

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made as of this 11th day of July, 2014, by, between, and among the following undersigned parties (collectively, “Parties”): the Federal Deposit Insurance Corporation as Receiver for Citizens National Bank, the Federal Deposit Insurance Corporation as Receiver for Strategic Capital Bank, and the Federal Deposit Insurance Corporation as Receiver for Colonial Bank, (collectively, “FDIC-R”), on the one hand, and Citigroup Global Markets Inc.; Citigroup Financial Products Inc.; CitiMortgage, Inc.; Citigroup Mortgage Loan Trust Inc.; Citicorp Mortgage Securities, Inc. (collectively, “Citi Entities”), on the other.¹

WHEREAS:

Prior to May 22, 2009, Strategic Capital Bank (“Strategic”) was a depository institution organized and existing under the laws of Illinois. On May 22, 2009, Strategic was closed by the Illinois Department of Financial and Professional Regulation, Division of Banking and, pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the Federal Deposit Insurance Corporation as Receiver succeeded to all rights, titles, powers and privileges of Strategic, including those with respect to its assets.

Prior to May 22, 2009, Citizens National Bank (“Citizens”) was a depository institution organized and existing under the laws of the United States. On May 22, 2009, Citizens was closed by the Office of the Comptroller of the Currency and, pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the Federal Deposit Insurance Corporation as Receiver succeeded to all rights, titles, powers and privileges of Citizens, including those with respect to its assets.

Prior to August 14, 2009, Colonial Bank (“Colonial”) was a depository institution organized and existing under the laws of Alabama. On August 14, 2009, Colonial was closed by the Alabama State Banking Department and, pursuant to 12 U.S.C. § 1821(c), the Federal Deposit Insurance Corporation was appointed Receiver. In accordance with 12 U.S.C. § 1821(d), the Federal Deposit Insurance Corporation as Receiver succeeded to all rights, titles, powers and privileges of Colonial, including those with respect to its assets.

Among the assets of the Failed Banks to which the FDIC-R succeeded were any and all of the Failed Banks’ claims, demands, and causes of action arising from any person’s action or inaction related to any loss incurred by the Failed Banks.

¹ Citizens National Bank, Strategic Capital Bank, and Colonial Bank will collectively be referred to herein as the “Failed Banks.”

The FDIC-R has commenced eight residential mortgage-backed securities (“RMBS”) lawsuits against Citi Entities² (“Actions”). A list of the RMBS certificates in the Actions is set forth in Exhibit A.

The Citi Entities deny all liability with respect to all claims that the FDIC-R has brought or threatened to bring on behalf of the Failed Banks.

The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of further litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the Parties agree, each with the other, as follows:

- 1. Payment.** As an essential covenant and condition to this Agreement, and as consideration for the releases and dismissals contained herein, the Citi Entities shall pay or cause to be paid TWO HUNDRED AND EIGHT MILLION, TWO HUNDRED-FIFTY THOUSAND DOLLARS (\$208,250,000.00) to the FDIC-R (“Settlement Funds”) in accordance with the terms of the agreement among the United States Department of Justice (“DOJ”), the Citi Entities and certain States (the “DOJ Agreement”). In the event that the Settlement Funds are not delivered to the DOJ in accordance with the terms of the DOJ Agreement, interest shall accrue on all unpaid amounts at the rate of 5 percent per annum from the date the payment was due under the terms of the DOJ Agreement until the date the DOJ receives payment. Without waiving any other rights that the FDIC-R may have, in the event that all Settlement Funds (including all accrued interest) are not received by the DOJ within a reasonable time after the receipt of written payment processing instructions by the DOJ, then the FDIC-R, in its sole discretion, shall have the right to declare this Agreement null and void, shall have the right to extend this Agreement for any period of time until it receives all Settlement Funds (including all accrued interest), and/or shall have the right to enforce this Agreement, in which event the Citi Entities agree to jurisdiction in the United States District Court for the Southern District of New York. The prevailing party in any such litigation agrees to pay the other’s reasonable attorney’s fees. Any decision by the FDIC-R to extend the terms of this Agreement or to accept a portion of the Settlement Funds shall not prejudice its

² The lawsuits are: *FDIC as Receiver for Citizens National Bank and as Receiver for Strategic Capital Bank v. Bear Stearns Asset Backed Securities I LLC*, No. 12 Civ. 4000 (S.D.N.Y.); *FDIC as Receiver for Colonial Bank v. Chase Mortgage Fin. Corp.*, No. 12 Civ. 6166 (S.D.N.Y.); *FDIC as Receiver for Colonial Bank v. Banc of America Funding Corp.*, No. 03-CV-2012-901035.000 (Cir. Ct. of Montgomery County, Ala.); *FDIC as Receiver for Colonial Bank v. Citigroup Mortgage Loan Trust, Inc.*, No. 03-CV-2012-901036.000 (Cir. Ct. of Montgomery County, Ala.); *FDIC as Receiver for Colonial Bank v. Countrywide Securities Corp.*, No. 12-cv-08317 (C.D. Cal.); *FDIC as Receiver for Strategic Capital Bank v. Countrywide Fin. Corp.*, No. 2:12-cv-04354-MRP (C.D. Cal.), *on appeal*, No. 12-57299 (9th Cir.); *FDIC as Receiver for Strategic Capital Bank v. J.P. Morgan Securities LLC*, No. 12-cv-8415-MRP (C.D. Cal.), *on appeal*, No. 13-56781 (9th Cir.); and *FDIC as Receiver for Colonial Bank v. Countrywide Securities Corp.*, No. 12-cv-06911-MRP (C.D. Cal.), *on appeal*, No. 13-56783 (9th Cir.).

rights to declare this Agreement null and void at any time prior to receipt by the DOJ of all Settlement Funds (including all accrued interest) or to enforce the terms of this Settlement Agreement; provided however, that in the event the FDIC-R declares this Agreement null and void, the FDIC-R will return to the Citi Entities all amounts paid to it under this Agreement.

2. **FDIC-R Releases.** Upon receipt of the Settlement Funds by the DOJ, the FDIC-R hereby releases the Citi Entities and all of their parents, subsidiaries, and affiliates, together with each of their shareholders, officers, directors, employees, attorneys and other agents, but solely in their capacities as such, (collectively, the "Citi Entities Releasees") from any and all claims, demands, actions, causes of action, and liabilities of any type, whether known or unknown, whether disclosed or undisclosed, whether accrued or unaccrued, whether fixed or contingent, whether direct or indirect, and whether at law or in equity, based upon or relating to any Failed Bank's purchase, ownership, or sale of the RMBS certificates identified on Exhibit A, including but not limited to the facts, transactions, representations, or omissions alleged in the complaints and amended complaints filed in the Actions. The FDIC-R does not release its claims against the non-Citi Entities defendants in the Actions.
3. **Dismissal of Citi Entities.** Upon receipt of the Settlement Funds by the DOJ, the FDIC-R shall move to dismiss the Citi Entities from the Actions with prejudice. The FDIC-R and the Citi Entities agree to enter stipulations providing that the dismissals in the Actions shall be with prejudice, with each party to bear its own costs.
4. **Citi Entities Releases.** Upon dismissal of the Actions with prejudice, the Citi Entities and their respective heirs, executors, administrators, agents, representatives, successors, and assigns, shall release and discharge the FDIC-R, and its employees, officers, directors, representatives, successors, and assigns, from any and all claims, demands, actions, causes of action, and liabilities of any type, whether known or unknown, whether disclosed or undisclosed, whether accrued or unaccrued, whether fixed or contingent, whether direct or indirect, and whether at law or in equity, based upon or relating to the facts, transactions, representations, or omissions alleged in the complaints and amended complaints filed in the Actions.
5. **Release of All Indemnification Claims Against FDIC Corporate and Against FDIC as Receiver.** The Citi Entities hereby irrevocably waive any rights that they otherwise might have to seek (and in any event agree that they shall not seek) any form of indemnification, reimbursement or contribution from the FDIC in any capacity, including the FDIC in its Corporate Capacity or the FDIC in its Receiver Capacity, for any payment that is a portion of the Settlement Funds or the Amount set forth in Paragraph 1 of the DOJ Agreement or of the Consumer Relief set forth in Paragraph 2 of the DOJ Agreement, including payments to the United States, and the States (California, Delaware, Illinois, Massachusetts, and New York), made pursuant to Paragraphs 1 and 2 of the DOJ Agreement.

- 6. Release of Unknown Claims.** Each of the FDIC-R and the Citi Entities acknowledge that they have been advised by their attorneys concerning, and are familiar with, California Civil Code Section 1542 and expressly waive any and all provisions, rights, and benefits conferred by California Civil Code Section 1542 or any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to the provisions of the California Civil Code Section 1542, including that provision itself, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

The Parties acknowledge that inclusion of the provisions of this Section to this Agreement was a material and separately bargained-for element of this Agreement. The Parties further acknowledge that the releases granted herein are specific releases, not general releases.

- 7. Authority.** The FDIC-R represents that under the Federal Deposit Insurance Act, the Federal Deposit Insurance Corporation is authorized to be appointed as receiver for failed depository institutions and that it succeeded to all rights, titles, powers, and privileges of the Failed Banks, and any shareholder, member, accountholder, depositor, officer, and director of the Failed Banks with respect to each Failed Bank and the assets of that Failed Bank, including, but not limited to, the Failed Banks' claims against the Citi Entities. The FDIC-R further represents that it is empowered to sue and complain in any court of law to pursue, *inter alia*, the claims against the Citi Entities asserted in the Actions. Each Party represents that it has full authority to enter into this Agreement and that it has the full power and authority to bind such Party to each and every provision of the Agreement.
- 8. Certain FDIC Claims Not Released.** Notwithstanding the releases in Paragraph 2 above, the Federal Deposit Insurance Corporation, in any capacity, shall not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed (provided, that this provision shall not be construed as an acknowledgment that any such claims or causes of action exist or are valid):

- a. any claims or causes of action against the Citi Entities or any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note or indebtedness payable or owed by them to the Federal Deposit Insurance Corporation, any financial institutions in receivership, other financial institutions, or any other person or entity, including without limitation any claims acquired by the Federal Deposit Insurance Corporation as successor in interest to any financial institutions in receivership or any person or entity other than financial institutions in receivership, excluding for avoidance of doubt any claims expressly released in the Agreement;

- b. any claims or causes of action against the Citi Entities or any other person or entity relating in any way to the London Interbank Offered Rate;
 - c. any claims or causes of action against the Citi Entities or any other person relating in any way to the Citi Entities' performance of duties or obligations as trustee for structured finance securities, including, but not limited to residential mortgage-backed securities, purchased by any failed financial institution.
 - d. any claims or causes of action arising under a contract governing the sale, transfer, or servicing of mortgage loans or pools of mortgage loans (including, without limitation, and for the avoidance of doubt, repurchase claims, put-back claims, and any other claim under any Pooling and Servicing Agreement, Assignment and Recognition Agreement, Mortgage Loan Purchase Agreement, or other substantially similar agreement), where neither the Failed Banks nor the Federal Deposit Insurance Corporation, in any capacity, are signatories, relating to any breach or violation of any representation or warranty as to loans originated, purchased, acquired, transferred, securitized, or collateralizing the RMBS certificates identified on Exhibit A or any other securities, and that could result in an economic benefit to FDIC-R at the expense of the Citi Entities;
 - e. any claims or causes of action by the Federal Deposit Insurance Corporation in any capacity other than as Receiver for the Failed Banks; and
 - f. any claims or causes of action against any person or entity not expressly released in this Agreement.
- 9. Enforcement.** Except as otherwise expressly stated herein, nothing in the Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition, or any other administrative enforcement action which may arise by operation of law, rule, or regulation.
- 10. Actions of the United States.** Notwithstanding any other provision of this Agreement, this Agreement shall not be construed as or interpreted as waiving, or intending to waive, any claims that could be brought by the United States or any department, agency, or instrumentality thereof (other than the FDIC-R), including, but not limited to, through the United States Department of Justice or any United States Attorney's Office.
- 11. No Confidentiality.** The Citi Entities and the FDIC-R acknowledge and agree that this Agreement shall not be confidential and will be disclosed pursuant to the Federal Deposit Insurance Corporation's applicable policies, procedures, and other legal requirements.
- 12. No Admission of Liability.** The Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims and that the Agreement is not an admission or evidence of liability by any of them regarding

any claim, all of which are expressly disputed. The Parties further acknowledge that they may not base any claim of waiver or estoppel in any other matter upon the execution of the Agreement or payment of consideration described herein.

13. Representations and Acknowledgements.

- a. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the party or parties subscribed thereto upon the execution by all parties to the Agreement.
- b. Binding Effect. Each of the Parties represents and warrants that they are a party hereto or are authorized to sign this Agreement on behalf of the respective party, and that they have the full power and authority to bind such party to each and every provision of the Agreement. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, representatives, successors and assigns.
- c. Choice of Law. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of New York, without regard to conflicts of law principles.
- d. Jurisdiction. All Parties hereto submit to the personal jurisdiction of the United States District Court for the Southern District of New York, or to the Supreme Court of New York for New York County in the event that federal subject matter jurisdiction is lacking, for purposes of implementing and enforcing the settlement embodied in this Agreement.
- e. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the Parties concerning the matters set forth herein and replaces all prior negotiations and terms proposed or discussed, whether in writing or orally, about such matters. The Agreement may not be amended or modified except by another written instrument signed by the Parties.
- f. Reasonable Cooperation. The Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing or causing their agents and attorneys to do whatever is reasonably necessary to effectuate the signing, delivery, and execution of any documents necessary to perform the terms of this Agreement.
- g. Advice of Counsel. Each party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that the Agreement has been explained to that party by his or her counsel.

- h. Notices. Notices required by this Agreement shall be communicated by email and any form of overnight mail or in person to:

Federal Deposit Insurance Corporation
Attn: Assistant General Counsel -- Professional Liability & Financial Crimes
Section
3501 Fairfax Drive
Arlington, VA 22226

With a copy to:

(b)(6) _____ David J. Grais [REDACTED]
Grais & Ellsworth LLP
1211 Avenue of the Americas
New York, New York 10036

Attorneys for Plaintiffs

(b)(6) _____ Rohan Weerasinghe [REDACTED]
Citigroup Inc.
399 Park Avenue
New York, New York 10022

With a copy to:

(b)(6) _____ Brad S. Karp [REDACTED]
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019

Attorneys for the Defendants

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR STRATEGIC CAPITAL BANK

(b)(6) _____ Date: 7/11/14 BY: [REDACTED]

PRINT NAME: Patricia G. Butler

TITLE: Counsel

FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR CITIZENS NATIONAL BANK

(b)(6)

Date: 7/11/14

BY:

PRINT NAME: Patricia G. Butler

TITLE: Counsel

FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR COLONIAL BANK

(b)(6)

Date: 7/11/14

BY:

PRINT NAME: Dominic A. Arni

TITLE: Supervisory Counsel

CITIGROUP GLOBAL MARKETS INC.; CITIGROUP
FINANCIAL PRODUCTS INC.; CITIMORTGAGE, INC.;
CITIGROUP MORTGAGE LOAN TRUST INC.;
CITICORP MORTGAGE SECURITIES, INC.,

Date: _____

BY:

PRINT NAME:

TITLE:

FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR CITIZENS NATIONAL BANK

Date: _____

BY:

PRINT NAME: Patricia G. Butler

TITLE: Counsel

FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR COLONIAL BANK

Date: _____

BY:

PRINT NAME: Dominic A. Arni

TITLE: Supervisory Counsel

CITIGROUP GLOBAL MARKETS INC.; CITIGROUP
FINANCIAL PRODUCTS INC.; CITIMORTGAGE, INC.;
CITIGROUP MORTGAGE LOAN TRUST INC.;
CITICORP MORTGAGE SECURITIES, INC.,

(b)(6)

Date: 7/11/14

BY:



PRINT NAME: Rohan Weerasinghe

TITLE: General Counsel

EXHIBIT A

RALI 2006-QS8 M1
RALI 2006-QS8 M1 ¹
RALI 2007-QS5 A1
CWALT 2006-28CB A7
CWALT 2007-5CB 1A1
CWALT 2007-5CB 1A11
CMALT 2006-A6 1A4
CWALT 2007-5CB 1A4
CWALT 2006-28CB A4
CWALT 2006-28CB A14
CMALT 2007-A3 1A4
CMALT 2007-A2 1A15
CMALT 2007-A5 1A6
CMSI 2006-6 A4
FHAMS 2007-FA2 1A4
WFMBS 2007-4 A15
CMLTI 2006-AR6 1A1
CMSI 2005-8 1A6
CMSI 2006-4 1A4
CMSI 2007-6 1A4
FHAMS 2006-FA7 A4
CMLTI 2005-8 2A4A
RFMSI 2007-S6 1A4
RALI 2007-QS5 A4

¹ Purchased by Strategic and Citizens