

## MINUTES

### HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

April 9, 2010

The Higher Education Student Assistance Authority (HESAA) Board held a meeting by conference call on April 9, 2010 at 2:30 pm from the HESAA offices in Hamilton.

**PRESENT:** Mr. Michael Angulo, Esq.; Ms. M. Wilma Harris; Mr. Julio Marenco, Esq.; Ms. Rossy Matos-Miranda; Mr. Jonathan Nycz; Mr. Warren Smith; Ms. Nancy Style, Treasurer's Designee; Ron Subramaniam; Ms. Maria Torres Ms. Kristy Van Horn; members.

Also participating via teleconference were Cheryl Clark DAG; and David Reiner, Esq., Governor's Authorities Unit.

Participating in person were Leah Sandbank, Bond Counsel, McManimon and Scotland; Joseph Santoro, Senior Manager, Bank of America/Merrill Lynch; Tim Carden, Financial Advisor, Scott Balice Strategies; and Rubin D. Weiner, DAG.

**ABSENT:** Mr. Richard Garcia; Dr. Harvey Kesselman; Mr. Edward Graham and Ms. Jean McDonald Rash.

#### **CALL TO ORDER**

Chair Torres called the meeting to order at 2:30 pm and stated that the meeting had been noticed in compliance with the requirements of the Open Public Meetings Act.

Ms. Torres welcomed the Board members.

Ms. Torres asked the Board Secretary to call the roll.

Roseann Sorrentino called the roll.

**RESOLUTION 01:10 – RESOLUTION AUTHORIZING THE OFFER TO BONDHOLDERS TO SELL STUDENT LOAN REVENUE BONDS TO THE AUTHORITY AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AN INVITATION TO SELL BONDS, A DEALER MANAGER AGREEMENT AND AN INFORMATION AND TENDER AGENT AGREEMENT AND OTHER MATTERS IN CONNECTION THEREWITH, AND AUTHORIZING THE**

**SALE AND ISSUANCE OF FLOATING RATE STUDENT LOAN REVENUE NOTES AND APPROVING AN INDENTURE OF TRUST BY AND BETWEEN THE HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE, PRELIMINARY OFFICIAL STATEMENT, FINAL OFFICIAL STATEMENT, CONTINUING DISCLOSURE AGREEMENT, BOND PURCHASE AGREEMENT, AND OTHER MATTERS IN CONNECTION.**

Mr. Eugene Hutchins, Chief Financial Officer, presented the resolution.

This is the second of three bond transactions planned for this year to address the Authority failed Auction Bond exposure. As explained in the memorandum, the proposed resolution relates to (i) an invitation to the Holders of the Authority's 2001-2003 Bonds to Tender or sell back their bonds to the Authority as well as various other documents related to the offer to sell bonds and (ii) the sale and issuance of Student Loan Revenue Bonds Issue Series 2010-FFELP together with drafts of the various bond documents referenced in the resolution that are required to carry out the intent of the resolution. The 2001 to 2003 bonds were issued under the 1998 Master Trust. These bonds were structured as Tax-Exempt Auction Rate Certificates and were subject to the federal Alternative Minimum Tax. The auctions of these bonds began failing in February of 2008 and have continued to fail, which has resulted in a loss of liquidity for such bonds and the imposition of a failed auction rate of 175% of SIFMA (a short-term interest rate index). As has been previously explained to the Board, the penalty rates of interest have been manageable during the current very low interest rate environment; however, there is significant risk to the Authority with even modest increases to current rates.

Any 2001 through 2003 Bonds that are tendered to the Authority as a result of the Offer to Sell Bonds would be purchased from cash currently available within the 1998 Trust Estate. The Authority currently anticipates using \$25.0 million of funds on hand to purchase tendered bonds.

The bond tender period during which bondholders can offer their bonds for sale will run for two weeks. At the conclusion of the tender period, all offers will be ranked by sub-Series and the amount of discount offered with priority given to small holders of less than \$5 million in bonds which are tendered.

In addition to the authorization for the offer to sell bonds and the invitation and other tender documents, the resolution authorizes a total refunding bond sale not to exceed \$150.0 million in Floating Rate Student Loan Revenue Bonds with a final maturity not later than December 1, 2038. These refunding Bonds are authorized to be sold pursuant to a new closed Indenture of Trust with Wells Fargo as trustee and the customary bond documents such as Bond Purchase Agreement, Preliminary Official Statement, and Continuing Disclosure Agreement are authorized by the resolution. The proceeds of the refunding bonds (net of funds required for bond reserves, costs of issuance, and payment of any cost related to amendment or termination of related Swaps) will be used to retire the 2001-2003 1998 Trust bonds that were originally issued to finance Federal Family Education Loans (FFELP). Upon the issuance of the Bonds, the Authority will transfer its FFELP loans from the 1998 Trust to the new 2010-FFELP Trust.

Mr. Hutchins introduced Joseph Santoro, Senior Manager, Bank of America/Merrill Lynch who gave the attached presentation on NJHESAA 2010 FFELP Financing.

Mr. Hutchins then introduced Leah Sandbank, Bond Counsel, McManimon and Scotland who gave the following presentation:

Resolution 01:10 sets forth the authorizations for two transactions being discussed today, the tender offer and the bond sale. Unlike the transaction completed in January, the bond sale proceeds are not being used to pay the purchase price of the tender. Both transactions separately are meant to relieve the ARS burden in different ways. The resolution first authorizes the Authority to provide an offer to current bondholders of Student Loan Revenue Bonds Series 2001-2003 to sell their bonds back to the Authority. Smaller holders of these bonds will be given priority for purchase by the Authority, although all holders of such bonds are invited to participate. The purchase price for the tendered bonds will be paid for by the Authority from funds available for such purpose in the revenue accounts established under the 1998 Indenture. In connection with this offer, Bank of America Merrill Lynch acting through Merrill Lynch Pierce Fenner & Smith is appointed as dealer manager for a fee not to exceed \$3.875/1,000 of principal amount of Prior Bonds purchased plus capped legal fees. The Resolution authorizes the publication of the necessary tender documents, including an invitation to offer to sell bonds and a Q&A sheet which set forth the terms and conditions of the offer. Also in connection with the tender, Wells Fargo who acts as Trustee, is appointed Information and Tender Agent for a fee not to exceed \$69,000. Authorization is given to the Chairperson, Vice Chair, Secretary-Treasurer, Executive Director and Chief Financial Officer to execute documents and take any actions necessary to effect the Offer.

Second, the resolution sets forth the customary authorizations for a new issue of Floating Rate Student Loan Revenue Bonds. These bonds are variable rate index bonds, with interest payable quarterly and an interest rate re-setting quarterly based on 3-month LIBOR plus a spread. The Bonds are authorized in an amount not to exceed \$150,000,000 which bonds may be issued in multiple Series and sub-series, with a final maturity not later than 2038 with a maximum spread over 3-month LIBOR of 120 bps. The Underwriter appointed for the bonds is Bank of America Merrill Lynch acting through Merrill Lynch Pierce Fenner & Smith for an underwriter's fee of .85% of the principal amount thereof pursuant to a bond purchase contract, the form of which is authorized therein. The issuance amount will consist of the amount of refunding bonds needed to retire at a discount price the 2001-2003 bonds issued to finance FFELP loans in the 1998 Trust and to terminate certain associated swap agreements. Upon retirement of such bonds, the underlying loans will be released from the 1998 Indenture and will be transferred to a new, closed indenture secured by such transferred loans. This resolution further authorizes the Authority to enter into the new indenture of trust with Wells Fargo Bank serving as trustee, as well as a preliminary and final official statement and continuing disclosure agreement in the forms attached to the resolution, which are all customary forms. No additional bonds may be issued under this Indenture and no new loans will be originated. Authorization is given to the Chairperson, Vice Chair, Secretary-Treasurer, Executive Director and Chief Financial Officer to execute documents and take actions necessary to effect the sale and issuance of the Bonds.

Lastly, the resolution authorizes the Authority to amend or terminate the various swap agreements associated with the 2001-2003 bonds in connection with the tender and purchase of such bonds.

Motion to approve the resolution was made by Warren Smith and seconded by Jonathan Nycz. There was no discussion and the motion was adopted unanimously by roll call.

### **ADJOURNMENT**

Chair Torres announced the next HESAA Board meeting will be held on Wednesday, April 28, 2010 at 10:00 am. A motion to adjourn was made by Wilma Harris and seconded by Julio Marenco.

The meeting adjourned at 3:00 pm.