From: Candice Nonas [mailto:CNonas@newoakcapital.com]
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To: LLPComments
Subject: NewOak Capital Responses to PPIF Legacy Loan

Question 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?*

- Commercial Loans and Real Estate, Residential Loans and Real Estate, Leveraged Loans
- Through the PPIP Legacy Loan funds legacy real estate loans and legacy real estate property (REO) should be eligible. The "categories of asset" is going to be determined, in large part, by the bank's willingness to sell certain assets. Banks are going to be reluctant to sell assets that are not completely written down or those that have a perceived 'cash-flow' value that is greater than a bid price or expected bid price. In reality some types of legacy loans and assets – those that are esoteric, difficult to resolve, or that can only be managed by a rare, few group of experts - are better liquidated through negotiated sale rather that a bid process.
- Market demand for certain asset types will be evident in the number of bid participants and the variance in bid price. First priority for auction should be given to assets that a large number of market participants understand and have a process for determining the asset value. The FDIC should use bid price and participation data from their bank liquidation program to inform priority of assets put out to bid. Also if there is correlation to bid participation and geography based on the FDIC's current liquidation experience, which should be taken into consideration.

Question 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?*

- Initial investors should be permitted to pledge, sell, transfer. It would be difficult if investors be locked in these investors.
- The interest can be made into physical certificates and a transfer agent could ensure eligibility or representation of eligibility as long as the criteria is clear

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

- Yes. Investor's identity should remain anonymous as many parties will not reveal their positions. Revealing the identity may pose a deterrence to raising capital

Question 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?*

- Representation and Warranties – clearly articulate the reps and warranties, any carve outs and identify who is providing them.
- Communication – The auction procedure and bidding rules must be well publicized, widely available and easily understood.
- Consistency - To the extent possible, auction rules and procedure should be consistent from auction to auction or made consistent around asset classes.
- Timing and Due Diligence – Bidders must be given enough time and the information to conduct due diligence on the assets. Providing bidders with the FDIC valuation and due diligence information may encourage more buyers especially those who have ample capital but lack the experience and expertise to understand the assets.
- Fraud and special hazard - these issues should be address by the FDIC. Specifically, successful bidders who assume a property that requires toxic remediation, this cost should be borne by the government or a third party at the government's expense.
- Bidding process should be competitive
- The loan application process must be centralized and not put in the hands of the dealers.
- Sellers should not be able to put the same assets multiple times so they will be motivated to hit the best bid
- Valuation process should be independent

Question 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?*

- Investors should be able to share partial stake
- Dutch auction
- Asset management control should be pr—rata to the extent possible. Where is not possible, partial stake should not be possible

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

- Assets that are easiest to understand from a structural perspective should be the first put out for auction. The bidding for those assets will likely be robust and the banks will be motivated to participate. For example residential real estate is easier to understand and value than a complex derivative and there are a number of vendors who can provide services and solutions for the asset class. The more complex assets and esoteric assets should have a lower priority because there are fewer bidders in the market and more time is needed to diligence and value the assets.

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

- Pool size and composition should be informed by the FDIC's manager/PPIF approval process. During the manager/fund approval process the FDIC will know what types of assets the fund managers are planning to or have the expertise to bid on, so that information about asset demand should drive the asset type priority and pool size.

- 10mm recommended

Question 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 asset managers should be selected based on their experience and platform capabilities to manage the assets and work with the servicer. A truncated due diligence process can be used to qualify and select the asset managers. The FDIC should require regular reporting and commission a subcommittee of professionals to review the quarterly performance reports.

Question 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?*

- Servicing rights should follow the loan and be transferred to a new servicer. In the residential space servicing transfers typically result in technical delinquencies caused by delayed payments but a number of the eligible assets will be non-performing so that's not going to be a huge issue. The bid price should encompass the price of servicing.
- Custodian – the winning bidder should also select and transfer the collateral to a new custodian
- The FDIC should not put any restrictions on or obligate the servicer to a specific workout strategy as long as the strategies are fair to the borrower. There are some modification programs in the market today – including the ones used by various government agencies that have VERY high re default rates. So the FDIC should allow participants that have better, non-predatory strategies for loan workouts to prevail. Loan resolution strategies and success thereof is one of the data points that should be monitored by the FDIC and their appointed professional sub-committee.

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?*

- Access to data, valuation results, due diligence findings should be made available to bidders and sellers. Although investors will likely conduct their own due diligence and valuation, access to information will encourage more bidders to participate.

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