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FDIC Extends Issuance Period for Guaranteed Debt under Temporary Liquidity Guarantee Program

On Tuesday, March 17 the Federal Deposit Insurance Corporation (FDIC) adopted an interim rule ([Interim Rule](#)) that extends the date by which senior unsecured debt guaranteed by the FDIC under its Temporary Liquidity Guarantee Program (TLGP) may be issued from June 30, 2009 to October 31, 2009. The Interim Rule also imposes surcharges that will be added to existing fees for certain guaranteed debt that has a maturity of one year or greater that is issued on or after April 1, 2009.

The FDIC adopted the TLGP in October 2008. In the Interim Rule release, the FDIC noted that although the financial markets have not returned to pre-crisis levels, the TLGP debt guarantee program has been effective in improving short-term and intermediate-term funding for participants. The FDIC expressed its belief that a limited extension of the guaranteed debt issuance period was necessary to provide an orderly transition period for participating entities to return to non-FDIC guaranteed funding.

The existing TLGP permitted participating entities to issue senior unsecured debt until June 30, 2009 which the FDIC agreed to guarantee until the earlier of the maturity of the debt or June 30, 2012. The Interim Rule provides for a four-month extension of the date by which senior unsecured debt may be issued until October 31, 2009. The extension applies to senior unsecured debt issued on or after April 1, 2009 and the FDIC guarantee of such debt will also be extended until the earlier of the maturity date or December 30, 2012.

Insured depository institutions (generally banks and savings and loan associations) are entitled to participate in the extension program without having to apply to do so. Other participants (generally bank holding companies, savings and loan holding companies or their affiliates)

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that have issued guaranteed debt before April 1, 2009 may also participate without having to apply. However, other participants who have not issued guaranteed debt before April 1, 2009 must apply to the FDIC by June 30, 2009 and receive FDIC approval in order to be able to participate in the extended debt guarantee program.

The Interim Rule provides for a surcharge on FDIC assessments that would be applied only to debt issued on or after April 1, 2009, and having a maturity of at least one year. For FDIC-guaranteed debt issued on or after April 1, 2009, until and including June 30, 2009, and maturing on or before June 30, 2012, the surcharge on assessments will be 10 basis points for insured depository institutions and 20 basis points for other participating entities. For FDIC-guaranteed debt that is either issued on or after April 1, 2009 with a maturity date after June 30, 2012 or is issued after June 30, 2009, the surcharge on assessments will be 25 basis points for insured depository institutions and 50 basis points for other participating entities.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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