

Edgar Filing: Guaranty Financial Group Inc. - Form NT 10-Q

Guaranty Financial Group Inc.  
Form NT 10-Q  
August 17, 2009  
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**FORM 12b-25**

**NOTIFICATION OF LATE FILING**

(Check One):       Form 10-K       Form 20-F       Form 11-K       Form 10-Q       Form 10-D  
 Form N-SAR       Form N-CSR

For Period Ended:      June 30, 2009

Transition Report on Form 10-K

Transition Report on Form 20-F

Transition Report on Form 11-k

Transition Report on Form 10-Q

Transition Report on Form N-SAR

For the Transition Period Ended: \_\_\_\_\_

Nothing in this form shall be construed to imply that the Commission has verified any information contained herein.

If the notification relates to a portion of the filing checked above, identify the Item(s) to which the notification relates:

\_\_\_\_\_

**PART I**

**REGISTRANT INFORMATION**

Guaranty Financial Group Inc.

Full Name of Registrant

\_\_\_\_\_  
Former Name if Applicable

1300 MoPac Expressway South

Address of Principal Executive Office (*Street and Number*)

Austin, Texas 78746

City, State and Zip Code

**PART II**

**RULE 12b-25 (b) AND (c)**

If the subject report could not be filed without unreasonable effort or expense and the registrant seeks relief pursuant to Rule 12b-25(b), the following should be completed. (Check box if appropriate)

- (a) The reasons described in reasonable detail in Part III of this form could not be eliminated without unreasonable effort or expense;

- (b) The subject annual report, semi-annual report, transition report on Form 10-K, Form 20-F, Form 11-K, Form N-SAR or Form N-CSR, or portion thereof, will be filed on or before the fifteenth calendar day following the prescribed due date; or the subject quarterly report or transition report on Form 10-Q or subject distribution report on Form 10-D, or portion thereof will be filed on or before the fifth calendar day following the prescribed due date; and
- (c) The accountant's statement or other exhibit required by Rule 12b-25(c) has been attached if applicable.

### **PART III**

#### **NARRATIVE**

State below in reasonable detail why Forms 10-K, 20-F, 11-K, 10-Q, 10-D, N-SAR, N-CSR, or the transition report or portion thereof, could not be filed within the prescribed time period.

Guaranty Financial Group Inc. (the "Company") is filing this Notification of Late Filing on Form 12b-25 with respect to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2009 (the "Second Quarter 2009 Form 10-Q"). The Company is unable, without unreasonable effort and expense, to timely file the Second Quarter 2009 Form 10-Q because the Company has not completed its financial statements for the fiscal year ended December 31, 2008 or the quarters ended March 31, 2009 and June 30, 2009.

As previously disclosed in the Current Report on Form 8-K filed by the Company on July 23, 2009 (the "July 23 8-K"), the Company and its wholly-owned subsidiary, Guaranty Bank (the "Bank") filed an amended Thrift Financial Report ("TFR") as of and for the three months ended March 31, 2009 reflecting substantial asset write downs which resulted in the Bank having negative capital and being deemed critically undercapitalized as reflected in the TFR as of that date. Please see the July 23 8-K for a more detailed description of the TFR. As described in the July 23 8-K, the Company does not believe it is possible to raise sufficient capital to comply with the Orders to Cease and Desist described in the Company's Current Report on Form 8-K filed on April 8, 2009. Accordingly, the Company no longer believes that it will be able to continue as a going concern.

The Company continues to cooperate with the Office of Thrift Supervision (the "OTS") and the Federal Deposit Insurance Corporation ("FDIC") as they pursue alternatives for the business of the Bank. Any such transaction would not be expected to result in the receipt of any proceeds by the stockholders of the Company.

All customer deposits remain fully insured to the highest limits set by the FDIC.

### **PART IV**

#### **OTHER INFORMATION**

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(1) Name and telephone number of person to contact in regard to this notification

<u>Scott Almy</u>	<u>(214)</u>	<u>360-1932</u>
(Name)	(Area Code)	(Telephone Number)

(2) Have all other periodic reports required under Section 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 during the preceding 12 months or for such shorter period that the registrant was required to file such report(s) been filed? If the answer is no, identify report(s).

Yes  No

We have not filed our Annual Report on Form 10-K for the year ended December 31, 2008 and our Quarterly Report on Form 10-Q for the quarter ended March 31, 2009.

(3) Is it anticipated that any significant change in results of operations from the corresponding period for the last fiscal year will be reflected by the earnings statements to be included in the subject report or portion thereof?

Yes  No

The results of operations for the corresponding period for the last fiscal year were prepared assuming that the Company would continue as a going concern. The preliminary financial data reported in our Form 12b-25 filed for the year ended December 31, 2008 and our Form 12b-25 filed for the quarter ended March 31, 2009 was based on the assumption that the Company would continue as a going concern. The Company no longer believes that it will be able to continue as a going concern. Therefore, the earnings statement to be included in the subject report will be prepared based on the assumption that the Company is unable to continue as a going concern and thus it is anticipated that there will be a significant change in results of operations. The Company has not yet completed financial statements as of and for the periods ended December 31, 2008 and March 31, 2009. The Company will record substantial asset write downs in the financial statements as of and for the periods ended December 31, 2008 and March 31, 2009. Such write downs result in the Bank having negative capital ratios and being deemed critically undercapitalized.

Note: Certain matters discussed in this Form 12b-25 may constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are identified by their use of terms and phrases such as "believe," "anticipate," "could," "estimate," "likely," "intent," "may," "plan," "project," "expect," and similar expressions, including references to assumptions or our plans and goals. Readers should not place undue reliance on these forward-looking statements. These statements reflect management's views with respect to events as of the date of the forward-looking statement and are subject to risks and uncertainties. The Company's actual results or performance may differ materially from those suggested, expressed, or implied by forward-looking statements due to a wide range of factors including, but not limited to: general economic, market, or business conditions; demand for new housing; competitive actions by other companies; changes in laws or regulations and actions or restrictions of regulatory agencies; deposit attrition, customer loss, or revenue loss in the ordinary course of business; cost or difficulties related to being a stand-alone public company; the inability to realize elements of our strategic plans; changes in the interest rate environment that expand or reduce margins or adversely affect critical estimates and projected returns on investments; unfavorable changes in economic conditions affecting housing markets, credit markets, real estate values and oil and gas prices and changes in market and/or general economic conditions, either nationally or regionally, that are less favorable than expected; government intervention in the U.S. financial system; changes in the financial performance and/or condition of our borrowers; natural disasters in primary market areas that may result in prolonged business disruption or materially impair the value of collateral securing loans; assumptions and estimates underlying critical accounting policies, particularly allowance for credit losses, mortgage-backed securities valuation and impairment assessments, ability to realize deferred tax assets, and goodwill impairment assessments, which may prove to be materially incorrect or may not be borne out by subsequent events; current or future litigation, regulatory investigations, proceedings or inquiries; strategies to manage interest

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rate risk that may yield results other than those anticipated; a significant change in the rate of inflation or deflation; changes in the securities markets; the ability to complete merger, acquisition or divestiture plans; regulatory or other limitations imposed as a result of any merger, acquisition or divestiture, and the success of our business following any merger, acquisition or divestiture; the final resolutions or outcomes with respect to our contingent and other corporate liabilities related to our business and any related actions for indemnification made pursuant to the various agreements with Temple-Inland Inc. and Forestar Group Inc. (formerly Forestar Real Estate Group Inc.); the ability to maintain capital ratios acceptable to the Office of Thrift Supervision; and changes in the value of real estate securing our loans. The Company disclaims any obligation to subsequently revise or update any forward-looking statements to reflect events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events.

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Guaranty Financial Group Inc.

(Name of Registrant as Specified in Charter)

has caused this notification to be signed on its behalf by the undersigned thereunto duly authorized.

Dated: August 17, 2009

Guaranty Financial Group Inc.

By: /s/ Stephen C. Raffaele  
Name: Stephen C. Raffaele  
Title: Senior Executive Vice President,  
Chief Financial Officer