HSBC

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June 14, 2006

Office of the Comptroller of the Currency
250 E Street, SW
Attn: Public Reference Room
Mail Stop 1-5
Washington, DC 20219
Attn: Docket No. 06-06
regs.comments@occ.treas.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: No. 2006-20
regs.comments@ots.treas.gov

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Av., NW
Washington, DC 20551
Attn: Docket No. OP-1254
regscomments@federalreserve.gov

Robert E. Feldman
Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
comments@fdic.gov

Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn: File Number S7-08-06
rule-comments@sec.gov

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Re: Revised Interagency Statement on Sound Practices Regarding Elevated Risk Complex Structured Finance Activities, 71 Fed. Reg. 28326 (May 16, 2006)

Ladies and Gentlemen:

HSBC North America Holdings Inc. ("HSBC North America") appreciates the opportunity to comment on the revised Interagency Statement on Sound Practices Regarding Elevated Risk Complex Structured Finance Activities (the "Statement") issued by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission (collectively, the "Agencies"). HSBC North America is a wholly-owned subsidiary of HSBC Holdings plc ("HSBC Holdings"), and is the holding company through which HSBC Holdings conducts its operations in the United States. HSBC Holdings is the largest banking organization headquartered in the United Kingdom and is the third largest banking organization in the world by market capitalization.

As a bank holding company, HSBC North America operates various subsidiaries in the United States. Its principal banking subsidiary, HSBC Bank USA, N.A., has more than 400 branches in New York, Florida, Delaware, Pennsylvania, California, Washington, Oregon, New Jersey and Washington, D.C. Its consumer finance subsidiary, HSBC Finance Corporation, is one of the country's largest credit card issuers and offers consumer and mortgage loans to 50 million customers through offices throughout the United States. Other subsidiaries of HSBC North America, including HSBC Securities (USA) Inc., a broker-dealer registered with the Securities and Exchange Commission, engage in a broad range of permissible nonbanking activities in the United States. As financial institutions supervised by the Agencies, HSBC North America and its subsidiaries would be directly affected by the guidance provided by the Statement.

HSBC North America strongly supports the Agencies' effort to provide guidance on strengthening safeguards for the legal, reputational and other risks that may be associated with some complex structured finance transactions ("CSFTs"). Financial institutions have a continuing vital role to play in the responsible use of CSFTs and related financial products and applauds the Agencies' recognition of the important role played by CSFTs and the institutions structuring or participating in them in serving legitimate customer needs. To this end, the Statement as written provides flexibility in determining what transactions contain "elevated risk", and thus the need for heightened scrutiny and how best to apply that scrutiny in light of each institution's role in the transaction. By proposing such a risk-based framework, the Statement will allow a financial

institution to set its own standards with respect to each of the areas for which policies and controls are suggested so that it can account for the different roles and responsibilities that it assumes and the types of CSFTs in which it is involved. This approach acknowledges that the degree of exposure of these institutions to the risks posed by CSFTs depends significantly on numerous variables, such as the type of role played by the institution, the type of transaction contemplated by the customer, and the jurisdictions in which both operate.

While many industry concerns raised by the 2004 version of the Statement have been successfully addressed in the new version, a few issues in particular remain that merit further mention here. First, as noted by many commenters, the original Statement appeared to create a new framework that would impose liability on financial institutions for the failures of customers or other participants in CSFTs. The Statement now contains language that seeks to clarify that it creates no duty or any other ground on which to impose liability on a financial institution or its directors and officers either for a failure to follow the Statement's guidance or for the actions of any customer or other party to a CSFT, beyond those that exist under current law. Moreover, language that would have put a financial institution in the position of guarantor of its customer's behavior appears to have been removed. We applaud the Agencies for reframing the Statement in such a way that it encourages robust processes and risk controls, while not putting financial institutions at additional legal risk for engaging in legitimate business transactions.

At the same time, however, certain text of the Statement is drafted in such a way as to imply certain new duties. For example, after the recommendation that "a financial institution should conduct the level and amount of due diligence for an elevated risk CSFT that is commensurate with the level of risks identified," the Statement notes that a financial institution involved in structuring a transaction "need[s] to exercise a higher degree of care in conducting its due diligence" than those acting as a counterparty. (71 Fed. Reg. at 28,333). We would recommend that, consistent with the Statement's risk-based approach, more appropriate language would be to the effect that "the scope of an institution's due diligence should be commensurate with the scope of the institution's involvement in the transaction, as legal and reputational risks to the institution may increase as the scope of its involvement increases." The Statement also requires institutions to "create and collect sufficient documentation to allow the institution to . . . confirm that customers have received any required disclosures concerning the transaction." It is not clear from this text what disclosures are being referred to, or why this is required of all institutions in all transactions. (71 Fed. Reg. 28,334). We would recommend that this text be deleted, or at least replaced with language to the effect that documentation be retained that establishes an institution's compliance with its own obligations arising from the transaction. Finally, the "Due Diligence" and "Approval" sections appropriately require that personnel with appropriate skills

and experience be in place to review and approve (or deny) a transaction, while the "Training" section requires that relevant personnel be identified "who may need specialized training regarding CSFTs to be able to effectively perform their oversight and review responsibilities." However, we would suggest that the additional vague requirement that "personnel should be trained to identify and properly handle elevated risk CSFTs that may result in a violation of law" is superfluous and should be deleted.

As a final note, we are also concerned that, after establishing policies and procedures to identify elevated risk CSFTs, addressing and controlling the risk posed by those CSFTs, and finally, seeking appropriate senior management review of those elevated risk CSFTs, the Statement requires an institution to maintain documentation that reflects management's approval or disapproval of such transactions, any conditions to such approval, and the reasons for such action. 71 Fed. Reg. at 28,334. In our view requiring an institution to generate and maintain documentation of the reasons for its approval or disapproval of elevated risk CSFTs is burdensome, unnecessary, and inconsistent with industry operating procedure. This requirement could compel institutions to prepare and maintain extensive documentation and analysis not otherwise called for by its internal policies and procedures for no reason other than to ensure that it has satisfied this new requirement. There are a myriad of reasons why management personnel may reject a transaction, and in many cases such rejection would demonstrate that an institution has effective processes and controls to identify and manage risk. Imposing a new requirement that the thought process underlying these rejections be documented would not enhance an institution's risk management and could potentially expose an institution to the additional risk of having to produce otherwise privileged documents and information. Consistent with the principles-based approach reflected throughout the Statement, we strongly recommend that the requirement to document the reasoning behind approval or disapproval of an elevated-risk CSFT be deleted from the Statement and instead allow the determination concerning appropriate documentation to be made by an institution's senior management based on the circumstances surrounding a particular transaction.

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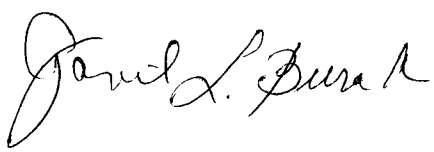
We hope that this letter is helpful to the Agencies as they begin to finalize the Statement. We would be more than happy to discuss any of the matters raised in this letter at greater length. Please do not hesitate to call or e-mail me at (212) 525-6533 or janet.l.burak@us.hsbc.com, if you have any questions about our comments.

Very truly yours,