FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-125-2008
November 3, 2008

TEMPORARY LIQUIDITY GUARANTEE PROGRAM
Extension of Deadlines and Election Instructions

Summary: On October 14, 2008, the FDIC announced the Temporary Liquidity Guarantee Program to strengthen confidence and encourage liquidity in the banking system. All eligible entities are covered under the program unless they opt out of one or both of the components by December 5, 2008 (extended from November 12, 2008); otherwise, fees will apply for future participation.

Distribution:
All FDIC-Insured Institutions

Suggested Routing:
Chief Executive Officer
Chief Financial Officer
Compliance Officer

Attachments:
- Guidance for Election Options and Reporting Requirements
- Sample Election Form
- Election Form Instructions

Contact:
FDIC Call Center (toll-free) at 877-ASKFDIC (877-275-3342); TDD: 800-925-4618

Note:
FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2008/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights:

- All eligible entities are covered for the first 30 days of the program at no cost.
- Eligible entities may opt out of one or both parts of the program – either the debt guarantee component and/or the transaction account guarantee component. Failure to opt out by the deadline constitutes a decision to continue in the program after that date.
- In order to opt out of one or both parts, an eligible entity must inform the FDIC by completing the Election Form via FDIC*connect*. The deadline for opting out has been extended from November 12, 2008, to December 5, 2008.
- The Election Form will be available via FDIC*connect* beginning on Wednesday, November 12, 2008.
- For all entities that have exercised the option to opt out by December 5, 2008, the decision is irrevocable. Likewise, a decision to continue participation in the program after December 5, 2008, is irrevocable.
- All eligible entities within the same holding company structure must make the same decision regarding continued participation in either or both parts of the program.
- Eligible entities that do not opt out of the Debt Guarantee Program must report the amount of outstanding senior, unsecured debt as of September 30, 2008, that is scheduled to mature on or before June 30, 2009.
- The deadline for compliance with certain disclosure requirements has also been extended from December 1, 2008, until December 19, 2008.

FDIC Temporary Liquidity Guarantee Program
Guidance for Election Options and Reporting Requirements

Overview

On October 14, 2008, the FDIC announced the Temporary Liquidity Guarantee Program (TLG Program) to strengthen confidence and encourage liquidity in the banking system. The TLG Program consists of two components: a temporary guarantee of newly issued senior unsecured debt (the Debt Guarantee Program) and a temporary unlimited guarantee of funds in noninterest-bearing transaction accounts at FDIC-insured institutions (the Transaction Account Guarantee Program). Additional information about the program is available at www.fdic.gov/tlgp.

The TLG Program became effective on October 14, 2008. All eligible entities are covered under the TLG Program for the first 30 days (unless the entity opts out). No later than December 5, 2008, each eligible entity must inform the FDIC if it desires to opt out of the Debt Guarantee Program or the Transaction Account Guarantee Program, or both. A decision to opt out is irrevocable. **Failure to opt out of either component by December 5, 2008, constitutes an irrevocable decision to continue participation in that component.** For each component, a U.S. Bank Holding Company and all of its affiliates that are eligible entities must make the same election regarding participation. Similarly, for each component, a U.S. Savings and Loan Holding Company and all of its affiliates that are eligible entities must make the same election regarding participation. For example, if one member of a holding company group opts out with respect to the Debt Guarantee Program, then all eligible entities within the same group are also deemed to have opted out. Entities that opt out are subject to certain disclosure requirements, as specified in the instructions and the regulation.

No entity will be charged for the first 30 days of the TLG Program. The Program's opt out election deadline has been extended from November 12, 2008, to December 5, 2008, to ensure that eligible entities could fully consider the Final Rule before making a final decision regarding their participation in the Program. Any eligible entity that opts out of the Program on or before December 5, 2008, will not pay any assessment under the Program. Any eligible entity that does not opt out on or before December 5, 2008, will be required to pay assessments. For the Transaction Account Guarantee Program, participating entities will be required to pay for coverage beginning on November 13, 2008. For the Debt Guarantee Program, participating entities will be required to pay for coverage on all senior, unsecured debt issued as follows:

- Beginning on November 13, 2008, on all senior, unsecured debt, other than overnight debt instruments, issued by the entity on or after October 14, 2008, that is still outstanding on November 13, 2008;
- Beginning on November 13, 2008, on all senior, unsecured debt, other than overnight debt instruments, issued by the entity on or after November 13, 2008, and before December 6, 2008; and

- Beginning on December 6, 2008, on all senior, unsecured debt issued by the entity on or after December 6, 2008.

The assessments associated with the TLG Program, as outlined in the Interim Rule, are as follows:

- **All newly issued senior unsecured debt will be charged an annualized assessment equal to 75 basis points multiplied by the amount of debt issued, and calculated for the term of that debt or through June 30, 2012, whichever is earlier.**
- **Amounts exceeding the existing deposit insurance limit of $250,000 in any noninterest-bearing transaction accounts as defined in the regulation will be assessed an annualized 10 basis points collected quarterly for coverage through December 31, 2009.**

Any eligible entity that does *not* opt-out of the Debt Guarantee Program must report via the Election Form on FDIC*connect* the amount of outstanding senior, unsecured debt as of September 30, 2008, that is scheduled to mature on or before June 30, 2009, for purposes of determining the maximum guaranteed amount under this component. Refer to the instructions for this form for additional information.

<u>Opt Out Election</u>

As previously indicated, all eligible entities will continue to participate in both components of the TLG Program, and must accept responsibility for the associated fees, unless they elect not to participate in either or both parts of the program. To opt out of either or both parts of the program, an eligible entity must complete, on or before December 5, 2008, the FDIC Temporary Liquidity Guarantee Program Election Form via FDIC*connect*. Note that this election must be attested to by the entity's Chief Financial Officer (or equivalent).

Eligible entities that are not FDIC-insured depository institutions must have the opt out election(s) submitted via FDIC*connect* by an insured depository institution. This is required to ensure that the election(s) is properly recorded and that a confirmation is provided. No paper submissions will be accepted. **The Election Form will be available via FDIC*connect* beginning on Wednesday, November 12, 2008.** Please note that an entity may wish to exercise its election option to either affirmatively opt in or to opt out of any portion of the Program prior to the issuance of the Final Rule.

Once the Election Form has been submitted via FDIC*connect*, the entity will receive a confirmation page that the submission has been received and a confirmation number is provided. Please note that this confirmation page must be displayed via FDIC*connect* in order for the election to be effective. Therefore it is incumbent upon the entity to ensure that the Election Form has been submitted to the FDIC on or before the deadline, and a confirmation has been generated, or the entity will be subject to the associated fees.

Upon receipt of a completed Election Form, the FDIC will make available via FDIC*connect* a copy of the executed form. The entity can then download a copy of the executed form at any time in the same manner that all other assessment-related documents are obtained.

Public Disclosure of Opt Out Election(s)

In order to notify depositors and lenders when they are dealing with an institution that is covered by the program, the FDIC will maintain on its public website a list of those entities that have opted out of either or both components of the program. In addition, each eligible entity must make clear to relevant parties whether or not it has chosen to participate in either or both components of the program.

Required Submission of 9/30/2008 Outstanding Debt

Any eligible entity that does *not* opt out of the Debt Guarantee Program must also submit via FDIC*connect* the amount of outstanding senior, unsecured debt as of September 30, 2008, that is scheduled to mature on or before June 30, 2009, for purposes of determining the maximum guaranteed amount under this component. Refer to the attached instructions for additional information. Eligible entities that are not FDIC-insured depository institutions must have this debt information submitted via FDIC*connect* by an insured depository institution.

Exercising the Nonrefundable Fee Option to Issue Certain Non-Guaranteed Debt

If a participating entity wants to have the option of issuing certain non-guaranteed senior, unsecured debt before issuing the maximum amount of guaranteed debt, it can elect to do so. **Election of this option requires a participating entity to pay a nonrefundable fee in exchange for which it will be able to issue, at any time and without regard to the cap, non-guaranteed senior unsecured debt with a maturity date after June 30, 2012. The nonrefundable fee, which would be payable in six equal monthly installments, would be equal to 37.5 basis points of the par or face value of senior, unsecured debt, excluding debt extended to affiliates or institution affiliated parties, outstanding as of September 30, 2008, that is scheduled to mature on or before June 30, 2009.** An entity electing the nonrefundable fee option will be billed as it issues guaranteed debt under the Debt Guarantee Program, and the amounts paid as a nonrefundable fee will offset these bills until the nonrefundable fee is exhausted. Thereafter, the entity must pay additional assessments on guaranteed debt as it issues the debt.

Reporting of Guaranteed Debt Instruments

Any eligible entity that does not opt out of the Debt Guarantee Program will be required to report its newly issued debt that is subject to the guarantee. This debt must be reported to the FDIC using FDIC*connect*. Periodically, the invoice for the appropriate fee will be automatically generated and posted on FDIC*connect* for the ACH account associated with the insured depository institution that has submitted the information. That institution shall ensure that funds in an amount at least equal to the amount of the assessment(s) are available in the designated account for direct debit by the FDIC on or before the specified payment date. Failure to take any such action or to provide such funding shall be deemed to constitute nonpayment of the assessment, and the participating entity will be subject to the civil money penalties for failure to timely pay assessments.

Contact Us

For more information, please check the dedicated page for the TLG Program on the FDIC website at www.fdic.gov/tlgp. There is also a dedicated email address for those wishing to submit questions about the TLG Program to the FDIC – tlgp@fdic.gov.