



PRESS RELEASE

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FDIC Board Approves Proposed Policy Statement on Qualifications for Failed Bank Acquisitions

The FDIC Board today authorized publication of a Proposed Statement of Policy on Qualifications for Failed Bank Acquisitions. This proposed policy statement would provide guidance to private capital investors interested in acquiring or investing in the assets and liabilities of failed banks or thrifts regarding the terms and conditions of the investments or acquisitions.

"How investments in insured depository institutions are structured is critical for the banking system as well as the FDIC," said FDIC Chairman Sheila C. Bair. "We are particularly concerned with the owners' ability to support depository institutions with adequate capital and management expertise. This proposed policy statement is intended to provide those essential safeguards. We are trying to find the best way to have a balanced approach, and we look forward to comments that can help us accomplish that."

Recently, private capital investors have indicated interest in purchasing insured depository institutions in receivership. 1 The FDIC is particularly concerned that owners of banks and thrifts, whether they are individuals, partnerships, limited liability companies, or corporations, have the experience, competence, and willingness to run the bank in a prudent manner, and accept the responsibility to support their banks when they face difficulties and protect them from insider transactions.

The FDIC has reviewed various elements of private capital investment structures and considers that some of these investment structures raise potential safety and soundness considerations and risks to the Deposit Insurance Fund (DIF) as well as



Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. It promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars — insured financial institutions fund its operations.

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important issues with respect to their compliance with the requirements applied by the FDIC in its decision on the granting of deposit insurance.

Under the proposed policy statement, the FDIC would establish standards for bidder eligibility in connection with the resolution of failed insured depository institutions, which provide for:

- capital support of the acquired depository institution;
- agreement to a cross guarantee over substantially commonly owned depository institutions;
- limits on transactions with affiliates;
- maintenance of continuity of ownership;
- clear limits on secrecy law jurisdiction vehicles as the channel for investments;
- limitations on whether existing investors in an institution could bid on it if it failed; and
- disclosure commitments.

The FDIC is keenly aware of the need for additional capital in the banking system, and the contribution that private equity capital could make to meeting this need provided this contribution is consistent with basic concepts applicable to the ownership of these institutions that are contained in our banking laws and regulations, and now summarized in the proposed Policy Statement.

One of the most important safeguard elements in the Proposed Policy Statement is the requirement that the acquired depository institution be very well capitalized at a Tier 1 leverage ratio of 15 percent, to be maintained for a period of at least 3 years, and thereafter at a "well capitalized" level.

Safety and soundness considerations may also be satisfied with a lower, but a still high level, of Tier 1 capital. Accordingly, the FDIC seeks the views of commenters on the appropriate level of initial capital that will satisfy concerns relating to both safety and soundness and the economic viability of the terms of investment in insured depository institutions.

While the issue of capital adequacy is of paramount importance, the FDIC is seeking comment on all aspects of the proposed policy statement, including nine specific questions set out in the Notice of Public Comment. Comments are due 30 days from the date of publication in the Federal Register.

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