



ORRICK, HERRINGTON & SUTCLIFFE LLP  
COLUMBIA CENTER  
1152 15TH STREET, NW  
WASHINGTON, D.C. 20005-1706

tel +1-202-339-8400  
fax +1-202-339-8500

WWW.ORRICK.COM

February 22, 2010

Douglas L. Madsen  
(202) 339-8492  
dmadsen@orrick.com

VIA E-MAIL: [COMMENTS@FDIC.GOV](mailto:COMMENTS@FDIC.GOV)

Mr. Robert E. Feldman  
Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17th Street, N.W.  
Washington, DC 20429

**Advance Notice of Proposed Rulemaking Regarding Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation After March 31, 2010 (75 Fed. Reg. 934, January 7, 2010) (RIN #3064-AD55)**

Dear Mr. Feldman:

On behalf of our client, Citibank (South Dakota), National Association, an insured depository institution and the seller and servicer of credit card receivables in connection with securitization transactions, we welcome the opportunity to submit this letter in response to the request of the Federal Deposit Insurance Corporation for comments regarding its advance notice of proposed rulemaking titled "Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation After March 31, 2010" (the "ANPR"). In particular, we would like to respond to the FDIC's request for comments on the transitional safe harbor currently in effect with respect to participations and securitizations until March 31, 2010 pursuant to the Interim Rule (as defined in the ANPR).

As correctly noted by the FDIC in the ANPR, securitization, properly structured, can be a valuable tool for liquidity and can play an important role in recovery from the financial crisis. In furtherance of these goals, a narrow change should be made to the Interim Rule to eliminate the difficulties that are caused for banks by the requirement that they simultaneously comply with the inconsistent requirements of Financial Accounting Statements Nos. 166 and 167 ("FAS 166/167") (for financial reporting purposes) and Financial Accounting Statement No. 140 ("FAS 140") (as required by the Interim Rule).



Mr. Robert E. Feldman, Executive Secretary  
February 22, 2010  
Page 2

FAS 140 required securitizing banks to comply with specific rules. FAS 166/167 takes a different approach and eliminates many of those rules.

For example, FAS 140 prohibited banks that had securitized credit card receivables from removing receivables from the securitization trust unless such removal was random. On the other hand, under the new accounting treatment required by FAS 166/167, targeted non-random removals of receivables is permissible. The ability to conduct targeted non-random removals would provide substantial operational flexibility to banks that are no longer receiving off-balance sheet treatment under the new accounting standards. This flexibility with respect to removals of receivables would be appropriately limited by the requirement for continued compliance with all other aspects of FAS 140 until a final rule becomes effective.

For these reasons, we respectfully request that the FDIC revise the Interim Rule to permit banks to engage in targeted removals of receivables from securitization trusts during the effective period of the Interim Rule. In order to avoid any unintended consequences, the aggregate amount of such removals could be limited to a small portion (such as 10 percent) of the aggregate amount of receivables held by the securitization trust on a specified date (such as January 1, 2010).

Thank you for your consideration of this comment. Please do not hesitate to contact me at 202.339.8492 or dmadsen@orrick.com if you have questions concerning our client's views and suggestions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas L. Madsen", with a large, stylized flourish extending to the right.

Douglas L. Madsen