



ARIZONA BANKERS
ASSOCIATION

April 9, 2009

Delivered via e-mail, to LLPComments@FDIC.gov and by U.S. Mail

Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

RE: Legacy Loans Program

Dear Mr. Feldman,

The Arizona Bankers Association (AzBA) appreciates the opportunity to comment on the Legacy Loans Program (LLP) recently proposed by the United States Department of the Treasury (Treasury) and the Federal Deposit Insurance Corporation (FDIC). We applaud the intention of this program to “cleanse bank balance sheets of distressed loans and other assets and reduce the associated market overhang...”¹ The LLP seeks to accomplish this by providing financing to private investors, through equity investments by Treasury and debt guarantees by the FDIC, that the government hopes will be sufficiently attractive to close the gaps between what buyers have been willing to pay and what sellers have been willing to accept for these assets.

The AzBA appreciates the efforts of Treasury and the FDIC to help banks address the challenges involved with the management of troubled assets. While the decision of whether to participate in the program is one that must be made by each bank, we believe that several issues need to be resolved before the LLP is implemented in order to maximize the program’s possible utility by community banks, particularly those in distressed states such as Arizona.

Arizona has been uniquely impacted by the downturn in real estate values. As a result, Arizona banks are under a great deal of stress as evidenced by the fact that 70% of Arizona chartered institutions lost money last year. We do not expect 2009 Q1 numbers to be any better. That being said, community banks in Arizona continue to look for ways to cut costs and limit losses while still serving the people and businesses of Arizona. A difficult task to say the least.

¹ Public-Private Investment Program for Legacy Loans Frequently Asked Questions (LLP FAQs, available at <http://www.fdic.gov/llp/LLPfaq.pdf>).

The first program which presented some hope for Arizona institutions was the Capital Purchase Program (CPP). We estimate that approximately 20 Arizona based banks out of 34 applied for CPP funds. To date, only one Arizona bank has received CPP funds and while a handful of applications are still pending, those approved will represent a very small segment of the Arizona banking community. I believe that one of the main impediments to robust participation in the CPP by Arizona banks was the “viability” requirement. Candidly, most banks in Arizona do not meet the bright line tests we now know exist for “viability.” I believe that is due more to the state of our economy than to poor decision making by bankers, but regardless, “viability” is a road block.

It is my sincere hope that “viability” will not play a role in determining which banks can participate in the LLP. Even if “viability” post-asset sale is a requirement, we fear that the bar will be set too high. AzBA further believes that allowing all banks to participate does not present undue risk to the FDIC. Arguably, the price paid for an asset in a pool through the LLP is very likely to be higher than the price that same loan might attract if the FDIC were to dispose of the asset post-bank closure if the bank were to fail. Moreover, we would argue that the likelihood that any bank would fail is only decreased by participation in the LLP, not increased. For these reasons, we strongly encourage the FDIC to eliminate any test for viability from the terms of participation in the LLP.

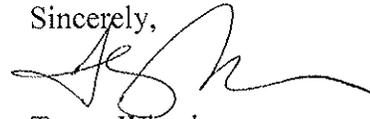
Second, AzBA strongly urges the FDIC to allow multi-bank pools. Certain economies of scale will need to be met to make processing a pool viable. It is unlikely that any truly community based bank could meet that threshold on its own. Therefore, multi-bank pools should be an option.

Third, in determining how large a pool must be, AzBA urges the FDIC to set the bar as low as possible. We have heard that \$1 billion minimum is being contemplated. We firmly believe that that is too high and that the number of community banks that would have to participate in such a pool would be so great that managing the pool would be impracticable. A modest minimum should be set, perhaps as low as \$10 million, which is the realistic amount a single bank may have to sell. At most, we would recommend a \$100 million pool. A relatively small group of community banks could come together to meet that minimum resulting in a manageable number of banks to coordinate. Admittedly, a pool of any size will have challenges, but we believe making a multi-bank pool an option is critical if the LLP is going to have any value to community banks. The lower the minimum, the fewer the challenges in administration.

Finally, we would urge the FDIC to consider allowing other banks and affiliates of selling banks to participate as “purchasers” of pooled assets. We believe that the goals of the FDIC will best be met by creating a framework that allows flexibility. There may be a scenario in which bank purchasers or affiliates (including a bank holding company) of a seller of assets might make sense. Obviously, FDIC would have the ultimate review and approval of such arrangements, but we believe there may be opportunities here that could be attractive to all parties, including the FDIC.

On behalf of the AzBA's seventy member banks I want to thank you for consideration of our comments. In the end, I believe that our goals are consistent with the FDIC's – having a thriving banking industry that is safe and sound and able to serve the needs of the community. Creating a LLP structure with options as opposed to road blocks will help achieve that goal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tanya Wheelless', with a long horizontal flourish extending to the right.

Tanya Wheelless
President & CEO