BUYING FAILED-BANK ASSETS FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION

BACKGROUND

- When a bank fails, the FDIC becomes the legal successor of the failed institution's assets, liabilities and business.
- Typically, the FDIC enters into a purchase and assumption ("<u>P&A</u>") agreement with a third-party acquiring institution to assume substantially all assets and liabilities.
- In most all receiverships, certain assets, sometimes less marketable, are retained by the FDIC with the objective of selling these to various third parties through competitive bidding programs.

OPPORTUNITY

- Qualified bidders can submit competitive bids to acquire assets of a failed bank at a discount.
- While a 2008 scenario is unlikely, it is probable that there will be more bank failures, including opportunities to purchase failed-bank assets from FDIC receiverships.
- The FDIC is legally required to maximize returns to the receivership estate. At the same time, the FDIC is incentivized to sell assets to third-party acquirers at a discount and will work expeditiously toward returning assets to the private sector.
- Discounts vary by asset and by failed-bank receivership. For example, our analysis of data from the last crisis shows that average loans purchased from FDIC receiverships have ~48% discount to book value, with similar outcomes for different real estate asset classes (SFR, C&I, etc.).
- The FDIC acquires and sells various types of real estate including commercial properties, multifamily and single-family residential, developed and undeveloped land, and bank branches. 1

PROCESS

- The first step in the process is to become a qualified bidder. The FDIC evaluates the character, background and experience of the individuals behind any limited liability company or fund seeking to purchase assets.
- The FDIC considers a variety of criteria in evaluating bids, including appraised value, offer amounts, earnest money deposit amounts, how purchases will be funded (e.g., cash or financing), inspection and closing periods, and net sales proceeds, among other things.

For more information, please contact John W. Popeo at The Gallatin Group LLC (<u>john.popeo@thegallatin.com</u>). John Popeo worked at the FDIC and the Federal Reserve. He led more than 40 failed-bank deals during the Global Financial Crisis, and he has extensive experience with the FDIC bid-evaluation and approval process.

¹ Properties are generally sold individually through listings with local real estate agents and/or brokers, who are hired by FDIC real estate contractors to assist in the marketing and disposition of properties on behalf of the FDIC. Occasionally, the FDIC conducts open "outcry" and online real estate auctions.

All properties are sold on an "as is, where is, with all faults" basis. The FDIC makes no guarantee, warranty, or representation, express or implied, as to the location, quality, kind, character, size, description, or fitness for any use or purpose, now or hereafter with regard to any of the properties listed.

