Temporary Liquidity Guarantee Program Frequently Asked Questions

Questions in bold were added on January 12, 2009.

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How does the Final Rule differ from the Interim Rule?

Aside from limited and technical changes, the major changes from the Interim Rule to the Final Rule include:

- Guaranteeing the timely payment of principal and interest under the debt guarantee program.

  Under the Interim Rule, the FDIC's guarantee under the debt guarantee program was triggered by receivership or bankruptcy. 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, 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.

- Prescribing more specific disclosures for both components of the TLG Program.

  The Final Rule includes specific mandatory language for debt issued under the debt guarantee program that explicitly states that the debt is backed by the full faith and credit of the United States. The Final Rule also includes sample language for both participants and non-participants under the transaction account guarantee program.

- Revising the definition of senior unsecured debt.

  Effective December 6, 2008, the definition of senior unsecured debt excludes any obligation with a stated maturity of 30 days or less (including debt with a maturity of "one month"). The guarantee on any previously issued guaranteed senior unsecured debt instrument issued with a stated maturity of 30 days or less will expire on the earlier of: (1) the date the issuer opts out (if it does), or (2) the maturity date of the instrument.

- Revising the fee structure for the debt guarantee program as follows:

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.
- Providing an alternative means for establishing a guarantee cap for insured depository institutions that either had no senior unsecured debt outstanding or only had federal funds purchased as of September 30, 2008

  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 is two percent of its consolidated total liabilities as of close of business September 30, 2008.

- Combining debt guarantee limits of a participating insured depository institution and its parent holding company.

  With proper written notice both to the FDIC and an institution's 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.

- Approving trade confirmations as a sufficient form of written agreement for senior unsecured debt.
- Recognizing NOW accounts with low interest rates (0.5 percent or less) and IOLTAs as types of noninterest-bearing transaction account solely for purposes of the Transaction Account Guarantee Program.

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 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 become allowed to 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 a depositor know if a transaction account is fully guaranteed under the transaction account guarantee component of the Temporary Liquidity Guarantee Program?

The FDIC will maintain and post on its website a list of eligible entities that *opt out* of the transaction account guarantee program.

Beginning December 19, 2008, every insured depository institution that offers noninterest-bearing transaction accounts must post a prominent notice in the lobby of its main office and each branch, and, if it offers Internet services, on its website, clearly indicating whether or not the institution is participating in the transaction account guarantee program. If the institution is participating in the transaction account guarantee program, the notice must also state that funds held in noninterest-bearing transactions

accounts at the entity are insured in full by the FDIC. These disclosures must be provided in simple, readily understandable text. Until December 19, 2008, the institution should provide in a commercially reasonable manner adequate disclosures of the substance of these required disclosures.

Under the Final Rule, the definition of *noninterest-bearing transaction accounts* includes Interest on Lawyers Trust Accounts (and functionally equivalent accounts) and low-interest NOW accounts (defined as NOW accounts with interest rates no higher than 0.50 percent). Thus, institutions that offer such accounts must comply with the disclosure requirements of the transaction account guarantee program.

What are the disclosure requirements for the Transaction Account Guarantee Program?

The FDIC offers the following sample language:

For Participating Institutions
"[Institution Name] is participating in the FDIC's Transaction Account Guarantee Program. Under that program, through December 31, 2009, all noninterest-bearing transaction accounts are fully guaranteed by the FDIC for the entire amount in the account. Coverage under the Transaction Account Guarantee Program is in addition to and separate from the coverage available under the FDIC's general deposit insurance rules."

For Non-Participating Institutions
"[Institution Name] has chosen **not** to participate in the FDIC's Transaction Account Guarantee Program. Customers of [Institution Name] with noninterest-bearing transaction accounts will continue to be insured through December 31, 2009 for up to $250,000 under the FDIC's general deposit insurance rules."

The disclosure requirements must be in place by December 19, 2008. Until December 19, 2008, the institution should provide in a commercially reasonable manner adequate disclosures of the substance of these required disclosures.

If the institution uses sweep arrangements or takes other actions that result in funds being transferred or reclassified to an account that is not guaranteed under the transaction account guarantee program (for example, an interest-bearing account), the institution must disclose those actions to the affected customers and clearly advise them, in writing, that such actions will void the FDIC's guarantee.

Similarly, a participating institution should disclose to depositors special situations where the coverage provided under the Transaction Account Guarantee Program may or may not be available, as in the case where an institution issues official checks drawn on another insured depository institution. If the other institution is participating in the Transaction Account Guarantee Program, then the payee of the official check would be fully covered. If the other institution is not a participating institution, then whether the payee is insured for the amount of the official check would be based on the FDIC's general deposit insurance rules. The institution that provides such official checks to its customers must disclose this information to those customers.

Is a lobby notice adequate to indicate to customers that an institution has opted out of the transaction account component of the Temporary Liquidity Guarantee Program? Is there specification of wording on the notice? When do customers have to be notified?

Under the Final Rule, the FDIC will maintain lists of entities that opt out of each portion of the Temporary Liquidity Guarantee Program on its website, www.fdic.gov. Under the transaction account guarantee program, lobby notices advising customers whether the institution is or is not participating in the program are required, as well as website notices if the bank has on-line banking services. Safe harbor sample disclosure language for both participants and non-participants is included in the final rule. 12 CFR § 370.5(h)(3).

If the institution uses sweep arrangements or takes other actions that result in funds being transferred or reclassified to an account that is not guaranteed under the transaction account guarantee program, for example, an interest-bearing account, the institution must disclose those actions to the affected customers and clearly advise them, in writing, that such actions will void the FDIC's guarantee with respect to the swept, transferred, or reclassified funds.

These disclosure requirements become effective December 19, 2008. Prior to that date, eligible entities

should provide adequate disclosures of the substance of the requirements in a commercially reasonable manner.

Should the required lobby/website disclosure notice (for institutions participating in the Transaction Account Guarantee program) indicate whether the bank's NOW accounts are covered under the Transaction Account Guarantee Program?

If the bank offers a NOW account product that does not qualify as a noninterest-bearing transaction account under the Transaction Account Guarantee Program, then, yes, the lobby/website disclosure notice should indicate that such accounts are not eligible for the guarantee. The purpose of the disclosure requirement is to ensure that depositors of an insured institution understand the nature and scope of the FDIC protections afforded to their transaction accounts, and situations where some NOW accounts may not qualify for the guarantee are inherently confusing to account holders. To properly notify customers, the bank could add an explanatory sentence or two to the sample notice provided by the FDIC in the TLGP final rule. Such disclosures must be provided in simple, readily understandable text.

For institutions that offer internet banking services, does the entire transaction account guarantee program disclosure have to appear on a bank's homepage (or other website that accesses on line banking services), or can the institution simply add a link on the homepage that takes accountholders to an appropriate disclosure?

Consistent with the requirements of the Final Rule, the bank's homepage and/or other access point to on line banking services must contain the disclosure that the bank is (is not) participating in the transaction account guarantee program. Following such disclosure of participation, an appropriately titled link to additional disclosures would be acceptable. A link titled simply “transaction account guarantee program” does not ensure that accountholders will see the required disclosure. A link titled “FDIC insurance” is even more deficient in that the FDIC transaction account guarantee program does not involve FDIC insurance. Something like “Important disclosures regarding the guarantee program” would seem to be appropriate.

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?

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."

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 June 30, 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 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 Deposits

What deposit accounts are included in the definition of a "noninterest-bearing transaction account"?

All funds in noninterest-bearing transaction deposit accounts held in domestic offices and insured branches in Puerto Rico and U.S. territories and possessions of participating FDIC-insured institutions will be fully guaranteed under the transaction account guarantee component of the Temporary Liquidity Guarantee Program. A "noninterest-bearing transaction account" is defined as a transaction account with respect to which interest is neither accrued nor paid and on which the insured depository institution does not reserve the right to require advance notice of an intended withdrawal. This definition encompasses traditional demand deposit checking accounts that allow for an unlimited number of deposits and withdrawals at any time. This definition does not encompass interest-bearing money market deposit accounts (MMDAs).

However, for purposes of the transaction account guarantee program, the FDIC is including in the definition of a noninterest-bearing transaction account:

- Accounts commonly known as Interest on Lawyers Trust Accounts (IOLTAs) and functionally equivalent accounts; and
- Negotiable order of withdrawal accounts (NOW accounts) with interest rates no higher than 0.50 percent for which the insured depository institution at which the account is held has committed to maintain the interest rate at or below 0.50 percent.

How long will the Temporary Liquidity Guarantee Program's deposit coverage last?

The coverage will last through December 31, 2009.

Are foreign deposits (including Eurodollars) guaranteed?

Deposits payable solely outside the United States (including Eurodollar deposits) are not guaranteed under the transaction account guarantee component of the Temporary Liquidity Guarantee Program. However, 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 are eligible under the debt guarantee part of the Temporary Liquidity Guarantee Program. The term "foreign bank" does not include a foreign central bank or other similar non-U.S. government entity that performs central bank functions or a quasi-governmental international financial institution such as the International Monetary Fund or the World Bank. (In this context, the phrase "owed to an insured depository institution or a foreign bank" means owed to an insured depository institution or a foreign bank in its own capacity and not as agent.)

How does the guarantee on noninterest-bearing transaction deposit accounts affect a customer's insurance coverage for other types of accounts?

The insurance coverage on noninterest-bearing transaction deposit accounts is over and above the $250,000 in coverage provided to a customer already. For example, if a customer has $500,000 in a noninterest-bearing transaction deposit account and $250,000 in a certificate of deposit, the FDIC would fully insure the entire $750,000.

Does the full deposit insurance coverage for non-interest bearing deposit transaction accounts cover all such accounts in the bank regardless of ownership? For example does it include municipal or government deposits?

Yes.

Will public funds held in non-interest bearing transaction deposit accounts that are collateralized with pledged securities be included in the amount assessed for the guaranteed additional insurance?

Yes.

For public fund depositors, do banks only need to pledge on balances over the $250,000 and not in NOW accounts (earning less than 0.5 percent)? Does an eligibly entity that does not opt out and the depositor has full FDIC insurance coverage on their NOW account need to pledge against that part of their aggregate balance?

The FDIC will protect public deposits up to the $250,000 limit under its ordinary deposit insurance rules. In addition, the FDIC will protect NOW accounts in full if the interest rate does not exceed 0.5 percent under the Temporary Liquidity Guarantee Program (assuming no opt-out). If a participating institution is required to pledge collateral for public deposits, this requirement is imposed by state law and not by the FDIC's regulations. The amount of collateral would depend upon the wording and meaning of the state law. Any questions about the meaning of the applicable state law should be presented to the state regulator or State Department of Banking.

Are accounts that waive fees or provide fee reducing credits considered "non-interest bearing" under the Temporary Liquidity Guarantee Program?

Such account features do not prevent an account from qualifying under the Transaction Account Guarantee Program as a noninterest-bearing transaction account, as long as the account otherwise satisfies the definition.

Are interest-bearing accounts that offer zero interest covered under the Temporary Liquidity Guarantee Program?

No, in general, only noninterest-bearing transaction accounts are covered. (NOW accounts with interest rates of 0.50 percent or less and IOLTAs are also covered under the Transaction Account Guarantee Program.) Whether an account is noninterest-bearing will be determined by the account agreement regardless of the actual interest paid. However, the FDIC will treat funds swept from a noninterest bearing transaction account into a noninterest-bearing savings account as being in the noninterest-bearing transaction account for purposes of the guarantee.

Are cashier's checks and money orders covered under the Temporary Liquidity Guarantee Program?

Cashier's checks and money orders issued by an insured depository institution are "deposits" as defined in the Federal Deposit Insurance Act. In addition, these instruments are "demand deposits" and therefore "transaction accounts" as defined in Regulation D. Being "deposits" as well as "transaction accounts," these funds will be protected in full under the transaction account component of the program.

Are escrow accounts covered under the Temporary Liquidity Guarantee Program? What is the amount of coverage on the title company's account at the bank if a depository institution opts out?

Escrow accounts are fully covered under the program if they are noninterest-bearing transaction deposit accounts. If a bank opts out of the transaction account guarantee component of the program, coverage of a title company's account would be $250,000, unless the account meets the requirements for pass through coverage.

To receive pass-through coverage, (1) the deposit account records generally must indicate the account's custodial or fiduciary nature and (2) the details of the relationship and the interests of other parties in the account must be ascertainable from the deposit account records or from records maintained in good faith and in the regular course of business by the depositor or by some person or entity that maintains such records for the depositor. In its deposit insurance coverage regulations, the FDIC has indicated that an account held by an escrow agent or title company may by its terms indicate the existence of a fiduciary relationship.

If the account receives pass-through coverage, then each owner of funds in the account is insured for his or her share in the account up to $250,000 including any other funds held by or for the owner at the same insured institution.

Will funds swept out of a noninterest-bearing transaction account be insured under the transaction account component of the Temporary Liquidity Guarantee Program?

The FDIC will treat funds in sweep accounts in accordance with the usual rules and procedures for determining sweep balances at a failed depository institution. Under these procedures, funds may be swept or transferred from a noninterest-bearing transaction account to another type of deposit or nondeposit account. The FDIC will treat the funds as being in the account to which the funds were transferred. An exception will exist, however, for funds swept from a noninterest-bearing transaction account to a noninterest-bearing savings account. Such swept funds will be treated as being in a noninterest-bearing transaction account. As a result of this treatment, such swept funds will be insured under the transaction account guarantee component of the program.

The treatment of sweeps from a noninterest-bearing transaction account out of an insured institution, such as a sweep to a mutual fund (that is, the wiring of funds from the deposit account to an account maintained by the mutual fund at another insured depository institution), will be treated differently. Under the FDIC's interim rule published in July of 2008, external sweeps will not be completed after the failure of the insured depository institution. Thus, the funds will remain in the customer's noninterest-bearing transaction account, which will be insured under the transaction account guarantee component of the program.

What are the results for different types of sweeps?

The funds in Eurodollar accounts after the completion of a sweep will not be protected for any amount under the FDIC's general deposit insurance regulations or transaction account guarantee component of the Temporary Liquidity Guarantee Program. Rather, the customer will be treated as a general unsecured creditor. (Eurodollar accounts—except for Eurodollar accounts owed to a bank—also do not qualify as senior unsecured debt and, thus, will not be guaranteed under the debt guarantee component of the program).

In the case of a repurchase sweep, under the interim rule published in July of 2008, the FDIC will recognize the customer's ownership interest in securities to the extent that the repo sweep customer is the legal owner of identified securities subject to the repurchase agreement. If the customer is not the legal owner of identified securities, the customer's rights will depend upon the nature of the customer's account. Assuming that the account is a noninterest-bearing transaction deposit account, the customer's funds will be fully protected under the transaction account guarantee component of the program.

Similarly, in the case of an uncompleted external sweep, the result will depend upon whether the customer's deposit account is an interest-bearing account as opposed to a non-interest bearing transaction account. Assuming that the deposit account is a non-interest bearing transaction account, the customer's funds will be fully protected under the transaction account guarantee component of the program.

Are funds that are classified on a bank's general ledger as noninterest-bearing savings accounts covered under the Temporary Liquidity Guarantee Program?

If the funds are swept from a noninterest-bearing transaction account to a noninterest-bearing savings account, as defined in Regulation D, the funds will be protected in full under the transaction account component of the program.

With respect to sweep accounts, do banks have to provide disclosures on an on-going basis or is it sufficient that they provide a one-time disclosure to their sweep clients?

The disclosure requirements under the transaction account guarantee program are intended to ensure adequate notice to accountholders. The details regarding how to affect such notice are left to depository institutions to be accomplished in a commercially reasonable manner. So long as effective notice is given, whether it be a one-time disclosure or on-going is left to the institution.

For purposes of the sweep in 370.4(c), does a noninterest bearing savings deposit also include a noninterest bearing money market deposit account (MMDA)?

Yes. The term "savings deposit" includes an MMDA. Therefore, a "noninterest-bearing savings deposit account" includes a noninterest-bearing MMDA.

What if the funds in a guaranteed low-interest NOW account (with interest rate no higher than 0.50 percent through December 31, 2009) are swept or transferred into (or reclassified as) a low-interest savings deposit account (with interest rate no higher than 0.50 percent through December 31, 2009)? Will the funds lose the benefit of the guarantee?

The FDIC's regulations include the following rule: "[I]n the case of funds swept from a noninterest-bearing transaction account to a noninterest-bearing savings deposit account, the FDIC will treat the swept funds as being in a noninterest-bearing transaction account." This rule is based upon the premise that the sweep or reclassification of the funds for reserve purposes does not change the basic nature of the funds for other purposes. Thus, if the funds are guaranteed prior to the sweep, the funds should be guaranteed after the sweep.

This rationale applies with equal force to low-interest NOW accounts (with interest rates no higher than 0.50 percent through December 31, 2009). The funds in such accounts are guaranteed under the transaction account guarantee program; therefore, the funds should be guaranteed after the sweep assuming that the sweep or reclassification does not change the basic nature of the funds. This means that the interest rate after the sweep must be no higher than the interest rate before the sweep. Assuming the satisfaction of this requirement, the swept funds will continue to be protected under the transaction account guarantee program.

How can an insured depository institution "commit" to maintaining the interest rate on NOW accounts to no more than 0.50 percent through December 31, 2009?

The FDIC's regulations provide that NOW accounts with interest rates no higher than 0.50 percent shall be treated as noninterest-bearing transaction accounts "if the insured depository institution at which the account is held has committed to maintain the interest rate at or below 0.50 percent." The regulations do not prescribe a procedure for making this commitment. Therefore, the Board of Directors or other authorized officials can make the commitment in accordance with the institution's usual procedures for making decisions. In any event, the commitment or decision should be clear and should be reflected in writing, in the institution's books and records, so that no confusion will exist as to the nature of the commitment.

What about NOW accounts with a tiered-rate structure? Or NOW accounts with a fluctuating interest rate? Will such accounts be covered under the transaction account guarantee program?

NOW accounts are not guaranteed under the transaction account guarantee program unless the interest rate is no higher than 0.50 percent. Further, NOW accounts are not guaranteed unless the insured depository institution "commits" to maintaining the rate at or below 0.50 percent through December 31, 2009. These requirements might not be satisfied in the case of a NOW account with a tiered-rate structure or a NOW account with a fluctuating interest rate. For example, the deposit contract might provide that 0.30 percent shall be paid on funds up to a designated dollar amount while 0.60 percent shall be paid on funds above that amount. If the account is structured in this manner, the NOW account will not be covered under the transaction account guarantee program even if the balance of the account is less than the designated dollar amount. The account will be excluded because the possibility exists that the balance will rise above the designated dollar amount, with the result that the interest rate will rise above 0.50 percent.

Similarly, the contract might provide that the interest rate shall be tied to an index (such as Treasury bill rates). Unless this type of contract provides that the interest rate is capped at 0.50 percent (or lower), the account will not be covered under the transaction account guarantee program even if the interest rate is less than 0.50 percent at the present time. Again, the account will be excluded because the possibility exists that the rate will rise above 0.50 percent.

In summary, these types of NOW accounts will be covered under the transaction account guarantee program only if the provisions of the contract are such that the interest rate cannot exceed 0.50 percent through December 31, 2009.

What if the interest rate on NOW accounts cannot be lowered to 0.50 percent without amending the deposit contract between the insured depository institution and the depositor?

The FDIC's regulations provide that "a NOW account with an interest rate above 0.50 percent as of November 21, 2008, may be treated as a noninterest-bearing transaction account if the insured depository institution at which the account is held reduces the interest rate on that account to 0.50 percent or lower before January 1, 2009, and commits to maintain that interest rate at no more than 0.50 percent at all times through December 31, 2009." The FDIC's regulations do not set forth a procedure for reducing interest rates. Rather, the FDIC contemplates that the insured depository institution will proceed in accordance with the terms of its deposit contracts and applicable law, including Regulation DD (Truth in Savings), 12 C.F.R. Part 230.

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; and
d. Is not, by its terms, subordinated to any other liability.
e. Has 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;
- Convertible debt;

- 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 funded.

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 "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?

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.

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.

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 are the risk weightings on U.S. bank debt that is guaranteed by FDIC?

Senior unsecured debt that is guaranteed under the Temporary Liquidity Guarantee Program will have a risk weight of 20 percent.

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.

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.

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 2 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 2 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 2 percent of total liabilities.

What Call Report line item is used to calculate the 2 percent consolidated total liabilities debt guarantee limit?

The 2 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.

What is the appropriate capital treatment for a pass through security, where the underlying assets consist of debt guaranteed by the FDIC, pursuant to the FDIC Temporary Liquidity Guarantee Program (TLGP)?

Generally, a bank must assign a pass through security to the risk weight category appropriate to the obligor in the transaction, after considering any guarantees or collateral. Under the risk-based capital rules a security guaranteed by a U.S. government agency (such as the FDIC) is assigned to the 20 percent risk-weight category. (As discussed in the final rule on the Temporary Liquidity Guarantee Program, the federal banking agencies have decided to apply a 20 percent risk weight to debt that is guaranteed by the FDIC, which is consistent with the capital treatment for FDIC-insured deposits.) Accordingly, a pass through security where the underlying is guaranteed by the FDIC pursuant to the Temporary Liquidity Guarantee Program would be assigned to the 20 percent risk weight category, provided that the underlying debt satisfies the relevant provisions of 12 C.F.R. § 370, including but not limited to the criteria for determining eligibility for the Temporary Liquidity Guarantee Program, as provided in sections 370.2 and 370.3.

Fees and Costs

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

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.

If the debt matures after June 30, 2012, June 30, 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*.

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.

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.

How will institutions be assessed for the transaction account guarantee part of the Temporary Liquidity Guarantee Program?

For noninterest-bearing transaction deposit accounts (including accounts swept from a noninterest bearing transaction account into an noninterest bearing savings deposit account), a 10 basis point annual rate surcharge will be applied to noninterest-bearing transaction deposit amounts over $250,000. Institutions will not be assessed on amounts that are otherwise insured. For example, if a taxes and insurance custodial account has $2 million in it but each actual owner has a balance that is less than $250,000, then the institution will not be assessed the 10 basis point annual surcharge on this account. This surcharge will be collected through the normal assessment cycle.

How will institutions be assessed on noninterest-bearing transaction accounts that have pass-through coverage?

Institutions will not be assessed on amounts that are otherwise insured. For example, if a taxes and insurance custodial account has $2 million in it but each actual owner has a balance that is less than $250,000, then the institution will not be assessed the 10 basis point annual surcharge on this account.

Will the basis point surcharge for the non-interest bearing transaction accounts for amounts exceeding the temporary 250,000 limit be based on December 31, 2008 Call Report actual (spot) balances or average balances?

The additional premiums associated with the Transaction Account Guarantee Program will be based upon new Call Report information: the amount and number of accounts meeting the definition prescribed by the Final Rule. These new line items are to be reported on a spot, quarter-end basis, even for those institutions whose quarterly assessment base is calculated using averages.

For problem institutions, is the assessment rate on the noninterest bearing balances in excess of $250,000 10 basis points, or the higher rate normally applied to problem banks?

Every institution, regardless of risk category, will be charged its normal quarterly risk-based deposit insurance assessment. That assessment will equal its assessment rate times its assessment base (which is almost equal to total domestic deposits). In addition to this assessment, an institution that has not opted out of the deposit guarantee portion of the TLGP will pay 10 basis points on non-interest bearing transaction account balances in excess of $250,000.

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.

What will the fee be for the transaction account guarantee component of the program?

Assessments under the program will be based upon reports of condition and income (Call Report and Thrift Financial Report) and will be collected as part of the quarterly collection process for deposit insurance assessments generally. Failure to properly report or to timely pay assessments under the transaction account guarantee program will subject the institution to enforcement action under section 8 of the Federal Deposit Insurance Act, as well as to civil money penalties for false or inaccurate report of condition and income filings or for late payment of assessments under 12 C.F.R. 308.132.

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

What must eligible entities do to participate or opt out?

Beginning on Monday, November 24, 2008, the TLG Program Election Form will be available via FDIC*connect*. All eligible entities must complete the Election Form on or before December 5, 2008, to either opt-out of one or both components of the Program or, for those entities remaining in the Program, to provide data to determine each entity's debt guarantee limit, and agree to certain terms. Please refer to FIL-125-2008 for more detailed instructions. Entities that remain in the debt guarantee program must also execute and submit to the FDIC a Master Agreement. Entities are encouraged to coordinate their election decisions with other members of their consolidated groups as all members of a holding company must make the same election with respect to each component of the TLG Program. A decision by one member of a group to opt-out will be irrevocable and binding on all other group members.

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 opt out after December 5, 2008?

No.

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 did receive confirmation of its election to continue participation (with a confirmation number) which serves as evidence that the participating entity is eligible and did elect 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 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

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