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NEWSLETTER OF THE BANKING AND SPECIALTY FINANCE PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

U.S. Treasury Provides Guidance on Capital Purchase Program

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Yesterday, the U.S. Treasury issued guidance on how banks can take part in the Capital Purchase Program. The program allows the Treasury to infuse cash into banks in return for non-voting stock. Last week, the Treasury announced that an initial $250 billion of the $700 billion economic rescue package would be invested through the Capital Purchase Program. Bank holding companies, financial holding companies, insured depository institutions, and certain savings and loan holding companies are eligible for the program. Foreign banks are not eligible. Participating institutions must agree to certain terms and conditions including limits on executive compensation. At this time, the program is limited to public companies, however, the rescue legislation clearly contemplates that the benefits would flow to non-public institutions including those which cannot issue preferred stock. Further clarification of these issues from the Treasury is expected.

Secretary Paulson stated:

> *"There is now a single application form that qualified and interested publicly-held financial institutions will use to submit to their primary regulator – the Federal Reserve, the FDIC, the OCC or the OTS. These regulators will post this application form on their websites before the end of the day.*
>
> *The terms for this program are the same for all institutions that apply before the capital purchase program deadline of November 14, 2008. Sufficient capital has been allocated so that all qualifying banks can participate. Let me be clear that this program is not being implemented on a first-come-first-served basis.*

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Second, to apply for the capital program, banks should review the program information on the Treasury website and then consult with their primary federal regulator. After this consultation, institutions should submit an application to that same primary federal regulator. Treasury has worked with the regulators to establish streamlined evaluations; this means that all regulators will use a standardized process to review all applications to ensure consistency.

Third, once a regulator has reviewed an application, it will send the application along with its recommendation to the Office of Financial Stability at the Treasury Department.

Once Treasury receives the application with the regulator's recommendation, we will review it and decide whether or not to make the capital purchase. Treasury welcomes the expertise of the financial regulators, and will give considerable weight to their recommendations.

Finally, all transactions will be publicly announced within 48 hours of execution. We will not, however, announce any applications that are withdrawn or denied."

The Treasury did not provide a clear description of the criteria that the regulators and Treasury would apply when evaluating applications. However, the Treasury's comments on the program provide some insight. For instance, the Treasury hopes that the infusion of capital will be used to increase lending and help people avoid preventable foreclosures. In addition, the health of the banks will likely be taken into account, including plans for a merger or other action that could improve the bank's financial position.

Links to the key documents are included below.

Paulson Statement on Capital Purchase Program
Treasury Issues Guidance on Capital Purchase Program
Treasury, Regulators to Issue Additional Guidance on Capital Purchase Program

Today, there are reports that the Treasury's overall plan is to accelerate bank mergers and acquisitions. Using the Capital Purchase Program to foster mergers and acquisitions likely will be encouraged.

We will continue to keep you updated as new developments

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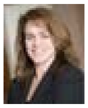
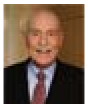


Elizabeth Mundinger Ms. Mundinger's practice focuses on the development and implementation of legislative and regulatory strategy for businesses, corporations, state and local governments, and other public associations.



Harold P. Reichwald Mr. Reichwald is a highly experienced banking and finance attorney whose career encompasses domestic and international matters for banks and specialty finance institutions. His experience comprises a broad range of matters including: governance matters, sophisticated financial transactions such as asset securitization, LBOs, project finance, corporate lending and restructuring; representation of a variety of domestic and foreign financial institutions before the FDIC, Comptroller of the Currency, the Federal Reserve Board and other bank regulatory agencies in connection with new product development, chartering new banks and branches, issues arising out of the bank examination process and enforcement actions demanded by regulatory authorities.