

Critiquing FDIC asset sales, advocating regulatory patience

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We've heard market participants encourage the FDIC to take a flexible approach when selling assets acquired through receivership and advocate regulators to allow banks to work patiently through distressed assets on their balance sheets.

We recently hosted a webinar on banks' efforts to purge their balance sheets of distressed loans, and our panelists seemed to largely appreciate the government's approach to selling assets of failed banks and the efforts it has made to facilitate loan sales at open institutions. John Zimmerman, loan sale adviser at Nautilus Capital LLC, which has worked with the FDIC on asset sales, said during the panel that the agency has recently been more aggressive in resolving failed institutions and is experimenting with different types of transactions.

The FDIC has explored a variety of different transactions to sell assets acquired through receivership, often employing loan sale advisers First Financial Network and DebtX Exchange Inc. to market loans acquired through receivership. Those advisers sell whole loans, but Zimmerman believes that the FDIC likes structured transactions, where the FDIC puts assets acquired through receivership into an LLC and then accepts bids for stakes in the new entity — usually around 20% to 40%.

Zimmerman said the FDIC seems pretty happy with structured deals because it thinks "there is more value in the loans than the market is reflecting" and the transactions accordingly offer a more efficient method to offload assets acquired through receivership. Comparatively, he said whole-loan sales are not terribly efficient, and he does not expect the FDIC to use that disposition method on a large scale.

The FDIC is clearly a motivated seller in whole loan sales, the panelists on the webinar said. Lena Motz, director, loan portfolio asset class, at CarVal Investors LLC, said whole-loan sales can be attractive for investors for that very reason as well as the high likelihood that the deal will close. However, Motz noted that bidding for whole loans can be fairly competitive and possibly drive the bid higher.

"You end up having a little bit of buyer's remorse if you end up winning that bid," Motz said.

She encouraged the FDIC to remain flexible in its approach to dispositions, noting that a variety of structures would be of interest to her and "probably any investor."

We've heard that the FDIC struggled to drum up enough interest for the legacy loan program before it was modified this summer. The LLP effectively died in early June, at least for open banks, after the FDIC "postponed" the program in light of capital raising activity that took place without banks having to sell bad assets. The FDIC planned to use the LLP to sell assets acquired through receivership this summer, but no deals have occurred through that program.

We asked our panelists if they thought the government could do anything else to help facilitate asset sales for open banks. Zimmerman said the government could possibly provide "inexpensive, arm's length leverage" to buyers, but he quickly asked with regard to the LLP, "What more could the government do?"

Other panelists asked the government to be mindful of what it is already doing. Jeff Welch, chief credit officer at Olney, Md.-based Sandy Spring Bank, implored the government to recognize the impact that asset sales will have on a particular local economy and valuations in that market.

"It does have an impact," Welch said. "Maybe not so much in the Washington [D.C.] area, but somewhere else in the country, it could have a spiraling impact."

Ken Segal, senior vice president, director of asset finance services at Howe Barnes Hoefler & Arnett Inc., also noted that open banks must compete with the FDIC, a motivated seller, when looking to dispose of distressed assets. That puts sellers in a difficult situation, particularly institutions that might receive some pushback from regulators when they look to offload distressed assets from their balance sheets, he said.

Welch said regulators certainly are not putting pressure on banks to sell assets, but they are forcing them to recognize current values.

"What you're forced to do, and this hasn't changed ever, you're forced to recognize the current value," Welch said.

Segal suggested a scenario where banks that sell assets would not have to take the loss all at once, giving those institutions flexibility to amortize the loss over a period of time.

"They can clean their balance sheets without having to have the immediate pressure of replacing dollar for dollar capital for a write down and thus give them a little bit of time and ability to earn their way out of it as well," Segal said. *i*