



Audit Report



OIG-11-066

SAFETY AND SOUNDNESS: Material Loss Review of Guaranty Bank

April 29, 2011

Office of
Inspector General

Department of the Treasury

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Abbreviations

ARM	adjustable rate mortgage
C&D order	cease and desist order
FDIC	Federal Deposit Insurance Corporation
FHLB	Federal Home Loan Bank
Guaranty	Guaranty Bank
MBS	mortgage-backed security
MLR	material loss review
OIG	Office of Inspector General
OTS	Office of Thrift Supervision
PCA	prompt corrective action
TARP	Troubled Asset Relief Program

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*The Department of the Treasury
Office of Inspector General*

April 29, 2011

John E. Bowman, Acting Director
Office of Thrift Supervision

This report presents the results of our material loss review of the failure of Guaranty Bank (Guaranty), of Austin, Texas, and of the Office of Thrift Supervision's (OTS) supervision of the institution. OTS closed Guaranty and appointed the Federal Deposit Insurance Corporation (FDIC) receiver on August 21, 2009. This review was mandated by section 38(k) of the Federal Deposit Insurance Act because of the magnitude of Guaranty's estimated loss to the Deposit Insurance Fund.¹ As of March 31, 2011, FDIC estimated the loss at \$1.3 billion. At that time, FDIC also estimated that Guaranty's failure would result in a loss of \$86.3 million to its Transaction Account Guarantee Program.

Our objectives were to determine the cause of Guaranty's failure; assess OTS's supervision of Guaranty, including implementation of the prompt corrective action (PCA) provisions of section 38; and make recommendations for preventing such a loss in the future. To accomplish these objectives, we reviewed the supervisory files and interviewed officials at OTS and FDIC. We conducted our fieldwork from October 2009 through March 2010. Appendix 1 contains a more detailed description of our review objectives, scope, and methodology. Appendix 2 contains background information on Guaranty's history and OTS's assessment fees and examination hours. Certain terms that are underlined when first used in this report, are defined in, *Safety and Soundness: Material Loss Review Glossary*, OIG-11-065 (April 11, 2011). That document is available on the Treasury Office of Inspector General's (OIG) website at

¹ At the time of Guaranty's failure, section 38(k) defined a loss as material if it exceeded the greater of \$25 million or 2 percent of the institution's total assets. Effective July 21, 2010, section 38(k) defines a loss as material if it exceeds \$200 million for calendar years 2010 and 2011, \$150 million for calendar years 2012 and 2013, and \$50 million for calendar years 2014 and thereafter (with a provision that the threshold can be raised temporarily to \$75 million if certain conditions are met).

<http://www.treasury.gov/about/organizational-structure/ig/Pages/by-date-2011.aspx>.

In brief, Guaranty failed primarily because of losses in its nonagency mortgage-backed security (MBS) portfolio. That portfolio consisted of a high concentration of California option adjustable rate mortgages (ARM). Guaranty's condition rapidly worsened in 2008 with the onset of the nation's housing crisis.

With respect to its supervision of Guaranty, OTS failed to recognize the risks associated with the thrift's investment strategy until 2008, primarily because the nonagency MBSs that Guaranty bought were graded AAA by credit rating agencies.² From 2004 through 2007, both the thrift and OTS relied on the AAA ratings and considered the risk of purchasing AAA-rated nonagency MBSs to be minimal. As losses associated with the nonagency MBSs mounted, OTS started taking enforcement actions in 2008 and issued a formal cease and desist (C&D) order in April 2009. In August 2009, OTS took the required PCA actions in a timely manner as Guaranty's reported capital levels fell below adequately capitalized. However, these actions were unable to save the thrift.

In accordance with its policy, OTS conducted an internal failed bank review of Guaranty and similarly concluded that the thrift's failure resulted primarily from the deterioration in its nonagency MBS portfolio.

We are not making any new recommendation in this report, but are reaffirming two recommendations made in our previous material loss reviews (MLR) of OTS-regulated thrifts, where we identified similar causes of failure and made similar findings regarding OTS's supervision. In a written response, OTS stated that it has implemented actions for the recommendations in prior OIG MLR reports and internally prepared assessments of other thrift failures. OTS's response is provided as appendix 3.

² Guaranty used Nationally Recognized Statistical Rating Organizations required to be registered with the Securities and Exchange Commission, such as Moody's Investment Service, Standard & Poor's Rating Services, and Fitch, Inc.

Causes of Guaranty's Failure

Guaranty failed because of large losses and significant levels of criticized assets in its nonagency MBSs with underlying assets concentrated in California and primarily consisting of option ARMs. As of September 2008, Guaranty sustained a \$1.2 billion loss in value on its \$3.5 billion nonagency MBS portfolio. At the time, criticized assets were \$3 billion. Because of its losses, Guaranty was unable to raise sufficient capital, could not obtain (though conditionally approved for) Troubled Asset Relief Program (TARP) funding, and had Federal Home Loan Bank (FHLB) funds restricted.

Guaranty began investing in AAA-rated, nonagency MBSs in 2004 and ceased its residential lending operation in 2006. This strategy proved to be unsafe and unsound when the severe downturn in the real estate market began in mid-2007 and the ensuing financial crisis detrimentally affected the credit markets during 2008.

Guaranty made its last purchase of AAA-rated, nonagency MBSs, for approximately \$1.1 billion, in the third quarter of 2007, when there was clear evidence that the credit and real estate markets were starting to deteriorate. At this time, the underlying collateral for the nonagency MBSs was heavily concentrated (over 60 percent) in California and consisted largely of option ARMs. As of December 31, 2008, over 80 percent of the loans in Guaranty's nonagency MBS loan portfolio were option ARMs.

Our review of board of director minutes prior to 2009 found no instance where a board member voiced an objection about the thrift's nonagency MBS investments or raised concerns about the return on assets and equity. In fact, we did not find any significant discussion about the risks associated with the concentrations of the nonagency MBSs in California option ARMs.

Nonagency MBSs from California accounted for approximately \$2 billion in September 2008, nearly 5 times the concentration risk threshold. OTS's guidance states that examiners should be aware of possible concentration risk and include in the report of examination (ROE) any concentrations that present a supervisory concern, such as those that exceed 25 percent of core capital plus

ALLL.³ In its 2008 report of examination, OTS stated that the thrift failed to include the nonagency MBSs in its aggregate California exposure, which was particularly critical from a concentration and overall credit quality perspective. Although Guaranty had a concentration-reporting system in place, it did not have an enterprise-wide approach or management strategy to proactively manage and mitigate its concentration risk.

In addition to the economic downturn in California, many of the loans within the nonagency MBS portfolio came from two large financial institutions, Washington Mutual Bank (WaMu) and Countrywide Financial Corporation, that, we now know, originated a significant number of poorly underwritten loans. The loan origination practices by WaMu were costly to the Deposit Insurance Fund in a broader sense, as demonstrated by the failure of Guaranty which invested heavily in WaMu MBSs.⁴

Guaranty's criticized assets (consisting of adversely classified assets and special mention assets) began to rapidly increase in 2007, principally from the nonagency MBS losses. From 2006 to 2007, classified assets increased by over 800 percent, from \$39 million to \$369 million, or from a little over 3 percent to 28 percent of core capital plus ALLL. By September 2008, criticized assets totaled \$3 billion, representing 186 percent of core capital plus ALLL.

In 2009, Guaranty could not raise capital. Guaranty was approved by the Department of the Treasury for \$428 million in TARP funds on January 6, 2009, with the condition that the thrift obtain \$400 million in private capital and convert \$237 million in bank subordinated debt to equity. Private investors, however, did not provide the required capital and TARP funds were ultimately denied. In addition, Guaranty had limited access to FHLB advances

³ OTS Examination Handbook, Overview: Lending Operations and Portfolio Risk Management, Section 201, p. 201.5, (June 2005).

⁴ We and the FDIC OIG performed a joint review of the causes of WaMu's failure and the federal supervision exercised over the institution. Our April 2010 report describes the high risk lending strategy by WaMu. (Treasury OIG and FDIC OIG, *Evaluation of Federal Regulatory Oversight of Washington Mutual Bank*, EVAL-10-002, April 9, 2010).

as FHLB moved Guaranty to restricted status.⁵ The thrift consequently failed.

OTS's Supervision of Guaranty

OTS did not question or impose limits on Guaranty's purchases of nonagency MBSs. OTS relied on the AAA rating of the nonagency MBS portfolio and the strength of California's real estate market. Beginning in 2008, as Guaranty's condition deteriorated, OTS responded primarily with matters requiring board attention (MRBA) and corrective action recommendations. These actions, however, were unable to save the thrift. We determined that OTS complied with PCA as Guaranty's capital level fell below adequately capitalized.

Table 1 summarizes the results of OTS's safety and soundness and limited examinations of Guaranty from 2004 until the thrift's closure in 2009, and provides the dates of OTS enforcement actions against Guaranty.⁶

Table 1. Summary of OTS's Guaranty Bank Examinations and Enforcement Actions

Examination Start Date and Type	Total assets (in billions)	Examination Results			
		CAMELS rating	No. of MRBAs	No. of recommendations/corrective actions	Enforcement actions
5/17/2004 (limited)	\$17.0	N/A	0	0	None
6/21/2004 (limited)	\$17.0	N/A	0	0	None
8/2/2004 (full-scope)	\$16.7	2/223211	5	4	C&D order issued to correct compliance management problems at Guaranty Residential Lending, a subsidiary 12/22/2004

⁵ Guaranty's FHLB advances were primarily secured by the thrift's non-agency MBSs which posed a collateral risk. On July 2, 2009, FHLB moved Guaranty to restricted lending status thereby limiting its access to FHLB advances. Institutions with restricted lending status must obtain prior approval from an FHLB senior credit officer for any new borrowings, and the institution must repay the funds within 30 days.

⁶ OTS conducted its examinations and performed offsite monitoring of Guaranty in accordance with the timeframes prescribed in the OTS Examination Handbook.

Table 1. Summary of OTS's Guaranty Bank Examinations and Enforcement Actions

Examination Start Date and Type	Total assets (in billions)	Examination Results			
		CAMELS rating	No. of MRBAs	No. of recommendations/ corrective actions	Enforcement actions
6/20/2005 (full-scope)	\$15.6	2/223211	3	3	None
7/10/2006 (full-scope)	\$17.6	2/212211	0	0	None
7/2/2007 (full-scope)	\$15.7	2/222211	4	7	None
4/7/2008 (limited)	\$16.7	3/332321	1	0	Notice of ratings downgrade Board resolution 6/16/2008
9/2/2008 (full-scope)	\$15.9	4/443432	12	12	Supervisory directive 1/21/2009
2/20/2009 (limited)	\$15.1	4/443432	0	0	Notice of ratings downgrade Notice of troubled condition 2/20/2009 C&D order 4/6/2009
4/27/2009 (limited)	\$14.4	N/A	0	0	C&D order remains in effect
5/4/2009 (limited)	\$15.1	5/555555	0	0	C&D order remains in effect
5/5/2009 (limited)	\$15.1	5/555543	0	0	Notice of ratings downgrade Supervisory directives 5/19/2009, 5/27/2009, 6/18/2009, 7/10/2009 Notice of objection to capital plan 6/9/2009 PCA notice 7/10/2009
7/15/2009 (limited)	\$14.4	5/555555	0	0	Notice of ratings downgrade PCA directive issued 8/19/2009

Source: OIG analysis of OTS data.

OTS Did Not Question Guaranty's Overreliance on Credit Ratings to Assess Its Nonagency MBS Portfolio Risk

Beginning in 2004, Guaranty changed its business strategy and increased its purchases of AAA-rated, nonagency MBSs. OTS's capital markets examiners reported no items of concern in 2005 and 2006 with the nonagency MBS portfolio or with management's reporting on it.⁷ OTS continued to report in 2007 that credit risk with Guaranty's nonagency MBS portfolio was minimal. In an interview, OTS capital markets examiners told us that they trusted the ratings of these securities as assigned by the ratings agencies.

Until the deterioration of what were previously AAA-rated nonagency MBSs caused thrifts to experience portfolio losses, OTS guidance had given considerable weight to the ratings assigned by ratings agencies.⁸ Upon observing the losses Guaranty and other thrifts experienced in their investment portfolios, OTS updated its examination handbook in January 2010 to instruct examiners on the need to better review thrift investment decisions and ensure that thrifts do the necessary due diligence when buying securities. OTS said in its 2010 guidance that neither associations nor examiners should rely solely on ratings when assessing the credit risk of investment securities.

We believe that it is too soon to tell whether this updated guidance is effective. Its success at preventing or mitigating conditions such as those that led to Guaranty's failure and the resulting loss to the Deposit Insurance Fund depends on its consistent and faithful implementation by examiners and assertive regulatory intervention, in both good times and bad, when unsound and unsafe practices are found.

⁷ OTS's capital markets examiners assess investment portfolio strategy, policies, practices, position, and risk, as carried out in individual thrifts. These examiners review credit, liquidity, and operational risks resulting from an institution's participation in risk markets.

⁸ OTS Examination Handbook, Asset-Backed Securitization, Section 221, p. 221.12, (September 2003).

OTS Took Enforcement Action and PCA as Guaranty's Financial Condition Deteriorated

As Guaranty's financial condition deteriorated in 2008 and 2009, OTS responded by taking several enforcement actions. These actions included a 2008 board resolution, four supervisory directives in 2009, an April 2009 C&D order, and an August 2009 PCA directive. We concluded that OTS took the required PCA actions in a timely manner as Guaranty's reported capital levels fell below adequately capitalized. Ultimately, however, these actions were unable to save the thrift.

The purpose of PCA is to resolve problems of insured depository institutions with the least possible long-term loss to the Deposit Insurance Fund. PCA requires federal banking agencies to take certain actions when an institution's capital drops to certain levels. PCA also gives regulators flexibility to supervise institutions based on criteria other than capital levels to help reduce deposit insurance losses caused by unsafe and unsound practices.

OTS appropriately used its authority under PCA and took the following key actions related to Guaranty:

- Concurrent with the C&D order dated April 6, 2009, Guaranty notified OTS that it would not be able to meet the required capital levels. The thrift fell to adequately capitalized status for PCA purposes as of March 31, 2009. OTS directed Guaranty to file a capital strategic plan by May 21, 2009.⁹ Guaranty submitted a 2009-2010 capital strategic plan by that date. On June 9, 2009, OTS issued a notice of objection to the capital strategic plan, citing the plan's failure to meet the requirements of the C&D order and the plan's failure to demonstrate that Guaranty management could realistically address the problems facing the thrift and return it to a sound financial condition.
- On July 10, 2009, OTS issued a PCA notice to Guaranty. The PCA notice alerted the thrift that it was considered critically

⁹ The plan required that Guaranty detail the actions to be taken, with specific timeframes, to achieve either a merger with or acquisition by another federally insured depository institution or holding company, or voluntary liquidation by filing an appropriate application with the OTS in conformity with federal laws and regulations.

undercapitalized and required it to submit a capital restoration plan by July 20, 2009. The PCA notice also contained other relevant PCA restrictions.

- On July 23, 2009, Guaranty notified OTS that it did not have a viable capital restoration plan. The substantial asset write-downs resulting from the amended March 31, 2009, thrift financial report effectively shut off the possibility of applying for open bank assistance,¹⁰ and private investors would not commit to a capital infusion.
- On August 17, 2009, OTS issued a notice of intent to issue a PCA directive to Guaranty notifying the thrift of its critically undercapitalized status and failure to submit an acceptable capital restoration plan. Two days later, on August 19, 2009, OTS issued the PCA directive, and Guaranty's board consented to the appointment of a conservator or receiver. OTS closed Guaranty and appointed FDIC as receiver on August 21, 2009.

OTS's Internal Failed Bank Review

In accordance with its policy, OTS completed an internal failed bank review of Guaranty and concluded similar to our material loss review that the thrift's failure resulted primarily from the deterioration in its nonagency MBS portfolio. According to the internal review, neither OTS nor thrift management identified the high risk of the nonagency MBS. OTS examination reports also did not include corrective action recommendations to reduce concentrations until 2008. In addition, the review found that thrift management did not have a consistent business strategy.

Based on the findings in the internal failed bank review, OTS should consider establishing a rotation policy for examiners-in-charge. OTS found that one examiner was assigned as an examiner-in-charge for three consecutive examination cycles, and this same individual led the asset quality review during the 2004 and 2008 examinations. OTS stated in its internal review that rotation of examiners-in-charge provides OTS with different perspectives and strengthens supervision.

¹⁰ Open bank assistance is a resolution method used by FDIC to provide a direct loan, an assisted merger, or a purchase of assets for an insured bank that is in danger of failing.

The internal review made recommendations to OTS to (1) enhance the capital markets education of examiners and supervisory staff, (2) implement examination procedures for investments, and (3) consider an examiner-in-charge rotation policy.

Recommendations

We are not making any new recommendations in this report, but we are reaffirming recommendations made in previous MLR reports of OTS-regulated thrifts regarding concentration limits.

In our May 2010 MLR report on Peoples Community Bank,¹¹ we reported that the thrift failed primarily because of large concentrations in higher risk commercial real estate loans that resulted in large loan losses that led to insufficient capital. We recommended that OTS work with its regulatory partners to determine whether to propose legislation and/or change regulatory guidance to establish limits or other controls for concentrations that pose an unacceptable safety and soundness risk, and determine an appropriate range of examiner response to high-risk concentrations. Guaranty's nonagency MSB concentrations also resulted in significant losses that led to the failure of the thrift. Therefore, we reaffirm the recommendation made in this MLR report.

In our June 2009 MLR report on Downey Savings and Loan, FA,¹² we reported that a primary cause of the thrift's failure was its high concentrations in single-family residential loans which included concentrations in option ARMs, reduced documentation loans, subprime loans, and loans with layered risk. Also in June 2009, in our MLR report for PFF Bank and Trust,¹³ we reported that a primary cause of failure was its high concentration in construction and land loans and related credit losses. In these two reports, we recommended that OTS direct examiners to closely review and

¹¹ *Safety and Soundness: Material Loss Review of Peoples Community Bank*, OIG-10-040 (May 27, 2010). The review of Peoples Community Bank was performed by Mayer Hoffman McCann P.C., an independent certified public accounting firm, under the supervision of OIG.

¹² *Safety and Soundness: Material Loss Review of Downey Savings and Loan, FA*, OIG-09-039 (June 15, 2009).

¹³ *Safety and Soundness: Material Loss Review of PFF Bank and Trust*, OIG-09-038 (June 12, 2009).

monitor thrifts that refuse to establish appropriate limits for concentrations that pose significant risk and pursue corrective action when concentration limits are not reasonable. We also recommended in the Downey Savings and Loan MLR report that OTS assess the need for more guidance for examiners on determining materiality of concentrations and determining appropriate examiner response to high-risk concentrations. The failure of Guaranty was another case in which a thrift failed primarily because of concentrations in its portfolio that warranted a strong supervisory response by OTS. Therefore, we also reaffirm the recommendations made in these two MLR reports.

We also note that OTS updated its examination handbook in January 2010 to instruct examiners on the need to better review thrift investment decisions and ensure that thrifts do the necessary due diligence when buying securities. In this regard, OTS guidance cautions both thrifts and examiners not to rely solely on credit rating agencies when assessing the credit risk of investment securities. As stated earlier, the effectiveness of this new guidance depends on its consistent and faithful implementation by examiners and assertive regulatory intervention when unsound and unsafe practices are found.

With respect to the OTS internal failed bank review recommendation that OTS consider a rotation policy for examiners-in-charge, we believe that is a prudent action. However, given that pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the functions of OTS are to be transferred to other federal banking agencies in July 2011, we are not making a specific recommendation to OTS regarding an examiner-in-charge rotation policy in this report.

* * * * *

We appreciate the cooperation and courtesies extended to our staff during the audit. If you wish to discuss the report, you may contact me at (617) 223-8640 or Sharon Torosian, Audit Manager, at (617) 223-8642. Major contributors to this report are listed in appendix 4.

/s/
Donald P. Benson
Audit Director

We conducted this material loss review of Guaranty Bank (Guaranty), of Austin, Texas, in response to our mandate under section 38(k) of the Federal Deposit Insurance Act.¹⁴ This section provides that if the Deposit Insurance Fund incurs a material loss with respect to an insured depository institution, the inspector general for the appropriate federal banking agency is to prepare a report to the agency that

- ascertains why the institution's problems resulted in a material loss to the insurance fund;
- reviews the agency's supervision of the institution, including its implementation of the prompt corrective action provisions of section 38; and
- makes recommendations for preventing any such loss in the future.

At the time of Guaranty's failure on August 21, 2009, section 38(k) defined a loss as material if it exceeds the greater of \$25 million or 2 percent of the institution's total assets. We initiated a material loss review of Guaranty based on the loss estimate by the Federal Deposit Insurance Corporation (FDIC). As of March 31, 2011, FDIC estimated that the loss to the Deposit Insurance Fund from Guaranty's failure would be \$1.3 billion.¹⁵

Our objectives were to determine the causes of Guaranty's failure and assess the Office of Thrift Supervision's (OTS) supervision of the thrift. To accomplish our review, we conducted fieldwork at OTS's headquarters in Washington, D.C.; OTS's Western Region office in Irving, Texas; Guaranty's former administrative offices in Dallas, Texas; and FDIC's Division of Resolutions and Receiverships in Dallas, Texas. We also interviewed officials from FDIC's Division of Supervision and Consumer Protection in Austin and Dallas, Texas. We conducted our fieldwork from October 2009 through March 2010.

¹⁴ 12 U.S.C. § 1831o(k).

¹⁵ The original loss estimate was \$3 billion at closing. FDIC decreased this amount to \$1.3 billion as of March 31, 2011, based on revised estimates.

To assess the adequacy of OTS's supervision of Guaranty, we performed the following work:

- We reviewed OTS's supervisory files and records for Guaranty from 2004 through 2009. We analyzed examination reports, supporting workpapers, and related supervisory and enforcement correspondence. We performed these analyses to gain an understanding of the problems identified, the approach and methodology OTS used to assess the thrift's condition, and the regulatory action OTS used to compel thrift management to address deficient conditions.
- We interviewed and discussed various aspects of the supervision of Guaranty with OTS officials and examiners to obtain their perspectives on the thrift's condition and the scope of the examinations.
- We also interviewed FDIC officials who were responsible for monitoring Guaranty for federal deposit insurance purposes.
- We interviewed personnel from FDIC's Division of Resolutions and Receiverships who were involved in the receivership process, which was conducted after Guaranty's closure and appointment of a receiver.
- We assessed OTS's actions based on its internal guidance and requirements of the Federal Deposit Insurance Act. (12 U.S.C. § 1811 et seq.).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

History of Guaranty

Guaranty Bank (Guaranty), headquartered in Austin, Texas, was a federally chartered savings bank that began operations in 1988. Guaranty's origins date back to 1938, when the original charter was approved for Guaranty Building and Loan in Galveston, Texas. In late 1988, Temple-Inland, Inc. (Temple-Inland), formed Guaranty by acquiring three institutions, including what was then Guaranty Federal Savings and Loan Association. Guaranty became a federally chartered savings and loan association after acquiring several failed thrifts and receiving government assistance.

For the next two decades Guaranty grew, making more than 30 acquisitions and entering into the California market in the late 1990s. Starting in 1988, Guaranty's primary business lines were single-family mortgage, single-family construction, commercial real estate, and commercial secured lending.

In 2004, Guaranty began to change its business strategy by increasing purchases of AAA-rated, nonagency mortgage-backed securities (MBS). The change of strategy also included plans to restructure Guaranty's mortgage banking subsidiary, Guaranty Residential Lending, Inc. (GRL), by closing many of the retail loan origination offices and selling the third-party mortgage servicing portfolio. In April 2005, the mortgage origination business of GRL was transferred to the thrift; by January 2006, Guaranty ceased mortgage lending operations, ending the thrift's residential mortgage origination business. Guaranty continued expanding its purchases of nonagency MBSs into 2007 to satisfy the qualified thrift lending requirements, while developing significant concentrations and risk exposure in California.

Under pressure from a major shareholder, Temple-Inland announced in February 2007 that it would spin off Guaranty as a stand-alone unit, rather than operating it as a subsidiary. Guaranty's spin-off was completed in December 2007 when Guaranty Financial Group, Inc., became the new holding company for Guaranty. This spin-off resulted in the loss of capital support from Temple-Inland.

Guaranty was deemed critically undercapitalized in July 2009. Because of Guaranty’s continuing unsafe and unsound condition and its poor prospects for raising new capital, the Office of Thrift Supervision (OTS) appointed the Federal Deposit Insurance Corporation as receiver for Guaranty on August 21, 2009. At the time of its failure, Guaranty had 162 branch offices in Texas and California and over \$14 billion in total assets.

OTS Assessments Paid by Guaranty

OTS funds its operations in part through semiannual assessments on thrifts. OTS determines each institution’s assessment by adding together three components reflecting the size, condition, and complexity of an institution. OTS computes the size component by multiplying an institution’s total assets as reported on its thrift financial report by the applicable assessment rate. The condition component is a percentage of the size component and is imposed on institutions that have a 3, 4, or 5 CAMELS composite rating. OTS imposes a complexity component if (1) a thrift administers more than \$1 billion in trust assets; (2) the outstanding balance of assets fully or partially covered by recourse obligations or direct credit substitutes exceeds \$1 billion; or (3) the thrift services over \$1 billion of loans for others. OTS calculates the complexity component by multiplying set rates by the amounts by which an association exceeds each threshold. Table 2 shows the assessments that Guaranty paid from 2004 through 2009.

Table 2: Assessments Paid by Guaranty to OTS, 2004–2009

Billing Period	Exam Rating	Amount Paid
1/1/2004–6/30/2004	2	\$1,230,887
7/1/2004–12/31/2004	2	1,209,923
1/1/2005–6/30/2005	2	1,216,144
7/1/2005–12/31/2005	2	1,069,377
1/1/2006–6/30/2006	2	1,163,320
7/1/2006–12/31/2006	2	1,220,076
1/1/2007–6/30/2007	2	1,176,012
7/1/2007–12/31/2007	2	1,138,591
1/1/2008–6/30/2008	2	1,218,736
7/1/2008–12/31/2008	3	1,810,841
1/1/2009–6/30/2009	3	1,859,475
7/1/2009–12/31/2009	5	2,213,640

Source: OTS Electronic Continuing Examination Folder system.

Number of OTS Staff Hours Spent Examining Guaranty

Table 3 shows the number of OTS staff hours spent examining Guaranty from 2004 through 2009.

Table 3: Number of OTS Hours Spent Examining Guaranty, 2004–2009

Examination Start Date	Exam Type	Number of Examination Hours
5/17/2004	Limited	228
6/21/2004	Limited	177
8/2/2004	Full	2,980
6/20/2005	Full	3,357
2/6/2006	Limited	274
7/10/2006	Full	1,920
4/9/2007	Limited	291
7/2/2007	Full	2,274
10/15/2007	Limited	412
4/7/2008	Limited	437
9/2/2008	Full	2,532
5/4/2009	Limited	1,055
7/15/2009	Limited	6

Source: OTS Electronic Continuing Examination Folder system.



Office of Thrift Supervision
Department of the Treasury

Thomas A. Barnes
Deputy Director, Examinations, Supervision, and Consumer Protection

1700 G Street, N.W., Washington, DC 20552 • (202) 906-5650

April 19, 2011

MEMORANDUM FOR: Donald P. Benson
Audit Director
Office of Inspector General
U.S. Department of the Treasury

FROM: Thomas A. Barnes /s/
Deputy Director

SUBJECT: Draft Audit Report on the Material Loss Review (MLR) of
Guaranty Bank

Thank you for the opportunity to comment on your draft audit report entitled "Material Loss Review of Guaranty Bank." The report focuses on the causes of the failure of Guaranty Bank (Guaranty) and oversight responsibility of the Office of Thrift Supervision for Guaranty.

The Inspector General's report for Guaranty contains no new recommendations but reaffirms recommendations made in previous MLR reports of OTS-regulated thrifts regarding concentration limits.

OTS has been responsive to prior Office of Inspector General (OIG) MLR reports and internally prepared assessments of other thrift failures, and has implemented actions for the recommendations in the prior reports.

Thank you for the opportunity to review and respond to your draft report. We appreciate the professionalism and courtesies provided by the staff of the OIG.

Boston Audit Office

Sharon Torosian, Audit Manager
Timothy Cargill, Auditor-in-Charge
Jeanne DeGagne, Auditor-in-Charge
Kaytlin Kovach, Auditor

Washington, D.C.

Katherine Johnson, Referencer

Department of the Treasury

Deputy Secretary
Office of Strategic Planning and Performance Management
Office of Accounting and Internal Control

Office of Thrift Supervision

Acting Director
Liaison Officer

Office of Management and Budget

OIG Budget Examiner

Federal Deposit Insurance Corporation

Chairman
Inspector General

U. S. Senate

Chairman and Ranking Member
Committee on Banking, Housing, and Urban Affairs

Chairman and Ranking Member
Committee on Finance

U. S. House of Representatives

Chairman and Ranking Member
Committee on Financial Services

U. S. Government Accountability Office

Comptroller General of the United States