that could, in particular, be used as collateral for overnight lending, repo transactions and/or borrowing from the Federal Home Loan Banks.

While we recognize that such a requirement might lead to lower prices, we believe the flexibility is important.

Finally, we urge the FDIC and other primary supervisors to clarify how they intend to work with banks to determine assets that would be appropriate for sale. We suggest that if a bank and its primary supervisor agree that a pool is appropriate for sale, it should be fast-tracked for disposition through the FDIC's system.

Once again, we appreciate this opportunity to comment on the Legacy Loans Program, and look forward to working with the FDIC to enable us to use this program to strengthen our balance sheets so we can continue to serve our communities, which are in such need of high quality credit.

Sincerely,

CDBA Policy Committee

Robert McKean, CDBA Board Chairman
Albina Community Bank, *Portland OR*

Jake Bellipanni
Guaranty Bank and Trust Company, *Belzoni, MS*

Pedro Bryant
Louisville Community Development Bank, *Louisville KY*

Robert Cooper
OneUnited Bank, *Boston MA*

Fran Grossman
ShoreBank, *Chicago IL*

Robert McGill
Neighborhood National Bank, *National City CA*

David Reiling
Sunrise Community Banks, *Minneapolis MN*

CDBA Member Banks:

Albina Community Bank — *Portland, OR*
Carver Federal Savings Bank — *New York, NY*
Central Bank of Kansas City — *Kansas City, MO*
Citizens Savings Bank and Trust Company — *Nashville, TN*
City First Bank of DC — *Washington, DC*
City National Bank of New Jersey — *Newark, NJ*
Community Bank of the Bay — *Oakland, CA*
Delta Southern Bay — *Ruleville, MS*
Elk Horn Bank & Trust — *Arkadelphia, AR*
First American International Bank — *Brooklyn, NY*
First Bank of the Delta — *West Helena, AR*
Franklin National Bank — *Minneapolis, MN*
Guaranty Bank and Trust Company — *Belzoni, MS*
International Bank of Chicago — *Stone Park, IL*
Legacy Bank — *Milwaukee, WI*
Louisville Community Development Bank — *Louisville, KY*
Mission Community Bank — *San Luis Obispo, CA*
Mission Valley Bank — *Sun Valley, CA*
Native American Bank, NA — *Denver, CO*
Neighborhood National Bank — *National City, CA*
OneCalifornia Bank – *Oakland, CA*
OneUnited Bank — *Boston, MA*
Pan American Bank — *Chicago, IL*
Park Midway Bank—St. Paul, MN
ShoreBank—Chicago, IL
University National Bank—St. Paul, MN