

April 6, 2009

## Public-Private Investment Program

On March 23, 2009 the Treasury Department, in conjunction with the Federal Deposit Insurance Corporation ("FDIC") and the Board of Governors of the Federal Reserve System (the "Federal Reserve"), announced the creation of the Public-Private Investment Program ("PPIP"), which is designed to provide public support to catalyze the purchase and sale of legacy assets through Public-Private Investment Funds ("PPIF"). In its plan, the Treasury Department defines "legacy assets" to include both real estate loans held directly on the books of banks ("Legacy Loans") and certain commercial and residential mortgage-backed securities ("Legacy Securities").

On March 26, 2009 the FDIC announced the opening of the comment period for the Legacy Loans Program. Comments will be accepted until April 10, 2009. The Treasury Department and the Federal Reserve may also seek comments on aspects of the Legacy Loans and Legacy Securities programs.

Among other things, companies considering participation in the program will need to:

- Determine whether they qualify as a PPIF sponsor or manager
- Assess if participation in the program or management of a PPIF would impact existing fund documents
- Assess whether participation would result in tax, regulatory, or compliance issues for funds
- Conduct due diligence on the loans or securities pools being considered for acquisition
- Evaluate structural issues associated with any proposed acquisition
- Determine whether they want to comment on the government's proposals

Haynes and Boone has established a team of attorneys to advise hedge funds, private equity, real estate, and other interested clients on the various tactical, strategic, and structural issues raised by the PPIP. We will also be providing guidance to clients as the programs become better defined. In addition, we are preparing a comment letter to the FDIC to provide input into issues that are expected to arise in connection with the program. Haynes and Boone attorneys are available to discuss your issues and concerns for inclusion in our comment letter, on a no-name basis if you desire.

There are many opportunities inherent in a new structure such as the PPIP, and early participants are most likely to be in a position to realize the benefits of such opportunities.

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