

Timothy Geithner /NY/FRS

08/19/2008 12:55 PM

To William Rutledge/NY/FRS@FRS

cc Arthur Angulo/NY/FRS@FRS, Michael Schussler/NY/FRS@FRS, Thomas Baxter/NY/FRS@FRS, Terrence Checki/NY/FRS@FRS

bcc

Subject Re: 23A 

History:  This message has been replied to.

Thanks, Bill.
William Rutledge

----- Original Message -----

From: William Rutledge

Sent: 08/19/2008 11:20 AM EDT

To: Timothy Geithner

Cc: Arthur Angulo; Michael Schussler; Thomas Baxter; Terrence Checki

Subject: Re: 23A

Rodge called me after this AM's meeting with the FDIC, indicating Lehman "had done an audible" after the reaction they had gotten on the phone Monday PM from the FDIC.

Specifically, Lehman put on the table what I had been wondering about for some time --- that is, integrating the spin-off option it has been discussing with Terry et al with the 23A request. Lehman told the FDIC that it would be willing to make the 23A request contingent on successfully doing a spin-off (presumably addressing some of the FDIC concerns with the strength of the parent company), and modifying the 23A request.

Rodge described the following package:

A. Spin-off of all CRE, largely seller financed, substantial equity component (some from Lehman, some external such as, for example, from potentially selling pieces of Neuberger Berman);

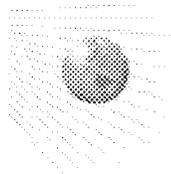
B. Dropping of CRE from the set of assets going to the ILC; assets going over would be about half of previous proposal (\$8.5 billion vs. \$17.5 billion) as would the amount of capital going over (\$2 billion vs. \$4 billion). Going to ILC would be corporates and plain vanilla derivatives.

New term sheet is being prepared. Rodge thought he got a "less negative reaction" from the FDIC than they had yesterday.

Are not asking us to consider the ILC membership issue now; he suggested that FRS membership could well be pursued in some form later.

I will talk with b/g staff and FDIC on this new proposal.

William Rutledge/NY/FRS



William Rutledge /NY/FRS

08/18/2008 05:08 PM

To timothy.geithner@ny.frb.org

cc Arthur Angulo/NY/FRS@FRS, Thomas Baxter/NY/FRS@FRS, Michael Schussler/NY/FRS@FRS

Subject Re: 23A 

I spoke with each of Chris Spoth and Rodge Cohen today ---- Rodge did try to get Sheila involved in a meeting, but Chris told me she is out of the office through Labor Day. Accordingly, Rodge, Don Toomey of S&C, Ian Lowett, and PaoloTonnucci will be meeting in DC tomorrow in all probability with just Chris and other FDIC staff, to explain in more detail the objectives of the reorganization, its importance to Lehman etc. --- points that Chris would share with Sheila.

Judging from Chris's comments, I doubt very much that the meeting will get very far --- he is still saying that the threshold issue of the overall organization being weak makes the proposal inconsistent with past precedent, inconsistent with 23A, etc. I did not sense that FDIC staff will raise a lot of specific issues; Chris agreed with my comment that Lehman has been responsive to the specific issues the FRS raised.

The meeting is at 9 tomorrow and each of Rodge and Chris have said they would update me on how it goes. Rodge suggested that depending on how the meeting goes (and he is very pessimistic) he may put on the table the possibility of having the ILC seek FRS membership (which if pursued and approved would make the FRS not the FDIC the principal Federal supervisor of the ILC, but not of the consolidated organization as the ILC would not become a BHC Act "bank"), which he recognizes from a past conversation with Scott respecting a different client, would raise its own issues.

So I should know more after the meeting tomorrow. I have a call into our lawyers to begin thinking about the ILC membership issue

Timothy Geithner/NY/FRS

Timothy Geithner /NY/FRS

08/18/2008 09:15 AM

To William Rutledge/NY/FRS@FRS

cc Arthur Angulo/NY/FRS@FRS, Thomas Baxter/NY/FRS@FRS

Subject Re: 23A

That wld be great. Thanks.
William Rutledge

----- Original Message -----

From: William Rutledge
Sent: 08/18/2008 08:41 AM EDT
To: Timothy Geithner
Cc: Arthur Angulo; Thomas Baxter
Subject: Re: 23A

About as expected.

On August 4, with Deborah and a b/g lawyer on the line, I walked my FDIC supervision contact (Chris Spoth) through the issues we had raised with Lehman and how they had addressed them. I understand that Lehman submitted a term sheet to the FDIC later that week and had a conference call with the FDIC several days later.

HRC and one of his colleagues called a couple of times last week --- sense they conveyed was that the FDIC senior staff people reacted with (expected) concern about blessing the Lehman transaction. Rodge's call was to get my sense of whether they should arrange a meeting with the senior staff people or go to Bair (directly or through HP). While Rodge had some concern about going over the staff people's heads, I told him on the qt that I thought the staff would not likely be open on their own to what they saw as a pathbreaking proposal --- my understanding was that Rodge was likely to arrange something with Bair. I have not heard whether any such meeting was set up.

I can call Spoth today to see how it is going ... to gauge if contact from you or someone to Bair would make sense at this time ...

Timothy Geithner/NY/FRS

Timothy Geithner /NY/FRS

08/18/2008 08:14 AM

To thomas.baxter@ny.frb.org, william.rutledge@ny.frb.org,
Arthur Angulo/NY/FRS@FRS

cc

Subject 23A

How's this coming with the FDIC? Anything we can do to move it along?