

AT IAS PART 36 OF THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK, AT THE COURTHOUSE, 60 CENTRE STREET, IN THE COUNTY, CITY AND STATE OF NEW YORK, ON THE ___DAY OF _____, 20123

PRESENT:
HON. DORIS LING-COHAN, J.S.C.

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: Index No. 401265/2012
In the Matter of the Rehabilitation of :
FINANCIAL GUARANTY INSURANCE :
COMPANY. : **PLAN APPROVAL ORDER**
: :
: Motion Sequence No. 4
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Upon full consideration of the entire record of the above-captioned rehabilitation proceeding (the “**Rehabilitation Proceeding**”), including (i) the affirmation (the “**Affirmation**”) of Gary T. Holtzer of Weil, Gotshal & Manges LLP, attorneys for Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York (the “**Superintendent**”), as the court-appointed rehabilitator (the “**Rehabilitator**”) of Financial Guaranty Insurance Company (“**FGIC**”), dated September 27, 2012, in support of the Rehabilitator’s motion for an order pursuant to Sections 7403(a) and 7403(d) of the New York Insurance Law (the “**NYIL**”) (a) approving the proposed First Amended Plan of Rehabilitation for FGIC, dated ~~December 12~~June 4, 20123, attached hereto as **Exhibit 1**, together with all exhibits and the Plan Supplement¹ thereto (collectively, the “**Plan**”), including approving the Novation Agreement ~~and the CDS Commutation Agreements~~ and consummation of the transactions contemplated thereby and (b) terminating the Rehabilitation Proceeding upon the effective date of the Plan (the “**Effective Date**”); (ii) the exhibits attached to the Affirmation, including the Disclosure Statement for the Plan (the “**Disclosure Statement**”); (iii) the Memorandum of Law in Support

¹ Capitalized terms not defined herein have the meanings ascribed to them in the Plan.

of Approval of the Plan (the “**Memorandum**”); ~~the (iv) Omnibus Reply Memorandum of Law in Further Support of Approval of the Plan (the “Reply”); (v)~~ the Affidavit of Michael W. Miller in Further Support of the Plan, dated December 12, 2012 (the “**Lazard Affidavit**”); ~~and (vi)~~ the Affidavit of John S. Dubel in Further Support of the Plan, dated December 12, 2012 (the “**Dubel Affidavit**”); (vi) the letter setting forth the standard for approval of the Plan, dated January 22, 2013 (the “**Standard Letter**”); (vii) the order dated January 24, 2013, as amended on January 29, 2013, finding (a) a lack of sufficient evidence in the submissions to raise a material question of fact and (b) that the need for an evidentiary hearing had not been established (the “**January Order**”); (viii) the Amended Omnibus Reply Memorandum of Law in Further Support of Approval of the Plan, dated January 25, 2013, including the cover letter attached thereto, and the amended Omnibus Response Chart attached as Exhibit 1B thereto (the “**Amended Reply**”); (ix) the letter setting forth the remaining issues, dated February 11, 2013, including the further amended Omnibus Response Chart attached as Exhibit 1C thereto (the “**February 11 Letter**”); (x) the letter advising the Court that no party served an objection to the Plan Revisions (as defined in the Court’s interim order dated February 19, 2013 (the “**Scheduling Order**”)) and that each of the Trustees (defined below) filed notices withdrawing each of their objections to the Plan, dated April 12, 2013 (the “**April 12 Letter**”); (xi) the letter advising the Court of (a) the termination agreement and deed of release to be entered into by and among FGIC, Childrens Health Partnership Holdings Pty Ltd (“**CHP**”) and certain related parties and (b) CHP’s intention to withdraw its objections to the Plan, dated April 16, 2013 (the “**April 16 Letter**”); (xii) the notices of withdrawal of objections to the Plan filed by (a) Jefferson County Alabama, dated November 30, 2012, (b) Assured Guaranty Corp., Assured Guaranty Re Ltd, and Assured Guaranty Re Overseas Ltd, dated December 12, 2012, (c) Deutsche Bank National Trust

Company and Deutsche Bank Trust Company Americas, dated April 12, 2013, (d) Wells Fargo, N.A., dated April 12, 2013, (e) U.S. Bank National Association and U.S. Bank Trust National Association, dated April 12, 2013, (f) The Bank of New York Mellon and The Bank of New York Mellon Trust Company, N.A., dated April 12, 2013, (g) CHP, dated April 25, 2013, (h) certain holders of sewer warrants issued by Jefferson County, Alabama, dated May 31, 2013, (i) Aurelius Capital Management, LP, dated June 4, 2013 and (j) CQS ABS Master Fund Ltd., CQS Select ABS Master Fund Ltd and CQS ABS Alpha Master Fund Ltd., dated June 4, 2013 (collectively, the “**Notices of Withdrawal**”), (xiii) the letter advising the Court that all remaining objections to the Plan have been resolved, dated June 4, 2013 (the “**June 4 Letter**”); and (xiv) the presentation at the hearing held on June 11, 2013 to consider approval of the Plan (the “**Plan Approval Hearing**”);

And upon reading and signing the order to show cause dated September 28, 2012 ~~(and~~ the “Scheduling Order”);

And all objections to the Plan having been withdrawn;

And the Court having held ~~a hearing (the “Plan Approval Hearing”) to consider the relief requested as set forth in the Affirmation;~~ and due and proper notice of the Plan Approval Hearing having been provided as required by the ~~Scheduling O~~order dated April 23, 2013, and no further notice being necessary;

This Court finds that:

- a. The legal and factual bases set forth in the Affirmation and the exhibits thereto, the Plan, the Disclosure Statement, the Memorandum, the ~~Reply,~~ ~~the~~ Lazard Affidavit ~~and,~~ the Dubel Affidavit, the Standard Letter, the January Order, the Amended Reply, the February 11 Letter, the April 12 Letter, the April 16 Letter, the Notices of Withdrawal, the June 4 Letter and the presentation at the Plan Approval Hearing, establish just and sufficient cause to grant the relief requested;

- b. The relief requested is in the best interests of, and fair and equitable to, all of FGIC's Policyholders, creditors and other claimants; ~~and~~
- c. The relief requested provides Policyholders, creditors and other claimants at least what they would expect to have received had FGIC been subject to a liquidation pursuant to Article 74 of the NYIL;
- d. U.S. Bank National Bank Association and U.S. Bank Trust National Association, The Bank of New York Mellon and The Bank of New York Mellon Trust Company, N.A., Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas and Wells Fargo Bank, N.A., each in its capacity as trustee of various trusts (collectively, the "Trustees") filed objections to the Plan of Rehabilitation for FGIC dated September 27, 2012 and the First Amended Plan of Rehabilitation for FGIC dated December 12, 2012. The Rehabilitator revised the Plan to address the Trustees' concerns and the Trustees withdrew their objections to approval of the Plan, as revised and set forth in the amended version of the First Amended Plan of Rehabilitation for FGIC. The Court finds that the Trustees' withdrawal of objections to approval of the Plan, as revised, shall not be construed as consent by the Trustees to the First Amended Plan of Rehabilitation for FGIC or to any modification to the Transaction Documents effected by the provisions of such Plan. The Court finds that the Trustees have acted reasonably and in good faith in making and withdrawing the objections, and the Trustees have not acted negligently in performing their duties in respect of the objections; and
- e. Based upon information available to FGIC as of the date hereof, FGIC has determined that it shall not take any action to offset, recoup or otherwise recover any Pre-Rehabilitation FGIC Premiums, Expenses and Recoveries that have not been paid to FGIC but instead have been or shall be applied by the Trustees to reduce the amount of Policy Claims ("Unpaid Pre-Rehabilitation Amounts"), other than with respect to up to approximately \$5 million owed with respect to the IMM 2004-10 1A1/Impac 2004-10 transaction (the "Impac Transaction"), with respect to which FGIC reserves all rights. FGIC represents that it has reviewed all information concerning Unpaid Pre-Rehabilitation Amounts that has been made available to it to date.

NOW, on motion of the Rehabilitator, it is ORDERED as follows:

1. ~~The~~ To the extent not already granted by prior order of this Court, the relief requested, as set forth in the Affirmation, is granted;
2. The Plan is approved and its implementation authorized;
3. The form of amended and restated charter and the form of amended and restated by-laws, each filed as part of the Plan Supplement, are approved

and shall constitute the charter and by-laws, respectively, of FGIC as of the Effective Date;

4. The Novation Agreement ~~and the CDS Commutation Agreements~~, including consummation of the transactions ~~(including payment of any amounts to be paid by FGIC)~~ contemplated thereby, are approved. The Rehabilitator and (with respect to the period from and after the Effective Date) FGIC are authorized and empowered to consummate the transactions contemplated ~~thereby~~ by the Novation Agreement as of the Effective Date (or such other date for consummation of such transactions as may be set forth in such agreement); *provided, however*, that should the Rehabilitator waive the condition to the Effective Date that this Order becomes a Final Order, consummation of the transactions contemplated by ~~any of the Novation Agreement or any CDS Commutation Agreement~~ shall not occur until the earlier of (i) this Order becoming a Final Order or (ii) FGIC waiving the requirement that this Order be a Final Order with respect to such agreement;

~~5. In the event FGIC or a counterparty to any CDS Commutation Agreement effectively terminates such CDS Commutation Agreement in accordance with its terms as a result of one of the events specified therein that gives rise to a counterparty's ability to file a Paragraph 5 Objection (as defined below) pursuant to this Paragraph 5 (such terminated CDS Commutation Agreement being a "Paragraph 5 CDS Commutation Agreement"), then, following the effective date of such termination, each counterparty that so terminated such CDS Commutation Agreement or, if such CDS Commutation Agreement was terminated by FGIC, each counterparty to such CDS Commutation Agreement may, subject to the following sentence, object to the applicability of Sections 4.10 (clause vii) or 7.8(d) of the Plan, Article II of the Restructured Policy Terms or, if and to the extent applicable, any revisions to the terms or conditions of the Plan (including the Restructured Policy Terms) made by the Rehabilitator after November 14, 2012 that in any way relate to amounts described in clause (vii) of Section 4.10 or actions prohibited by Section 7.8(d) of the Plan (collectively, the "Contested Plan Provisions") (each such counterparty filing such an objection being an "Objecting Counterparty") by filing such an objection (a "Paragraph 5 Objection") with this Court and serving a copy of the Paragraph 5 Objection upon Weil, Gotshal & Manges LLP, attn.: Gary T. Holtzer and Joseph T. Verdesca, 767 Fifth Avenue, New York, NY 10153, fax: (212) 310-8007, gary.holtzer@weil.com, joseph.verdesca@weil.com, attorneys for the Rehabilitator, so that the Paragraph 5 Objection is received on or before the thirtieth (30th) calendar day after the effective date of the termination of the Paragraph 5 CDS Commutation Agreement. In the event an Objecting Counterparty so files any Paragraph 5 Objection, (i) FGIC and (to the extent the Paragraph 5 Objection is filed prior to the Effective Date) the Rehabilitator shall retain all rights to respond to and dispute such~~

~~Paragraph 5 Objection and (ii) the Contested Plan Provisions shall continue to apply to such Objecting Counterparty until such time, if any, as a Final Order is entered by this Court providing that the Contested Plan Provisions shall not apply to such counterparty. Furthermore, notwithstanding anything to the contrary in the Plan, but subject to Section 7.8(d) of the Plan (unless and except to the extent such provision is determined by Final Order to not be applicable as to any Objecting Counterparties pursuant to the procedures set forth in this Paragraph 5), any counterparty with respect to which a Paragraph 5 CDS Commutation Agreement shall have terminated shall have the latest of the following dates to submit Claims under, in accordance with and subject to the terms and conditions of any FGIC Contracts to which such Paragraph 5 CDS Commutation Agreement relates and in accordance with the prohibitions, restrictions, requirements, procedures and other terms and conditions (to the extent not in conflict with the following clauses (x), (y) and (z), as applicable) then set forth in the Plan: (x) the applicable deadlines for submitting Claims set forth in the Plan; (y) if such counterparty files a Paragraph 5 Objection, thirty (30) calendar days after an order of this Court that disposes of such Paragraph 5 Objection becomes a Final Order; and (z) if such counterparty does not file a Paragraph 5 Objection, sixty (60) calendar days after the effective date of the termination of the Paragraph 5 CDS Commutation Agreement by such counterparty or FGIC;~~

5. ~~6.~~ Upon the Novation Effective Date (as defined in the Novation Agreement), the Covered Policies, the Covered Policy Rights and the Covered Policy Liabilities (each as defined in the Novation Agreement) shall be legally novated from FGIC to National Public Finance Guarantee Corporation in accordance with the terms and conditions of the Novation Agreement;
6. ~~7.~~ The An initial CPP of 17.25% is approved, subject to adjustment by the Rehabilitator in his sole discretion on or before the Effective Date;
7. FGIC shall not take any action to offset, recoup or otherwise recover any Unpaid Pre-Rehabilitation Amounts, including challenging the propriety of any Unpaid Pre-Rehabilitation Amount *per se* except (i) with respect to the Impac Transaction and (ii) in the event that FGIC receives any additional information from the Trustees, servicers or calculation agents of relevance to the calculation of any Unpaid Pre-Rehabilitation Amounts or FGIC otherwise discovers that information previously provided by the Trustees, servicers or calculation agents regarding such amounts was incorrect. Any potential action by FGIC to offset, recoup or otherwise recover any unpaid Pre-Rehabilitation Amounts based on clause (ii) of the preceding sentence shall be limited to the amount of the potential Unpaid Pre-Rehabilitation Amounts determined by giving effect to such additional or corrected information;

8. Pursuant to Section 7403(d) of the NYIL, on the Effective Date, the Rehabilitation Proceeding shall terminate without further order of this Court and the Superintendent shall be discharged from his duties as the Rehabilitator. The Rehabilitator's employees and agents shall be discharged of their duties with respect to all matters related to the Rehabilitation of FGIC and the Rehabilitator, the NYLB and each of their respective employees, attorneys, agents, advisors and representatives shall have no liability for actions taken by FGIC after the Effective Date;
9. Pursuant to Section 7403(d) of the NYIL, on the Effective Date, FGIC shall resume possession of its property and the conduct of its business, subject to the limitations described in the Plan;

~~10. Any objections to the Plan, including any Paragraph 5 Objections asserted to date, that are not resolved or withdrawn are hereby overruled;~~

10. ~~11.~~ The Rehabilitator shall serve notice of this Order by (i) publishing notice substantially in the form of the Notice of Plan Approval Order attached hereto as **Exhibit 2** (the "**Plan Approval Notice**") in The Wall Street Journal and The Bond Buyer within ten (10) Business Days after ~~entry~~receiving an entered copy of this Order, (ii) mailing the Plan Approval Notice to all known Policyholders and other claimants by first class mail within five (5) Business Days after ~~entry~~receiving an entered copy of this Order and (iii) posting true copies of this Order and the Plan Approval Notice at <http://www.fgicrehabilitation.com> within five (5) Business Days after ~~entry~~receiving an entered copy of this Order, and such service shall be deemed good and sufficient service;
11. ~~12.~~ From and after the Effective Date, this Order, including the terms of the Plan attached hereto as **Exhibit 1**, shall supersede the Order of Rehabilitation and the Order to Show Cause, both of which shall remain in effect with respect to their respective periods prior to the Effective Date; and
12. ~~13.~~ This Court shall retain exclusive jurisdiction to hear and determine all matters arising out of, or related to, the implementation, interpretation and/or enforcement of this Order, the Rehabilitation Proceeding and other matters as set forth in the Plan.

E N T E R

J.S.C.

Exhibit 1

Plan

~~(See Revised Exhibit B of the Affirmation Filed in the
Index of Plan Related Documents on December 12, 2012)~~

Exhibit 2

Plan Approval Notice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
: Index No. 401265/2012
In the Matter of the Rehabilitation of :
FINANCIAL GUARANTY INSURANCE :
COMPANY. :
: :
-----X

NOTICE OF PLAN APPROVAL

BENJAMIN M. LAWSKY, the Superintendent of Financial Services of the State of New York, as the court-appointed rehabilitator (the “**Rehabilitator**”) of Financial Guaranty Insurance Company (“**FGIC**”) hereby gives you notice that on [_____] [___], 2013~~11~~, the Honorable Doris Ling-Cohan of the Supreme Court of the State of New York, County of New York (the “**Court**”), signed an order (the “**Plan Approval Order**”) (i) approving the proposed First Amended Plan of Rehabilitation for FGIC dated ~~December 12~~ June 4, 2012~~3~~ (the “**Plan**”), including approving the Novation Agreement² ~~and the CDS Commutation Agreements~~ and consummation of the transactions contemplated thereby and (ii) terminating the above-captioned rehabilitation proceeding (the “**Rehabilitation Proceeding**”) upon the effective date of the Plan (the “**Effective Date**”).

Please take further notice that:

1. The Plan Approval Order and the papers upon which it was granted, the Plan, the Plan Supplement and the Disclosure Statement have been posted at www.fgicrehabilitation.com;
2. Once the Effective Date occurs, notice thereof and of the termination of the Rehabilitation Proceeding will be posted at www.fgicrehabilitation.com and www.fgic.com;
3. All of FGIC’s Policies in force as of the Effective Date will be modified by the Plan;
4. Upon the Effective Date, all Persons will be permanently enjoined from taking certain actions with respect to FGIC, FGIC Credit Products LLC and the property and businesses thereof, as set forth in the Plan;
5. All holders of Claims against FGIC must comply with the deadlines and procedures for submitting Claims that are set forth in the Plan; and
6. All requests for further information or questions should be directed to (877) 308-0011 or FGICrehab@gcinc.com.

BENJAMIN M LAWSKY
Superintendent of Financial Services of
the State of New York, as Rehabilitator
of Financial Guaranty Insurance
Company

² Capitalized terms not defined herein have the meanings ascribed to them in the Plan.