

**GUIDELINES IN PRE-QUALIFYING PROPONENTS AND EVALUATING THE PROPOSALS FOR
PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES (the “P & A”)
MODE OF LIQUIDATING CLOSED BANKS**

I. POSTING OF NOTICE

Announcement shall be made to the public that banks closed after the effectivity of the PDIC Charter, as amended, on June 11, 2016 may be subject of a P & A as a mode of liquidation by another insured bank or non-bank entities subject to compliance with the requirements.

The announcement shall specify the period for acceptance by PDIC of letters of intent for P & A of a closed bank.

II. PRE-QUALIFICATION CRITERIA

1. Only Direct Investors as “Proponent” in a P & A shall be pre-qualified

Only duly registered bank or non-bank entities with interest to *directly* purchase all the assets and assume all the liabilities of the closed bank shall be pre-qualified.

2. Authorized to do business in the Philippines

For Banks:

With a valid banking license issued by the Bangko Sentral ng Pilipinas (BSP)

For Non-bank Entities:

Duly registered with the Securities and Exchange Commission (SEC)

3. Safe and Sound Financial Condition

For Banks:

- (a) Compliant with the BSP's minimum required capitalization and with Capital Adequacy Ratio of at least 10% *before and after the P & A*
- (b) No findings of unsafe and unsound banking practices as of the latest bank examination conducted by BSP and/or PDIC
- (c) Not under Prompt Corrective Action (PCA) Framework of the BSP

For Non-bank Entities:

Must have the financial capacity to undertake and implement the P & A of a closed bank

4. Majority shareholders of the proponent should not have any on-going investigation or pending case with BSP and PDIC

5. Submission of the following supporting documents

- a) Letter of Intent from the Proponent
- b) Articles of Incorporation & By-Laws registered with the SEC
- c) Latest General Information Sheet submitted to the SEC indicating the list of shareholders and their nationalities, and their corresponding shareholdings
- d) Latest audited financial statements duly received by BIR and SEC and other evidence of financial capacity
- e) Board Resolution approving the participation of the corporation in the P & A and indicating its authorized representative as well as authorized firm/individual to conduct the due diligence

III. DUE DILIGENCE AND SUBMISSION OF P & A PLAN

1. A Notice of Eligibility shall be issued to proponent/s that will meet the pre-qualification criteria set by the PDIC Board of Directors. Only pre-qualified party shall be allowed to conduct due diligence and submit a P & A Plan.
2. Due diligence shall be conducted for a period of 30 days reckoned from the date of receipt of the Notice of Eligibility subject to the following conditions:
 - a) Execution of Confidentiality Agreement prior to conduct of due diligence
 - b) Compliance to the Data Privacy Act
 - c) Extensions may be allowed subject to approval of PDIC
3. The P & A proposal shall be submitted within 45 days reckoned from the last day of due diligence or from date of receipt of the Notice of Eligibility, if no due diligence is conducted.

IV. PROPOSED P & A PLAN

After the conduct of due diligence, the proponent shall be required to submit its P & A Plan based on the latest Statement of Affairs (SOA) as of the pre-qualification of the proponent or cut-off period that may be agreed upon by the proponent and PDIC. The P & A Plan shall include the following terms and conditions:

A. Offer Price

PDIC shall set the *minimum acceptable offer price* based on asset valuation using the liquidation value approach.¹ The services of an external valuation company may be engaged as deemed appropriate based on the complexity of the bank assets, products and transactions and subject to availability of funds of the closed bank.

In setting the *minimum acceptable offer price*, PDIC shall ensure that creditors should not be worse-off or should not receive less than what they are expected to recover under a conventional liquidation scenario.

B. Bank's License

The Bank's license and branches (for multi-unit banks) shall not form part of the P&A of a closed bank. Should the proponent desire to acquire the same, it shall seek the approval of and comply with terms and conditions prescribed by the Monetary Board of the BSP.

C. Multiple Interested Parties

In case of multiple interested parties, PDIC may conduct a sealed bidding. The bid shall not be less than the *minimum acceptable offer price* set by PDIC.

The bidder that will submit a proposal with highest recovery for the creditors shall be declared as the winning bidder.

D. Proposed P & A Plan to Settle Outstanding Liabilities of the Closed Bank

The application of the Offer Price in the settlement of the Bank's liabilities shall be consistent with the following principles:

- 1) Payment to creditors shall be in accordance with the Rules on Concurrence and Preference of Credits under the Civil Code of the Philippines and other applicable laws.
- 2) Payment in cash of PDIC subrogated deposits and accrued receivership expenses up to actual date of turnover of the assets and affairs of the Bank to the proponent. Proponent shall make provision for reimbursement to PDIC of its deposit insurance payments after the turnover date equivalent to its proposed recovery rate for PDIC.

¹ Valuation approach that determines the net amount that would be realized if the business is terminated and the assets are sold piecemeal. Attached as Annex A1 is the 1) comparison of three valuation approaches, 2) illustration of the liquidation value approach, and 3) possible adjustments on main type of assets of a bank

- 3) In case the Estimated Realizable Value of the Assets (ERVA) of the Bank as of cut-off period is more than the liabilities to be settled, the excess amount shall be applied as surplus dividends to creditors in accordance with law. The residual assets, if any, shall be returned to the stockholders of record as residual dividends proportionate to their interest.

E. Other Conditions

- 1) The P & A Plan shall be for the whole bank and subject to the approval of the PDIC Board of Directors and the Liquidation Court whether the proponent is a bank or non-bank entity.
- 2) The proponent shall be wholly responsible for implementing the P & A Plan. Assets and affairs of the bank shall be turned over to the proponent only after the claims of all entitled creditors shall have been fully settled or upon submission of a payment plan duly approved by all entitled creditors of the closed bank as confirmed by PDIC or by the Liquidation Court, whenever applicable. It shall be the duty of the proponent to notify all creditors that a closed bank shall be the subject of a P&A transaction.
- 3) The proponent shall have enough liquid assets to advance the payment to the entitled creditors or have the capacity to comply with an approved payment plan agreed upon by all the entitled creditors, pending actual turnover of the assets and affairs of the closed bank.
- 4) Should there be an unsolicited proposal for a P & A of a closed bank from only one proponent, the proposal shall be subject to a Swiss Challenge and such other terms and conditions prescribed by the PDIC Board.

V. REPORTING REQUIREMENTS

The proponent, through the PDIC, shall submit a report of the full implementation of the P & A Plan to the BSP, SEC and Cooperative Development Authority (for cooperative banks).

VI. TRANSITORY PROVISION

The P & A Guidelines shall also apply to banks closed prior to June 11, 2016, subject to approval of the liquidation court.