Introduction

The Federal Reserve Bank of New York accepts from qualified institutions pledges of home equity loans[1] to secure their borrowings from the Discount Window, subject to certain terms and conditions. This document outlines the requirements of this collateral program (also referred to as a "Borrower-in-Custody" or "BIC" program).

The BIC program provides qualifying institutions with the ability to increase the amount of collateral pledged for Discount Window purposes while avoiding the costs of physically delivering notes, loan agreements and other documentation in respect of the pledged home equity loans to the Federal Reserve Bank of New York.

The integral foundation of the BIC program is the ability of the Federal Reserve Bank of New York to take possession of the notes, loan agreements and other documentation in respect of the pledged home equity loans in the event that circumstances warrant such action. Therefore, the Federal Reserve Bank of New York needs to be fully informed of the location, security, and completeness of all such documentation.

Institutional Eligibility

General

Eligibility for this BIC program is based on the Federal Reserve Bank of New York's comfort level with an institution's overall financial condition, loan administration controls, documentation practices, asset quality, and ability to meet all of the requirements of this program. To qualify for this BIC program, an institution must be in sound financial condition in the judgment of both its primary regulator and the Federal Reserve Bank of New York. Generally, institutions rated CAMELS 4 or 5 will be excluded; other institutions will be accepted on a case-by-case basis. Before accepting pledges of home equity loans from an institution, the Federal Reserve Bank of New York will require that the institution complete a BIC pre-qualification form. At its discretion the Federal Reserve Bank of New York may also require an inspection of the collateral site before accepting an institution into this program.

Legal Documentation Requirements

To qualify for this BIC program, an institution must have on file with the Federal Reserve Bank of New York a current Letter of Agreement (Exhibit 1 to Operating Circular 10), Authorizing Resolutions for Borrowers (Exhibit 2 to Operating Circular 10), Borrower in Custody of Collateral Agreement (Appendix B to Operating Circular 10), authorized borrower's letter, and signature card for pledging assets, and all other documentation required by Operating Circular 10 which can be found at http://www.frbdiscountwindow.org/oc10.pdf. It is normal policy of the Federal Reserve Bank of New York to file UCC financing statements with respect to pledged collateral.

Collateral

Eligible Collateral

Home equity loans secured by one-to-four family residential property (i.e., a single family home or up to a four family home or condominium complex) are acceptable collateral.

[1] Home equity loans generally include both second mortgages (fixed amount, 2nd lien) and Home Equity Lines of Credit, commonly known as HELOCs (revolving amount, junior lien).

Home equity loans originated by another organization, including an affiliate mortgage company, and subsequently purchased by an institution will be eligible collateral under this BIC program only if (i) the note has been properly endorsed and (ii) the loan has been assigned to such institution.

Home equity loans originated by another organization which was subsequently acquired by an institution will be eligible collateral under this BIC program only if such institution provides evidence acceptable to the Federal Reserve Bank of New York that the home equity loan (i) was subject to the acquisition transaction and (ii) is owned by such institution. In the case of any merger that resulted in a name change, an institution should provide evidence of the merger to affirm that such institution is in fact the successor and sole owner of the pledged home equity loans.

Ineligible Collateral

The following types of loans are not eligible collateral under this BIC program:

- Participations in home equity loans otherwise constituting eligible collateral under this BIC program;
- Any loans secured by mortgages on other than one-to-four family residential property, including loans secured by mortgages on the following types of property: commercial property, vacation property, investment property, or raw land;
- Loans already pledged to another institution;
- Loans secured by a mortgage on co-ops;
- Loans that are 60 days past due within the past 12 months;
- Loans on non-accrual status;
- Loans that are adversely classified by bank regulators;
- Loans that have either been paid-off or matured.

Collateral Valuation

Prior to assigning value to the collateral pledged, a pre-qualification form must be completed by the institution and approved by Federal Reserve Bank of New York staff. Generally, the Federal Reserve Bank of New York will assign a collateral value to the home equity loans consistent with the collateral margin specifications detailed in the Federal Reserve System Discount and PSR Collateral Margins Table located at http://www.frbdiscountwindow.org/discountmargins.html. The Federal Reserve Bank of New York's determination of collateral value will also be based on several other factors, including the timeliness of the collateral schedule submission and the outcome of on-site inspections.

Loan Documentation Requirements

Home equity loans will be eligible collateral under this BIC program if an institution maintains the documents listed below. Please note that actual loan documentation may be different for each institution, and should therefore be reviewed and approved by Federal Reserve Bank of New York staff prior to pledge:

- ORIGINAL NOTE. The home equity loan documentation should include a signed, original note which may be in different formats (i.e., actual note, mortgage note, disclosure statement) depending on the type of loan, and any amendments or modifications thereto, containing a loan amount equal to or less than the current outstanding principal balance shown on the current collateral schedule. The note should contain a "promise to pay" and be payable to the pledging institution. Notes that are not payable to or endorsed to the pledging institution will not be accepted unless they have been assigned to the pledging institution in a manner satisfactory to the Federal Reserve Bank of New York.

- ORIGINAL MORTGAGE. The mortgage loan documentation must include a signed, original and properly recorded mortgage or a mortgage note, and any amendments or modifications thereto. The county recorder's stamp or seal should appear on the mortgage. In the absence of an original recorded mortgage, a copy certified by the county recorder's office of the original document is acceptable.

- ORIGINAL TITLE INSURANCE, ABSTRACT OF TITLE, OR ATTORNEY CERTIFICATE. This is dependent on the type of loan, i.e., 2nd mortgage etc, and the title insurance should be at least equal to the amount of the mortgage, the lending institution should be named as the insured, and the legal description of the property should match that in the mortgage. A title insurance commitment is not acceptable.

- EVIDENCE OF APPRAISAL. The appraisal should be for an amount equal to or greater than the current outstanding principal balance of the property and should be certified by a professional licensed appraiser.

- EVIDENCE OF HOME INSURANCE COVERAGE. (Flood, Hazard). Flood insurance coverage, if required, should already be on the property and in an amount at least equal to the total current outstanding principal balance of the property or the maximum required by law. Hazard insurance coverage should be in an amount at least equal to the lesser of the current outstanding principal balance or the replacement cost of the property. Documentation showing that the policy is current should be available upon request, and the institution should demonstrate that procedures exist to monitor whether insurance coverage is current.

- PROPERTY TAX. The institution should provide evidence that (i) property taxes are paid on a timely basis and (ii) procedures exist to monitor tax payments.

Power of Attorney and Endorsements

The Federal Reserve Bank of New York prefers that an institution deliver to it a notarized Power of Attorney appointing the Federal Reserve Bank of New York attorney-in-fact to sell and assign any pledged collateral. In some cases, the Federal Reserve Bank may accept an endorsement of pledged notes instead of the Power of Attorney.

Collateral Custody and Controls

Storing Collateral Documents

An institution should house all pledged home equity loans and any related documents in a segregated location that is both accessible to and known by the Federal Reserve Bank of New York. All documents should be stored in a fire-resistant environment where physical access is controlled, limited to specific individuals, and tracked. For example, unlocked file cabinets are not an acceptable storage environment. Ideally, the collateral should be maintained in a secured vault that allows for easy removal in the event the Federal Reserve Bank of New York needs to take possession of the collateral.

The Federal Reserve Bank of New York prefers that all legal documents evidencing the pledged home equity loans be held together in a secured, fire-resistant environment; however, when space is limited, an institution may hold such documentation (other than the promissory notes) in a separate location (file room, cabinets etc.) in close proximity within the secured facility where the promissory notes are kept.

Moving Collateral Documents

An institution may not move any promissory notes, agreements or other supporting documentation (together, the "Collateral Documents") relating to the pledged home equity loans without prior written notification to, and approval from, the Federal Reserve Bank of New York.

An institution must make any request to move the Collateral Documents in writing to the Federal Reserve Bank of New York. The request must be made thirty days prior to the requested move in order to ensure the necessary protective measures are taken. Before the transfer can take place, the Federal Reserve Bank of New York may require, at its discretion, that an institution (i) obtain the written approval of the move by the Federal Reserve Bank of New York and (ii) submit the new location where the Collateral Documents will be housed to a site inspection by the Federal Reserve Bank of New York. Federal Reserve Bank of New York staff will then work with the institution to develop a suitable schedule to transfer the collateral to the new site.

The Federal Reserve Bank of New York will not give value to the pledged home equity loans while the notes evidencing such loans are in transit. While the notes are in transit and depending on the circumstances, the Federal Reserve Bank of New York may request an institution to pledge other assets as collateral.

Collateral Identification

The Collateral Documents relating to the pledged home equity loans should be segregated from other documents and clearly identified as being pledged to the Federal Reserve Bank of New York so that a potential purchaser of such assets would be aware of the pledge and so that the institution does not transfer or re-pledge such assets. The notes evidencing the pledged home equity loans should be identified as pledged to the Federal Reserve Bank of New York in the following manner:

- Label individual notes or folders with a conspicuous stamp or affix a legend that indicates the note is pledged to the Federal Reserve Bank of New York; or
- Label file cabinets/file cabinet drawers with a sign indicating that all of the notes filed in the cabinet/drawer are pledged to the Federal Reserve Bank of New York; or
- Place a prominent sign indicating that all of the notes residing in the general area are pledged to the Federal Reserve Bank of New York.

In addition, an institution should clearly identify the said home equity loans as pledged to the Federal Reserve Bank of New York in the institution's information management system in a manner satisfactory to the Federal Reserve Bank of New York, or an institution must otherwise provide evidence of internal controls sufficient, in the judgment of the Federal Reserve Bank of New York, to prevent the sale or other transfer of the loans pledged to the Federal Reserve Bank of New York.

Collateral Reporting Requirements

On a weekly basis, or as deemed appropriate by the Federal Reserve Bank of New York, an institution should submit a collateral schedule of all home equity loans pledged to the Federal Reserve Bank of New York. The collateral schedule may be submitted in two ways: 1) in hard copy or electronic form as determined by the pledging institution; or 2) using electronic files as specified under the Federal Reserve System's Automated Loan Deposit Program (ALD). Loans pledged under the ALD program generally receive more favorable margins than loans pledged in hard copy or outside the ALD program. For more information about pledging under the ALD program, please refer to the literature at http://www.frbdiscountwindow.org/ald.cfm.

Simultaneously with the collateral schedule, an institution should also submit a signed deposit application for the new outstanding principal balance of pledged home equity loans along with a signed withdrawal application for the previous outstanding principal balance of pledged home equity loans. If the collateral schedule is submitted in hard copy, it must be initialed on the page where the totals are shown by an individual listed on the institution's signature card for pledging assets.

Each collateral schedule should include the institution's name and its ABA number, a statement that the home equity loans identified on the collateral schedule are pledged to the Federal Reserve Bank of New York and the following information for each pledged home equity loan:

- Name and account number of the obligor or maker,
- Location of the property of obligor (street address, city, state, and zip),
- Original amount of the note,
- Current outstanding principal balance,
- Maturity date, and
- Current interest rate (with a notation as to whether the interest rate is fixed or variable).
- At the end of the collateral schedule there should be a grand total for the original amount of the notes, current outstanding principal balance, average weighted maturity date and average weighted interest rate.

The deposit and withdrawal application forms are available at
http://www.newyorkfed.org/banking/collateral_pledging_forms.html.

Collateral Monitoring by the Participating Institution

An institution must promptly notify the Federal Reserve Bank of New York if, at any time, the aggregate outstanding principal balance of the pledged home equity loans declines by 10 percent or more from the most recently reported aggregate outstanding principal balance. Depending on the circumstances, at any time the Federal Reserve Bank of New York may request that an institution pledge additional collateral.

Borrower In Custody of Collateral Certification

The Borrower in Custody of Collateral Certification (the "Certification") attests to the controls and other procedures in place to safeguard the pledged home equity loans and related documentation. An institution shall perform an initial and, thereafter, periodic Certification. All Certifications should be submitted to the Federal Reserve Bank of New York on a yearly basis or within the internal auditor cycle of between 12 and 18 months.

The completed Certification should be signed (i) by an internal or external auditor, or, in the case where the institution does not have an internal audit department, an independent director, or officer of the bank, and (ii) by an individual listed on the institution's signature card to pledge assets or an authorized individual designated in the Borrowing Resolution on file with the Federal Reserve Bank of New York.

On-Site Inspections

Federal Reserve Bank of New York staff will perform periodic on-site inspections of the institution's facility and the Collateral Documents to ensure that they are secure and in proper order. The length of an inspection will depend on, among other things, the number of pledged home equity loans. During the inspection, Federal Reserve Bank of New York staff will review a sampling of currently pledged home equity loans and will request a tour of the facility where the pledged home equity loans are housed to ensure that they are properly safeguarded and that the pledge to the Federal Reserve Bank of New York is identified appropriately.

Following the on-site inspection, Federal Reserve Bank of New York staff will discuss their findings with the official(s) responsible for the maintenance of the pledged home equity loans and any related custodial services. This discussion will cover the results of the inspection, including any exceptions found and recommendations for improvement. Federal Reserve Bank of New York staff will document their findings in a letter to the officer(s) responsible for the pledge of the home equity loans and their ongoing maintenance. The institution must promptly correct each exception found during the inspection or remove the home equity loan to the exception from the collateral pledge by submitting a new collateral schedule excluding all such home equity loans to the Federal Reserve Bank of New York.

Should the review uncover severe breaches of the requirements of this BIC program, participation in the program may be suspended or terminated at the discretion of the Federal Reserve Bank of New York.

Please contact the Discount Window (866-226-5619) for more information.