

Hot Off the Press

Recent Financial Crisis News

June 3, 2009 – **FDIC Announces Change of Plan for Legacy Loans Program**

The FDIC announced that although development of the Legacy Loans Program (LLP) will continue, a previously planned pilot sale of assets by open banks will be postponed. Given banks' ability to raise capital without having to sell bad assets through the LLP, the FDIC announced that banks and their supervisors will take additional time to assess the magnitude and timing of troubled assets sales as part of our larger efforts to strengthen the banking sector.

As a next step, the FDIC will test the funding mechanism contemplated by the LLP in a sale of receivership assets this summer. The FDIC expects to solicit bids for this sale of receivership assets in July.

June 2, 2009 – **PPIP's Legacy Loans Program Rumored to be Delayed; Federal Reserve Releases Guidelines for Redeeming Capital Purchase Program Securities**

PPIP: Today reports continued from unnamed sources that the Federal Deposit Insurance Corporation's Legacy Loans Program, to be launched under the Public-Private Investment Program, may be delayed or possibly put on hold. The program was announced as a solution for removing "legacy" (formerly known as troubled or toxic) mortgage-related loans from the balance sheets of U.S. banks and savings associations. Banks and savings & loan associations are reportedly not indicating the anticipated level of demand for the program. The market waits for news as the FDIC continues to evaluate alternatives.

Federal Reserve: Yesterday, the Federal Reserve released its criteria for evaluating applications to redeem Capital Purchase Program securities sold to Treasury. Results of the initial applications are expected to be announced next week. Participants in the Capital Purchase Program are required to obtain approval from their primary federal banking regulator prior to redeeming their securities. Criteria include:

- Demonstrated ability to access the long-term debt markets without reliance on the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program (TLGP), and successful access of the public equity markets
- Consideration of:
 - Whether a BHC can redeem its Treasury capital and remain in a position to continue to fulfill its role as an intermediary that facilitates lending to creditworthy households and businesses;

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- Whether, after redeeming its Treasury capital, a BHC will be able to maintain capital levels that are consistent with supervisory expectations;
 - Whether a BHC will be able to continue to serve as a source of financial and managerial strength and support to its subsidiary bank(s) after the redemption; and
 - Whether a BHC and its bank subsidiaries will be able to meet its ongoing funding requirements and its obligations to counterparties while reducing reliance on government capital and the TLGP.
- Have in place a robust longer-term capital assessment and management process geared toward achieving and maintaining a prudent level and composition of capital commensurate with the BHC's business activities and firm-wide risk profile.

May 1, 2009 – Federal Reserve expands TALF to include CMBS and life insurance premium securitizations

Changes include: (1) CMBS issued after January 1, 2009 will be eligible collateral for a June auction, (2) CMBS auctions will be separate from auctions for ABS backed by all other asset classes, (3) ABS backed by insurance premium finance loans will be eligible collateral and (4) five year TALF loans will be available for CMBS and ABS backed by either student loans or loans guaranteed by the Small Business Administration.

The New York Fed is evaluating rating agencies and will identify one or more rating agencies approved to rate CMBS pledged under the program.

Under the five year loans, excess interest after payment of the TALF interest is remitted to the investor up to a cap. After reaching the cap, excess interest is used to repay principal of the TALF loan. The cap is 25% of the haircut amount for the first three years of the loan, 10% in the fourth year of the loan and 5% in the fifth year of the loan.

Additional details are available at <http://www.newyorkfed.org/markets/talf.html>.

April 8, 2009 – SEC Requests Comment on Short Selling Rules; Treasury Releases Capital Purchase Program Terms for Mutual Organizations

SEC News: Public comment is being sought on a number of alternative short selling proposals:

Alternative proposed permanent rules:

- (1) modified uptick rule (market-wide requirement that short sales can only be executed if they satisfy a price test based on the national best bid)

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- (2) uptick rule (market-wide requirement that short sales can only be executed if they satisfy a price test based on the last sale price)

Alternative proposed temporary “circuit breaker” rules:

- (1) circuit breaker halt rule (ban short selling in an individual security for the remainder of the trading day if the security experiences a severe decline in price)
- (2) circuit breaker modified uptick rule (if a security experiences a severe decline in price, subsequent short sales can only be executed if they satisfy a price test based on the national best bid)
- (3) circuit breaker uptick rule (if a security experiences a severe decline in price, subsequent short sales can only be executed if they satisfy a price test based on the last sales price)

SEC Press Release: <http://www.sec.gov/news/press/2009/2009-76.htm>

Treasury News: Terms were released for mutual holding companies interested in applying for capital from Treasury under the Capital Purchase Program (this is the older program originally announced in October 2008, not the recently announced Capital Assistance Program). These are banks and savings associations formed as mutual organizations rather than as corporations. Applications are due by May 7, 2009.

Treasury Press Release and Docs: <http://www.financialstability.gov/latest/tg-04072009.html>

April 6, 2009 – PPIP Update: Treasury extends application deadline for Legacy Securities Program; Additional TALF Information

Today Treasury extended the deadline for asset manager application from April 10, 2009 to April 25, 2009 and released updated FAQs and term sheets for the Legacy Securities Program. These changes don’t impact the Legacy Loan Program.

The announcement clarifies that loans available under the TALF program (Legacy TALF) will be separate from the PPIP and Legacy TALF can be used by private investors not participating in the Legacy Securities Program. If the Legacy TALF program’s eligibility criteria are similar to the PPIP criteria, private investors will be able to obtain a low-cost loan from the New York Fed to fund purchases of CMBS and RMBS that were issued prior to January 1, 2009 and were originally rated “AAA.” Stay tuned for more details from the Federal Reserve (watch <http://www.newyorkfed.org/markets/talf.html>).

Interested asset managers now have until April 24, 2009 to submit applications. Treasury expects to provide preliminary qualification information by May 15, 2009 (originally May 1, 2009). Asset managers are not necessarily required to satisfy all of the prequalification standards published by Treasury – applications will be assessed on a “holistic basis.” Asset managers are encouraged to partner with small, veteran-, minority-, and women-owned

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businesses. Pre-qualified managers will have 12 weeks to raise at least \$500 million in private capital for their PPIF. That brings us to August 7th, for those of us trying to figure out when the first purchase may occur . . .

Announcement Link: <http://www.financialstability.gov/latest/tg82.html>

Related MoFo Article: <http://www.mofo.com/news/updates/files/090324FinStab.pdf>

PPIP Cheat Sheet: <http://www.mofo.com/docs/pdf/090325PublicPrivateInvestCheatSheet.pdf>

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