SILVER POINT
CAPITAL

April 10, 2009

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

Dear Mr. Feldman:

Silver Point Capital is an alternative asset management firm based in Greenwich, CT. Over the past several years, the firm has invested in a wide variety of investments, including a portfolio of performing and non-performing real estate assets. We have been keeping up-to-date with the news surrounding the Legacy Loans Program and appreciate the opportunity to be able to provide some feedback on the framework and implementation of the program. Please find below our responses to several of your questions on the proposed LLP.

1. 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, transferability of the PPIF interests should be allowed as long as the investor receiving the PPIF interest meets eligibility criteria set by the FDIC. Investor eligibility criteria should be made known prior to the start of any auctions as bidders will then have a better idea of the liquidity inherent in their purchases. Ideally, all interested investors should undergo a single streamlined pre-approval process which will help facilitate the transferability of the PPIF interests.

2. 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?

We believe the government's equity stake should be at most 25%. Servicing the legacy loan assets is likely to require significant time and resource commitments, and a higher *percentage ownership by the government may dissuade private investors from participating or putting in the effort in servicing the assets as their incentives are reduced. By the same logic, portfolios that require more focus and work should have less than a 25% government equity stake to encourage the investor to service the asset to its most profitable resolution. It would also reduce the credit risk to the government given that these assets are also likely to be much more risky.*

3. 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?

We believe it is preferable to sell the entire private equity piece to one investor. Selling small stakes to different investors will create significant governance issues that will be hard to manage.

4. 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?

We need the maturity of the financing to match the maturity of the investment. For non-performing loans, the loan term needs to be at least 4-5 years. It would also be necessary to know the interest rate on the loan and any amortization requirements. Given the uncertain nature of the cash flows of troubled assets, any required amortization will discourage participation. Cash flow sharing between equity and debt is another critical issue to determine.

5. 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?

This goes back to the incentive issue. By increasing its participation in the future profits of the PPIF, particularly on assets that require a lot of work, the government will create a disincentive to maximize value and reduce bid prices as well as investor interest in the auctions. Furthermore, how will the specified trigger level and government participation rates be determined?

6. 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?

Administratively, it would probably be easier to charge the same guarantee percentage on all of the FDIC-guaranteed debt but alter the amount of debt issued depending on the riskiness of the assets being auctioned.

7. 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?

It would be better to allow separate bidding groups to form a single qualified bidder and allow them to work out any conflicts or issues amongst themselves.

8. 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 management for commercial assets needs to be controlled by the private investor. The government's role needs to be clearly defined. The tighter the restrictions on the asset manager, the less interested participants will be. It is very important for the asset managers and the equity capital to be related to maximize incentives, align all the parties' interests, and ultimately maximize value. A third-party asset manager does not have alignment of interest with either the government or the equity investor since it would not have an equity investment in the pool of assets.

9. 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?

For commercial loans (particularly non-performing loans) it is hard to separate the servicing and the asset. They need to be sold together.

10. 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. More information always helps increase pricing in a bidding process.

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Please also find below some suggestions we had regarding unresolved issues surrounding the Legacy Loans Program:

(1) Investor Eligibility Requirements

- *We believe that private investor eligibility criteria for the PPIF programs be made known as soon as possible and include a streamlined pre-approval process to reduce market confusion about who can participate.*

- *We believe it is preferable to allow off-shore funds not controlled by a foreign government to participate to maximize investor interest.*

(2) Asset Manager Servicer Requirements
- *What qualifications will be applicable to PPIF asset managers and servicers to participate in the legacy loans program?*
- *Investors should be able to retain or create their own servicers; otherwise, investors will be concerned about agency problems which will reduce bid levels and/or auction participation.*

(3) Workouts/Modifications
- *The more latitude that is given to the investor to service the asset and develop work-out plans / modifications, the better. Investor control of the asset is a key factor when we make investment decisions, especially on commercial loans, and we believe private investors will know best how to implement loan resolutions that maximize profit or minimize losses for both the government and the investor.*

(4) Executive Compensation and Employment Restrictions
- *It is still unclear at this time as to whether restrictions will apply to private investors who are also asset managers / servicers of the legacy loans. Given that the PPIF is essentially a partnership between the government and the private industry and any profit accrued by the investor will also accrue to the government, we believe that there should not be any compensation or employment restrictions placed on the private investor. We are also concerned about future profit clawbacks on private investors who are deemed to have made too much from their PPIF investments. Up-front clarity on specific compensation or future profit restrictions for private investors would be very helpful.*

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Please let us know if we can help answer any other questions you may have or provide further assistance in any other way.

Sincerely,

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