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The Honorable Henry M. Paulson, Jr.  
Secretary of the Treasury  
US Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Paulson,

On October 17, I wrote to you to request that the Treasury, together with the bank regulators, act quickly to publicly clarify the purpose of the new program for the government to make capital investments in banking institutions, the Capital Purchase Program (CPP). At that time I expressed ABA's deep concern with the lack of clarity about the program as well as the possible confusion in the public and congressional perceptions of those banks that participate. While we appreciate that the Treasury has taken some steps to address this confusion, including testimony last week before the Senate Banking Committee, it is obvious that the confusion about the purpose of the CPP in the press and with policy-makers has grown dramatically this week. Therefore, ABA requests that the Treasury and bank regulators clarify the purpose of the program very directly, differentiating the CPP capital program's function to provide capital to strongly capitalized institutions from programs designed to help failing institutions. We also request that the deadline be extended.

As you know, bankers across the country are under a very tight time frame, with roughly two weeks left to make the very important decision of whether to participate in the CPP. At this point, there is great anxiety about whether or not to sign up. While the legal and financial terms have been finalized for publicly traded banks (and are being worked on for others), banks have no way to know what the public view of institutions that participate, or don't participate, will be. Most importantly they have no way to know what other requirements may be placed on their institutions after the fact. Proposals have included tight restrictions on pay and bonuses, prohibiting dividends, and explicit lending requirements. It is completely unfair to ask thousands of banks across the country – and they are being explicitly asked by their regulators – to participate in a program when the impact of the program on those banks is unknown.

This is not a program the banking industry sought. While the ability to purchase equity in institutions was authorized in the Emergency Economic Stabilization Act, it was not in any way the primary focus of the bill, which was asset purchases.

Apparently everything completely changed when the Europeans quickly adopted an equity purchase program. Virtually overnight the CPP was created, and nine banks were “invited” to participate. It is noteworthy that the capital ratios of the banks in Europe targeted for government action were considerably below that of US banks. Almost ninety-five percent of banks in this country remain well-capitalized. Since that time, many banks have been contacted by regulators and urged, sometimes forcefully, to participate in the CPP.

As you know there are thousands of banks across the country that never made one toxic subprime loan, that are strongly capitalized, and that are making loans today. In many cases these banks are attracting new deposits and are capable of increasing their loan portfolios in a prudent manner. However, to grow their loan portfolios even more, some may need additional capital to support the increase in assets. These banks never asked the government to create a program to make capital available, nor do they need it to continue to be strongly capitalized, solid banks.

As I stated in my October 17 letter, these banks have three choices: 1.) they can continue their current levels of activity and do just fine, but not expand their lending to fill the gaps in credit availability and move our economy forward; 2.) they can obtain some additional private capital, but in these difficult capital markets the cost and availability of such capital may limit their expansion; or, 3.) they can take part in the CPP. Many such banks would be interested in the third option, but not if they are going to run the risk of being labeled – falsely – as needing government support, or of appearing to be asking for a handout, or of being subjected to additional unknown government requirements or restrictions in the future – restrictions that could have the perverse effect of discouraging private investment in banks.

It is critical to make the distinction between these regulated banks and non-bank institutions like AIG that needed government action to keep from failing. Indeed, it has been made explicit that a bank in danger of failing will not be eligible for CPP. I would also note that, given the state of our credit markets, these thousands of banks are the best, if not the only, potential source of new credit to get our economy moving again.

Proposals to stop dividends, restrict compensation, and require certain types of lending can have a devastating impact on such a bank. Indeed, if any of these proposals were certain to be imposed, it is doubtful that many banks would participate. With respect to dividends, most of these banks have a long history of maintaining their dividends. Bank stocks, more than almost any type of stock other than utilities’, are bought based on solid and relatively high dividends. Many retired persons and pension plans invest in a bank’s stock to receive the dividend. A removal of dividends would likely devastate the stock price of any bank subject to the requirement. It would make no sense for a well-capitalized bank with solid earnings to agree to a program which would greatly lower the value of its stock. Furthermore, the combination of removal of the dividend, a quick drop in the stock price, and a government capital injection could be read as a sign of weakness by the public in these times when rumors are rampant.

Finally, a dividend restriction would be counter-productive for the taxpayer. The government currently stands to make billions of dollars in profit from the CPP in

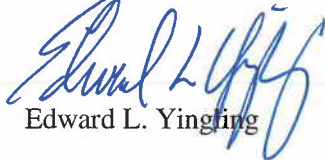
dividends and warrants. However lower stock prices resulting from a prohibition on dividends mean the warrants will be worth less or will be worth nothing.

Restrictions on compensation would be impossible to administer across banks of all sizes and types and would cost the participating banks good employees in a competitive employment market. Lending requirements would also be impossible to administer in banks of all sizes, locations, and business models and could push banks into making high risk loans, at the very time when regulators are in banks across the country telling banks to have conservative lending criteria. Banks make money by making good loans, and they will need to deploy the extra capital in a fashion that allows them to cover the cost of its dividends and the warrants. Therefore, there is a major economic incentive to make more loans to creditworthy customers.

Bankers across the country are extremely upset about the manner in which the CPP program is rolling out. Again these are strongly capitalized, profitable banks that never made one subprime loan. These bankers believe they are being asked – in some cases pressured – to participate in a program they did not seek and do not need. In many cases they see the value in the program to the economy and their communities, but they should not be required to make this critical decision that could affect the very future of their banks in such a tight timeframe and with so many uncertainties.

We again request that the deadline be extended and that efforts be made to clarify both the purpose of the program—especially that it is for banks that are strongly capitalized and not those in trouble—and any restrictions that may accompany it.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward L. Yingling", is written over the typed name.

Edward L. Yingling

cc: Chairman Bernanke, Federal Reserve System  
Chairman Bair, Federal Deposit Insurance Corporation  
Comptroller Dugan, Office of the Comptroller of the Currency  
Director Reich, Office of Thrift Supervision  
Chairman Dodd  
Senator Shelby  
Chairman Frank  
Representative Bachus