Temporary Liquidity Guarantee Program Frequently Asked Questions

These are the archived FAQs regarding the Debt Guarantee Program which ended on October 31, 2009.

Has the Temporary Liquidity Guarantee Program (TLGP) been extended?

The Debt Guarantee Program has been extended for senior unsecured debt issued after April 1, 2009 and before October 31, 2009 and maturing on or before December 31, 2012. Fees on debt issuance have increased (see below). Participating entities that are not insured depository institutions and did not issue debt before April 1, 2009 were required to apply for the ability to participate in the extension.

On October 20, 2009, the FDIC established a limited, six-month emergency guarantee facility upon expiration of the Debt Guarantee Program. Under this emergency guarantee facility, certain participating entities can apply to the FDIC for permission to issue FDIC-guaranteed debt during the period starting October 31, 2009 through April 30, 2010. The fee for issuing debt under the emergency facility will be at least 300 basis points, which the FDIC reserves the right to increase on a case-by-case basis, depending upon the risks presented by the issuing entity.

Eligibility

Which entities are eligible to participate?

Eligible entities include FDIC-insured depository institutions, any U.S. bank holding company or financial holding company, and 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, or any other affiliate of an insured depository institution that the FDIC, after written request and positive recommendation by the appropriate federal banking agency, designates as an eligible entity.

U.S. savings and loan holding companies are considered eligible entities for purposes of the Temporary Liquidity Guarantee Program (TLGP), provided, in part, that they engage only in activities that would be permissible for financial holding companies under section 4(k) of the Bank Holding Company Act (4(k) compliant activities). What, if anything, does a participating U.S. savings and loan holding company need to do to document that it engages only in 4(k) compliant activities?

U.S. Savings and Loan Holding Companies Other Than Grandfathered Unitary Thrift Holding Companies

Each such participating U.S. savings and loan holding company proposing to issue debt under the TLGP should document its determination that it engages only in 4(k) compliant activities by preparing a written certification that the institution's activities are "4(k) compliant" or by obtaining a written legal opinion evidencing this conclusion. This documentation must be retained in the institution's files and made available to the FDIC or the OTS upon request.

Grandfathered Unitary Thrift Holding Companies

To ensure that each grandfathered unitary thrift holding company meets the eligibility requirements for a U.S. savings and loan holding company under the TLGP, the FDIC has determined that the guaranteed debt limit for each grandfathered unitary thrift holding company and each thrift holding company within the grandfathered unitary thrift holding company's organizational structure shall be zero absent further review and written determination by the FDIC. Any such grandfathered unitary thrift holding company or thrift holding company within a grandfathered unitary thrift holding company structure may apply to the FDIC in accordance with 12 CFR § 370.3(h) for a written determination of eligibility status and the establishment by the FDIC of a cap greater than zero.

Is a newly established holding company considered an eligible entity? If so, since the holding company did not exist on September 30, 2008, would its debt limit be $0?

Yes, a newly established holding company will be considered an eligible entity if the holding company meets the definition of an eligible entity in 12 CFR §370.2.

Yes, a newly established eligible entity's presumptive debt limit under the Debt Guarantee Program is zero. To obtain an increase in the presumptive debt guarantee limit, the entity would need to apply for an increase following the procedures laid out in 12 CFR §370.3(h).

Is the parent company of an ILC or "CEBA" bank an eligible entity? What about an insurance company that owns a bank? Can a U.S. bank holding company that is foreign owned participate?

If the parent company meets the definition of eligible entity outlined above it may participate; otherwise, it may not.

Is an insured industrial loan company that is not a subsidiary of a bank holding company or a savings and loan holding company eligible to participate in the Temporary Liquidity Guarantee Program?

Yes, if it is an insured depository institution.

Can an FDIC-insured institution owned by a foreign entity participate?

Yes.

Will the senior unsecured debt guarantee under the Temporary Liquidity Guarantee Program extend to debt issued by a foreign corporation if it is a financial holding company (and therefore a bank holding company) and the parent of an insured depository institution?

No.

Are the 11 grandfathered insured U.S. branches of foreign banks eligible to participate in the Temporary Liquidity Guarantee Program?

They are eligible to participate in the transaction account guarantee program. They are not eligible to participate in the Debt Guarantee Program.

How does an insured depository institution that opened for business after December 5, 2008 participate in the transaction account guarantee program?

Any insured depository institution that opened for business after December 5, 2008 and wishes to participate in the transaction account guarantee program should send written notice to the appropriate FDIC regional office, its chartering authority, and its primary federal regulator if that entity is different from its chartering authority. The FDIC Regional Director will provide the institution with the necessary documentation and instructions for completion.

Disclosure

How will an investor know that a counterparty is participating in the Debt Guarantee Program?

The FDIC will maintain and will post on its website a list of those eligible entities that have opted out of the Debt Guarantee Program.

What are the disclosure requirements for the Debt Guarantee Program?

Debt issued before April 1, 2009 and debt issued between April 1, 2009 and June 30, 2009 that was not issued under the extension (i.e., debt that matures before June 30, 2012).

Each eligible entity that does not opt out of the Debt Guarantee Program must include the following disclosure statement in all written materials provided to lenders or creditors regarding any senior unsecured debt issued by it on or after December 19, 2008 through June 30, 2009 that is guaranteed under the Debt Guarantee Program:

"This debt is guaranteed under the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program and is backed by the full faith and credit of the United States. The details of the FDIC guarantee are provided in the FDIC's regulations, 12 CFR Part 370, and at the FDIC's website, www.fdic.gov/tlgp. The expiration date of the FDIC's guarantee is the earlier of the maturity date of the debt or June 30, 2012."

Debt issued after April 1, 2009 under the Temporary Liquidity Guarantee Program (TLGP) extension

Each eligible entity that did not opt out of the Debt Guarantee Program and is participating in the Debt Guarantee Program extension or that issues debt under the emergency guarantee facility must include the following disclosure statement in all written materials provided to lenders or creditors regarding any senior unsecured debt issued by it on or after April 1, 2009 through October 31, 2009 that is guaranteed under the Debt Guarantee Program extension, or debt that is issued under the emergency guarantee facility:

"This debt is guaranteed under the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program and is backed by the full faith and credit of the United States. The details of the FDIC guarantee are provided in the FDIC's regulations, 12 CFR Part 370, and at the FDIC's website, www.fdic.gov/tlgp. The expiration date of the FDIC's guarantee is the earlier of the maturity date of the debt or December 31, 2012."

If an eligible institution is participating in the Debt Guarantee Program, it must include the following disclosure statement in all written materials underlying any senior unsecured debt it issues on or after December 19, 2008, through October 31, 2009, that is **not** covered under the Debt Guarantee Program:

"This debt is **not** guaranteed under the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program."

Until December 19, 2008, the institution should provide in a commercially reasonable manner adequate disclosures of the substance of these required disclosures.

What is the FDIC's plan for publicizing data related to the Temporary Liquidity Guarantee Program (TLGP)?

The FDIC plans to publish aggregated TLGP data in the Quarterly Banking Profile (QBP) starting with the fourth quarter 2008 issue. The QBP will include statistics on both the Transaction Account Guarantee Program and the Debt Guarantee Program.

Coverage of Debt

What types of debt instruments does the debt guarantee component of the Temporary Liquidity Guarantee Program guarantee?

Under the program, for the period from October 13, 2008 through December 5, 2008, eligible debt is unsecured borrowing that:

a. is evidenced by a written agreement or trade confirmation;
b. has a specified and fixed principal;
c. is noncontingent and contains no embedded options, forwards, swaps, or other derivatives; and
d. is not, by its terms, subordinated to any other liability.

After December 5, 2008, eligible debt is unsecured borrowing that:

a. is evidenced by a written agreement or trade confirmation;
b. has a specified and fixed principal;
c. is noncontingent and contains no embedded options, forwards, swaps, or other derivatives;
d. is not, by its terms, subordinated to any other liability; and
e. as a stated maturity of more than 30 days.

Senior unsecured debt includes:

- Federal funds purchased
- Promissory notes
- Commercial paper
- Unsubordinated unsecured notes, including zero-coupon bonds
- U.S. dollar-denominated certificates of deposit owed to an insured depository institution, an insured credit union as defined in the Federal Credit Union Act, or a foreign bank
- U.S. dollar-denominated deposits in an IBF of an insured depository institution owed to an insured depository institution or a foreign bank, and
- U.S. dollar-denominated deposits on the books and records of foreign branches of U.S. insured depository institutions that are owed to an insured depository institution or a foreign bank

The term "foreign bank" does not include a foreign central bank or other similar foreign government entity that performs central bank functions or a quasi-governmental international financial institution such as the International Monetary Fund or The World Bank.

A debt owed to an insured depository institution, an insured credit union, or a foreign bank means owed to such an entity solely in its own capacity and not as agent.

What are examples of debt that will not be guaranteed under the debt guarantee component of the Temporary Liquidity Guarantee Program guarantee?

Examples of debt excluded from the program include:

- Any obligation with a stated maturity of "one month"

- Obligations from guarantees or other contingent liabilities
- Derivatives
- Derivative-linked products
- Debts that are paired or bundled with other securities
- Capital notes
- The unsecured portion of otherwise secured debt
- Negotiable certificates of deposit
- Deposits denominated in a foreign currency or other foreign deposits (except those otherwise permitted in the rule)
- Revolving credit agreements
- Structured notes
- Instruments that are used for trade credit
- Retail debt securities
- Any funds regardless of form that are swept from individual, partnership, or corporate accounts held at depository institutions
- Loans from affiliates, including parents and subsidiaries, and institution affiliated parties

Does debt with a stated maturity of "one month" meet the requirement of a stated maturity of more than 30 days?

No. A maturity that extends beyond one month because of weekends, holidays or other calendar-related issues is not a stated maturity of greater than 30 days.

What do you mean by retail debt securities?

For the purpose of the Debt Guarantee Program, retail debt securities are those that are exclusively marketed and targeted to retail customers (typically in small denominations). Debt that is more broadly marketed, even if it is subsequently held by retail investors through secondary market trading, would continue to be eligible for the guarantee.

Will commercial paper issued into the FRB's new facility effective October 27th qualify under the debt program and be assessed the guarantee fee?

Yes.

Can qualifying debt under the debt guarantee component of the Temporary Liquidity Guarantee Program guarantee be denominated in a foreign currency?

Yes, senior unsecured debt, except deposits, may be denominated in a foreign currency as long as the other eligibility requirements set forth in the definition are met. However, participating entities that issue debt denominated in a foreign currency should hedge their foreign exchange rate risk. For purposes of determining the amount of guaranteed debt outstanding, debt issued in a foreign currency will be converted into U.S. dollars using the exchange rate in effect on the date that the debt is insured.

Are fed funds purchased covered under the debt guarantee component of the Temporary Liquidity Guarantee Program?

Under the Final Rule, senior unsecured debt includes fed funds purchased, provided that the term of the debt exceeds 30 days.

Do CDs owed to an insured depository institution through the CDARS network qualify as guaranteed debt under the senior unsecured debt component of the Temporary Liquidity Guarantee Program?

Under the Final Rule for the Temporary Liquidity Guarantee Program, certificates of deposit owed to insured depository institutions (and insured credit unions) are considered senior unsecured debt (and are eligible for an FDIC guarantee) if they are owed to the institution solely in that institution's own capacity and not as agent. However, CDs placed through the CDARS network are intended to be fully insured. Because the FDIC has interpreted the definition of senior unsecured debt pursuant to 12 CFR § 370.2 to include only those interbank CDs outstanding that are not otherwise fully insured, most, if not all, CDs placed through the CDARS network, even if owed to an insured depository institution solely in its own capacity and not as agent, will not be considered senior unsecured debt.

"Negotiable CDs" are excluded from the definition of senior unsecured debt for purposes of the debt guarantee component of the Temporary Liquidity Guarantee Program. What is a "negotiable" CD for purposes of the program?

For purposes of the program, a "negotiable" CD is a transferable CD.

Does the Temporary Liquidity Guarantee Program include new senior unsecured debt issued from an existing note program under a shelf registration that still has unused availability?

Yes. Senior unsecured debt newly issued under an existing shelf registration will be guaranteed, subject to the SEC disclosure requirements.

If an eligible bank holding company has not pledged any collateral to secure a debt to a lender, but has given a negative pledge, for example, a promise to not pledge the stock of its wholly owned subsidiary bank to any party, does the debt still qualify as "unsecured"?

Yes.

Are trust preferred securities eligible under the senior unsecured debt component of the Temporary Liquidity Guarantee Program?

No.

Bank A issues CDs through its agent, Bank B. On the books of Bank A, the CDs are issued to Bank B, "as agent for itself and others." The beneficial owners of the CDs in the name of Bank B are held by both non-banks and banks. Are these CDs owed to an insured depository institution for purposes of fees for the debt guarantee component of the Temporary Liquidity Guarantee Program, since they're issued to Bank B?

CDs issued to a bank "as agent for itself and others," even where the beneficial owner is a bank, do not fall within the definition of senior unsecured debt for purposes of the Debt Guarantee Program. Only CDs owed to a bank *solely* in its own capacity and not as agent qualify. The inclusion of CDs owed to an insured depository institution was intended to limit the participation of CDs in the Debt Guarantee Program to those issued in the interbank CD market.

Assuming that a bank or thrift is participating in the Debt Guarantee Program, does a CD that it issues to a bank through a broker qualify for the guarantee on senior unsecured debt?

Under the Final Rule, senior unsecured debt includes "U.S. dollar-denominated certificates of deposit owed to an insured depository institution, an insured credit union ... or a foreign bank ...." If the issuing bank or thrift owes the CD to a broker, the CD does not meet the definition of senior unsecured debt, and will not be guaranteed, even where an insured depository institution, an insured credit union or a foreign bank is the beneficiary of the CD. (However, the CD will often be insured—in whole or in part—under deposit insurance rules.)

Where a broker merely arranges placement of a CD, and the issuing bank or thrift owes the CD directly to another insured depository institution, an insured credit union or a foreign bank, rather than to the broker as agent for one of these institutions, the CD meets the definition of a senior unsecured debt and will be guaranteed, provided that the debt is owed to the insured depository institution, insured credit union, or foreign bank solely in its own capacity and not as agent for someone else.

Will the debt guarantee component of the Temporary Liquidity Guarantee Program cover unsecured debt to affiliates? Will debt to affiliates be counted in the 125 percent limit?

No, the guarantee will not cover debt to affiliates, including parents and subsidiaries, and institution-affiliated parties and that debt will also not be counted in the 125 percent cap.

How will the senior unsecured debt guarantee be allocated?

The guarantee will be applied to the debt in chronological order according to the time that it was issued. For example, say that a bank's cap is $125 million and it has no outstanding senior unsecured debt at the beginning of the day. Suppose further that the bank wishes to issue $200 million in senior unsecured debt during the course of the day and that the bank has not elected the option and paid the fee to issue certain non-guaranteed senior unsecured debt before reaching its cap. The first $125 million of debt that is issued will be guaranteed and should be issued with the proper disclosures that the debt is guaranteed. The other $75 million will not be covered and it should be made clear to the lender that that debt is not guaranteed.

Does the limitation on sales of guaranteed debt to affiliates prevent affiliates of eligible entities from acting as underwriters of offerings of guaranteed debt of their affiliated eligible entities (and thereby technically owning it for a brief instant at closing)?

Nothing in the Final Rule is intended to prevent normal underwriting activity by affiliates of eligible entities. Therefore, affiliates of eligible entities may act as underwriters for offerings of guaranteed debt of their affiliates, and the guarantee becomes effective as soon as the underwriter completes its sale of the debt to third parties not affiliated with the eligible entity.

How long will the FDIC guarantee of senior unsecured debt last?

For debt issued before the extension, the FDIC guarantee lasts until the earlier of the maturity of the debt or June 30, 2012, unless an entity opts out of the debt guarantee component of the Temporary Liquidity Guarantee Program. In that event, the debt guarantee will expire when the FDIC's receives the opt-out decision.

For debt issued under the extension approved on March 17, 2009, qualifying entities may issue debt through October 31, 2009, with the guarantee expiring the earlier of maturity or December 31, 2012. For debt issued under the emergency guarantee facility through April 30, 2010, the guarantee will expire on the earlier of the maturity date or December 31, 2012.

How long will institutions be required to report the outstanding balance of FDIC-guaranteed debt?

If the entity issued guaranteed debt at any time during the program the entity will need to report its guaranteed debt outstanding monthly through FDICconnect until the end of the guarantee period on December 31, 2012. See FIL 15-2009 Entities that opted into the debt guarantee program but never issued any guaranteed debt do not need to report.

Can a participating entity choose to issue debt that will not be guaranteed?

Once the entity has reached its 125 percent limit, it can issue debt that is not guaranteed by the Temporary Liquidity Guarantee Program, but the entity must specifically disclose that such debt is not guaranteed. In addition, 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 must elect to do so on or before December 5, 2008. Election of this option will require 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 debt guarantee limit, non-guaranteed senior unsecured debt with a maturity date after June 30, 2012.

The fee for electing this option is 37.5 basis points times the amount of the entity's senior unsecured debt that had a maturity date on or before June 30, 2009, and was outstanding as of September 30, 2008, unless the entity had no such debt outstanding as of September 30, 2008, in which case the fee is 37.5 basis points times the amount of the entity's debt guarantee limit established under 12 CFR § 370.3(b).

Under § 370.3(b), an insured depository institution that had no senior unsecured debt outstanding on September 30, 2008, will have a debt guarantee limit of two percent of its consolidated total liabilities as of September 30, 2008. A participating entity other than an insured depository institution that had no senior unsecured debt outstanding on September 30, 2008, may seek to have some amount of debt covered by the Debt Guarantee Program and the FDIC, after consultation with the appropriate federal banking agency, will decide, on a case-by-case basis, whether such a request will be granted and, if granted, what the entity's debt guarantee limit will be.

Entities participating in the extended DGP may apply to the FDIC to issue non-FDIC-guaranteed debt after June 30, 2009. If approved, such entities may issue non-guaranteed debt after June 30, 2009, with any maturity and without paying any additional fee to the FDIC.

Can the proceeds of debt guaranteed under the debt guarantee component of the Temporary Liquidity Guarantee Program be used to prepay debt that is not guaranteed?

No.

Entities participating in the Debt Guarantee Program cannot issue senior unsecured debt identified as guaranteed by the FDIC if the proceeds of that issuance are used to prepay debt that is not FDIC-guaranteed. What is meant by a prepayment of debt that is not FDIC-guaranteed?

Prepayment of debt that is not FDIC-guaranteed means the extinguishment or reduction of any non-FDIC guaranteed debt by means of cash payment of the non-FDIC guaranteed debt, or substitution or exchange of FDIC-guaranteed debt for non-FDIC-guaranteed debt, if these payments, substitutions or exchanges occur prior to the stated maturity of the non-FDIC guaranteed debt.

Can a participating entity issue debt up to the limit at any time between now and June 30, 2009? For example, if an eligible entity that as of September 30, 2008, had $100 million of unsecured debt maturing between now and June 30, 2009, may it issue $125 million in debt now under the Temporary Liquidity Guarantee Program?

Yes.

Can guaranteed debt issued by the parent company be put in a subsidiary bank as capital?

The proceeds of guaranteed debt issued by the holding company and sold to a third party could be injected into the subsidiary bank as capital. However, given the relatively short duration of the Debt Guarantee Program, the holding company's ability to retire the debt at maturity should be carefully considered. The FDIC's Risk Management Manual of Examination Policies provides the following guidance to examiners in evaluating the quality of new capital injections from a parent holding company:

Management's access to capital sources, including holding company support is a vital factor in analyzing capital. Also, the strength of a holding company will factor into capital requirements. If a holding company previously borrowed funds to purchase newly issued stock of a subsidiary bank (a process referred to as double leverage), the holding company may be less able to provide additional capital. The examiner would need to extend beyond ratio analysis of the bank to assess management's access to capital sources.

The FDIC envisions few if any circumstances under which it would approve holding company applications to establish a cap or to increase a cap where the proceeds from the resulting guaranteed debt issuance would be injected as capital into a subsidiary bank. The Temporary Liquidity Guarantee Program was not intended to be a capital enhancement program. The Treasury Department's TARP program has been set up for that purpose. The purpose of the Temporary Liquidity Guarantee Program is to restore liquidity to the intermediate term debt market.

Will eligible entities be required to use the funds to grant loans?

There is no express requirement that the funds be used to grant loans. However, as set forth in the Interagency Statement on Meeting the Needs of Creditworthy Borrowers, eligible entities are encouraged to use these funds to grant new loans since the goals of this program include increasing liquidity in the banking system, and improving banks' capacity to engage in prudent lending to meet the needs of creditworthy borrowers.

Can a broker/dealer purchase FDIC-guaranteed debt issued by its holding company or an affiliate bank or thrift for the purpose of making a market?

If a broker/dealer purchases debt issued by its holding company or an affiliate bank or thrift, the debt will not be guaranteed by the FDIC as long as it is held by the affiliate broker/dealer. Presuming the debt was issued as FDIC-guaranteed debt, it will again be guaranteed by the FDIC once the broker/dealer sells the debt and a non-affiliated entity owns it.

What is the risk weight for risk-based capital purposes for a bank's holding of bank or bank holding company debt guaranteed by the FDIC under the Temporary Liquidity Guarantee Program (TLGP)?

The preamble to the final TLGP rule states that TLGP-guaranteed debt may be risk weighted at 20 percent. After reviewing the legislative history of the U.S. government's full faith and credit backing of the FDIC, the FDIC has determined that TLGP-guaranteed debt may be risk weighted at 0 percent. This risk weight is effective as of September 29, 2009. At a bank's option, it may elect to apply this risk-based capital treatment for purposes of the regulatory reporting period ending on September 30, 2009.

How will FDIC's obligation to pay holders of FDIC-guaranteed debt issued by a participating entity apply to a situation where an issuer of FDIC-guaranteed debt (the "Issuer") has made payments to holders of the debt ("Holders") and the Holders are subsequently required to return such payments to the bankruptcy estate of the Issuer because the payments were made during the "preference period" (typically defined to include a payment made on or within 90 days before the filing of a bankruptcy petition by the Issuer)?

In this situation, the FDIC will, in accordance with its guarantee, pay the Holders the amount that the Holders returned to the bankruptcy estate of the Issuer pursuant to an order of the Bankruptcy Court. Payment will be made in accordance with the provisions of 370.12(b), which, among other things, requires demand for payment and proofs of claim.

In the event of default will the FDIC continue to make timely payments on interest and principal?

Under the Final Rule, the FDIC's payment obligation will be triggered by a payment default. The FDIC will continue to make scheduled interest and principal payments under the terms of the debt instrument through its maturity, except that, for debt issuances whose final maturities extend beyond June 30, 2012, or December 31, 2012 for debt issued under the extension, at any time thereafter, the FDIC may elect to make a payment in full of all the outstanding principal and interest under the debt issuance. In connection with this expansion of the guarantee, participating entities in the Debt Guarantee Program must execute and file with the FDIC as part of its notification of participation in the Debt Guarantee Program a "Master Agreement," governing the guarantee.

Debt Guarantee Limit

Is there a limit to how much guaranteed debt a participating entity may issue under the debt guarantee component of the Temporary Liquidity Guarantee Program guarantee?

The FDIC will temporarily guarantee newly issued senior unsecured debt in a total amount up to 125 percent of the par or face value of senior unsecured debt outstanding, excluding debt extended to affiliates, as of September 30, 2008, that is scheduled to mature on or before June 30, 2009. For purposes of determining this limit, senior unsecured debt outstanding as of September 30, 2008, includes short-term (30 day or less maturity) senior unsecured debt.

If an insured depository institution had no senior unsecured debt as that term is defined in §370.2(e)(1)(A), or only had federal funds purchased, outstanding on September 30, 2008, its debt guarantee limit is two percent of its consolidated total liabilities as of September 30, 2008.

In addition, a participating insured depository institution may issue debt under its debt guarantee limit as well as its holding company's debt guarantee limit. With proper written notice both to the FDIC and to its parent holding company, a participating insured depository institution may issue guaranteed debt in an amount equal to the institution's limit plus its holding company's limit, so long as the total guaranteed debt issued by the insured depository institution and its holding company does not exceed their combined debt guarantee limit. This also applies where an institution has more than one holding company.

Has the cap been increased in conjunction with the extension of the program?

No.

Is the 125% cap based on debt issued as of the close of business on September 30, 2008 (as opposed to debt that matured and was paid on Sept 30)?

Yes.

If an institution has qualifying debt with an ultimate maturity date beyond June 30, 2009 should the portion of the debt that "matured" by June 30, 2009, be included in calculating the 125% cap?

The Final Rule provides that the "cap" is 125 percent of the par value of the participating entity's senior unsecured debt including short-term (30 day or less maturity) senior unsecured debt, outstanding as of September 30, 2008 that was scheduled to mature on or before June 30, 2009. The June 30, 2009 maturity refers to the ultimate and final maturity date by which the debt must be paid in full. Only qualifying debt that must be paid in full on or before June 30, 2009, can be included in calculating the cap. Thus, no portion of such debt maturing after the June 30, 2009 deadline may be included in calculating the cap.

Will federal funds purchased that were outstanding on September 30, 2008 be included in the calculation of an institution's debt guarantee limit regardless of maturity and whether or not the federal funds purchased outstanding were evidenced by a written agreement?

Yes. The debt guarantee limit is 125 percent of the participating entity's senior unsecured debt inclusive of short-term (30 day or less maturity) senior unsecured debt (including federal funds purchased whether or not these were evidenced by a written agreement) outstanding as of September 30, 2008 that was scheduled to mature on or before June 30, 2009. However, if a participating entity that is an insured depository institution had no senior unsecured debt as of September 30, 2008, or had only federal funds purchased, its debt guarantee limit will be two percent of its consolidated total liabilities as of close of business September 30, 2008.

Can a holding company that has no liabilities as of September 30, 2008 issue senior unsecured debt guaranteed by the FDIC?

In order to issue guaranteed debt the holding company must seek to have some amount of debt covered under the Temporary Liquidity Guarantee Program. The FDIC, after consultation with the appropriate federal regulator, will decide on a case-by-case basis whether such a request will be granted and what that entity's debt limit will be. Holding companies are not eligible to use the two percent of liabilities option.

What is the process an entity must follow to establish or increase its limit on guaranteed senior unsecured debt?

The procedures to establish or increase a cap (or limit) under the Debt Guarantee Program are outlined in 12 CFR § 370.3(h). That section requires written application to the FDIC and the appropriate federal banking agency of the entity or the entity's lead affiliated insured depository institution. The letter application must describe the details of the request, provide a summary of the applicant's strategic operating plan, and describe the proposed use of the debt proceeds. Applications must be in letter form and addressed to the Director, Division of Supervision and Consumer Protection, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429.

In evaluating applications from eligible entities to either increase or establish a cap, the FDIC will consider: the financial condition and supervisory history of the eligible entity.

In evaluating applications from a non-bank affiliate to participate in the Debt Guarantee Program, the FDIC will consider: the extent of the financial activity of the entities within the holding company structure; the strength, from a ratings perspective, of the issuer of the obligations that will be guaranteed; and the size and extent of the activities of the organization.

The FDIC may consider any other relevant factors and may impose any conditions it deems appropriate in granting approval of applications filed pursuant to this paragraph. All applications will be closely evaluated and exceptions made on a limited basis.

If a bank or holding company wishes to apply for a higher guaranteed debt limit under the debt guarantee component of the Temporary Liquidity Guarantee Program, must it do so by December 5, 2008?

No. Banks and holding companies that do not opt out may apply for a higher limit at any time before June 30, 2009.

As of September 30, 2008, neither of two insured depository institutions had outstanding senior unsecured debt. What will their debt guarantee limit be if they merge?

Two percent of the consolidated total liabilities of the two institutions as of September 30, 2008.

12 CFR § 370.3(g) allows an eligible entity to elect to issue senior unsecured non-guaranteed debt with maturities beyond June 30, 2012, at any time, in any amount, and without regard to the guarantee limit, provided that a *nonrefundable fee is paid. Must all eligible entities in a holding company structure make the same election pursuant to 12 CFR § 370.3(g)?*

No.

If on September 30, 2008, an insured financial institution had only fully insured interbank CDs outstanding, would it be eligible for the alternative two percent of total liabilities debt guarantee limit?

Yes. The FDIC has interpreted the definition of senior unsecured debt pursuant to 12 CFR § 370.2 to include only the portion of interbank CDs outstanding that are not otherwise fully insured. Accordingly, so long as the interbank CDs outstanding were fully insured, the insured depository institution's cap would be the alternative two percent of total liabilities.

What Call Report line item is used to calculate the two percent consolidated total liabilities debt guarantee limit?

The two percent of liabilities debt guarantee limit is calculated using Call Report Schedule RC, item 21 (total liabilities).

Are there penalties assessed if a participating entity issues debt identified as "guaranteed by the FDIC" in excess of the limit established by the FDIC?

Yes. A participating entity that issues guaranteed debt beyond the guarantee limit without authorization from the FDIC will have its assessment rate for all guaranteed debt doubled and will be subject to enforcement actions including the assessment of civil money penalties, as appropriate, including, for example, assessment of civil money penalties under section 8(i) of the FDI Act, removal and prohibition orders under section 8(e) of the FDI Act, and cease and desist orders under section 8(b) of the FDI Act.

What if a participating entity inadvertently issues debt identified as "guaranteed by the FDIC" in excess of the limit established by the FDIC?

The penalties referred to in the previous question still apply. The FDIC may reduce the assessments under this paragraph upon a showing of good cause by the entity.

Will the holder of debt that was purchased after an issuing entity exceeded its guarantee limit still be protected in the event of a failure or bankruptcy if the purchaser received the required disclosure that the debt was guaranteed?

Yes. The FDIC will monitor banks and bank holding companies for compliance with the guarantee limit. A participating entity that issues guaranteed debt beyond the guarantee limit without authorization from the FDIC will have its assessment rate for all guaranteed debt doubled and will be subject to enforcement actions including the assessment of civil money penalties, as appropriate, including, for example, assessment of civil money penalties under section 8(i) of the FDI Act, removal and prohibition orders under section 8(e) of the FDI Act, and cease and desist orders under section 8(b) of the FDI Act.

Fees and Costs

How will fees be assessed for the unsecured debt guarantee part of the Temporary Liquidity Guarantee Program (TLGP)?

Beginning on November 13, 2008, any eligible entity that does not choose to opt out of the debt guarantee component of the program will be assessed fees that will be determined by multiplying the amount of FDIC-guaranteed debt times the term of the debt (expressed in years) times an annualized assessment rate determined in accordance with the following table:

For debt with a maturity of:	The annualized assessment rate (in basis points) is:
180 days or less (excluding overnight debt)	50
181-364 days	75
365 days or greater	100

However, the rates set forth above will be increased by 10 basis points for senior unsecured debt issued by a holding company or by a participating affiliate that is not an insured depository institution if, as of September 30, 2008, the combined assets of all insured depository institutions affiliated with such entity constitute less than 50 percent of consolidated holding company assets.

For debt that was issued before April 1, 2009 and maturing after June 30, 2012, June 30, 2012 will be used as the maturity date. For debt that was issued after April 1, 2009 under the extension and that matures after December 31, 2012, December 31, 2012 will be used as the maturity date.

Under the Final Rule, an eligible entity that chooses to opt out of the TLG Program by the new deadline of December 5, 2008, will not be assessed for its participation in the program. However, if an eligible entity chooses to remain in the program after December 5, 2008, the entity will be subject to assessments retroactive to November 13, 2008 on all senior unsecured debt, other than overnight debt instruments, issued on or after October 14, 2008 and on or before December 5, 2008 that is still outstanding on December 5, 2008.

Once the participating entity provides notice that it has issued guaranteed debt, an invoice for the appropriate fee will be automatically generated and posted on FDIC*connect*. Each participating entity shall ensure that sufficient funds to pay the fee are available in a designated ACH account for direct debit by the Corporation on the first business day after posting of the invoice on FDIC*connect*.

Under the TLGP amended rules, a surcharge will be added to existing fees for certain guaranteed debt that has a maturity of one year or greater. For such one-year-or-greater debt that is issued on or after April 1, 2009, and on or before June 30, 2009, and that matures on or before June 30, 2012, the annualized assessment rate will be increased by 10 basis points for debt issued by an insured depository institution and 20 basis points for debt issued by other participating entities.

For such one-year-or-greater debt that either is issued on or after April 1, 2009, and matures beyond June 30, 2012, or is issued after June 30, 2009, the annualized assessment rate will be increased by 25 basis points for debt issued by an insured depository institution and 50 basis points for debt issued by other participating entities.

	Insured Depository Institution (bp)	Non-Insured Depository Institution (bp)
Issued between April 1 2009 and June 30, 2009; Maturing by June 30, 2012	10	20
Issued on or after April 1, 2009 and maturing after June 30, 2012	25	50
Issued after June 30, 2009	25	50

For debt issued after October 31, 2009 under the emergency guarantee facility, the FDIC will assess a fee using an annualized assessment rate equal to at least 300 basis points. The FDIC reserves the right to increase the assessment rate on a case-by-case basis, depending upon the risks presented by the issuing entity.

Is there a fee assessed on entities that do not opt out of the debt guarantee component of the Temporary Liquidity Guarantee Program, but choose not to issue new debt?

The fee on unsecured debt is based on the amount and type of debt issued. If a participating bank opts into the program, but never issues senior unsecured debt, no fee will be assessed

The only exception to this rule is for an entity that elects the option of issuing certain non-guaranteed senior unsecured debt before issuing the maximum amount of guaranteed debt. 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 debt guarantee limit, non-guaranteed senior unsecured debt with a maturity date after June 30, 2012.

The fee for electing this option is 37.5 basis points times the amount of the entity's senior unsecured debt that had a maturity date on or before June 30, 2009, and was outstanding as of September 30, 2008, unless the entity had no such debt outstanding as of September 30, 2008, in which case the fee is 37.5 basis points times the amount of the entity's debt guarantee limit established under 12 CFR § 370.3(b).

Under § 370.3(b), an insured depository institution that had no senior unsecured debt outstanding on September 30, 2008, will have a debt guarantee limit of two percent of its consolidated total liabilities as of September 30, 2008. A participating entity other than an insured depository institution that had no senior unsecured debt outstanding on September 30, 2008, may seek to have some amount of debt covered by the Debt Guarantee Program and the FDIC, after consultation with the appropriate federal banking agency, will decide, on a case-by-case basis, whether such a request will be granted and, if granted, what the entity's debt guarantee limit will be.

Entities participating in the extended DGP may apply to the FDIC to issue non-FDIC-guaranteed debt after June 30, 2009. If approved, such entities may issue non-guaranteed debt after June 30, 2009, with any maturity and without paying any additional fee to the FDIC.

Would a bank pay an assessment under the Debt Guarantee Program for newly issued interbank CDs as well as regular deposit insurance premiums? Isn't this a "double-assessment?"

Institutions will not be assessed under the Debt Guarantee Program on amounts in interbank CDs that are otherwise insured on the date the CD is issued. Whether a CD is otherwise insured will be determined by first applying deposit insurance to all existing deposits owed to the holder of the CD in the same right and capacity.

For example, if Bank A issues a $500,000 CD to Bank B, Bank A will be assessed on only $250,000 under the Debt Guarantee Program, assuming Bank B has no other deposits at Bank A. However, if Bank B already has an existing $250,000 interest bearing transaction account when Bank A issues the $500,000 CD to Bank B, Bank A will be assessed on the full $500,000 CD under the Debt Guarantee Program.

Institutions will be required to provide the FDIC with a good faith estimate of the amount of interbank CDs that are uninsured.

What will happen if the fees for the Temporary Liquidity Guarantee Program do not cover the cost? Will there be any cost to the taxpayer?

The U.S. taxpayer will not bear any cost. If fees are not enough to cover costs of the program, the difference will be made up through a special assessment on all insured institutions, in accordance with statutory requirements for recovering costs associated with a systemic risk determination.

Will participating entities be subject to any additional reporting requirements to participate in this program?

We will leverage existing reporting mechanisms to the FDIC and other primary federal regulators. We are pursuing limited changes to the December Call Report, for example, to include the amount and number of noninterest-bearing transaction accounts above the temporary $250,000 limit. Separate reporting will be necessary related to the FDIC-guarantee of senior unsecured debt.

How will fees assessed under the Temporary Liquidity Guarantee Program be collected?

Fees for the debt guarantee component of the Temporary Liquidity Guarantee Program will be collected as follows:

- Generally, any guaranteed debt reported through Tuesday night each week will be invoiced through FDICconnect on Wednesday, with the ACH launched Thursday, and the collection on Friday.
- The first collection is scheduled to occur on Friday, December 19, 2008.

Fees for the option that allows participating institutions to issue nonguaranteed debt prior to reaching their limit for issuing guaranteed debt will be collected as follows

- The applicable fee (37.5 basis points) will be assessed on a one-time basis and collected over a six-month period, with one-sixth of the amount being collected monthly. The first such fee amount is scheduled to be collected on December 19, 2008.
- The remaining five collections will occur monthly on the following tentative dates: January 16, 2009; February 13, 2009; March 13, 2009; April 17, 2009; and May 15, 2009.

Participating or Opting Out

Can an entity opt out of just one part of the Temporary Liquidity Guarantee Program?

Yes. An entity can opt out of either the senior unsecured debt guarantee part of the program, the transaction account guarantee part of the program, or both. However, all eligible entities within a U.S. Banking Holding Company or a U.S. Savings and Loan Holding Company structure must make the same decision regarding continued participation in each component of the program (the transaction account guarantee component and the debt guarantee component) or none of the members of the holding company structure will be eligible for participation in that component of the program.

Can an entity that has opted out join the program later?

Only in one circumstance. In the case of a merger between two eligible entities, the resulting institution will have a one-time option to revoke a prior decision to opt-out.

Does the guarantee terminate if a bank opts out?

Yes. The guarantee terminates when the entity opts out.

Can one eligible entity opt out while an affiliated entity or parent participates in the Temporary Liquidity Guarantee Program?

No. All eligible entities within a U.S. Banking Holding Company or a U.S. Savings and Loan Holding Company structure must make the same decision regarding continued participation in each component of the program (the transaction account guarantee program component and the Debt Guarantee Program component) or none of the members of the holding company structure will be eligible for participation in that component of the program.

Are non-bank affiliates of bank holding companies eligible for the debt guarantee component of the Temporary Liquidity Guarantee Program?

The guarantee will only cover those affiliates that the FDIC, in its sole discretion and on a case-by-case basis, after written request and positive recommendation by the appropriate federal banking agency, designates as an eligible entity.

If the parent company of an insured institution has no deposits, debt or any liabilities and will not be issuing any debt, does the insured institution need to file the election form and master agreement for the holding company as well as the bank or only on behalf of the bank?

The insured institution will need to file the election form for both the bank and the holding company. The same elections will need to be made for all associated eligible entities, that is, if the bank wishes to elect to continue its participation in the Debt Guarantee Program, the bank holding company will also need to continue its participation

We have noticed what appears to be an inconsistency in the due dates for return of the Master Agreement. What is the correct due date?

The Master Agreement should be returned within ten (10) business days from the date of the issuer's election.

Will the FDIC countersign the Master Agreement and return a copy of the signature page to the participating entity?

The FDIC will not be returning the signature page of the Master Agreement to the participating entity with the countersignature of the FDIC. The participating entity received confirmation of its election to continue participation (with a confirmation number) which serves as evidence that the participating entity is eligible and elected to issue senior unsecured debt guaranteed by the FDIC pursuant to the terms of the Temporary Liquidity Guarantee Program rule as set forth at 12 CFR, Part 370.

Is a Master Agreement required for each entity or will one Agreement suffice?

For each entity which elects to participate in the Debt Guarantee Program, a Master Agreement is required to be executed and submitted to the FDIC within ten (10) business days of the date the Election Form is completed and submitted. This due date is addressed in a separate FAQ on the website.

If I do not participate in the Debt Guarantee Program, do I still need to complete a Master Agreement?

No. The Master Agreement is required only from entities which elect to participate in the Debt Guarantee Program. In other words, no Master Agreement is required from an entity if "box" A.(2) in Part III of the Temporary Liquidity Guarantee Program (TLGP) Election Form was selected on the form which was submitted to the FDIC.

Where can I get the Master Agreement form?

A copy of the Master Agreement can be obtained from the following website: http://www.fdic.gov/regulations/resources/TLGP/master.pdf

Do I need to submit the entire 18 pages of the Master Agreement, or do I need to submit only the signature pages?

As outlined in Section 6.09 (on page 8) of the Master Agreement, the Issuer is required to submit a copy of only the signature page to the FDIC. The Signature Page is the page immediately before the "Annex A" page.

Accessing FDIC*connect*

I am my bank's FDICconnect Coordinator, but I can't see TLGP as an option or choice on my FDICconnect menu. What should I do?

As your institution's FDICconnect coordinator, you must first update your FDICconnect privileges so that you can view the TLGP transaction. Under the "Coordinator Functions," you would do the following:

1. Select "Manage Transactions"
2. Click the radio button (in the select column) next to the "Temporary Liquidity Guarantee Program" transaction
3. Click the "Manage Transaction Users" button at the bottom of the page
4. Select "Execute" in the "Privileges" column next to your name
5. Click the "Update Privileges" button at the bottom of the screen
6. Select "Menu" (located in upper right corner) to return to the Business Center Menu.

Once you have updated your privileges, you will see the TLGP transaction and will be able to execute the election form