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Technical Briefing on the Temporary Liquidity Guarantee Program

Teleconference

Thursday, October 16, 2008

The teleconference convened from the Board Room at 550 17th Street, N.W., Washington, D.C., Art Murton, presiding.

PRESENT

SHEILA BAIR, Chairman

ARTHUR MURTON

RICHARD BROWN

DIANE ELLIS

STEVE FRITTS

ANDREW GRAY

JOHN LANE

KATHY NAGLE

CHRISTOPHER SPOTH

PROCEEDINGS

MR. GRAY: Thank you for participating in today's call-in for bankers on the new government program. We have here a collection of FDIC senior staff experts ready to answer questions from you from the industry about the new program.

If there are reporters on the line, this is an open call. All of the remarks today are off the record. It's purely a technical briefing to respond to the questions that we've had come into the FDIC since the announcement on Tuesday, and I would just reiterate that this call is for bankers. The questions should come from them as well.

With that said, FDIC Chairman Sheila Bair will provide a few brief remarks, followed by Art Murton.

Thank you.

CHAIRMAN BAIR: Thank you, Andrew.

And thank you all for joining us. I understand we have 900 folks calling in. So that's good because we do want widespread participation in these loan guarantee programs.

I think most of you probably have seen the initial announcements that we made on Tuesday. We are trying to tackle two problems with our temporary loan liquidity guarantee program.

First and foremost is the interbank funding market. Your own funding costs have gone up, and we are trying to get those spreads back down. I just checked my monitor on the way in. LIBOR is still coming down a little bit, but not enough, and so I want to be clear. For some people, it's just taking time for this to sink in, but we are as of Tuesday this program is already operational. We are providing an FDIC guarantee for you to be able to roll maturing unsecured senior debt into an FDIC guaranteed debt instrument.

There are some conditions and caps on that that Art will get into in more detail, but the program is effective now, and we want you to use it. It's 30 days for everybody, and then you have the chance of opting out. If you do not opt out, then we'll start assessing a premium, which on the unsecured senior debt piece of this is 75 basis points.

Yes, it's a healthy premium, but far below certainly what the cost of credit protection is now in the market, and we wanted to price this in a way that certainly was somewhat above what normal times would suggest, but well below what the current credit default spreads are suggesting that you're paying right now.

So we think it's a reasonable premium. We think it's a good value for you. We think this will help you unlock a lot of liquidity, and we want to try to normalize bank lending again, and we want you to participate. There's no stigma in this program. You're helping the system. You're helping the banking system by participating.

The other component is an unlimited deposit insurance on non-interest bearing transaction accounts. Again, we've seen a lot of stress in the business accounts, the payroll accounts, which typically need to be just by necessity of the nature of them over \$250,000. We're trying to stabilize this source of liquidity, especially for the smaller banks.

So I know some of you probably would have liked us to have had that apply to interest bearing transaction accounts as well. We had to make a compromise here. There's a lot of concerns if we had extended it to interest bearing accounts

that we would have destabilized the money market mutual funds, but feel free to ask questions and provide comment on that, but that is already effective as well.

You can opt out at the end of the 30 days if you'd like. We hope you don't. We hope you stay in it. That's a ten basis point surcharge on the amount of uninsured in your transaction accounts over and above the 250,000 that you have right now.

So those are the two key components of the program. They are very bold moves for the FDIC, but it was a unanimous vote. We did this under a systemic risk exception, and it was a unanimous vote by our board, the Federal Reserve Board. The Secretary of the Treasury made the designation in consultation with the President. So the entire financial regulatory community is behind this program.

Again, we want you in it. We want to bring those spreads down. We want to normalize lending activity again. We want to unlock the interbank markets and get that money going out to your customers, to your consumers and to your business borrowers.

So thank you again. I'm encouraged by the fact that 900 folks are on this call, and I'll now turn it over to Art Murton to go into more details of the program.

Thank you.

MR. MURTON: Thank you, Chairman Bair.

Hi, this is Art Murton.

We're planning to have a series of these calls so that we can hear from the industry and tell the industry how this program is going to work, and so this is the first in that series.

Today's call, we may not have a lot of answers necessarily on today's call, but we thought it would be useful to use this as a way to surface issues. So we're very interested in the kind of issues and questions that you have so that we can start working on them and getting decisions on them quickly.

I was going to describe the program relatively quickly. I think Chairman Bair gave most of the elements. I'll just maybe mention a couple other things.

In terms of what entities are eligible for this program, there are four categories: FDIC insured institutions, banks and thrifts; secondly, U.S. bank holding companies; thirdly, U.S. financial holding companies; and fourth, certain U.S. savings and loan holding companies.

So those are the four types of firms that are eligible to participate in the program, and as Chairman Bair said, starting yesterday all institutions were in the program, and unless they opt out, they will continue to remain in the program.

The period of time that this window is open started on the 14th of October, the other day, and extends to June 30th of 2009. All of the senior debt issued during that period will be guaranteed for a period of up to three years. If the debt had a maturity beyond that date, that portion would not be guaranteed during that time, but up until three years it would be.

In terms of the constraints or the limit on the amount of senior debt that can be issued under this program, it will be equal to the following. You look at the senior debt that you had outstanding as of September 30th, and of that, the amount that was scheduled to mature before the June 30, 2009 date, that amount plus 125 percent more is the cap on the amount of debt that can be issued under this program.

So essentially, it allows you to replace the funding that is coming due during this window plus an additional 25 percent cushion.

I think that that describes most of the program. I think that that gives you an overview of the program, and before I open it up to questions, I thought it would be helpful maybe if I just listed for you some of the questions that we have been getting and have been thinking about and are working on to give you a sense of the kinds of things that we're hearing, and we'd be happy not only to take questions during this, but for the questions I'm about to go through, if you had issues or thoughts on that, we'd like to hear them.

So one question has been whether within a company, whether one legal entity can opt out while another is in. So could the holding company opt out and the bank stay in? That's one question we've had.

Also we've had the question of whether a company could choose to have some of its debt instruments covered and others not, or is it all instruments in or all out?

Third is the question of how well people, the public and investors and counterparties know what debt is guaranteed and whether people have opted in or opted out, basically the disclosure issue.

Another question is whether there will be some banks that as of June 30th didn't have any outstanding senior debt. Did I say September? I mean September 30th, September 30th, and so the question is would there be some exception there that would allow them some amount of participation in the program.

And then we have had a variety of questions on exactly what type of debt will be guaranteed, and there are lots of different questions around that.

And then finally, how will deposit insurance be calculated for the purposes of the existing rules? How does this work in conjunction with that?

So those are some of the questions that we've already heard and that we are working diligently on to get answers to, and as we get these answers, as decisions are made, we will be finding ways to get these answers out. We will use our Website. We will use these calls, and we'll be looking for whatever the most effective way of getting the message out is.

So with that, I think we'd be happy to open it up for questions and comments.

OPERATOR: Thank you. At this time if you would like to ask a question, please press star and then one on your touch tone phone. Please unmute your phone and record your name clearly when prompted. Your name is required to introduce your question.

Once again, if you have a question, please star, one on your touch tone phone.

One moment, please, for the first question.

The first question comes from McHenry Kaine. Your line is open.

MR. KAIN: Hi. This is McHenry Kaine.

With respect to the effects of participating in the guarantee on the unsecured debt, what are some of the things that are listed here as far as the coverage and surveillance as far as risk taking? How do you see that taking form?

And also, will participating in that, in the FDIC guarantee affect dividends and the requirements that dividends not be paid as long as payments on the debt are not being paid?

Thank you.

MR. MURTON: I'm sorry. Let me see if I understood that.

What we have said with respect to the guarantee program is that there will be supervision to insure that there's not excessive risk taking or rapid growth, and again, that's part of the normal supervisory process.

In terms of the dividend restrictions, you may be referring to the Capital Plan, unless I'm mistaken, the TARP, Treasury's TARP Capital Plan, which does have some restrictions.

MR. KAIN: But there won't be any restrictions on the guarantee as far as dividends are concerned?

MR. MURTON: Not a blanket. I mean, again, this would be done through the normal supervisory process, but we're not expecting that participation in this program leads to dividend restrictions. That's not what we're contemplating.

MR. KAIN: Okay. Thank you.

MS. HUGHES: Hi. This is Karen.

My question has to do with the issuance of CP by a bank holding company. We issue CP on a regular basis, and I was wondering if the surcharge of ten percent applies to the issuance of CP and also if there will be a different schedule. For instance 75 basis points for discounted CP on an overnight basis is a little steep.

MR. THOMAS: The fee for the loan guarantee program is 75 basis points on an annualized basis. The fee for the increased coverage for deposits, for the non-interest bearing deposits, is ten basis points, again, on an annualized basis.

MR. MURTON: And in addition --

MS. HUGHES: Irrespective of one another. So if I issued CP then, basically if I issued CP overnight, it would be the nominal amount times 75 basis points divided by 360 days.

MR. MURTON: Yes.

MR. THOMAS: The exact calculation I can't tell you, but that's extremely close, if not exactly right.

MR. MURTON: Yes.

MS. HUGHES: All right, all right. Thank you.

OPERATOR: Brian Carey, your line is open.

MR. CAREY: Thank you.

This question is regarding the insurance on non-interest bearing accounts. My bank and perhaps 1,000 other banks across the United States use a deposit reclassification program to reduce our reserve balance requirements at the Federal Reserve Bank. This program, basically we run it every day, and we are transferring excess balances out of

demand accounts, transaction accounts to a savings account. The balance, of course, remains in a non-interest bearing savings account, and it's reportable in the current board as savings.

Has the FDIC considered the fact that there's about 1,000 banks using this program? And does that mean the insurance would still apply to these deposit reclassification accounts or does that mean that these deposits are not insured?

MR. THOMAS: Could I get a bit of clarification? You're saying you're moving this money into a non-interest bearing account?

MR. CAREY: Yes, they're going from the transaction account to a comparable savings account in order to reduce the total transaction balance so that we're calculating our reserve requirements on the FR-2900 report for the Federal Reserve Bank. We, therefore, reduce our reservable balance requirement.

MR. THOMAS: It's an excellent --

MR. CAREY: -- bank is aware of this. We've been and, like I said, there are probably 1,000 banks in the U.S. that are doing this.

MR. THOMAS: It's an excellent question to which we don't have an answer.

We do have an answer on a related question, and that is if money is swept from a transaction account, non-interest bearing transaction account, into any other type of account, then we look at where the money is when it's swept under our regulations. If you have a sweep which is going to go before the close of business each night and sweeping it into a savings account that pays interest.

In that situation, clearly, we would apply our regulations to determine what the nature of the account. It would show that it wasn't a non-interest bearing transaction account. It was a savings account, and that would not get the extra insurance.

The question you raise we'll have to think about with the non-interest bearing.

MR. CAREY: To help you out, the program that I use and many banks have purchased CETO, C-E-T-O, a company that has been using this system for, oh, probably a dozen years or more.

MR. THOMAS: Okay. Thank you.

MR. MURTON: Hi. This is Art Murton.

I should probably have introduced my colleagues. The person who was just speaking was John Thomas from our Legal Division.

I also have Chris Spoth from our supervision area, as well as several other senior staff here.

I think we're ready for the next question.

OPERATOR: We have a question from Michele Redding. Your line is open.

MS. REDDING: Thank you.

I wanted to get into the Fed funds. I understand that the coverage when you talk about interbank is for Fed funds; is that correct?

MR. MURTON: Yes.

MS. REDDING: And so going forward, the first part of the question is in the next 30 days are all bank's Fed funds guaranteed by the program?

MR. MURTON: Yes.

MS. REDDING: That has not been very clear really to most of the public out there.

MR. MURTON: Let me clarify. This is new.

MS. REDDING: We just need a little bit more education there.

MR. MURTON: Okay.

MS. REDDING: But on a go forward basis, if a bank wanted to, say, guarantee their Fed funds going forward, what would you all envision as the process?

I mean, say Bank ABC has four or five different Fed funds providers. They're overnight facilities. They're noncommitted. How does that work as far as coming up with a capacity number, and you know, there aren't typically inter-creditor agreements or anything because it's just an overnight transaction.

MR. FRITTS: This is Steve Fritts of the Division of Supervision.

On the Fed funds, of course, to qualify, they'd have to be unsecured, and the cap would be based on that balance that you had at September 30th and a multiplier of 1.25 percent. That multiplier and the cap -- I'm sorry. Yes, 25 percent --

and that cap relates to all of the unsecured debt that would come under this guarantee.

So the math could get a little complicated if you had other debt instruments in addition to the unsecured Fed funds purchased. So that would be the basis on establishing the amounts.

MS. REDDING: Right, but let's say the bank had ten million outstanding at 9:30; give them 12 and a half capacity, but they've got a \$10 million line here, a \$10 million line there. Who's left holding the bag if they go out and borrow from multiple sources?

MR. FRITTS: Well, the borrower would be limited to that cap with that multiplier of the outstandings on the day of September 30th.

MS. REDDING: Okay.

MR. FRITTS: We have built in a case-by-case exception if an institution on that date had lines but weren't drawn on and they had a zero balance, that they would need to talk to their regulator and get that case-by-case exception because 125 percent of zero is zero, obviously.

MS. REDDING: Right, and then along that line, getting back to that capacity, you know, how much you have to borrow, will you guys look at bank and holding company level on a consolidated basis so that if somebody had Fed funds outstanding, but say they had a holding company line that was unfunded, can they use one to create the capacity for the other?

MR. MURTON: Let me say this. Our thinking is no, and here's probably a good point where I should say we haven't made final decisions on many of these questions. So at many points I'll probably be indicating which way we're leaning, and that can perhaps allow you to surface issues that we may need to consider, but our thinking at this point is that the cap would be done on a legal entity basis.

So the bank would have its own cap. The holding company would have its own cap.

But within an entity there would not be caps by debt type. That would be there would be a cap overall.

MS. REDDING: And if you had your capacity based on a line, you could come back with a term loan and have that guaranteed?

MR. SPOTH: I think our -- Chris here -- our thinking at the moment is the cap is not based on the line. It's the amount borrowed or outstanding as of September 30th.

MS. REDDING: Okay.

MR. MURTON: And I think it's --

MS. REDDING: Just one more question. There are a lot of community banks out there that have holding company lines that are drawn upon that are technically secured by the bank stock. So it's the sub of the holding company. That stock is being held against that loan, but it's not marketable. It's not a marketable security.

Has there been any thought around whether that's considered for this program secured or unsecured?

MR. MURTON: No final decision there, but that sounds like secured debt, and I'd turn my colleagues.

MR. THOMAS: The general expectation is that if you have secured debt which turns out to be under secured, the under secured portion will be covered, but there may be some rules around that.

MR. FRITTS: And back to your question about the family within the holding company, keep in mind that each legal entity that would exercise this guarantee would have to be qualified. They would have to meet the qualification standard.

MS. REDDING: Absolutely. Okay.

MR. THOMAS: One other thing to point out. The guarantee only applies to newly issued debt starting on the 14th of October. With Fed funds, that's normally not going to be an issue because it rolls, but if you have term debt or anything else that was issued before the 14th of October, it is not covered, and you cannot call it early and replace it with guaranteed debt under the program.

MS. REDDING: Got you.

OPERATOR: A question from David Simpson. Your line is open.

MR. SIMPSON: Hi. It's in regards to the amount of debt outstanding, the 125 percent. I just want to make sure that that includes senior and sub debt of the operating entity or bank or thrifts, also the holding company, and then what about other types of subordinated debt obligations, hybrids, for example? Will they also be part of the 125 percent capacity?

MR. MURTON: No. Subordinated debt is not covered under this program. It's not counted in the cap, and newly issued sub debt is not subject to the guarantee.

MR. SIMPSON: So the 125 percent is only 125 percent of senior debt issued by each legal entity.

MR. MURTON: Yes, that's correct.

MR. SIMPSON: One other question. Are there any limits on the security being issued in terms of optionality? Can an issue have a put that would expire the day before the expiration of the insurance or a call or some kind of re-marketing? Are there any limits that the FDIC put now allow the issuer to put on?

MR. MURTON: I can't rule out that there might be, but that's something that we'll just have to look at. We haven't come to an answer on that.

MR. SIMPSON: And so going back to my first question, 125 percent capacity is by legal entity. So 125 percent of the senior debt outstanding of a particular legal entity.

MR. MURTON: That's correct.

MR. SIMPSON: Thank you.

MR. FRITTS: Therein, again, that meets the standards for qualifying.

MR. MURTON: Yes.

MR. FRITTS: A bank holding company, a thrift holding company that qualifies, or an insured depository. That would have to be the legal entity.

PARTICIPANT: Thank you.

I think you just answered the question about the caps by legal entity, but I also have a question on the features of the debt, and this may be something that you are going to just get back to us as well on, but if the debt is accompanied by a warrant or has a conversion feature, do you have any thoughts about whether that would be covered? It would be senior unsecured, but with either a convertibility feature or also accompanied by a warrant.

MR. MURTON: I think that you're right that we have to get back to you on that.

PARTICIPANT: Okay.

MR. MURTON: A good question.

PARTICIPANT: And then just a clarification on what the 125 percent of senior debt figure. Is it senior unsecured debt that we're looking at --

MR. MURTON: Yes.

PARTICIPANT: -- 9/30/08 or is it senior debt?

MR. MURTON: It's senior unsecured.

PARTICIPANT: -- bank stock loans in that 9/30 figure?

MR. MURTON: It's -- go ahead.

MS. ELLIS: Only the unsecured portion of any secured loan.

PARTICIPANT: Okay. So it's apples to apples. It's only what you could issue new under the program that you're measuring against.

MS. ELLIS: That's right.

PARTICIPANT: Okay. Thank you very much.

MR. MURTON: You're welcome.

OPERATOR: Our next question comes from Julieann Thurlow. Your line is open.

MS. THURLLOW: Yes. I'm actually calling on the other side, which is actually the deposit insurance. As far as Massachusetts state banks are concerned, we actually have our own insurance on all excess deposits greater than FDIC limits. So what you're offering to us is something that we don't need at a cost.

If we opt out, however, we're concerned about the stigma that might be attached to that. What can the FDIC do to avoid that type of stigma on non-participation by clarifying that state charter banks do have an alternate form of insurance? Because effectively what you're proposing is double insurance.

MR. MURTON: Right. That's a good question, and we will work on that.

MR. SPOTH: While we wait for the next question, we'd be pleased to work with the Mass Bankers Associations and others on messages there, I think.

PARTICIPANT: Hi. I'd just like a little more clarification on the topic of the supervisory oversight, if entities participate in the guarantee program. It seems to indicate that there will be enhanced supervisory oversight, but in your earlier comment you indicated it would be just a normal supervision to insure no rapid growth or excessive risk taking.

Do you want to comment on that?

MR. SPOTH: Sure. I could offer a broad comment on that. It's going to be normal supervision as the institution -- each one of you is experiencing a particular level of supervision for the characteristics of your institution and nothing will change there with respect to that outside of watching for, you know, growth and the risk taking that might come about through new funding.

So if somebody were in very safe and sound condition, they should expect to be treated that way, and somebody who was a problem institution, they should expect to continue to be accorded supervision along that approach.

PARTICIPANT: Thank you.

OPERATOR: Other questions?

Your line is open.

PARTICIPANT: Thank you.

I'd like to follow up on the prior questioner's comment about Fed funds because I agree it's completely not understood by the public. What you said was that all Fed funds are guaranteed for the next 30 days, if I heard it right. And how do I know, thinking about selling to, you know, some Bank X, how do I know what their limit was on September 30th? How do I know how many other people they're buying Fed funds from? How can I figure if my Fed funds that I'm selling to Bank X is covered if it's a function of 125 percent of September 30th?

They could be borrowing ten times that much in Fed funds, and how do I know what side of the line I would be on?

MR. MURTON: Well, I'll let my colleagues help out here, but we are going to require that there be good disclosures and that they monitor their cap, and when they are above the cap, they will not be able to continue to participate in this, and we will hold them to that, and presumably we'll have fairly strict penalties for anything issuing beyond the cap.

PARTICIPANT: Were you done with your answer? I'm sorry.

MR. MURTON: Yes, yes.

PARTICIPANT: I didn't want to break in if you weren't done.

MR. MURTON: No, go ahead.

PARTICIPANT: So how do I, having said that, which I appreciate, how do I protect myself against some institution's wire desk either ignoring the limits or not knowing what they are or just being deliberately fraudulent?

I can understand that you would exercise penalties against the issuer.

MR. MURTON: Yes, I've got your question now.

PARTICIPANT: -- hold me harmless if the buying institution screws it up? Pardon my language.

MR. MURTON: I think, and, again, nothing is final, our thinking is you would be covered.

PARTICIPANT: Okay.

MR. FRITTS: I think it might be - this is Steve Fritts -- I think it might be a valuable exercise if there's any concerns in your mind. First of all, we would expect everyone offering debt that they believe has our guarantee and certainly that we believe they have our guarantee, that they would represent that very clearly, and we expect them to have those conversations with us and their primary regulators about that, and also I think if you had any concern or question, you need to be talking to us.

And as we build the reporting mechanism, I think there was a question there about what is enhanced. I think that there will probably be some enhanced reporting that is required, and I think by the time the 30 days expires for the optionality, we'll have a lot more formal overlay of systems and information that you can rely on.

PARTICIPANT: Okay. So in the interim, as I look at my responsibilities to my shareholders, it sounds like you're saying all fed funds are guaranteed regardless for the next 30 days, and then we're going to go to the 125 percent system. Is that in writing somewhere that I can give my wire desk and say, "Don't worry. The FDIC says it's all guaranteed for the next 30 days regardless"?

Is that how I should read what you're saying?

MR. THOMAS: No.

PARTICIPANT: I'm sorry. What is happening for the next however many days it is until you have this reporting mechanism in place for people who are selling fed funds to absolutely know on a given day, today, tomorrow, whether or not the fed funds that we're selling to so-and-so are guaranteed?

MR. MURTON: I think when John said no, he was saying no to do we have a legal document for you right now, and the answer to that is no. But the answer to "Are fed funds safe during the 30-day period?" the answer is yes.

PARTICIPANT: Okay. So it has nothing to do with the 125 percent calculated limit or any of that stuff?

MR. THOMAS: The borrowers are bound by that limit unless the FDIC, in consultation with their PRFs increased it. But as a practical matter, we understand the problem that the lenders have. We're going to do everything we can to avoid having the question come up as to whether you're protected or not.

We'll have some more definitive guidance, but I think the reality is as long as you're operating in good faith, you're trying to deal with responsible parties, that we would have to cover. But the limits very much apply to the borrower, and we expect that to be adhered to.

When we talked about enhanced enforcement or enhanced supervision, that's certainly a large part of that, trying to make sure. The thing needing to be enhanced is we didn't have these programs before. They didn't exist. So now we needed to enhance the programs to cover this, to make sure the people do comply on the borrowing side.

MR. FRITTS: And I think it's certainly commercially reasonable if you're the lender you would ask them what their amounts outstanding were as of September 30th, and they should tell you and you can calculate what their limit was and accept, you know, their representations at face value, unless you have some question or reason that you wouldn't.

And like I said, if there's any question in your mind, I think that would be something that you'd want to -- with a counterparty, you might want to have a dialogue with us about.

PARTICIPANT: Okay, and do people on the call know how to reach you once this is over?

MR. FRITTS: Yes. With that respect, with specific institutions, I would suggest you call our regional offices, which you can find in the telephone book.

PARTICIPANT: Oh, okay. You don't mean you. You mean the FDIC.

MR. FRITTS: Yes.

PARTICIPANT: Okay. I'm sorry to beat that one to death, but I really need to know what instructions to give the wire desk, and it sounds like if I give them a work sheet that says, "Ask them what their September 30th was, multiply it by 125 percent," get a representation from who they're talking to, that we are part of that 125 percent. As long as we don't know anything that should alarm us to the contrary, then we're covered by the FDIC for the next 30 days.

MR. SPOTH: I think what we're trying to convey from this group is that the burden will largely be for compliance on the borrower, and that's the way we intend to apply it. The enhanced supervision will be there. We hope that institutions that are sellers will be reasonably diligent, but the burden should be on the borrower side.

PARTICIPANT: Thank you.

I know I've taken a lot of time. One short last question. For those banks that didn't have any senior unsecured debt outstanding, there's a case-by-case exception. We talk to the primary regulator of the legal entity concerned. Is that the licensing division of that regulator? Is that the direct supervisory part of the regulator?

MR. THOMAS: The primary --

PARTICIPANT: We called various pieces of our regulatory apparatus yesterday. Nobody knew who was going to be in charge of that sort of question.

MR. THOMAS: I'm not sure we know yet, and we'll have to provide more information.

MR. MURTON: If it's helpful --

MR. THOMAS: There should be limits on what can be said about the lenders or the borrowers, rather.

MR. FRITTS: And one thing, I think. Your question to a firm that had no outstanding, they basically can't lend without a case-by-case exception approval. So essentially unless they, the borrower, gets that case-by-case exception approval, they cannot borrow.

MR. SPOTH: If it's helpful to wrap up that question, the conversations that are going on among the regulators now are among the supervisory people. That's not to say that questions won't end up or that processes won't be developed for licensing, but the supervisory side, the people you're used to within the examination function are probably the best to direct questions to with regard to how to get exceptions from the zero denominator effect.

PARTICIPANT: Thank you very much.

OPERATOR: The next question comes from Peter Baker. Your line is open.

MR. BAKER: Hi. I had a question on the definition of interbank. And I heard earlier on the call that fed funds are considered interbank. I presume that means both overnight and term.

MR. MURTON: Yes, unsecured.

MR. BAKER: Unsecured. How about overnight and term euro placements?

MR. MURTON: That's one of the issues we're looking at.

MR. BAKER: Okay. So that's undetermined yet?

MR. MURTON: Yes.

MR. BAKER: How about foreign exchange spot forward contracts?

MR. MURTON: You're probably going to give me a list of the ones that -- and we look forward to this list, but there are a number of things like that where we haven't -- those are the kind of determinations we're trying to make as we speak, you know, and as soon as possible. But I would welcome more.

MR. BAKER: Okay. How about commercial and standby letters of credit issued on behalf of other banks or ones that are issued by the other banks that I confirm?

MR. SPOTH: There's a general premise that might drive our answers to some of these, some of the instruments that we're talking about. It would be helpful probably to be thinking about the overall purpose of this program, which is to expand actual interbank lending or restore it, and also to go on and fund lending in the U.S.

So to the extent that it's not solving that purpose it might help drive our decisions.

MR. BAKER: Well, I would say that from my point of view, there has been issues with banks accepting other banks for foreign exchange trading or for letters of credit, and this relates to, you know, the commercial purpose of the bank and assisting our customers.

So that was my question about that. I presume daylight overdraft on due to accounts is covered also?

MR. SPOTH: Due to accounts being - well, we'll have to add that to the list.

MR. BAKER: And sorry. I have one or two others. How about contracts for forward purchases of sales of debt securities or mortgages, things like that?

MR. MURTON: Okay.

MR. BAKER: Some of those might actually clear through FFEIC or something like that, but there still could be an unsecured portion as the value of the underlying securities changed and we're left with something that became real.

MR. MURTON: Okay.

MR. BAKER: And then I think I heard on the call yesterday if we're doing a reverse repo, in other words, I'm giving the cash to get the securities and if there was a shortfall in the securities because of the change in value, that I would actually be covered on the unsecured portion, what became then the unsecured portion.

MR. MURTON: I think that's right, but again, let us finalize that.

MR. BAKER: Okay. Well, this is helpful because I'm ready to expand the list of who I want on the new fed funds list today. I just wanted to make absolutely sure whether I could include the euros and the foreign exchange and things like that.

MR. MURTON: Great. Well, we're working to get answers to that as quickly as possible.

I might at this point mention that shortly in the next, hopefully, day or two we will have a mailbox up on our Website where people can put questions in and we very much welcome these types of questions.

OPERATOR: The next question comes from Douglas Selsha. Your line is open.

MR. SELSHA: Hi. My question pertains to the FDIC coverage for the in excess of 250,000. How does that play into a coverage for, say, an individual or a business that would have \$250,000 in savings and 500,000 in a non-interest bearing account? How much coverage does that provide that individual and how much would we be paying the premium on?

MR. MURTON: That's a good question. We are not counting the newly covered funds as part of your normal deposit insurance limit. So in the example that you just gave, if I heard it correctly, I think that's all covered.

MR. SELSHA: Okay.

MR. MURTON: Okay? In terms of the premium, you currently pay on all your deposits. You pay a risk based premium on all of your deposits. Under the new guarantee system you will pay an additional ten basis points on that amount of --

MR. SELSHA: -- from that example?

MR. MURTON: Exactly. The 250,000 in that example, the amount of the transaction account that is beyond the normal limit.

MR. SELSHA: Okay, and then one final question. In the State of New Jersey -- this pertains to attorney escrow accounts. In the State of New Jersey, we are mandated to pay interest to the IOLTA Fund, and those escrow deposits in a lot of situations exceed \$250,000 in balances that flow through that account during the course of three or four days to facilitate closings, and in some cases sit out there for a greater length of time.

Would they still be considered as interest bearing accounts or would they be covered under this temporary FDIC coverage in covering the excess?

These are funds so that as an attorney, for instance, I might have \$2 million sitting in that account for, let's say, five people. Four of the people might each have 250,000, but you've got one person that they're holding \$750,000 worth.

MR. THOMAS: And the account does pay interest as I understand your situation.

MR. SELSHA: We're mandated by IOLTA.

MR. THOMAS: It would not be covered by the increase in coverage.

MR. SELSHA: Okay. So does that then put smaller community banks at risk in that the mentality is that there's a flight to safety with a large institution because they're too big to fail?

MR. MURTON: We're trying to address the problems that we've seen with, you know, these non-interest bearing transaction accounts, these corporate accounts leaving banks. We'd like to address all of the issues that we face, but at this point with this program there's probably only so much we can do.

MR. SELSHA: Okay. Thank you.

OPERATOR: Our next question comes from Sujay Colvindano. Your line is open.

MR. COLVINDANO: I had a question with respect to the eligible entities, them being U.S. holding companies, U.S. financial holding companies, USA loan holding companies. Is that designation by charter or is it by ownership or have you all looked into that or do you all have any kind of ideas as to how that's going to break down?

MR. SPOTH: I think the answer, but I'll offer this for a follow-up from you; the answer should be it goes to the charter. So if you have a U.S. bank holding company charter or an insured depository charter here, that would be the legal entity.

MR. CALVINDANO: And with respect to, say, foreign bank branches?

MR. SPOTH: Foreign bank branches, we're continuing to look at that group.

MR. CALVINDANO: All right. Thank you.

OPERATOR: We have a question from Joe Palmer. Your line is open.

MR. PALMER: Hello. I had a question for you guys with regard to the funds that are guaranteed. Let's say a lender goes out or actually, say, a borrower goes out, issues debt, and unfortunately defaults on that so they can't make their interest payments. How would the process work with regard to securing that loan? When do you guys actually step in and guarantee the loan?

Is there any kind of thought about that process as it happens at the end of the three years? Does it happen when an interest payment is missed? What interplay is there between you guys encouraging the banks to work together to cure this loan or this debt? Is there any sort of a procedure?

MR. THOMAS: With banks it would be triggered by the failure of the bank. I think that's pretty clear in terms of how we're thinking of this. We have not gotten completely through the process of figuring out how it will work with the holding companies, but certainly a bankruptcy, the holding company would trigger the guarantee.

Whether anything short of that would, we don't have a definitive answer on that.

MR. PALMER: So, for example, if someone issued debt and they defaulted on that, regardless of whether it's three years, five years, ten years, if they entered into a bankruptcy, that is the point in time when the lender actually gets their funds back from that loan, not before then.

MR. THOMAS: Well, if they go into bankruptcy, that would trigger our guarantee and we would sort out where it was at that point.

MR. PALMER: Only under a bankruptcy the guarantee kicks in. Anything short of that has to wait out.

MR. THOMAS: I think we have not reached the final decisions on that. Certainly, if there's bankruptcy then the guarantee will kick in. Whether there's anything short of that, we don't have a final answer yet.

MR. PALMER: Fine, and then just to reiterate, this is truly an apples to apples comparison. So it is only the amount of existing outstanding unsecured debt that is the, quote, unquote, base upon which you multiply 125 percent. It is not any secured debt whatsoever.

MR. MURTON: That's right.

MR. PALMER: Thanks very much. That's all I have.

OPERATOR: We have a question from Bill La Donneau. Your line is open.

MR. LA DONNEAU: Yes. Thank you.

With respect to the FDIC insurance limits on non-transactions or non-interest bearing transaction accounts, if an institution does not opt out within 30 days, can that institution opt out at some point in the future before the expiration of the program?

MR. THOMAS: No.

MR. MURTON: No.

MR. LA DONNEAU: Once we do not option out, we stay in until December 31st, '09?

MR. THOMAS: Correct.

MR. LA DONNEAU: Okay.

MR. THOMAS: It's true of both programs. Each program, if you don't opt out within 30 days, then you're in for the duration of the program.

MR. LA DONNEAU: Thank you.

OPERATOR: Our next question comes from Dee Shaw. Your line is open.

MR. SHAW: Yes, thank you.

Just a couple of very quick questions. The use of newly issued debt guarantee under the program to be purchased or existing debt and really, particularly, sort of, existing debt that's maturing --

MR. THOMAS: It cannot be used to prepay existing debt. It can be used to roll over existing debt but not to prepay it.

MR. SHAW: Okay. So it can roll over but not prepay.

MR. THOMAS: Right.

MR. SHAW: Okay, and then the other question we had is with respect to the eligible entities, will sort of new bank holding companies or, you know, banks that would otherwise be eligible if they had existed as of 9/30 be able to participate in this program?

MR. MURTON: Again, nothing is final, but our thinking is yes.

MR. SHAW: Okay, great. Thank you.

OPERATOR: We have a question from Don Morton. Your line is open.

MR. MORTON: First of all, if a bank has shelf registration out there for senior unsecured debt issuance, has issued some debt under that, but not completed that registration, is the remainder of the debt, assuming it otherwise meets the requirements, remainder of that debt to be issued? Would that be newly issued?

MR. THOMAS: We're going to have to get back to you on that one. That's a very, very good question.

MR. MORTON: Okay. And with respect to the 30-day period for opting out, I've heard different ways of computing that. Is that -- I've heard November 12th, November 13th, November 14th? Is there -- when does that end?

MR. THOMAS: Some of us need fingers and toes to count days, and unlike the normal legal thing since this actually began on the 14th, that's the first of the 30 days. We will come up with the final day and get that out officially.

MR. MORTON: That would be helpful. Just two others quickly, certainly. If a bank stays in the debt guarantee program, that doesn't mean that the bank is limited in its borrowing to the amount that's guaranteed, does it? It only means that the debt that is guaranteed is limited by the 125 percent. The bank could still borrow beyond that, but that just wouldn't be guaranteed.

MR. MURTON: Right. That is correct.

MR. MORTON: One last question. There was a question earlier on the deposit insurance side with respect to IOLTA account. I just wondered if that interest that's paid on that IOLTA account is not paid to the law firm; interest doesn't go to the law firm, it doesn't go to the clients of the law firm, but is actually paid to the Bar Association or something, that the law requires that to happen. Does that change that question? The interest for the depositor is just something that's required to have these accounts and that money has to go to, let's say, the Bar Association for something?

MR. THOMAS: It probably doesn't, but we'll take a look at that question.

MR. MORTON: Okay. Thank you very much.

OPERATOR: We have a question from Mr. Titelbaum. Your line is open.

MR. TITELBAUM: Yes, I thank you.

My question goes to the timing for immediate issuances in excess of the 30-day period and the process for that because it seems to me that although you can clear that the guarantee is immediately effective, in terms of the practicalities it's telling the market and giving a disclosure of, you know, what is subject to the guarantee. It's kind of difficult in this short term to say, you know, what it means to opt in and whether you do that through publication in your disclosure and how you disclose what's actually covered by the guarantee.

So is there kind of a time line you all have in your mind about the publishing a process that will give that comfort?

MR. MURTON: If I understand the question right, we are going to have a form up, I think, early to mid-next week where you can indicate what your intentions are.

Does that answer your question?

MR. TITELBAUM: That answers part of it, which is an ability to indicate an intention, and then I guess the second part is some of the questions you've heard today, again, particularly as you get beyond, you know, an overnight fed fund kind of guarantee and into, you know, commercial paper that might extend beyond the 30-day period, you know, what's covered and what is not is going to be an essential element of, again, being able to disclose to the markets, you know, what is being guaranteed in the issuance and you anticipate in that same time frame stating this is the extent of the guarantee that we are providing to, you know, institutions.

MR. MURTON: Right, right. Yes, that is an issue. I mean, the burden will be on the issuer, and you're right. There are some questions around that.

MR. THOMAS: We expect to provide more guidance as we can do it. So you're going to get additional questions and answers that we can post and the like over time. We're not going to hold everything up until we know all the answers, and we probably won't know all of the answers even in 30 days, but we'll know an awful lot more a week from today than we do now.

MR. TITELBAUM: Are you going to do that principally through Q&As or is there going to be an interim rule that's set forth in terms of the program?

MR. THOMAS: We have not made a final decision, but there's a strong likelihood that there will be an interim reg.

MR. MURTON: Right, and perhaps more FILs, financial institution letters, perhaps a policy statement.

OPERATOR: Question from Kirk Wark. Your line is open.

Mr. Wark: Yes, thank you.

Good questions. The one I wanted to address a little further was the fed funds sold. We currently or typically sell our fed funds through a correspondent who then distributes those. Any amounts above \$4 million they distribute to as many other correspondents in up to \$4 million amounts until they fully exhaust the amount of fed funds that we are selling.

And I'm trying to think from a practical standpoint based on some of your earlier questions we don't even know who the fed funds are being sold to until the next day, and so how from a practice standpoint are we supposed to be assured that whoever they ultimately end up with has complied with this 1.25 percent rule?

MR. MURTON: Right. Again, our thinking is that the burden is on the issuer to insure that they are complying with the program, and there's also a burden on our supervisors to make sure they're complying.

We're not trying to put the burden on you to validate their cap.

MR. Ouark: You see, our reluctance, right now all of our money is sitting at the Federal Reserve because we're reluctant to rely on those parties because of all the things that are going on, and I'm not sure the things I'm hearing are making me feel any better about that.

MR. MURTON: We would like you to be able to --

MR. Wark: The other thing, if a bank opts out, how is the consumer to know that?

MR. MURTON: We would require the bank to disclose that and we're considering having a list of opt out banks on our Website.

MR. Wark: Okay. Have you considered some additional signage on the bank like FDIC or something?

MR. MURTON: We haven't. We're considering the best way to get the right disclosure.

MR. Wark: Okay. Well, that's very helpful. Thank you very much.

MR. MURTON: You're welcome.

OPERATOR: Question of Arthur Cooper. Your line is open.

MR. COOPER: Thanks for taking my call.

I represent an industrial loan company, and I had a question regarding the insurance or the guarantee on transaction accounts. As my company does not have any transaction accounts, are we still subject to the surcharge?

MR. THOMAS: The surcharge is based on the transaction account volume that you have that's covered. So since you don't have any, that amount would be zero.

MR. COOPER: Okay. Thanks for that.

I have a follow-up question regarding eligibility. We in the industrial loan company have no debt and no fed funds outstanding as of September 30th or as of October 14th either. Our parent does, however, and my question is: does the parent qualify as an eligible entity?

MR. THOMAS: Only as a bank holding company, financial holding company, or a thrift holding company that does not conduct business that falls outside Section 4(k), which basically restricts the activities of a bank holding company.

So there are ILCs that are owned by such entities, but a large number are not.

MR. SPOTH: The FDIC regional office would be happy to clarify that question for you.

MR. COOPER: Okay. Thank you.

And finally, assuming that the parent is eligible, and according to some of their financing is secured, but part of the secured financing, there's a haircut on the assets. Is that haircut eligible, financing for that haircut piece, so that ten or 20 or 25 percent piece, is that eligible for the guarantee?

MR. MURTON: Again, I think that may come under the list of things we need to look into.

MR. COOPER: Thank you very much.

MR. GRAY: Operator, if I could just interrupt. We've reached our one hour time frame that we've allotted for the call.

For those on the call, we appreciate your participation today and let you know that we'll be announcing future calls shortly. Art did mention the Website. I will give it to you now. It's www.fdic.gov/tlgp. That's the designated site that we've created for a clearing house for all of the information that FDIC will be posting and making available. We'll have the Q&A that comes out of this call and other questions that we receive, and we'll begin to organize it in a fashion that should be accessible and informative as we move forward through this process.

We'll also announce future calls through that Website, as well as through press releases in our other channels just to make sure that everyone is aware of future calls.

So with that I would wrap it up for today and thank you very much for your participation.