Outline of Five Basic Premises

1. We are experiencing the worst financial crisis since the 1930's.

2. A strong governmental presence is essential to remediate the damage to the entire U.S. economy, and beyond, that could otherwise result from the current crisis.

3. Financial institutions fail because of liquidity pressures, and liquidity pressures arise from a loss of confidence.

4. It would be irresponsible for the government not to act promptly, indeed very promptly, to extend the primary dealer access to the discount window.

5. The question of non-depository financial institution access to the discount window should be dealt with by legislation..

Outline of Principal
Statutory Provisions for
Federal Government Support

Federal Reserve Act.

- Section 13, Paragraph 2.
  - Discount window for depository institutions.
  - In wide use.
- Section 13, Paragraph 3.
  - Discount window for individuals, partnerships and corporations ("IPCs") in "unusual and exigent circumstances".
  - Used for primary dealers after Bear Stearns.
- Section 13, Paragraph 13.
  - Advances to IPCs on U.S. government and Government agency securities.
- Section 14.
  - Open market purchases from banks and corporations of U.S. government and government agency securities and bills of exchange and other instruments. (Definition of "bills of exchange").
  - Securities lending program.
- Section 10B.
  - Advances to depository institutions.
  - Specific reference to mortgages.

Federal Deposit Insurance Act

- Section 13(c).
  - Broad range of assistance options, including loans and capital injections.
  - Can be made to troubled or failed banks or purchasers of them.
- Paragraph 4 of Section 13(c).
  - Least cost resolution requirement.
  - Systemic risk exception.
- Policy support for open bank assistance in Section 143 of FDICIA.

Outline of Basic Questions Relating to
Potential Legislation Providing
Expanded Access to the Discount Window

- Who should have access?
  - Primary dealers. (What about new primary dealers?)
  - Investment banks. (Subject to a size limitation?)
  - Federal Reserve discretion based on importance to financial system.
  - All financial institutions above a certain size.
  - Federally regulated financial institutions. (Subject to a size limitation?)

- Standards for usage.
  - Term.
  - Rate.
  - Collateral.

- Should there be an additional regulatory scheme as a condition of access?
  - Difficult to articulate a persuasive argument against.

- What regulator should administer the new scheme?
  - Federal Reserve.
  - SEC.
  - New agency.

- Capital requirements.
  - Risk-based Basle requirements. (Well capitalized or perhaps super-well capitalized – at least 1% – 2% above.)
  - Leverage.

- Activities.
  - Financial holding company.
  - Grandfather.
  - No limits.
  - Safety and soundness.

- Regulation.
  - Examination.
  - Reports.
  - Specific requirements.
  - Prompt corrective action.

- Resolution of failing or failed institutions.
  - Special regime.
  - Enhanced conservatorship.