

June 2, 2010

MEMORANDUM TO: The Board of Directors

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SUBJECT: Final Rule: Amendment of the Temporary Liquidity
Guarantee Program to Extend the Transaction Account
Guarantee Program

I. SUMMARY OF RECOMMENDATION

Staff recommends that the Board adopt and authorize publication in the *Federal Register* of the attached proposed Final Rule. The proposed Final Rule makes permanent the amendments to the Transaction Account Guarantee (TAG) Program, a component of the Temporary Liquidity Guarantee Program (TLGP) that the Board adopted as an interim rule on April 13, 2010. The proposed Final Rule provides for a six-month extension, from July 1, 2010, through December 31, 2010, of the TAG Program.

The Final Rule makes one modification to the interim rule approved by the Board on April 13, 2010. Because of continuing economic uncertainty — especially as it appeared to impact smaller, community-based insured depository institutions (IDIs) — the interim rule provided for an extension of the TAG program until December 31, 2010. Then, if the Board determined that economic conditions warranted, and without additional rulemaking, the interim rule provided for an additional one-year extension of the TAG program until December 31, 2011.

To alleviate confusion about the length of the additional extension of the TAG program beyond December 31, 2010, and to provide flexibility in administering the program, the proposed Final Rule provides that the term of the additional extension of the program, if any, will be for a period of time *not to exceed* December 31, 2011 (emphasis added). Like the interim rule, the proposed Final Rule provides that, before implementing an additional TAG extension beyond December 31, 2010, the Board would be required to determine that economic conditions warrant a further extension to the TAG

program and to announce its decision no later than October 29, 2010. As with the interim rule, no additional rulemaking would be required.

Further, like the interim rule, the proposed Final Rule continues to (1) require TAG assessment reporting based on average daily account balances but makes no changes to the assessment rates for participating insured depository institutions (IDIs); (2) reduce the maximum interest rate for qualifying negotiable order of withdrawal (NOW) accounts guaranteed by the FDIC pursuant to the TAG program from a rate no higher than 0.50 percent to a rate no higher than 0.25 percent; and (3) establish conforming disclosure requirements for IDIs that opted out of TAG program by April 30, 2010, and for those that continued to participate in the extended TAG program.

As noted, the interim rule provided for an irrevocable, one-time opportunity for IDIs that were currently participating in the TAG program to opt out of the program by April 30, 2010, with the opt out effective on July 1, 2010. As provided in the interim rule, the Final Rule confirms that an IDI's decision to remain in the extended TAG program obligates it to remain in the program until December 31, 2010, or for the duration of any possible additional extension, as determined by the Board. An additional 441 institutions took advantage of this opportunity to opt out as of July 1, 2010.

II. PUBLIC COMMENT ON INTERIM RULE

The comment period for the interim rule closed on May 19, 2010. Ten comments were received from bankers (seven), trade groups (two), and members of the U.S. House of Representatives (one letter with ten signatories). With one exception, commenters generally supported the FDIC's interim rule extending the TAG program, but some expressed concern regarding the inability of IDIs to opt back into the extended TAG program, the reduction in the maximum interest rate for TAG-qualified NOW accounts, or the modification of the TAG assessment basis.

Some commenters believed that the possible additional extension provided for in the interim rule would extend for a period of time "up to 12 months." In order to dispel confusion and to provide maximum flexibility during this period of economic uncertainty, the Final Rule defines the "TAG expiration date" to mean December 31, 2010, unless the Board, for good cause, extends the program for an additional period of time not to exceed one year, in which case the term "TAG expiration date" means the last day of such additional period of time. As with the interim rule, the proposed Final Rule provides that the FDIC's Board will announce its decision regarding any additional extension of the TAG program no later than October 29, 2010. At that time, if a further extension is warranted, the Board will announce the final expiration date that will conclude the TAG program. No additional rulemaking will be required.

III. CONCLUSION

Staff recommends that the Board adopt the attached proposed Final Rule and authorize its publication in the *Federal Register*.