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October 15, 2009

Office of the Comptroller of the Currency
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Docket Number OCC-2009-0012

Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
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Docket No. R-1368

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
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RIN 3064-AD48

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
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Attention: OTS-2009-0015

Re: 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

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Ladies and Gentlemen:

Citigroup Inc. (hereinafter 'Citigroup', 'Citi', 'We', or 'Our') welcomes the opportunity to provide comments with respect to the 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* (hereinafter 'the proposal' or 'proposal'), issued jointly 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 (hereinafter collectively, 'the agencies'). As set forth, the proposal would amend the agencies' risk-based capital guidelines relating to certain asset-backed commercial paper (hereinafter 'ABCP') programs and incorporate a reservation of authority provision to permit the agencies to require that banking organizations consolidate, for risk-based capital purposes, certain entities that are not required to be consolidated under generally accepted accounting principles (hereinafter 'GAAP'). Moreover, the agencies are seeking information (in certain instances

supported by empirical evidence) and commentary regarding a number of matters as posed in a series of supplementary questions. Amongst other matters, the agencies have inquired as to: the impact of FAS 166 and FAS 167 (hereinafter sometimes, 'the 2009 GAAP modifications') on banking organizations' financial position, lending, business activities, and financial markets (including the proportion of the impact related to regulatory capital requirements); consideration of a phase-in of the regulatory capital requirements resulting from the 2009 GAAP modifications; and concerns over competitive equity regarding accounting and regulatory capital treatments vis-à-vis other jurisdictions or in relation to international accounting standards (hereinafter 'IFRS').

Apart from Citigroup's responses to the supplementary questions, which constitute an integral and important element of this letter, of most significance are the following overall Citigroup comments:

Regulatory Capital Treatment Deriving from the 2009 GAAP Modifications

Citigroup is firmly of the view that it would be inappropriate for the agencies to broadly default to the risk-based capital treatment that would result from the consolidation of off-balance sheet VIEs due to adoption of the 2009 GAAP modifications. Such a treatment, to our way of thinking, is imbalanced and overly influenced by the limited types of off-balance sheet VIEs that have been implicitly supported in the recent past by their sponsoring banking organizations. Nevertheless, we recognize the agencies' desire to perpetuate existing practice in which GAAP accounting generally serves as the foundation upon which the risk-based capital treatment of exposures is assessed, and despite our concerns as to the appropriateness of that view, we will largely not contest that position. Rather, we believe it is critical and imperative that the agencies be fully cognizant of the broader, significant implications that adoption of the 2009 GAAP modifications will have on banking organizations' regulatory capital positions and ratios, and as a consequence on the extent to which banking organizations will potentially be able to extend the credit needed to foster further momentum toward the restoration of a thriving U.S. economy.

Regulatory Capital Effects

The impact on regulatory capital from the 2009 GAAP modifications does not simply derive from additional balance sheet assets which would be subject to risk weighting and capital requirements, as is implied in the proposal, but rather also, and even more importantly, from the charge to retained earnings representing the cumulative effect of transitioning to the new GAAP accounting standards and the recognition of associated deferred tax assets (hereinafter sometimes, 'DTAs'), some or all of which could be sizable and disallowed in arriving at Tier 1 Capital and Tier 1 Common. We strongly urge, therefore, that the agencies meaningfully address the regulatory capital implications deriving from these transition adjustments and DTAs.

Specifically, under the carrying value transition approach to the adoption of the 2009 GAAP modifications, the transition adjustments reducing retained earnings (Tier 1 Capital and Tier 1 Common) could be very substantial for certain securitized products, such as credit cards, as reflected in the need to establish additional loan loss reserves to accommodate the GAAP consolidation of credit card securitization vehicles. In addition, certain banking organizations may also be doubly impacted by having to take a dollar-for-dollar Tier 1 Capital (and therefore Tier 1 Common) charge, for every dollar of DTA recognized, as a result of adopting these new GAAP accounting requirements. Although the proposal is virtually silent on these matters, these effects will likely be more impactful on banking organizations' capital adequacy ratios, than those resulting from additional risk weighted assets due to the GAAP consolidation of off-balance sheet VIEs.

The regulatory capital burden for Citigroup of these 'knock on' accounting transition effects and attendant DTAs may be significant. For instance, the pro forma cumulative effect of Citigroup's adoption of the 2009 GAAP modifications as of January 1, 2010, based on financial information as of June 30, 2009, would have been an estimated aggregate after tax charge to retained earnings of approximately $8.3 billion, reflecting the net effect of a total pretax charge to retained earnings of approximately $13.3 billion and the recognition of related DTAs (the entire amount of which would have been deducted in arriving at Tier 1 Capital) amounting to approximately $5.0 billion. The pro forma aggregate pretax charge to retained earnings principally representing the accounting recognition of new loan loss reserves on the consolidated assets under adoption of a carrying value transition approach, substantially all of which being attributable to Citi's credit card securitization business. In addition, also contributing to the recognition of these DTAs, would have been the write off of certain Citi retained interests from these securitizations.

Further, while it must be recognized that FAS 167 allows for, amongst other options, a fair value option transition approach with respect to consolidation of off-balance sheet VIEs, the application of which would not result in the upfront or ongoing recognition of a separate loan loss reserve and therefore from a financial accounting perspective would be less impactful on retained earnings initially, such an approach generally carries with it complex and significant operational challenges, which would be quite burdensome. Thus it is widely recognized that this is not necessarily a viable, preferable alternative to the carrying value approach, which is expected to lead to sizable additions to loan loss reserves and recognition of DTAs.

Phase-In Approach

In Citigroup's view, in order to avoid possibly debilitating and unnecessarily prolonging a recovery of the U.S. economy, the agencies should permit banking organizations to phase-in the regulatory capital effects resulting from the adoption of the 2009 GAAP modifications, most importantly those relating to the charge to retained earnings and related DTAs arising from transitioning to the new GAAP accounting standards. These effects are likely to be far more impactful to banking organizations' risk-based capital and leverage ratios, than those resulting from incremental risk-weighted assets associated with GAAP consolidation of off-balance sheet VIEs.

Accordingly, we strongly recommend that the agencies phase-in the risk-based capital effects on banking organizations' regulatory capital positions and ratios (both, and most importantly, the charge to retained earnings and related DTAs, as well as the incremental risk weighted assets) over a reasonably sufficient period of time, so as to ensure that the effects of the current credit and market cycles have been fully reflected in banking organizations' capital positions as the U.S. economy moves slowly toward a sustained and over time robust recovery. In this regard, we are of the opinion that the risk-based capital implications resulting from otherwise following the 2009 GAAP modifications, with the exception of sponsor-administered customer-based multi-seller ABCP conduit programs (hereinafter sometimes, 'Customer Conduits'), certain private label residential mortgage loan securitizations, and certain student loan securitizations, should be phased-in to the risk-based capital computations over a 3 year period. Such a phase-in would allow for banking organizations' capital positions to continue to be strengthened, becoming more certain and stable, before having to fully absorb the entire adverse regulatory capital impact associated with the new GAAP accounting requirements. Furthermore, Citigroup believes that a 3 year phase-in period over which the risk-based capital effects would be reflected, would be reasonable and warranted given that banking organizations have long established businesses, products, and programs that were conceived and structured in good faith compliance with the current risk-based capital guidelines. To do otherwise and require that banking organizations nonetheless fully assume the risk-based capital effects immediately, or even over 1 year, is an

undeniably severe penalty when considered within this context. Moreover, to do so would also ignore the fact that these regulatory capital effects are being driven merely by GAAP accounting changes, particularly when those GAAP accounting changes are not driven by a risk-based focus. Certainly such a timeframe would not be in the best interests of banking organizations that relied on these rules, or in facilitating the overall U.S. economic recovery. Separately, such a measured implementation approach would also afford banking organizations the opportunity to continue to resume more normalized capital planning activities.

Alternative Risk-Based Capital Treatment

Moreover, as the agencies allude to in the proposal, the regulatory capital treatment that would result from consolidation under the new accounting standards would neither align with the risk-based capital principles nor reflect a more appropriate risk-based capital charge in relation to *all* exposures (the proposal indicating alignment and appropriateness for *many* exposures) that would otherwise be required to be consolidated due to the 2009 GAAP modifications. Citigroup concurs. We therefore believe that a "one size fits all" regulatory capital approach for all vehicles required to be consolidated as a result of the 2009 GAAP modifications is clearly unwarranted, and not reflective of the risks to which a banking organization is exposed at least in relation to certain off-balance sheet VIEs.

Citigroup is of the opinion, as elaborated on more fully later in this letter, that an alternative risk-based capital treatment to that which would result from adoption of the 2009 GAAP modifications is appropriate and warranted for: sponsor-administered customer-based multi-seller ABCP conduit programs (Customer Conduits), certain private label residential mortgage loan securitizations, and certain student loan securitizations. With regard to Customer Conduits, we contend that the current exclusions applicable to qualifying ABCP programs should be retained for these vehicles, given in part to their history of exemplary credit performance and structural distinctions relative to other types of qualifying ABCP programs. Accordingly, for Customer Conduits, as well as for certain private label residential mortgage loan securitizations and certain student loan securitizations, we believe that the most appropriate risk-based capital treatment would be to continue to require that capital be held only against the contractual exposures a banking organization has in relation to such vehicles. A further discussion of the rationale behind these views may be found for Customer Conduits under the topical heading entitled **'Proposed Elimination of Qualifying ABCP Program Exclusions'** and in the responses to **Question 3** and **Question 6**, and for certain private label residential mortgage loan securitizations and certain student loan securitizations in the response to **Question 7**.

<u>Proposed Elimination of Qualifying ABCP Program Exclusions</u>

We strongly oppose the agencies' proposal to eliminate the current permissible exclusion under the risk-based capital rules of certain qualifying ABCP program assets from a banking organization's risk weighted assets, if such ABCP programs are otherwise required to be consolidated for GAAP accounting purposes, as well as the exclusion of any related minority interest from Tier 1 Capital.

Citigroup contends that it would be proper for the agencies to retain these current exclusions with respect to sponsor-administered customer-based multi-seller ABCP conduits (Customer Conduits), as historical credit performance has proven that the agencies' initial beliefs with respect to these types of programs were well founded and that the current risk-based capital level continues to be appropriate. Furthermore, Customer Conduits are structurally very different in many respects from other types of qualifying ABCP programs, and therefore the risk-based capital treatment to be afforded Customer Conduits should be different from these other programs. For instance,

unlike structured investment vehicles (hereinafter principally, 'SIVs') and securities arbitrage conduits, the business purpose of the Customer Conduits is to provide low cost customer financing by way of the commercial paper market principally through the purchase or financing of pools of receivables and other financial assets. Additionally, Customer Conduit transactions are negotiated directly with individual customers, and contain asset specific triggers as well as periodic renewal features which allow the administrator to renegotiate the transaction and mitigate credit risk. Conversely, SIVs and securities arbitrage conduits are designed to arbitrage market prices with respect to publicly traded securities, and as has been seen in the recent past, more exposed due to market price volatility and illiquidity issues. Moreover, in the case of SIVs, there are market value triggers forcing liquidation of the underlying assets, which given the credit and hold to maturity focus of the Customer Conduits is not the case.

Consistent with the agencies' thinking which led to the granting of the qualifying ABCP program exclusions, the risks assumed by banking organizations with respect to Customer Conduits have, in fact, been limited to the providing of contractual credit enhancements and liquidity facilities, for which it has been demonstrated that an appropriate level of regulatory capital has been held based upon the credit performance experience of these vehicles. Historically, since the inception of the business 26 years ago and most notably over this current severe credit cycle, the performance of Customer Conduits has been exemplary. The amount of regulatory capital held against the contractual risks of banking organizations to Customer Conduits, has clearly been sufficient to accommodate the historical credit performance of these vehicles since their introduction. Performance is further enhanced when also considering the revenues earned by the business over this timeframe. Citi's Customer Conduits have been no exception, with cumulative net losses over the 26 years constituting an extremely small percentage of the $250 billion of transactions originated by the business. In the year that the Citi Customer Conduits experienced their largest net loss, regulatory capital covered a multiple of that net loss. Moreover, the structural provisions of these programs based on proven rating agency criteria, coupled with the noted ability to renegotiate and restructure transactions, have been effective in contributing to the mitigation of contractual risks assumed by banking organizations.

As for the Customer Conduits, such as Citi's, we believe that maintaining the current risk-based capital exclusions and continuing to require that banking organizations hold regulatory capital only against contractual exposures to these vehicles makes the most sense when considering the application of the Basel II capital requirements. We strongly believe that the regulatory capital charges against these exposures remain appropriate, and accurately reflect the risks of these positions. We also think that it would be imprudent and not meaningful to mandate a dramatic increase in required regulatory capital in the near term, only for the regulatory capital requirement to decline upon the implementation of the Basel II framework.

Accordingly, for these reasons, it is our opinion that the agencies should retain the current qualifying ABCP program exclusions for Customer Conduits, thereby requiring the assessment of risk-based capital only against the risk that banking organizations actually assume, as reflected by the contractual exposures to these vehicles.

Proposed Reservation of Authority

Citigroup believes that the proposed reservation of authority provision with respect to the primary federal supervisor of a banking organization retaining the right to mandate risk-based capital consolidation of special purpose entities (SPEs) not otherwise required to be consolidated in accordance with the 2009 GAAP modifications, in those instances in which such agency concludes that the regulatory capital treatment associated with a banking organization's exposure or other relationship to such an SPE is not commensurate with the 'actual' risk relationship of the

banking organization to the SPE, is neither warranted nor clarifying. The agencies cite as rationale for this proposal, the expectation that banking organizations may structure transactions with SPEs in order to avoid consolidation under FAS 166 and FAS 167.

Given that the agencies' current risk-based capital rules provide for a general reservation of authority permitting the assessment of capital as is otherwise seen fit, explicitly specifying the same right with respect to SPEs with which a banking organization has exposure or a relationship and that are unconsolidated for GAAP accounting purposes, is deemed to be unnecessary. The proposal, if adopted, would create uncertainty as to whether a banking organization's primary federal supervisor might deem that an SPE which does not require consolidation under GAAP, must nevertheless be consolidated for risk-based capital purposes, and therefore potentially be disruptive to the conduct of business as well as make it difficult to compete with others domestically and internationally. In fact, adoption of the proposal could unintentionally harm U.S. banking organizations by creating an unlevel playing field amongst these entities, in that the different U.S. banking agencies could evaluate the same type of transaction differently, with one imposing significantly higher capital requirements than another. Accordingly, we believe that should the agencies retain this reservation of authority provision, it would be most helpful and appropriate to provide explicit guidance as to the types of features and characteristics of transactions with SPEs, otherwise not required to be consolidated for GAAP accounting purposes, that the agencies would deem to be concerning and therefore would invoke this proposed reservation of authority provision warranting that such an SPE be consolidated for risk-based capital purposes. In this manner, banking organizations would be aware in advance as to the rules under which supervised.

Supplementary Questions

Question 1:

Which types of VIEs will banking organizations have to consolidate onto their balance sheets due to the 2009 GAAP modifications, which types are not expected to be subject to consolidation, and why? Which types are likely to be restructured to avoid consolidation?

Response:

VIEs Expected to be Consolidated

In accordance with the 2009 GAAP modifications, Citi will be required to consolidate those VIEs where it has the power[1], as defined in FAS 167 as being, the ability to direct the activities that most significantly impact the economic performance of the VIE, *and* an interest in the VIE that could absorb losses or receive benefits that could potentially be significant to the VIE.

Citi is expecting to consolidate primarily the following VIEs as a result of adopting the 2009 GAAP modifications:

[1] We believe that the FAS 167 definition of 'power', as set forth above, is different from 'control' for purposes of the Bank Holding Company Act of 1956, as amended ('BHCA') and that any discussion of 'power' in FAS 167, the agencies' proposal, or this letter should not be treated as equivalent to or consistent with 'control' under the BHCA. Accordingly, our discussion of 'power' in this letter, including any use of the word 'control' should not be construed as suggesting that we believe the 'power' analysis has any bearing on whether an entity is controlled by a banking organization for BHCA purposes.

Credit Card Securitization Trusts

Overview

Credit card receivables are securitized through three independent North American trusts, which are established to purchase the receivables originated by two Citi entities. Credit card securitizations are revolving securitization structures, in that as customers pay their credit card balances the cash proceeds received are used to purchase new receivables in order to replenish the receivables in the trust. Citi services the trusts and maintains the account relationships with the cardholders, as well as provides liquidity facilities to the trusts.

FAS 167 Consolidation Analysis

Power - Citi has the power to direct the activities of the three trusts through its continuing relationships with the securitization trusts, including servicing (collections and risk mitigation strategies), retaining the account relationships, and replenishing trust assets with new receivables.

Benefits and Losses - Through its residual tranche (credit-enhancing interest-only strip or CEIO) ownership and seller's interest, Citi has an obligation to absorb losses and the right to receive benefits, either of which could potentially be significant to the trusts.

Citi-Administered ABCP Conduits

Overview

The Citi-administered ABCP conduits are designed to provide customers access to low cost funding in the commercial paper market. As administrator, Citi is responsible for selecting and structuring assets purchased or financed by the conduits, making decisions regarding funding, monitoring the quality and performance of the conduit assets, and facilitating the operations and cash flows of the conduits. Citi receives a fee for its administration which is paid from the conduits' residual cash flows. Citi also provides program-wide credit enhancement to the conduits, as well as pool-specific liquidity facilities.

FAS 167 Consolidation Analysis

Power - Citi has the power to direct the activities that most significantly impact the conduits' economic performance, given that Citi manages the operations of the entity, and the debt holders have no voting rights or other rights to give them power.

Benefits and Losses - Through its administration fee arrangement, Citi has the right to receive benefits that could potentially be significant. Through its letter of credit and liquidity facilities, Citi has the obligation to absorb losses which could potentially be significant to the conduits.

Student Loan Securitization Trusts

Overview

Student loans are sold to off-balance sheet trusts and serve as collateral for the trusts to access financing. The cash flows from the assets in the trust service the corresponding trust securities. Citi retains credit-enhancing interest-only strips, portions of certain subordinated tranches, as well as the servicing rights regarding the securitized student loans. Citi's student loan securitizations are principally FFELP (Federal Family Education Loan Program) structures, whereby 97% - 98% of the principal and interest on the student loans securitized are U.S. government guaranteed. Citi

also has one trust through which it has securitized student loans that are partially credit enhanced by third party insurance policies.

FAS 167 Consolidation Analysis

Power - Through its servicing arrangement, Citi has the power to direct the activities that most significantly impact the trusts' economic performance. Such power is very limited, however, in the FFELP securitization structures, given that strict servicing guidelines are established by the U.S. Department of Education, the same body that guarantees the loans.

Benefits and Losses - Through the retention of credit-enhancing interest-only strips, Citi has the right to receive benefits or the obligation to absorb losses which could potentially be significant to the trusts.

Private Label Residential Mortgage Loan Securitization Trusts

Overview

Citi securitizes certain nonconforming residential mortgage loans. Citi always retains servicing rights with regard to these securitized loans in our Consumer business, but generally does not retain servicing rights for such securitized loans in the Institutional Clients Group (hereinafter 'ICG') business. However, certain ICG securitized loans are serviced by Citi's Consumer business. In many securitizations, Citi also retains an interest-only strip, typically less than the basis points earned on the servicing rights. In some securitizations, Citi retains additional interests, including residual interests in future cash flows, subordinated certificates, and/or senior certificates. Private label residential mortgage loan securitizations are not guaranteed by government-sponsored enterprises (hereinafter 'GSEs'), such as Fannie Mae or Freddie Mac.

FAS 167 Consolidation Analysis

Power - As servicer, Citi has the ability to make collection decisions (e.g., mortgage loan modification, foreclosure, etc.) in accordance with the trust documents, in order to attempt to improve the economic performance of the trust assets. Citi cannot be removed as servicer without cause and, therefore, Citi is deemed to have power over these trusts.

Benefits and Losses - In cases where Citi is only the servicer or where Citi is the servicer and retains other insignificant interests, Citi does not have the obligation to absorb losses or receive benefits that could potentially be significant to the trusts. However, as it relates to trusts where Citi retains additional interests (e.g., residual, subordinated, and a significant level of senior certificates, or a combination thereof), Citi generally has the right to receive benefits and has the obligation to absorb losses that could potentially be significant.

Furthermore, in some cases, Citi's Consumer business provides servicing to an ICG residential mortgage loan securitization, in which case the consolidation decision would depend upon the significance of additional interests, if any, that Citi retains in the securitization.

Citi-Managed Investment Funds (Hedge Funds and Private Equity Funds)

Overview

Citi is the investment manager for certain investment funds that invest in various asset classes, including hedge and private equity funds. Citi earns a management fee and may also earn performance fees from these funds. In addition, Citi has an ownership interest in some of the investment funds.

FAS 167 Consolidation Analysis

Power – Where Citi is the investment manager for certain investment funds and cannot be unilaterally removed from its role as investment manager, Citi would be deemed to have power as it is the decision maker.

Benefits and Losses – Where Citi is entitled to performance fees or has a significant economic interest in the fund, Citi will generally have the right to receive benefits that could potentially be significant.

Commercial Mortgage Loan Securitization Trusts

Overview

Citi originates commercial mortgage loans which are securitized through trusts established to purchase the mortgage loans. As Special Servicer, Citi makes decisions on how to workout or foreclose on loans that are delinquent or in default. Citi also holds the residual interest (notes that have economic characteristics of an interest-only strip) issued by the entity.

FAS 167 Consolidation Analysis

Power - As Special Servicer, Citi has the power to make the decisions that most significantly impact the economic performance of the trusts.

Benefits and Losses - Through its Special Servicer fees and subordinated notes, Citi has an obligation to absorb losses and the right to receive benefits, which could potentially be significant to the trusts.

Municipal Securities Tender Option Bond (TOB) QSPE Trusts

Overview

QSPE TOB trusts provide Citi with the ability to finance its own investments in municipal securities. Citi's variable interests in the Proprietary QSPE TOB trusts include the residual interest (the most subordinated note issued), as well as the remarketing and liquidity agreements with the trusts.

FAS 167 Consolidation Analysis

Power - Citi sets the trusts up to finance its own investments and has the unilateral ability to liquidate the trusts, thus determining the economic returns of the trusts.

Benefits and Losses - Through its residual tranche (subordinated note) ownership, remarketing, and liquidity agreements, Citi has the obligation to absorb losses and the right to receive benefits, either of which could potentially be significant.

Mutual Fund Deferred Sales Commission Trusts (12B-1 Fees)

Overview

12B-1 fees are charged by a mutual fund to cover distribution expenses, as well as a penalty fee for early redemption of shares. Citi purchases receivables backed by these fees from distributors of mutual funds to provide liquidity to the distributors, and then securitizes the receivables. Fund managers use the proceeds from the sale of receivables to cover sales commissions associated with the shares sold. Citi holds the most subordinated notes issued by the VIE.

FAS 167 Consolidation Analysis

Power - Citi services the assets of the trusts, and therefore has the power to make decisions that most significantly impact the economic performance of the trusts.

Benefits and Losses - Through its residual tranche (subordinated notes) ownership, Citi has the obligation to absorb losses and the right to receive benefits, either of which could potentially be significant.

VIEs Not Expected to be Consolidated

Citi does not expect that the following VIEs will be subject to consolidation:

U.S. Government-Sponsored Agency Guaranteed Mortgage Loan Securitization Trusts

Overview

Many mortgage-backed securities are guaranteed by U.S. government-sponsored enterprises (GSEs), such as Fannie Mae or Freddie Mac. The GSEs generally guarantee, in exchange for a fee, the timely payment of both principal and interest on the mortgage-backed securities, whether or not the payments have been collected from the underlying borrowers. The GSEs serve as master servicer and have the unilateral right to kick out the primary servicer (Citi). The GSEs also establish the servicing standards that must be followed by the primary servicer.

FAS 167 Consolidation Analysis

Power - The GSEs have the power to direct the activities that most significantly impact the trusts' economic performance, through both establishing servicing standards and the ability to unilaterally kick out the primary servicer.

Benefits and Losses – The GSEs have the obligation to absorb losses through their guarantee of the mortgage-backed securities issued, which could potentially be significant to the trusts.

Third Party Commercial Paper Conduits

Overview

Citi provides liquidity facilities to single- and multi-seller conduits sponsored by third parties. The conduits are independently owned and managed.

FAS 167 Consolidation Analysis

Power – Given that the conduits are independently sponsored and managed, Citi does not have the power to direct the activities that most significantly impact the conduits' economic performance.

Collateralized Debt and Loan Obligations (CDOs and CLOs)

Overview

A CDO is an SPE that purchases a pool of assets consisting of cash positions in asset-backed securities and synthetic positions through derivatives on asset-backed securities, and issues multiple tranches of notes and equity to investors. A third party manager is typically retained by the CDO to select the pool of SPE assets and manage the assets over the term of the CDO. Citi earns fees for warehousing assets prior to the creation of a CDO, structuring CDOs, and placing

debt securities with investors. In addition, Citi has retained interests (the most subordinated notes issued) in many of the CDOs it has structured, and makes a market in those issued notes. A CLO is similar to a CDO, except that the assets owned by the SPE are corporate loans and to a lesser extent corporate bonds, rather than asset-backed debt securities.

FAS 167 Consolidation Analysis

Power – Where an independent third party manager manages the assets of the trust, Citi does not have the power to direct the activities that most significantly impact the trusts' economic performance. As a result of adopting FAS 167, Citi expects to deconsolidate such vehicles that are currently consolidated.

Asset-Based Financing

Overview

Citi provides loans and other forms of financing to SPEs that hold assets. Asset-based financing SPEs are primarily established in order to isolate the collateral in a lending arrangement from the credit risk of the borrowing entity. The primary types of asset-based financing are: (1) commercial and other real estate, (2) hedge funds and equities, (3) corporate loans, and (4) airplanes, ships, and other assets.

FAS 167 Consolidation Analysis

Power – The activities of asset-based financing SPEs are generally directed by the equity or residual holder of the SPE to which the loan or other form of financing was extended. Citi's rights through the lending arrangement are consistent with a lender and are protective in nature. Citi does not, therefore, have the power to direct the activities that most significantly impact the SPE's economic performance.

Benefits and Losses – Through its loan or other form of financing to the SPE, Citi will generally have the obligation to absorb losses that could potentially be significant to the SPE.

Municipal Investments

Overview

Municipal investment transactions represent limited partnerships that finance the construction and rehabilitation of low income, affordable rental housing. Citi invests as a limited partner in these partnerships and earns a return primarily through the receipt of tax credits that are earned from the affordable housing investments made by the partnership.

FAS 167 Consolidation Analysis

Power – Because Citi only has a limited partnership interest in these partnerships and is never the general partner, Citi does not have the power to make decisions that most significantly impact the entity's economic performance.

Client Intermediation

Overview

Client intermediation transactions represent a range of transactions designed to provide investors with specified returns based on the returns of an underlying security, referenced asset, or index. These transactions include credit-linked notes and equity-linked notes. In these transactions, the

SPE typically obtains exposure to the underlying security, referenced asset, or index through a derivative instrument, such as a total return swap or a credit default swap. In turn, the SPE issues notes to investors that pay a return based on the specified underlying security, referenced asset, or index. The SPE invests the proceeds in a financial asset or a guaranteed insurance contract (GIC) that serves as collateral for the derivative contract over the term of the transaction. Citi's involvement in these transactions includes being the counterparty to the SPE's derivative instruments, and also potentially investing in a portion of the notes issued by the SPE.

FAS 167 Consolidation Analysis

Power – There is currently debate as to whether any party has the power to significantly impact the economic performance of client intermediation SPEs, which generally have activities that are significantly limited and almost entirely prespecified.

Benefits and Losses – Where Citi introduces risk to the SPE, through the purchase of credit protection or paying the return of a referenced security or referenced portfolio, and where Citi has no other involvement with the vehicle, Citi does not have a variable interest in the SPE and does not therefore have risk that could potentially be significant to the SPE. Where Citi holds notes issued by the SPE, depending on the percentage of notes it holds in relation to the total notes issued by the SPE, Citi may have the obligation to absorb losses and the right to receive returns that could potentially be significant to the SPE.

Trust Preferred Securities

Overview

Citi has raised financing and qualifying Tier 1 Capital through the issuance of trust preferred securities. In these transactions, Citi forms a statutory business trust and owns all of the equity shares of the trust. The trust issues preferred equity securities to third party investors and invests the gross proceeds in junior subordinated deferrable interest debentures issued by Citi. The trusts have no assets, operations, revenues, or cash flows other than those related to the issuance, administration, and repayment of the preferred equity securities held by third party investors. These trusts' obligations are fully and unconditionally guaranteed by Citi.

FAS 167 Consolidation Analysis

Given that the sole asset of the trust is a receivable from Citi, and that the cash Citi receives for issuing the junior subordinated debentures exceeds the cash Citi paid for the equity shares, Citi is not permitted to consolidate the trusts under FAS 167. Even though Citi owns all of the voting equity shares of the trust, has fully guaranteed the trust's obligations, and has the right to redeem the preferred equity securities in certain circumstances, its equity shares are not deemed to be at risk. Therefore, Citi has no variable interest as defined by FAS 167. Citi recognizes the junior subordinated debentures on its balance sheet as long-term debt.

Restructuring of VIEs to Avoid Consolidation

Citi will not restructure any VIEs to avoid consolidation.

Question 2:

Are there features and characteristics of securitization transactions or other transactions with VIEs, other SPEs, or other entities that are more or less likely to elicit banking organizations' provision of non-contractual (implicit) support under stressed or other circumstances due to reputational risk, business model, or other reasons? Commenters should describe such features and characteristics and the methods of support that may be provided. The agencies are particularly interested in comments regarding credit card securitizations, structured investment vehicles, money market funds, hedge funds, and other entities that are likely beneficiaries of non-contractual support.

Response:

Citi has already consolidated for GAAP and/or risk-based capital purposes all of the structures for which non-contractual support has been provided.

Specifically, Citi has included approximately $83 billion of incremental credit card assets in its risk-weighted assets as reflected in its Tier 1 and Total Capital ratios, as a result of credit enhancing actions Citi undertook in the first six months of 2009 to support its off-balance sheet credit card securitization vehicles. Additionally, Citi had also written put options (liquidity puts) to certain CDOs. Under the terms of the liquidity puts, if the CDO was unable to issue commercial paper at a rate below a specified maximum, Citi was obligated to fund the senior tranche of the CDO at a specified interest rate. As a result, Citi purchased the $25 billion of commercial paper subject to the liquidity puts. Finally, as a result of Citi's commitment to provide facilities that would support structured investment vehicles' (SIVs) senior debt ratings, Citi consolidated these entities.

Citi currently has no expectations that it would provide non-contractual support to additional securitization or other structured finance transactions under stressed or other circumstances.

Question 3:

What effect will the 2009 GAAP modifications have on banking organizations' financial positions, lending, and activities? How will the modifications impact lending typically financed by securitization and lending in general? How may the modifications affect the financial markets? What proportion of the impact is related to regulatory capital requirements? Commenters should provide specific responses and supporting data.

Response:

Balance Sheet and Regulatory Capital Impacts

From a GAAP perspective, apart from the recognition of additional assets as a result of the required consolidation of certain off-balance sheet VIEs, the cumulative effect of the adoption of FAS 166 and FAS 167 may be even more impactful with respect to the charge to retained earnings and the associated recognition of deferred tax assets. Additionally, for banking organizations, such as Citigroup, that are presently in a disallowed deferred tax asset position for risk-based capital purposes, the deferred tax assets recognized as a result of transitioning to the new accounting standards would, absent any capital relief, represent a dollar-for-dollar reduction of Tier 1 Capital as well as Tier 1 Common, and thereby adversely impact all of the regulatory capital adequacy metrics.

More specifically, the pro forma impact of the 2009 GAAP modifications on Citigroup's incremental GAAP assets and resulting risk-weighted assets for those VIEs and former QSPEs that are currently expected to be consolidated for accounting purposes as of January 1, 2010 (based on financial information as of June 30, 2009), reflecting Citigroup's understanding of the new FAS 166 and FAS 167 requirements at that time, and assuming continued application of existing risk-based capital rules, would have been as follows:

	Incremental	
In billions of dollars	GAAP assets	Risk - weighted assets
Credit cards	$ 85.5	$ 0.5
Commercial paper conduits	44.5	-
Student loans	14.2	4.1
Private label consumer mortgages	9.2	5.3
Investment funds	3.3	0.5
Commercial mortgages	1.3	1.3
Muni bonds	0.7	0.1
Mutual fund deferred sales commissions	0.6	0.4
Total	**$ 159.3**	**$ 12.2**

If the current risk-based capital rules for qualifying ABCP programs, such as Citi-administered ABCP conduits, were to be eliminated, as proposed, Citi's incremental risk-weighted assets (based on financial information as of June 30, 2009) would have been greater by approximately an additional $18 billion.

Furthermore, the cumulative effect of adopting these new accounting standards as of January 1, 2010, based on financial information as of June 30, 2009, would have resulted in an estimated aggregate after-tax charge to Citigroup's Retained Earnings of approximately $8.3 billion, reflecting the net effect of an overall pretax charge to Retained Earnings (primarily relating to the establishment of loan loss reserves and the reversal of held residual interests – CEIO and subordinated tranches) of approximately $13.3 billion and the recognition of related deferred tax assets amounting to approximately $5.0 billion.

Lending Impacts

Citigroup has incorporated the expected adverse risk-based capital effects deriving from the adoption of the 2009 GAAP modifications, into its 2010 projections for balance sheet growth, profitability, and regulatory capital.

As a result, the 2009 GAAP modifications are expected to manifest in reductions in overall lending, not only in lending activity primarily financed through securitizations, such as credit cards, residential mortgage loans, and student loans. That is, the regulatory capital implications flowing from the 2009 GAAP modifications would be the sole driver behind the reduction in credit availability. As indicated, we do not plan to reduce lending in only those businesses specifically impacted by the incremental regulatory capital requirements.

In general, the impact of an increase in regulatory capital requirements would negatively correlate with future lending activity, as the incremental regulatory capital required for those loans to be consolidated due to adoption of the 2009 GAAP modifications, would no longer be available to support future lending activities.

Consistent with the foregoing, if the agencies' proposal to eliminate the current qualifying ABCP program exclusions were to be adopted, future lending across all of Citigroup's businesses would be further reduced, and as a result the viability of specific lending activities that rely upon qualifying ABCP programs for financing, would need to be re-evaluated.

Business and Product Impacts

The 2009 GAAP modifications will undoubtedly cause banking organizations to re-think and re-visit the strategic emphasis that certain current and long established businesses and products, which will be required to be consolidated, should continue to have on a going forward basis. As an outgrowth of that evaluative process, businesses and products that have historically been profitable, low risk activities, may nonetheless either be significantly curtailed or otherwise exited, simply due to more onerous regulatory capital standards without a concomitant change in risk.

Banking organizations typically allocate capital to those businesses and products which produce the highest returns, as measured by several parameters. Amongst others, one very significant measure for a banking organization is return on risk-weighted assets.

For the Customer Conduit business return on risk-weighted assets is an important metric. The impact of the proposal to eliminate the current qualifying ABCP program exclusions, would have the effect of increasing the regulatory capital requirement for individual transactions in some cases by up to 10 fold, and thereby present a clear bias away from low risk Customer Conduit exposure. Accordingly, internal hurdle rates relative to these return parameters would be significantly breached and, as a result, perhaps significantly threaten the ongoing viability of a business that is otherwise profitable and which presents minimal credit risk to the organization. Moreover, banking organizations may very likely be unable to accommodate this adverse and unwarranted impact on critical return parameters through increases in customer pricing. In the

Customer Conduit space, customers expect a pricing advantage in exchange for accepting a low advance rate of 80% - 90% (depending upon asset class) and the operational and legal complexities associated with a highly rated transaction, and therefore would likely be unwilling to pay increased pricing. It is also interesting to note that the customer pricing constraint that would face the Customer Conduit business by being required to hold regulatory capital against consolidated GAAP assets, would lead to an undesirable result in that banking organizations would be incentivized to extend credit in the form of a traditional loan to a customer having a lower credit rating, rather than provide financing to a customer through an ABCP conduit structure, given the richer pricing associated with the traditional loan to a lower rated customer. Thus a resulting disconnect between a proper calibration of regulatory capital and the level of perceived credit risk. Such a capital imbalance could potentially increase the likelihood for capital arbitrage.

Question 4:

As is generally the case with respect to changes in accounting rules, the 2009 GAAP modifications would immediately affect banking organizations' capital requirements. The agencies specifically request comment on the impact of immediate application of the 2009 GAAP modifications on the regulatory capital requirements of banking organizations that were not included in the SCAP. In light of the potential impact at this point in the economic cycle of the 2009 GAAP modifications on regulatory capital requirements, the agencies solicit comment on whether there are significant costs and burdens (or benefits) associated with immediate application of the 2009 GAAP modifications to regulatory capital requirements. If there are significant costs and burdens, or other relevant considerations, should the agencies consider a phase-in of the capital requirements that would result from the 2009 GAAP modifications? Commenters should provide specific and detailed rationales and supporting evidence and data to support their positions.

Additionally, if a phase-in of the impact of the GAAP modifications is appropriate, what type of phase-in should be considered? For example, would a phase-in over the course of a four-quarter period,..., for transactions entered into on or prior to December 31, 2009, reduce costs or burdens without reducing benefits?

Response:

Citigroup's thoughts regarding a phasing-in of the regulatory capital effects resulting from the 2009 GAAP modifications, including significant capital costs and burdens, were elaborated on earlier in this letter (reference topical heading '**Regulatory Capital Treatment Deriving from the 2009 GAAP Modifications**').

<u>Question 5:</u>

The agencies request comment on all aspects of this proposed rule, including the proposal to remove the exclusion of consolidated ABCP program assets from risk-weighted assets under the risk-based capital rules, the proposed reservation of authority provisions, and the regulatory capital treatment that would result from the 2009 GAAP modifications absent changes to the agencies' regulatory capital requirements.

<u>Response</u>:

Citigroup's views with respect to all aspects of the agencies' proposal are set forth in detail, as interspersed through out this letter.

Question 6:

Does this proposal raise competitive equity concerns with respect to accounting and regulatory capital treatments in other jurisdictions or with respect to international accounting standards?

Response:

International Accounting Standards

For Citigroup, the most significant off-balance sheet vehicles subject to GAAP consolidation arising from the adoption of FAS 166 and FAS 167 are credit card securitization trusts and Citi-administered ABCP programs. Under existing U.S. GAAP requirements, ABCP programs are generally not consolidated by the sponsor/administrator where the majority of expected losses are held by a single investor (e.g., a first-loss note holder). Additionally, credit card securitization trusts are generally not consolidated for current U.S. GAAP accounting purposes by the sponsor/ transferor, because the trusts meet the requirements under FAS 140 as qualifying special purpose entities (QSPEs). From an international accounting standards perspective, we understand that under current IFRS (and proposed amendments to IFRS in Exposure Draft 10, Consolidation), the sponsor/administrator would consolidate its ABCP programs and the sponsor/transferor would consolidate its credit card securitization trusts. Accordingly, the adoption of FAS 166 and FAS 167 will result in increased convergence between U.S. GAAP and IFRS, and therefore provide for a more level playing field as between these two sets of accounting standards. Conversely, as discussed below, the existing regulatory capital treatment for securitizations by U.K. banking organizations does not follow the IFRS accounting treatment, and therefore would present competitive equity concerns for U.S. banking organizations.

U.K. Regulatory Capital Rules and Guidance

Under current U.K. regulatory capital rules and guidance (Basel II), securitization exposures may be excluded from risk-weighted assets when significant credit risk associated with these exposures has been transferred to a securitization special purpose entity (SSPE). Whether or not an asset transfer is accounted for as a sale, or whether or not an SSPE is consolidated for U.K. GAAP accounting purposes, is not determinative or relevant as to whether there has been significant credit risk transference from a U.K. regulatory capital perspective.

Accordingly, the agencies' currently expressed view, as set forth in the proposal, that the risk-based capital treatment for U.S. banking organizations flow from the resultant adoption of the 2009 GAAP modifications, would place these organizations at a competitive disadvantage relative to their U.K. counterparts, by requiring that risk-weighted assets be computed for all of the assets of a consolidated asset securitization vehicle, not to mention also from the adverse impact of recognizing a cumulative effect charge to retained earnings and associated DTAs (which, depending upon the banking organization, may be disallowed in their entirety for U.S. risk-based capital purposes). Under the 2009 GAAP modifications accounting consolidation would, based on the agencies' currently expressed thinking, drive regulatory capital requirements, even where (unlike under the U.K. regulatory capital rules and guidance) significant credit risk has been transferred. As such, if the agencies were to retain this position, U.S. banking organizations could be severely restricted in being able to effectively compete for securitization business overseas, which in turn could impair an organization's profitability and capital formation and thereby impinge upon more robust U.S. economic growth.

Citi-Administered Customer-Based Multi-Seller ABCP Conduits

Separately, and additionally, representative of the potential competitive inequity issue relative to the Citi-administered customer-based multi-seller ABCP conduits (Customer Conduits), is that banking organizations in most jurisdictions outside of the U.S. have already adopted the Basel II capital framework. As such, given generally lower capital requirements under Basel II for these types of structures than that which would result from the proposal, these banking organizations would typically be able to offer better pricing to customers while continuing to meet internal hurdle rates as to returns, thus garnering substantial market share. As such, a clear competitive disadvantage for U.S. banking organizations which sponsor-administer Customer Conduits. U.S. banking organizations would, therefore, be effectively forced to re-think the continued viability of the Customer Conduits business, despite the fact that there has been no structural change to these programs or the assumption of any additional risk.

Question 7:

Among the structures that likely will be consolidated under the 2009 GAAP modifications, for which types, if any, should the agencies consider assessing a different risk-based capital requirement than the capital treatment that will result from the implementation of the modifications? How are commenters' views influenced by proposals for reforming the securitization markets that require securitizers to retain a percentage of the credit risk on any asset that is transferred, sold or conveyed through a securitization? Commenters should provide a detailed explanation and supporting empirical analysis of why the features and characteristics of these structure types merit an alternative treatment, how the risks of the structures should be measured, and what an appropriate alternative capital treatment would be. Responses should also discuss in detail with supporting evidence how such different capital treatment may or may not give rise to capital arbitrage opportunities.

Response:

Citigroup is of the view that application of the existing risk-based capital rules as a byproduct of adopting the 2009 GAAP modifications, as is the expressed current thinking of the agencies, is not appropriate or reflective of the actual risks present in many transactions. We believe that regulatory capital should be held against actual risks, and not anticipated or predisposed risks which will likely never materialize. Absent the agencies changing their view, however, amongst the VIE structures for which the 2009 GAAP modifications will require consolidation, but for which Citigroup believes contain certain features and characteristics for which consideration is warranted as to an alternative risk-based capital treatment are: sponsor-administered customer-based multi-seller ABCP conduit programs (Customer Conduits), for which the rationale has previously been espoused, certain private label residential mortgage loan securitizations, and certain student loan securitizations.

The premise underlying the agencies' thinking, as to the requirement to simply follow for risk-based capital purposes the resulting GAAP accounting arising from adoption of FAS 166 and FAS 167, is founded upon the belief that in all cases a banking organization effectively assumes more credit risk than is represented by the legal exposures reflecting its involvement with an off-balance sheet VIE. The agencies are intending to apply their risk-based capital rules broadly, under the presumption that in all circumstances a banking organization will provide implicit support to all of the off-balance sheet vehicles that it sponsors.

Private Label Residential Mortgage Loan Securitizations

In contrast, we assert that there are certain private label residential mortgage loan securitizations for which the most appropriate risk-based capital treatment would be to continue to require that capital be held only against the contractual exposures a banking organization has in relation to such securitizations. This treatment would be as an alternative to that resulting from required regulatory capital deriving from the 2009 GAAP modifications.

To illustrate, a static, term residential mortgage-backed security (hereinafter 'RMBS') vehicle does not lend itself to a banking organization's provision of post sale, non-contractual (implicit) support, as has been observed during the last year with respect to revolving credit card securitization structures. All of the assets are transferred to, and all of the liabilities are issued by, these RMBS vehicles at inception of the transaction. Moreover, a banking organization that transfers the assets to RMBS vehicles is not incentivized from either a business or economic perspective to support these vehicles in excess of the contractual risk to which it is exposed. That is, each RMBS vehicle is, as noted, static and stands on its own, without respect to the credit

performance of the residential mortgage loans securitized in predecessor deals. Accordingly, credit enhancements for a particular RMBS securitization are sized, and funding costs determined, based upon the perceived credit risk associated with the specific pool of underlying residential mortgage loans being securitized. Consequently, there is no funding risk or impact on the sizing of credit enhancements for future RMBS deals, as a result of failing to implicitly support a prior RMBS securitization. Furthermore, Citi's domestic residential mortgage business is primarily funded by way of U.S. government agency and U.S. government-sponsored agency RMBS securitizations, rather than through securitizations of private label residential mortgage loans.

As evidence, it is interesting to note that Citi has historically not taken any post sale, non-contractual action to implicitly support its RMBS securitizations, in response to actual external credit rating agency downgrades of outstanding securities. Specifically, Citi has had 386 of 486 externally rated RMBS issued by several Citi RMBS trusts downgraded from 2005 through 2008 (including some AAA rated senior securities), and has taken no action, nor plans to take any action, to additionally credit enhance these securities. Further, many of these RMBS are subject to possible further downgrades, as the external credit rating agencies have placed such securities on negative outlook. Nonetheless, Citi will take no action to support these securities, even if further downgraded.

Additionally, banking organizations are clearly motivated not to provide implicit support to these RBMS vehicles due to existing income tax laws governing REMICs. With respect to these tax laws, in order to retain REMIC tax status for a RMBS (which is critical to avoiding double taxation of the interest income on the residential mortgage loans, and in turn the RMBS), a banking organization cannot contribute additional assets or provide additional support to the RMBS vehicles so as to shelter or absorb credit losses. Such action would be considered a prohibited transaction under the REMIC tax laws and taxed at 100% of the amount of the contribution or support provided, thereby nullifying any benefit. Accordingly, the REMIC tax laws strongly discourage a banking organization from undertaking any action to implicitly support its RMBS vehicles that would place the favorable tax treatment at risk.

For these reasons, Citigroup is of the view that it would be most appropriate for the agencies to allow banking organizations to continue to apply the current risk-based capital treatment only against its contractual exposures to certain private label residential mortgage loan securitizations.

Student Loan Securitizations

As with certain private label residential mortgage loan securitizations, we believe that the agencies should also strongly consider allowing a different risk-based capital treatment for U.S. government guaranteed student loan securitizations from that which would derive from implementation of the 2009 GAAP modifications. In Citigroup's opinion the most appropriate alternative risk-based capital treatment would be to continue to require that capital be held only against the contractual exposures a banking organization has in relation to such securitizations.

The securitization of U.S. government guaranteed FFELP (Federal Family Education Loan Program) student loans, presents limited continuing risk to a banking organization that sponsors and transfers these types of assets. More specifically, the contractual risk retained by banking organizations, such as Citi's Student Loan Corporation, as transferor of these U.S. government guaranteed student loans, may be reflected in the retention of credit-enhancing interest-only strips and tranches of subordinated debt securities issued by the securitization trusts. Additionally, as may be the case with other banking organizations, Citi's Student Loan Corporation acts as servicer of the securitized student loans, albeit not in a structural credit enhancing capacity.

Given the credit enhancement structure of these non-revolving securitizations wherein 97%-98% of the credit risk associated with the principal and interest payments on these FFELP student loans is being borne by the U.S. government, it is highly unlikely that a banking organization would provide implicit support to these transactions, even though the application of the new GAAP accounting rules will likely require consolidation of these securitization vehicles under the concept of control. As substantiation, even at the height of the current credit crisis, Citi did not provide after the fact, non-contractual credit support to these student loan securitizations. In addition, clearly investors in these types of student loan securitizations are fully cognizant of the minimal credit risk assumed by investing in these asset-backed securities, as reflected in the pricing of this type of paper, and are no doubt comforted by the substantial credit risk assumed on these loans by the U.S. government. We therefore contend that requiring the holding of regulatory capital in excess of the limited risk a banking organization retains in these types of securitizations is inappropriate and unwarranted.

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Our views are not influenced by the proposals for reforming the securitization markets to require securitizers to retain a percentage (e.g., 5%) of the credit risk on any asset that is transferred, sold, or conveyed through a securitization.

Question 8:

Servicers of securitized residential mortgages who participate in the Treasury's Making Home Affordable Program (MHAP) receive certain incentive payments in connection with loans modified under the program. If a structure must be consolidated solely due to loan modifications under MHAP, should these assets be included in the leverage and risk-based capital requirements? Commenters should specify the rationale for an alternative treatment and what an appropriate alternative capital requirement would be.

Response:

The requirements to qualify for a residential mortgage loan modification under the Treasury's Making Home Affordable Program (MHAP) are rather strict. Consequently, the incentive payments to be received by servicers for a relatively small number of such loan modifications are expected to be immaterial both individually and in the aggregate. Given that the servicers' interest in off-balance sheet residential mortgage loan securitizations would be economically insignificant, Citi is of the belief that there would be no required consolidation of these vehicles under FAS 167 solely due to the receipt of these incentive payments. Accordingly, there would also therefore be no incremental asset impact to either the risk-based capital or leverage ratios arising from such incentivized MHAP loan modifications.

Question 9:

Which features and characteristics of transactions that may not be subject to consolidation after the 2009 GAAP modifications become effective should be subject to risk-based capital requirements as if consolidated in order to more appropriately reflect risk?

Response:

Citigroup does not believe that there are any features and characteristics of transactions that may not otherwise be subject to consolidation after the FAS 166 and FAS 167 modifications become effective in 2010, but that should be subject to risk-based capital requirements as though the transactions were consolidated for GAAP accounting purposes. Conversely, we firmly believe that the 2009 GAAP modifications, founded upon control and not risk, should not drive the risk-based capital treatment. Nevertheless, subjecting any additional transactions to risk-based capital requirements as though consolidated for GAAP accounting purposes, would place an unnecessary and unfounded burden on banking organizations' risk-based capital ratios relating to transactions in which there is limited or nominal exposure.

Question 10:

Will securitized loans that remain on the balance sheet be subjected to the same ALLL provisioning process, including applicable loss rates, as similar loans that are not securitized? If the answer is no, please explain. If the answer is yes, how would banking organizations reflect the benefits of risk sharing if investors in securitized, on-balance sheet loans absorb realized credit losses? Commenters should provide quantification of such benefits, and any other effects of loss sharing, wherever possible. Additionally, are there policy alternatives to address any unique challenges the pending change in accounting standards present with regard to the ALLL provisioning process including, for example, the current constraint on the amount of provisions that are includible in tier 2 capital? Commenters should provide quantification of the effects of the current limits on the includibility of provisions in tier 2 capital and the extent to which the 2009 GAAP modifications and the changes in regulatory capital requirements proposed in this NPR effect those limits.

Response:

FAS 167 permits a banking organization to elect to transition to the new accounting requirements under, amongst other alternatives, a carrying value approach or a fair value option approach. Citi is presently evaluating the regulatory capital and ongoing operational implications associated with both of these approaches, relative to those VIEs which it currently expects to consolidate under FAS 167.

A banking organization that elects the carrying value transition approach must under GAAP recognize an appropriate ALLL on the loans being consolidated, and in accordance with FAS 167 recognize an offsetting charge to retained earnings. In certain instances, such as with regard to the application of the carrying value transition approach to securitized credit card receivables, the pretax charge to retained earnings may be quite large, as reflective of a general deterioration in the credit quality of the underlying credit card receivables given the current stage of the economic cycle. Adversely impacting regulatory capital for some banking organizations as well, would be the recognition of deferred tax assets, which may be disallowed in their entirety for risk-based capital purposes and thus further reduce both Tier 1 Capital and Tier 1 Common.

Conversely, for those banking organizations that choose the fair value option transition approach, no ALLL is required to be recognized under GAAP, as any credit impairment would be embedded in the fair value measurement of the loans (such as credit card receivables) being consolidated.

Accordingly, with the exception of securitization vehicles for which a banking organization elects the fair value option, we expect that the ALLL provisioning process for the newly consolidated loans will be the same as for similar loans that are not securitized. We do not believe that GAAP supports reducing the ALLL for the expectation that actual losses will be ultimately absorbed by the investors. In fact, if investors were to economically absorb credit losses in these trusts, it would manifest itself as an extinguishment of a liability owed to the trust debt holders once the actual loss is realized. Under GAAP the extinguishment of the debt may not occur in the same accounting period as when the credit losses were recognized, as the debt extinguishment may only be recorded when the entity is legally released from the obligation.

As noted, banking organizations electing the carrying value transition approach will be required to establish an ALLL for those loans consolidated as a result of implementing FAS 167. Furthermore, the establishment of such an ALLL may give rise to the recognition of sizable DTAs, which for some banking organizations may be entirely disallowed in determining Tier 1

Capital and consequently also Tier 1 Common. Importantly, the severity of the current economic downturn has resulted in deterioration in the quality of credits that will be required to be consolidated in accordance with the 2009 GAAP modifications, which if the carrying value transition approach is adopted, will necessitate the building of a significant ALLL relative to certain types of loans, yet that ALLL which is intended to absorb credit losses much like capital, will be almost entirely excluded from regulatory capital due to the limitation imposed by the existing risk-based capital rules on the amount of ALLL includable in Tier 2 Capital. Banking organizations therefore will not only lose potentially significant Tier 1 Capital (and Tier 1 Common) as a result of establishing an ALLL on newly consolidated loans, but also will not recoup that lost Tier 1 Capital in the form of Tier 2 Capital (and therefore Total Capital). Contributing further to the diminution of Tier 1 Capital, for some banking organizations, will be the disallowance in whole or in part of recognized DTAs.

Citigroup believes that the agencies need to address the adverse confluence of these factors on banking organizations' regulatory capital positions and the resultant implications to the numerator of the risk-based capital and leverage ratios. Toward this end, as previously indicated, we think it is reasonable and necessary that the agencies permit banking organizations to phase-in the transition effects associated with adopting the 2009 GAAP modifications related to charges to retained earnings (including the ALLL) and the related DTAs into the computation of the capital adequacy ratios over a 3 year time horizon. In this manner, a significant GAAP accounting change, without a corresponding change in risk, would have a more moderated impact on banking organizations' regulatory capital positions and therefore not stifle the ability to continue to extend credit at a time when the U.S. financial system and economy remains a bit fragile and unsettled, and where there is still likely a long and bumpy road to full economic recovery.

The pro forma impact for Citigroup of adopting the 2009 GAAP modifications as of January 1, 2010 (based on June 30, 2009 financial information), would have been the exclusion of 99% of the necessary ALLL build from Tier 2 Capital, despite an increase in gross risk-weighted assets.

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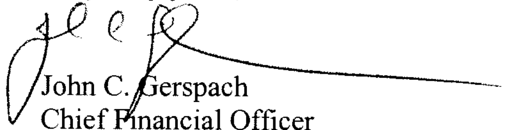
In closing, we appreciate the opportunity to share our views with the agencies, and would be most pleased to discuss further these comments as well as address any questions which may arise. Should you wish to do so, please contact either Jeff Walsh, Controller and Chief Accounting Officer, at (212) 559-0019 or Jim Padula at (212) 559-4510.

Very truly yours,



John C. Gerspach
Chief Financial Officer