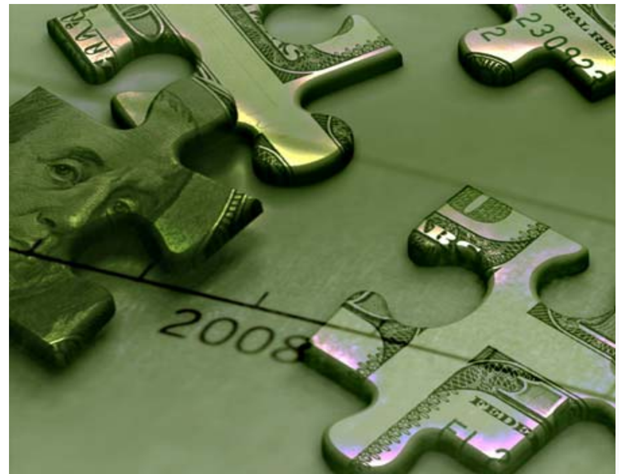
POWELL GOLDSTEIN LLP

PoGo Alert

October 14, 2008 — Financial Institutions

Preliminary Analysis - TARP Capital Purchase and FDIC Temporary Liquidity Guaranty Programs



This morning, October 14, 2008, Treasury Secretary Paulson and FDIC Chair Bair announced the TARP Capital Purchase Program and the FDIC Temporary Liquidity Guaranty Program. The initial press releases regarding the programs can be found at the following links:

- For the TARP Capital Purchase Program: http://www.treas.gov/press/releases/hp1207.htm
- For the FDIC Temporary Liquidity Guaranty Program: http://www.fdic.gov/news/news/press/2008/pr08100.html

(Note that additional information about each program can be found by clicking the embedded links at the foot of each press release.)

Further clarification from the Treasury Department, the FDIC and the other federal banking regulators will likely clarify many issues with the TARP Capital Purchase and Liquidity Guaranty programs. However, our preliminary analysis for community banks of selected issues follows:

TARP Capital Purchase Program:

Eligibility – The TARP Capital Purchase Program Public Term Sheet provides that the Treasury Department will "determine eligibility and allocation … after consultation with the appropriate Federal banking agency." We expect that this eligibility may turn, in part, on the safety and soundness of the institution, with preference given to those institutions that are already well-capitalized and well-managed.

Public Registration – The Public Term Sheet provides for the registration of the Preferred Stock and Warrants to be received by the federal government. This would entail SEC registration for the Company and may make the capital significantly less attractive to those institutions that are not currently SEC-reporting institutions. There is some language in the Public Term Sheet that suggests that the Treasury may be willing to consider alternatives for private companies, but further guidance is necessary.

Sub-S Conflict – In addition to the public registration requirement, the TARP Capital Purchase Program would not be available for an institution that has elected to be taxed as a Subchapter S corporation without losing its Subchapter S status, due to the required issuance of a second class of stock and the introduction of a non-eligible Subchapter S investor (the federal government). Again, further clarification may permit Subschapter S institutions to participate without losing their tax status.

Capital is King – For those institutions that are eligible, we believe that management and the Board of Directors should take a strong look at this form of Tier 1 Capital. The federal government's actions this week, while significant, are unlikely to avoid a significant economic slowdown, and projections made as recently as last week may now be overly optimistic. The TARP Capital Purchase Program may provide a solid opportunity to strengthen balance sheets now.

Temporary Liquidity Programs

September 30 Debt Level – The FDIC's Temporary Liquidity Guaranty Program Fact Sheet specifies that the amount of debt covered for any particular institution is limited to 125% of the institution's debt outstanding as of September 30, 2008 that is set to mature before June 30, 2009. We believe that the debt outstanding to be used in this calculation would be limited to short-term promissory notes, commercial paper, inter-bank funding (including Fed Funds lines) and the unsecured portion of secured debt. (Subordinated debt, trust preferred, and secured FHLB advances would appear to be ineligible for either the guarantee or to be included in the guarantee limitation.) If, as of September 30, a financial institution did not have any such debt, then this liquidity program will not provide any additional relief. All institutions should review their own balance sheets to determine the impact of this program.

Eligibility Restrictions – As a reminder, the new Temporary Liquidity Program does not relieve any existing covenants not to incur debt. Moreover, the Fact Sheet notes that the "FDIC will maintain control over eligibility in consultation with the primary Federal regulator." It remains to be seen the full impact of this sentence, although it appears that eligibility may be discretionary.

Impact on Inter-bank Debt Pricing – Lenders as well as borrowers may want to consider whether the FDIC guarantee will affect the pricing of interbank lines. On one hand, the borrowing institution will be assessed a 75 basis point fee to secure the FDIC guarantee – and the guarantee is a benefit passed on to the lender. In addition, the FDIC guarantee may enable the lender to reserve less capital against the loan (as with SBA or other government-backed loans), thereby improving the lender's overall capital position.

Unlimited Insurance for Non-Interest-Bearing Accounts – The expansion of unlimited FDIC insurance coverage to non-interest-bearing accounts, effective immediately, may present a viable alternative to sweep accounts for corporate clients. Financial institutions may want to analyze the financial impact of their depositors choosing sweep or repurchase agreements versus a FDIC-insured non-interest bearing accounts.

In conclusion, we understand these programs are designed to provide systemic support to the banking industry as a whole, and are not designed for the preservation or support of any specific institution. As a result, these programs may ultimately provide significant support to the community banking industry as a whole, but we cannot recommend that any institution put too much faith in these programs to solve its problems. Subsequent guidance could revise and potentially reverse any of the provisions set forth in the Treasury and FDIC releases. We will continue to review such guidance as it is released; please feel free to contact us with any questions you may have.

For information on topics covered in this issue, please contact a member of our Financial Institutions Team:

Walt Moeling	wmoeling@pogolaw.com
Kathryn Knudson	kknudson@pogolaw.com
Jim McAlpin	jmcalpin@pogolaw.com
Katherine Koops	kkoops@pogolaw.com
Jim Wheeler	jwheeler@pogolaw.com
Jerry Blanchard	gblanchard@pogolaw.com
Don Nelms	dnelms@pogolaw.com
B.T. Atkinson	batkinson@pogolaw.com
Beth Lanier	blanier@pogolaw.com
Lyn Schroeder	lschroeder@pogolaw.com
Rob Klingler	rklingler@pogolaw.com
Lauren Brown	lgudritz@pogolaw.com
Amber Nash	anash@pogolaw.com
Ken Achenbach	kachenbach@pogolaw.com
Mike Shumaker	mshumaker@pogolaw.com

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Atlanta ▪ Washington ▪ Dallas ▪ Charlotte

One Atlantic Center
Fourteenth Floor
1201 West Peachtree Street, NE
Atlanta GA 30309
Tel: 404.572.6600 | Fax: 404.572.6999

Third Floor
901 New York Avenue, NW
Washington DC 20001
Tel: 202.347.0066 | Fax: 202.624.7222

JP Morgan Chase Tower
2200 Ross Avenue, Suite 3300
Dallas TX 75201
Tel: 214.721.8000 | Fax: 214.721.8100

One Wachovia Center
Suite 3700
301 S. College Street
Charlotte NC 28202
Tel: 704.749.8999 | Fax: 704.749.8990