June 23, 2009

MEMORANDUM TO: The Board of Directors

FROM: Mitchell L. Glassman, Director
Division of Resolutions and Receiverships

Sandra L. Thompson, Director
Division of Supervision and Consumer Protection

Arthur J. Murton, Director
Division of Insurance and Research

Michael Bradfield, General Counsel
Legal Division

SUBJECT: Notice of Proposed Rulemaking on the Potential Extension of the Transaction Account Guarantee Program

I. SUMMARY OF RECOMMENDATION

In this Notice of Proposed Rulemaking (NPR), staff recommends that the Board present, and request comment on, two alternatives for phasing out the Transaction Account Guarantee (TAG) component of the Temporary Liquidity Guarantee Program (TLGP). In general, under alternative A, the FDIC would allow the program to expire on December 31, 2009, as provided in the existing regulation (12 C.F.R. part 370). Under alternative B, the FDIC would extend the TAG program for six months, through June 30, 2010. Staff recommends that any extension under alternative B be coupled with increased fees for participation and conforming disclosure requirements (if necessary).

II. BACKGROUND

In October 2008, the FDIC adopted the TLGP. The TLGP is part of a coordinated effort by the FDIC, the U.S. Department of the Treasury (Treasury), and the Board of Governors of Federal Reserve System to address unprecedented disruptions in credit markets and the resultant inability of financial institutions to fund themselves and make loans to creditworthy borrowers.

The FDIC's TLGP was designed to be a temporary program and is comprised of two distinct components: (1) the Debt Guarantee Program (DGP), pursuant to which the FDIC guarantees certain senior unsecured debt issued by entities participating in the TLGP, and (2) the TAG, pursuant to which the FDIC guarantees all funds held at FDIC-insured depository institutions in qualifying noninterest-bearing transaction accounts above the existing deposit insurance limit.

On May 29, 2009, to reduce market disruption at the conclusion of the debt guarantee component of the TLGP and to facilitate the orderly phase-out of the program, the Board adopted a final rule that, among other things, provides for a limited four-month extension for the issuance of senior unsecured debt under the DGP.[1]

Over 7100 insured depository institutions (IDIs) are participating in the TAG component of the TLGP, with almost $700 billion of deposits in noninterest-bearing transaction accounts currently subject to the FDIC's guarantee. As with entities participating in the DGP, the FDIC is committed to providing an orderly phase-out of the TAG program for participating IDIs and their depositors. To that end, and as discussed in more detail below, staff recommends that the FDIC propose, and request comment on, two alternatives for successfully concluding the TAG program.

III. THE NOTICE OF PROPOSED RULEMAKING

Staff recommends that the FDIC present, and request comment on, two possible alternatives for phasing out its guarantee of noninterest-bearing transaction accounts under the TAG program.

---

[1] 74 FR 26521 (June 3, 2009).

A. *Alternative A*

Under the first alternative, the FDIC would continue its guarantee of deposits held in qualifying noninterest-bearing transaction accounts subject to the TAG program until December 31, 2009, as provided for in the current regulation. There would be no modification of the existing fee structure, nor any other change in the FDIC's guarantee of noninterest-bearing transactions accounts.

B. *Alternative B*

Under the second alternative, the FDIC would extend the TAG program through June 30, 2010, six months beyond the current expiration date of December 31, 2009. In an effort to balance the income generated from TAG fees with potential losses associated with the TAG program during the extension period, staff recommends that the FDIC charge participating IDIs an annualized rate of 25 basis points (rather than the current 10 basis points) on deposits in noninterest-bearing transaction accounts effective on January 1, 2010. Under this alternative, IDIs that are currently participating in the TAG program would have a single opportunity to opt out of the extended TAG program. IDIs that exercise this opt out would be required to post notices to alert customers that funds deposited in noninterest-bearing transaction accounts would not be guaranteed under the TAG program after December 31, 2009. IDIs that do not opt out may have to make conforming changes to their notices related to the TAG program.

IV. CONCLUSION

Staff recommends that the Board adopt the attached NPR and authorize its publication in the Federal Register.