

Client Alert

Economic Crisis Response Group

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FDIC Changes Reporting Requirements for Debt Guarantee Program

On March 23, 2009 the FDIC issued Financial Institution Letter FIL-15-2009 (the “Letter”), which amended certain reporting requirements for participants in the Debt Guarantee Program of the Temporary Liquidity Guaranty Program (the “program”).

The Letter provides that any participating entity that issues debt guaranteed by the FDIC must register such issuance on FDICconnect within five calendar days from the date of issuance. All participating entities that have issued FDIC-guaranteed debt at any time since the inception of the program must report the total amount of FDIC-guaranteed debt (plus accrued and unpaid interest) outstanding as of the last day of the month on FDICconnect by the thirtieth calendar day following the end of such month.

The FDIC no longer requires participating entities that have not issued any FDIC-guaranteed debt since the inception of the program to submit monthly reports disclosing FDIC-guaranteed debt.

A “participating entity” is an entity that meets the following criteria and has not opted out of the Debt Guarantee Program:

- any FDIC-insured depository institution,
- any U.S. bank holding company or financial holding company,
- any U.S. savings and loan holding company that either engages only in activities that are permissible for financial holding companies to conduct under section (4)(k) of the Bank Holding Company Act of 1956 (BHCA) or has at least one insured depository institution subsidiary that is the subject of an application that was pending on October 13, 2008, pursuant to section 4(c)(8) of the BHCA, and
- any affiliate of these entities approved by the FDIC after a written request made by, and the positive recommendation of, the appropriate Federal banking agency.

In addition, to be an eligible entity and issue guaranteed debt pursuant to the Debt Guarantee Program, a bank or savings and loan holding company must have at least one chartered, insured and operating bank or savings association within its holding company structure.

FDIC Chairman Issues Statement on Legacy Loans Program

On a related note, FDIC Chairman Sheila C. Bair issued a statement regarding the FDIC's role in the Legacy Loans Program, a key initiative of the Treasury's Public-Private Investment Partnership announced by the Treasury Department on March 23, 2009:

“It has been clear for some time that troubled loans and securities have depressed market perceptions of banks and impeded new lending. Difficult market conditions have complicated efforts to sell these troubled assets because potential buyers have not had access to financing. The Legacy Loans Program aligns the interests of the government with private investors to provide financing and market-based pricing, and is a critical step forward in the process of restoring clarity to the markets. While there are inherent challenges to implementing a program of this magnitude quickly, the framework announced today provides the foundation upon which the FDIC will begin to build immediately.

The FDIC intends to move forward with this program in a methodical and transparent fashion. We will provide the opportunity for public comment on critical aspects of the program prior to implementation.”

We await word on the details.

For further information on the Legacy Loans Program and the Public-Private Investment Program, please refer to [The Financial Stability Plan: Treasury Announces the Public-Private Investment Program Client Alert](#) on this subject.

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