American SECURITIZATION FORUM®

September 30, 2009

Office of the Comptroller of the Currency
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Washington, DC 20219
regs.comments@occ.treas.gov
Docket No. OCC-2009-0012

Jennifer J. Johnson
Board of Governors of the
Federal Reserve System
20th Street and Constitution Ave
Washington, DC 20551
regs.comments@federalreserve.gov
Docket No. R-1368

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th St, NW
Washington, DC 20429
comments@FDIC.gov
RIN # 3064-AD48

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
regs.comments@ots.treas.gov
Attention: OTS-2009-0015

Re: Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues - Notice of Proposed Rulemaking (September 15, 2009) (NPR)

Ladies and Gentlemen:

The American Securitization Forum (ASF) is writing to request that the agencies announce a six-month moratorium relating to any changes in bank capital or capital requirements resulting from the implementation of FASB's Statements 166 and 167 and the proposed elimination of the option for ABCP conduit sponsors to disregard consolidation of conduits for risk-based capital purposes. This announcement should come as soon as practicable and should not await the completion of the comment period under the NPR. We will submit detailed comments on the NPR by the deadline but wanted to seek your expedited consideration of the points in this letter.

The agencies' final decisions on the issues addressed in the NPR will have substantial implications for bank capital and possibly credit availability. Even with only a one-month comment period, it is hard to see how those final decisions will be reached before late November, leaving banks just over a month to react before the accounting changes take effect. This leaves banks with little choice but to plan, and perhaps begin to act, based on the conservative assumption that the NPR represents the agencies' final position on these issues.

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It is also important to note that the economic risks to banks will not change when the accounting changes take effect. While the agencies are likely to conclude that at least some additional capital is required, the cost of a six month delay in implementation would not be high.

In light of the foregoing, we believe it would be prudent for the agencies to place a moratorium on capital impacts until June 30, 2010, so that banks and regulators have appropriate time to work through these issues and not risk needlessly disrupting the banking system and credit availability. In doing so, the agencies should postpone the impact of both increases in risk-weighted assets and changes in components of qualifying capital as a result of consolidation of variable interest entities.

If the agencies are not willing to announce a six-month moratorium, we request that they instead announce a phase-in period of at least four quarters (though we may request a longer phase-in period in our final comment letter). The NPR indicates that the agencies are receptive to consideration of a phase-in period. Early action on this point would provide some relief from time pressure on deliberation of the rest of the issues raised in the NPR.

Thank you for your consideration of this request. If you have questions or comments, please contact me at 212.313.1116.

Very truly yours,

George P. Miller
Executive Director