From: American Party [mailto:americasthirdparty@gmail.com]
Sent: Monday, April 06, 2009 3:08 AM
To: LLPComments
Subject: Legacy Loans Program

To Whom It May Concern;

The recent statement by Sheila Bair that there may be inadequate funding to cover insured deposits due to a surge of bank failures is extremely disturbing. After all, the primary purpose of the FDIC is to provide support to failing banks by insuring deposits. This statement has the potential to increase the number of bank failures because it lowers public confidence in the banks and the nations financial system as a whole. The FDIC should have been building a trust fund over the years to prepare for the potential for massive bank failures. The recent expansion of the limits to $250,000 of insured deposits, further increases the liability of the FDIC. This expansion should not have occurred unless the FDIC could adequately insure that banks would not fail. During a time of obvious bank failures, this was a huge mistake. The $250,000 limit should not be continued when it expires at the end of this year.

I am also extremely concerned about the Legacy Loans Program. This will not solve the problem we are facing as a nation, instead it may create an even bigger problem in the long run. Issuing more debt may delay the real recession/ depression that we are facing, but has the potential to create a much deeper hole in the future. Postponing the inevitable may give us time to solve the problem, but do not think that we can rest on our laurels and see that this is a final solution. I believe that we must rethink our economic system as a whole. I have ideas about how we can transition to a more sustainable economy, but that is beyond the scope of this letter.

I have been reviewing the FDIC website on this information and have also reviewed the information from the Treasury Department. The statement by the Treasury Department that "Using 75 billion to 100 billion dollars in TARP capital and capital from private investors, the Public-Private Investment Program will generate 500 billion dollars in purchasing power to buy legacy assets with the potential to expand to 1 trillion dollars over time" is of particular concern to me. This statement was in the press release at http://www.treasury.gov/press/releases/tg65.htm.

Anyone would ask: How are they going to turn 100 billion into 1 trillion? I understand that the 100 billion will be matched by the private partners and the remaining funds will be generated from debt. When we generate money from debt, we are pushing the problem into the future. As I understand it, this program is generating debt to essentially buy other debt. I can easily foresee this spiraling out of control and driving us deeper into a hole in the not-to-distant future.

For me, red flags were raised in reading the preceding press release that states, "Leverage will not exceed a 6-to-1 debt-to-equity ratio." This seems like a high amount of debt given the circumstances. I encourage the FDIC to be very careful and act conservatively when it conducts "an analysis to determine the amount of funding it is willing to guarantee." I encourage the FDIC to also thoroughly review the private partners and carefully consider the types of assets it will guarantee. In addition, I do not like the fact that the debt can be resold into the market. I sincerely hope the FDIC oversees any selling of the debt related to the Legacy Loan Program.

Since it is obvious the Legacy Loan Program is proceeding, I offer the following suggestions to the questions posed by the FDIC:

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 Legacy Loans Program should initially (and preferable solely) focus on legacy real estate assets. The only other assets that should possibly qualify are the automobile loans. No other assets on bank balance sheets should be eligible for sale through this program. Only assets with tangible property value should qualify. Otherwise, no real equity will be gained. Specifically any assets related to: credit card loans, small business loans and any other type of loan without real tangible property value should NOT be eligible for sale through the LLP.

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?

The initial investors should be permitted to sell their interests in the PPIF, but not for more money than they invested in the PPIF. This will encourage investors who will buy and hold and eliminate the downward spiral of ever expanding loans to purchase toxic assets. In addition, the investors should be only able to sell to FDIC approved investors. The buyer, or seller, can pay a fee to the FDIC for the transfer of the interests. Then the FDIC would be able to ensure the new investors meet the programs criteria.

Perhaps. after one year, the investor should also be able to sell their interests to the government for ONE HALF of their initial investment. For example, if the private partner initially invests $20, they should be allowed to sell their interests to the government for $10, or to an FDIC approved investor for $20.

Although this would increase the governments risk, it would encourage initial investment given that the investors would only potentially lose half of their initial investment.

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?

The profits should be split according to the percentage of equity shares. The initial percentage of government equity participation for all investments should be 50% or less. This will assure integrity in the pricing by private investors, especially because the private investors would be ensured of at least half of the potential profits.

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

We should limit Private Partners to solely US Citizens. The names of the investors and the amount they invested should be made publicly available. However, all other data should be kept confidential, especially addresses and any information that could perpetrate identity theft. Address and phone numbers should remain confidential as these investors have the potential to be harassed, especially considering they have enough money to invest in a PPIF when other people are close to foreclosure.

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?

One way to motivate sellers to bring assets to sell to the PPIF is to allow banks that are selling the assets to also be a private partner in a PPIF. Then, the banks can bid on either the assets they brought to the PPIF or to bid on other assets. Structuring the valuation and bidding process this way will encourage a broad range of investment participation.

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?

Initially the funds (the PPIFs) should be set up to purchase assets. As I see it, there should be 3 types of PPIFs. This would encourage a broad and diverse range of investment participation. In the first type of PPIF, a bank would serve as the private partner. In the second type of PPIF, an individual investor would serve as the private partner. In these first 2 types of PPIFs, these investors could bid 50%-100% on the equity stake for the PPIF, with the Government having the remaining equity in the PPIF. In the final type of PPIF, multiple investors would pool their money to serve as the private partners. This would encourage more people to be invested in the Legacy Loans Program. This pool should not be set up as a Dutch auction. Instead, the public should be encouraged to invest at a level they feel comfortable with into the pool PPIF. People can even invest a very small amount, say $20, in this pool. For this PPIF pool, the government could match any funds invested. So, the government would start by having a 50% equity stake in the PPIF pool. The remaining 50% of the equity stake in the pool PPIF would be split, according to the amount the people originally invested.

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

The initial PPIF auctions should focus on real estate assets. Perhaps, the auction for assets could be structured to offer the lowest risk and lowest cost portfolios first and the pooled PPIF could automatically bid 1% above the next highest bidder for assets. Then, the people who had invested smaller amounts would have equity in the lowest risk portfolios.

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

Real estate assets should be pooled separately than automobile assets. The optimal size of the asset pool will depend on the pool PPIF with the multiple investors. There should be asset pools small enough to allow this pooled fund to adequately invest in assets. The characteristics of any asset pools should be based on how far underwater the assets are; the assets that are of a similar price and similar percentage underwater should be pooled together. If a bank chooses to take a note in exchange for the pool of loans and assets, those assets should likely be pooled together. This would allow an easier process for the banks, encouraging them to bring assets to the Legacy Loans Program.

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 potential private capital investor should know the number of mortgages or actual assets in each asset pool, the duration of any remaining loans and payments made to date, as well as the history of loan defaults within the pool. Additionally, the potential private capital investor should know whether the bank is planning to take a note from the PPIF, or if the debt will be issued publicly.

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?

The ideal would be for the PPIF to pay cash to the selling bank without either the bank taking a note from the PPIF or the PPIF issuing public debt. Simply stated, the best method would be if the PPIF bought the assets outright. The idea of buying loans with borrowed money sets the stage for a further downward spiral. So, the question becomes, who should go further into the spiral, the banks/consumers or the government/taxpayers. Either way, the public is being put at risk for a future recession if not a deeper depression.

If the selling bank were to take a note from the PPIF, they would simply be continuing the existing system that have in place currently, but would lose out on potential profit. In other words, if they took a note for assets that are mortgages that are underwater, they would continue to lose out if the people cannot pay the mortgages. In this case, the bank has a very high risk, and may not choose to bring assets to the auction. Even if the banks do bring assets to the auction, they would risk the potential for failure under this model.

On the other hand, if the PPIFs issues debt publicly, the government would potentially lose out. During a time when we are attempting to emerge from a recession, we do not need the public debt to continue ever expanding. However, if the PPIF were to issue public debt a case could be argued that the risk would be spread out over a broader populous.

I sincerely think we need to rethink our economy. Our houses and our land are our biggest asset! We should make sure that everyone can be in housing, but continuing to perpetuate loans I do not believe is the answer to our problems.

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?

YES, the guarantee fee should be adjusted based on the risk characteristics of the underlying pool. The fee should start at a set amount and should increase 1% for every 1% the underlying mortgages are underwater. So, on full default mortgages, the fee should be 200%.

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?

The only time the government should increase its participation in the equity structure is if the initial investors want to sell off their assets for one half of their initial investment.

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?

The program should permit multiple selling banks to pool assets for sale. In these circumstances, pooled assets should be combined with like assets (based on % underwater). Allocation of proceedings to selling banks if they pool assets should be based on the percentage of the remaining loans put in the pool.

Use the following formula:

Remaining loan= original loan amount payments to the bank.

If Bank A has $30 remaining loan and Bank B has $70 remaining loan and both put into an asset pool.

Then, the asset pool is auctioned for $50.

Bank A would receive $15 (30% of the auction amount) and Bank B would receive $35 (70% of the auction amount).

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 potential conflicts among LLP participants could be that people currently paying on their mortgage could be upset if their mortgage is sold by a bank to a PPIF. This is why contact information (other than their name and amount of investment) should remain private. Also, conflicts of interests may arise if banks bid on their own assets in order to drive up the price of another bidder. This can either be overlooked in order to encourage banks to bring assets to the market and ensure they are getting what they deem a fair value. Or, the FDIC could still allow banks to bid on other asset pools, but not on their own asset pools.

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?

Banks that are selling the assets could be given a fee to manage the assets they sell. This would allow the people currently holding the mortgage the comfort of continuing to work with the bank they have been paying in the past. This would also encourage the banks to bring assets to the auction. Plus, this provides flexibility for the investors and government, who may not be interested in the day-to-day management. Finally, it allows the FDIC to effectively oversee the asset management as they already deal with banks.

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?

The on-going servicing requirements could be deducted by the bank when the consumer makes the monthly payment. The remaining funds could be forwarded to the PPIF.

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, any data used by the independent valuation consultant, as well as results of such consultant's analysis, be made available to all parties involved.

Thank you for your time.

If you are interested in how we can rethink our economic system as a whole and transition to a more sustainable economy, please feel free to contact me.

Sincerely,

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