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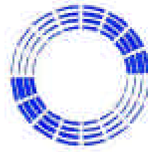

The Real Estate Roundtable

August 10, 2009

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

Attention: Comments

Re: Proposed Policy Statement on Qualifications for Failed Bank Acquisitions

Dear Mr. Feldman:

We appreciate the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) Proposed Statement of Policy on Qualifications for Failed Bank Acquisitions. The last eighteen months have seen a dramatic increase in the number of banks and thrifts that have failed, received assistance, or been identified by the FDIC as "problem institutions." We welcome the FDIC's recognition of the banking system's need for "substantial additional capital" and applaud its efforts to create a uniform system for private capital investment in failed institutions. However, we are concerned that the Proposed Statement would have the effect of depriving the banking system of this needed capital by making private investments in failed banks "uncompetitive and uneconomic."

The banking system remains under considerable stress, which has dramatically limited the extent to which other banks can acquire the assets and assume the deposits of failed institutions. Private capital investors, therefore, are needed to restore troubled banks to health, provide external funding for new loans, and to keep failed banks' assets in the banking sector and out of liquidation. It is also important to note that the current credit system in America simply does not have the capacity to meet the legitimate demand for commercial real estate debt. As the demands for debt remain unmet, the stress to the financial services system overall, individual financial institutions, and those who have invested in real estate directly or indirectly will increase.

Estimates suggest that the private equity industry has secured over $30 billion in callable capital commitments to invest in United States depository institutions. At an 8 percent leverage ratio, this translates to nearly $400 billion in incremental lending capacity that could support new real estate loans or allow borrowers to rollover maturing obligations. The 15 percent Tier 1 leverage ratio included in the Proposed Statement would not only halve the potential balance sheet capacity generated by this new source of capital, it could actually result in a net contraction of bank credit as it would almost certainly dissuade private investors from placing bids on failed banks. Even a 10% leverage ratio requirement would put private capital at such a material disadvantage to other investors in competitive auctions, that they would be must less likely to participate.

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Bank liquidations not only disrupt the communities where failing banks were located, but also risk deleterious economic knock-on effects. Receivership can often disrupt the financing for semi-completed projects, which can impair operating or construction loans and may contribute to a loss of value in the underlying collateral. A large accumulation of receivership assets for sale could also place downward pressure on the sales price of these assets, as well as those of similarly situated loans and real estate collateral. It would be unfortunate if the growth of receivership assets caused by the Policy Statement were to exacerbate pricing and financing pressures at a time when the market is finally showing some signs of stabilization.

We appreciate the FDIC's attempt to provide a transparent framework for private capital investment in failed banks and understand the need to ensure that these investors provide sufficient capital to allow for their prudential operation. However, we are concerned that the imposition of a Tier 1 leverage ratio that is three-times higher than the regulatory minimum applied to other banks would cause private investors to pursue alternatives to bank investments and deprive the banking system of this source of capital. To avoid this outcome, we recommend that this capital standard be lowered to the level applicable to other banks and thrifts that operate under the same prudential regulatory regime.

We appreciate the opportunity to comment on this Policy Statement and thank the FDIC for its leadership in this area.

Sincerely,

Jeffrey D. DeBoer
President and Chief Executive Officer