STATE STREET.

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Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219
E-mail: regs.comments@occ.treas.gov
Docket Number OCC-2009-0012

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
E-mail: comments@FDIC.gov
RIN 3064-AD48

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
E-mail: regs.comments@federalreserve.gov
Docket Number R-1368

Regulation Comments, Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Internet: www.regulations.gov
Attention: OTS-2009-0015

Notice of Proposed Rulemaking: Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues

Dear Sir or Madam,

State Street Corporation appreciates the opportunity to comment on the notice of proposed rulemaking published by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision (collectively, "the Agencies") on September 15, 2009 related to the alignment of the U.S. risk-based capital rules with changes resulting from the implementation of the Financial Accounting Standard Board's (FASB) Statement of Financial Accounting Standards No. 166, Accounting for Transfers of Financial Assets, and Amendment of FASB Statement No. 140 ("FAS 166") and Statement of Financial Accounting Standards No. 167, Amendments to FASB Interpretation No. 46(R) ("FAS 167").

Headquartered in Boston, U.S.A., State Street specializes in providing institutional investors with investment servicing, investment management and investment research and trading. With $16.394 trillion in assets under custody and administration and $1.557 trillion in assets under management at June 30, 2009, State Street operates in 27 countries and more than 100 geographic markets worldwide.

As a general matter, State Street does not disagree with the Agencies' view that GAAP results should establish the initial basis for regulatory accounting, but we also, however agree with the Agencies' view, stated in the NPR, that "the principles underlying the 2009 GAAP modifications --- power, benefits, and obligation to bear losses --- and the resulting consolidation treatment, may not in all situations and respects correspond to a treatment that would result from a more pure risk focus." We believe regulatory accounting should be risk-sensitive, and should capture an element of risk which GAAP may not be able to address.

We believe that the Agencies' proposal, as described in the NPR, to permit no adjustments to GAAP consolidation results for regulatory capital purposes, is too rigid, and will result in clear overstatements of risk and minimum regulatory capital requirements. We suggest the Agencies adopt a more flexible approach, and provide banks the ability to make adjustments to GAAP results to more accurately reflect the economic risks presented by these consolidated assets, consistent with the Agencies' Supervisory Capital Assessment Program ("SCAP") earlier this year.

In addition, we are concerned that the Agencies' proposal to eliminate the existing optional ability of banks to assess risk-based capital against contractual exposures to consolidated Asset-Backed Commercial Paper ("ABCP") programs may, by implication, suggest further reaching changes to the Agencies' approach to such programs, particularly under the Basel II advanced approaches, once they come into effect. In particular, we urge the Agencies to clarify in its final rule that the Internal Assessment Approach ("IAA") remains available to banks for purposes of risk-weighting assets of consolidated ABCP programs.

Further details on these suggestions follow below.

Risk-Based Adjustments to GAAP

While the formal FASB rule making process is complete, SFAS 166/167 raised numerous interpretive questions, which are currently under review by banks and their accounting firms. Many of these questions were raised by changes between the FASB exposure draft issued in September, 2008 and the final Statement issued in June, 2009, particularly as the rules relate to investment funds. As a result, banks have not yet conclusively determined the full range of entities that may ultimately have to be consolidated.

Nevertheless, it appears that there are some areas where certain features of banks' participation in off-balance sheet entities (such as participation in securitizations and investment funds) may trigger consolidation under GAAP, but where consolidation for regulatory reporting purposes would overstate the potential economic risk, and therefore regulatory capital requirement, for banks.

For example, State Street holds a minority (one-third) investment in a securitization master trust where, for risk management purposes, we hold servicer transfer rights. Our investment in the securitization is rated, and we include our investment in our calculation of risk-weighted assets. We are not the originator of the receivables, there is no implicit support, and we have no incentive to provide noncontractual support to the securitization. Despite our clearly limited exposure to this vehicle, our holding of servicer transfer rights coupled with our investment may, under GAAP, be deemed sufficient to trigger consolidation of the entire trust on our balance sheet. Under the Agencies' proposed rule, the resulting risk-based asset calculation would vastly overstate our risk to the structured product. We urge the Agencies' to retain sufficient flexibility in their final rule to allow adjustments to regulatory capital calculations when there is such a clear overstatement of risk by GAAP results.

Asset-Backed Commercial Paper Programs

The Proposed Rule also would eliminate existing provisions in the risk-based capital rules that permit banks consolidating ABCP programs under GAAP to elect to exclude the consolidated ABCP program assets from risk-weighted assets, and instead assess risk-based capital against the contractual exposures to the ABCP program. While State Street does not necessarily oppose this change, and, in fact, has assessed risk-based capital against assets from the ABCP programs we voluntarily consolidated in May, 2009, we are concerned by the potential implications of the proposed change once the Agencies' new advanced approaches to risk-based capital, under the Basel II Accord, come into effect.

The U.S. advanced approach provides three methodologies for calculating risk based capital for securitizations --- a Ratings Based Approach (RBA) for rated assets, an Internal Assessment Approach (IAA) for ABCP exposures and a Supervisory Formula Approach (SFA) for other unrated exposures. U.S. banks are not permitted to use the Standardized Approach that is available in other national jurisdictions. For exposures or firms that do not meet the requirements of the RBA, IAA or SFA methods, the U.S. rules require unrated exposures to be deducted from capital.

We urge the Agencies to clarify that the full range of alternative methodologies for measuring risk-weighted assets for securitizations remain available to banks using the advanced approaches. Specifically, we strongly support the continued availability of the Internal Assessment Approach (IAA) for exposures to unrated assets of consolidated ABCP conduits and do not think it should be limited to the contractual arrangements that are direct to the ABCP conduits (*i.e.* the Liquidity Facilities and Program Enhancement). We believe the IAA is the most effective methodology for assessing the credit risk to banks from these assets, particularly in cases where the bank is not the originator of the assets, and thus, for practical purposes, constrained from using the SFA.

In conclusion, we urge the Agencies to adopt a final rule that provides greater flexibility for banks' regulatory capital assessments associated with certain low-risk consolidated assets, and clarifies the application of the IAA to consolidate ABCP programs. Please feel free to contact me with any questions.

Sincerely,

Stefan M. Gavell