Investment Company Act of 1940 – Sections 15(f), 2(a)(3)(C), and 2(a)(19)(B)
Rule 12b-1

Citigroup Inc

July 26, 2006

Our Ref. No. 20051111427

RESPONSE OF THE OFFICE OF CHIEF COUNSEL
DIVISION OF INVESTMENT MANAGEMENT

Citigroup Inc.
File No. 801-3387

Your letter dated July 26, 2006 requests that we concur with your view that (1) certain payments received (and to be received) by Citigroup Global Markets Inc. ("CGMI") and PFS Investments, Inc. ("PFSI"), each a subsidiary of Citigroup Inc. ("Citigroup"), and (2) certain payments made (and to be made) (i) by CGMI and PFSI to their employees, (ii) by CGMI to certain broker-dealers affiliated with Citigroup ("Affiliated Dealers") and (iii) by the Affiliated Dealers to their employees, constitute "ordinary compensation as principal underwriter" for purposes of Section 15(f)(2)(B)(i) of the Investment Company Act of 1940 (the "1940 Act"). Your letter also requests that we concur with your view that certain sub-accounting services provided (and to be provided) by Citigroup or certain of its affiliates, as described below, to certain registered investment companies constitute "other services" for purposes of Section 15(f)(2)(B)(ii) of the 1940 Act.[1]

Facts

You state that on December 1, 2005 ("Closing Date"), Citigroup sold to Legg Mason, Inc. ("Legg Mason") substantially all of its business of acting as investment adviser through one or more of its affiliated investment advisers ("Citigroup Advisers")[2] to numerous existing open- and closed-end registered investment companies (the "Funds"). You explain in your letter that CGMI and PFS Distributors Inc. (the predecessor to PFSI) historically acted as principal underwriters for the Funds. You state that prior to the Closing Date, each of CGMI, PFSI, the Affiliated Dealers and certain other affiliates of Citigroup (Citigroup and its affiliates, collectively, the "Citigroup Companies") provided distribution services for the Funds. You, therefore, state that each of the Citigroup Companies providing such distribution services and each of the employees of CGMI and PFSI and of the Affiliated Dealers was an interested person of the Citigroup Advisers within the meaning of Section 2(a)(19)(B) of the 1940 Act.[3] Further, you state that Legg Mason and Citigroup agreed that Citigroup would continue to distribute shares of the

[1] This letter confirms oral interpretive guidance provided by Elizabeth G. Osterman, Assistant Chief Counsel, of this office to Richard Prins of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to Citigroup, on November 30, 2005.

[2] You state that Citigroup controlled the Citigroup Advisers prior to the Closing Date. Consequently, the Citigroup Advisers were affiliated persons of Citigroup within the meaning of Section 2(a)(3)(C) of the 1940 Act until the Closing Date.

[3] *See infra* note 11.

Funds for a period of at least three years after the Closing Date on at least as favorable a basis as provided prior to the Closing Date. You state that the framework for these continuing distribution agreements is set forth in a Global Distribution Agreement, entered into on June 23, 2005, and amended and restated on October 3, 2005 ("Global Distribution Agreement").[4] You state that CGMI and PFSI (the "Citigroup Principal Underwriters") entered into new principal underwriting agreements with the Funds as of the Closing Date.

You state that, pursuant to the new principal underwriting agreements with the Funds, the Citigroup Principal Underwriters have agreed to act as agents for the Funds to: (1) offer shares of the Funds and accept purchases, redemptions and exchanges of such shares; (2) review and submit to the NASD any marketing materials they prepare; (3) maintain anti-money laundering programs, and know your customer and privacy policies; (4) maintain applicable records of their activities; (5) maintain policies and procedures for share transactions with investors and intermediaries; and (6) finance the sale of Class B Shares and pay for the printing of certain related marketing materials. You explain that the Citigroup Principal Underwriters have provided (and will continue to provide) such services for the Funds directly and through their employees. You also explain that CGMI, acting in its capacity as a Citigroup Principal Underwriter, has entered into selected dealer agreements with the Affiliated Dealers. You state that, pursuant to these agreements, the Affiliated Dealers have agreed to provide certain of the above services for the Funds on behalf of CGMI. In particular, you state that the Affiliated Dealers are responsible for: (1) offering shares of the Funds; (2) forwarding purchase, redemption and exchange orders from their customers through CGMI as principal underwriter to the Funds; and (3) using marketing materials furnished by the Funds' principal underwriters in offering shares of the Funds. You explain that the Affiliated Dealers have provided (and will continue to provide) such services for the Funds on behalf of CGMI directly and through their employees. (The distribution services described above provided (and to be provided) by the Citigroup Principal Underwriters and the Affiliated Dealers, and their respective employees, are referred to as the "Distribution Services.")[5]

You state that, as payment for providing the Distribution Services for the Funds, the Citigroup Principal Underwriters have received (and will continue to receive) front-end and deferred sales charges from investors ("Loads"), distribution and shareholder servicing payments from the Funds pursuant to the Funds' plans adopted under Rule 12b-1 under the 1940 Act ("12b-1 Fees") and revenue sharing payments from the investment advisers to the Funds ("Revenue Sharing Payments").[6] (For purposes of this

[4] You represent that, effective as of December 1, 2005, a Legg Mason subsidiary became a principal underwriter to the Funds, in addition to the Citigroup Principal Underwriters.

[5] You represent that there are no understandings, arrangements or agreements that obligate any of the Funds or Legg Mason or any of Legg Mason's affiliates to execute portfolio transactions for the Funds with any person affiliated with the Citigroup Advisers. *See* Section 2(a)(3) of the 1940 Act (defines affiliated person).

[6] You state that the agreements governing revenue sharing payments by the Funds' investment advisers to the Citigroup Principal Underwriters are in writing and provide in effect that the source of the Revenue Sharing Payments is the legitimate profits of the Funds' investment advisers. *See* Bearing of Distribution Expenses of Mutual Funds, Investment Company Act Release No. 11414 (Oct. 28, 1980).

letter, we refer collectively to Loads, 12b-1 Fees and Revenue Sharing Payments as "Distribution Compensation.") You also state that, since the Closing Date, the Citigroup Principal Underwriters have paid (and will continue to pay) their employees for providing the Distribution Services for the Funds using the Distribution Compensation received by them. In addition, you state that, since the Closing Date, CGMI has paid (and will continue to pay) the Affiliated Dealers for providing the Distribution Services for the Funds using the Distribution Compensation received by it ("Affiliated Dealer Compensation"). Finally, you state that the Affiliated Dealers have paid (and will continue to pay) their employees for providing the Distribution Services for the Funds using the Affiliated Dealer Compensation received by them from CGMI.[7]

You also state that the Citigroup Principal Underwriters and another Citigroup Company, CitiStreet LLC, received prior to the Closing Date (and have continued to receive since the Closing Date) compensation for providing (and continuing to provide since the Closing Date) sub-accounting services for some of the Funds.[8] These services include: (1) maintaining shareholder records pertaining to beneficial holder identification, purchases and sales, dividend payments, dividend reinvestments, aggregate number of shares beneficially held, share tax lots, taxable income and the components thereof, returns of capital and tax basis; and (2) preparing and forwarding tax form 1099 to beneficial holders of Fund shares. You state that one or more of the Citigroup Companies, in addition to the Citigroup Principal Underwriters and CitiStreet LLC, also may provide in the future, and receive compensation for providing, sub-accounting services to Funds other than those for which sub-accounting services are currently provided.

Section 15(f)

Section 15(f) of the 1940 Act establishes a non-exclusive safe harbor for the receipt of any amount or benefit by an investment adviser to a registered investment company ("fund") or an affiliated person of such adviser in connection with the sale of securities of, or a sale of any other interest in, the adviser that results in an assignment of the fund's advisory contract, provided that two conditions are satisfied.[9] Under Section 15(f)(1)(A),

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[7] You note that for reasons of administrative efficiency: (i) the Citigroup Principal Underwriters with respect to their employees may request that the relevant Fund or Legg Mason adviser forward the appropriate amount of Distribution Compensation to such employees; (ii) out of CGMI's share of the Distribution Compensation, CGMI may request that the relevant Fund or Legg Mason adviser forward (a) the appropriate amount of Affiliated Dealer Compensation to each Affiliated Dealer and (b) the net remaining amount to CGMI; and (iii) at the request of the Affiliated Dealers with respect to their employees, CGMI may request that the relevant Fund or Legg Mason adviser forward the appropriate amount of the Affiliated Dealer Compensation to such employees. You state that in each case, the relevant Fund's amount would consist solely of 12b-1 Fees and the relevant Legg Mason adviser's amount would consist solely of Revenue Sharing Payments.

[8] You state that the arrangements applicable to sub-accounting services are not governed by the terms of the Global Distribution Agreement. You also state that the sub-accounting services are not paid for, or required to be paid for, by the Funds out of their Rule 12b-1 plans.

[9] Section 15(f) was added in 1975 to clarify industry concerns following the decision in Rosenfeld v. Black, 445 F.2d 1337 (2d Cir. 1971). These concerns related to whether an investment adviser to a fund could earn any profit upon the sale of its investment advisory business consistent with its fiduciary

at least 75% of the directors of a fund's board must not be interested persons of either the fund's investment adviser or its predecessor adviser for three years following the sale of securities of, or a sale of any other interest in, the adviser that results in an assignment of the fund's advisory contract.[10] Under Section 15(f)(1)(B), an unfair burden may not be imposed on the fund as a result of the transactions described in Section 15(f), or any express or implied terms, conditions or understandings applicable to such transactions.

Section 15(f)(2)(B) defines "unfair burden" to include:

> any arrangement, during the two-year period after the date on which any [transaction described in Section 15(f)] occurs, whereby the investment adviser or [, its] predecessor or successor investment advisers […] or any interested person of any such adviser […] receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, *other than bona fide ordinary compensation as principal underwriter* for such company, or (ii) from such company or its security holders for *other than bona fide* investment advisory or *other services* (emphasis added).

You state that each of the Citigroup Companies that provided distribution services for the Funds, each of the employees of the Citigroup Principal Underwriters and each of the employees of the Affiliated Dealers, before the Closing Date, was an interested person of the Citigroup Advisers within the meaning of Section 2(a)(19)(B) at that time.[11] Consequently, each of such persons was an interested person of the Funds' predecessor investment adviser. Accordingly, you are concerned whether the safe harbor set forth in Section 15(f), and in particular Section 15(f)(2)(B), applies under the circumstances you describe in your letter. You state that you are not aware of any judicial or administrative interpretation that would provide guidance as to the application of Section 15(f)(2)(B) under those circumstances. You therefore request that we concur with your view that: (1)

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obligations to the fund. In adopting Section 15(f), Congress sought to balance the interests of fund shareholders and the ability of an investment adviser to sell its advisory business at a profit. S. Rep. No. 94-75, at 71 (1975); H. Rep. 94-123, at 90 (1975). Section 59 of the 1940 Act makes Section 15(f) applicable to business development companies to the same extent as if they were registered closed-end funds.

[10] You represent that the composition of each Fund board has satisfied this condition at all times since the Closing Date.

[11] Section 2(a)(19)(B) of the 1940 Act defines "interested person" when used with respect to an investment adviser of any investment company to include, among others:

> any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for – (I) any investment company for which the investment adviser . . . serves as such; . . . .

the Distribution Compensation directly received (and to be received) by the Citigroup Principal Underwriters, and indirectly received (and to be received) by the employees of the Citigroup Principal Underwriters, the Affiliated Dealers and employees of the Affiliated Dealers under the circumstances described in your letter, constitutes "*ordinary compensation as principal underwriter"* for the Funds for purposes of Section 15(f)(2)(B)(i); and (2) the sub-accounting services constitute "*other services*" for purposes of Section 15(f)(2)(B)(ii).

Conclusion

Based on the facts and representations in your letter, and without necessarily agreeing with your analysis, it is our view that:

- the Distribution Compensation received (and to be received) by the Citigroup Principal Underwriters, and paid by them to their employees, for providing the Distribution Services for the Funds constitutes "*ordinary compensation as principal underwriter*" for purposes of Section 15(f)(2)(B)(i);

- the payments made (and to be made): (i) by CGMI to the Affiliated Dealers using the Distribution Compensation received by it for providing the Distribution Services for the Funds, as described above, and (ii) by the Affiliated Dealers to their employees using the Affiliated Dealer Compensation for providing the Distribution Services for the Funds, as described above, constitute "*ordinary compensation as principal underwriter*" for purposes of Section 15(f)(2)(B)(i); and

- "*other services*" include the sub-accounting services provided (and to be provided) for the Funds by the Citigroup Companies for purposes of Section 15(f)(2)(B)(ii), based in particular on your representation that such services are not required to be paid for by the Funds out of their Rule 12b-1 plans.

We express our views solely for purposes of Section 15(f), and express no view regarding what constitutes acting as principal underwriter or other services for any other purpose.[12] Our views are based on the facts and representations set forth in your letter. You should note that any different facts or representations may require a different conclusion.[13]

Very truly yours,

Douglas Scheidt
Associate Director and
Chief Counsel

[12] Moreover, our view should not be taken to suggest that the Affiliated Dealers or any employees discussed in this letter are principal underwriters, as defined in Section 2(a)(29) of the 1940 Act.

[13] Our interpretation of Section 15(f), moreover, does not address whether the Distribution Compensation, or any part of it, is "*bona fide*" within the meaning of Section 15(f)(2)(B)(i), or whether the sub-accounting services are "*bona fide*" within the meaning of Section 15(f)(2)(B)(ii). A determination as to whether such compensation or services are *bona fide* is primarily factual in nature. We are not in a position to conduct the investigation necessary to evaluate the requisite facts and circumstances of such payments or services, and therefore, as a matter of policy, we generally do not respond to questions raising issues that are primarily factual in nature. *See, e.g., Zurich Insurance Company, Scudder Kemper Investments, Inc.*, Division of Investment Management no-action letter (pub. avail. Aug. 31, 1998) (staff declined to take position on whether change in control had occurred).

We recognize that the Citigroup Companies and their employees likely will receive compensation in addition to the compensation described in this letter during the two-year period following the Closing Date. This letter does not address whether the receipt of such additional compensation would constitute "*ordinary compensation as principal underwriter*" for purposes of Section 15(f).

INCOMING LETTER:

Section 15(f) of the
Investment Company Act

July 26, 2006

Douglas Scheidt
Chief Counsel
Division of Investment Management
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Dear Mr. Scheidt:

On behalf of our client Citigroup Inc. ("Citigroup") we are writing to seek confirmation of the oral interpretive advice we received on November 30, 2005 from the staff of the Securities and Exchange Commission (the "Commission") under Section 15(f) of the Investment Company Act of 1940 (the "1940 Act") in connection with the sale (the "Transfer") by Citigroup to Legg Mason, Inc. ("Legg Mason") of substantially all of its business of acting as investment adviser through one or more of its affiliated investment advisers ("Citigroup Advisers")[14] to numerous existing open- and closed-end registered investment companies (the "Funds"). The Transfer, which occurred on December 1, 2005, (the "Closing Date"), was part of a larger transaction in which Citigroup sold substantially all of its investment management business to Legg Mason in exchange for Legg Mason securities and Legg Mason's investment banking and retail brokerage operations pursuant to a Transaction Agreement entered into on June 23, 2005. Section 15(f) of the 1940 Act permits Citigroup to retain any amount or benefit it realized in connection with the Transfer if, among other things, no "unfair burden" is imposed upon the Funds as a result of the Transfer or any of the express or implied terms, conditions or understandings applicable to the Transfer. The term "unfair burden" is

[14] Citigroup controlled each of the Citigroup Advisers prior to the date of the Transfer (the "Closing Date"). Consequently, each of the Citigroup Advisers was an affiliated person of Citigroup within the meaning of Section 2(a)(3)(C) of the 1940 Act until the Closing Date.

defined in Section 15(f)(2)(B)(i) to include any arrangement during the two-year period after the Transfer whereby either Citigroup or any of its affiliates (together with Citigroup, the "Citigroup Companies") or Legg Mason or any of its affiliates receive any compensation directly or indirectly from any person in connection with the purchase or sale of any securities or other property to, from or on behalf of the Funds other than bona fide ordinary compensation as principal underwriter for the Funds. Except as otherwise noted, for purposes of this letter the word affiliate means any person that at the time of determination, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person and the word control means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person. Each of the Citigroup Companies that provides distribution services for the Funds and each of the employees of those Citigroup Companies is an interested person of the Funds' investment advisers and principal underwriters within the meaning of Section 2(a)(19) of the 1940 Act.

Citigroup is one of the largest diversified financial services companies in the world, with consolidated assets, shareholders' equity and assets under management as of June 30, 2005 of $1,547 trillion, $113 billion and $436 billion, respectively. It currently owns Citibank, N.A. and Citigroup Global Markets Inc. ("CGMI"), which together are among the largest underwriters, dealers and/or brokers in the world of securities, commodities, foreign exchange, commercial loans, securities loans, derivative instruments and other financial instruments.

Legg Mason is a financial services holding company that, currently provides asset management and related financial services, and prior to the Transfer also provided securities brokerage and investment banking services, through its subsidiaries. As of June 30, 2005, Legg Mason's asset management operations had aggregate assets under management of $397 billion, of which approximately $248 billion represented fixed income assets and $75 billion represented assets in mutual and closed-end funds sponsored by Legg Mason and its affiliates.

Historically, CGMI and another Citigroup subsidiary, PFS Distributors Inc. ("PFSD") acted as principal underwriters for each of the Funds and substantially all of the shares of the Funds were sold through these principal underwriters to the customers of themselves and their affiliates. Effective December 1, 2005 a Legg Mason subsidiary became an additional principal underwriter of the Funds. Legg Mason desired to take on this role in order to be able to expand distribution opportunities for the Funds beyond Citigroup and to take responsibility for shaping the marketing of the Funds in the future. Citigroup wished to continue distributing shares of the Funds (which, as noted above, are largely held by Citigroup customers). Legg Mason believed it would be in the best interest of the Funds to maintain the Citigroup distribution channel for the Funds. Accordingly, Legg Mason and Citigroup agreed, and the boards of the Funds approved, that Citigroup would continue for a period of at least three years after the Closing Date to continue to distribute shares of the Funds on at least as favorable a basis as prior to the

Closing Date. The Funds' boards took these distribution commitments into account in their decisions to approve new advisory agreements to take effect at the Closing Date pending shareholder approval. The framework for these continuing distribution agreements is set forth in a Global Distribution Agreement, entered into on June 23, 2005 and amended and restated on October 3, 2005 (the "Global Distribution Agreement"), which also contemplates that Citigroup will have the right to be the primary retail distribution channel for certain Legg Mason registered mutual funds and related products, subject to any applicable approvals by the directors of such funds.

At the time the Transaction Agreement and the Global Distribution Agreement were entered into, CGMI and PFSD were the sole principal underwriters for the Funds and other Citigroup Companies performed distribution services for CGMI pursuant to selected dealer and similar agreements with it (such Citigroup Companies are referred to as the "Affiliated Dealers"). Depending on the class of shares involved, the principal underwriters and Affiliated Dealers received distribution-related compensation in the form of front-end and deferred sales charges from investors, Rule 12b-1 distribution and Rule 12b-1 shareholder servicing payments from the Funds and revenue sharing payments from the investment advisers of the Funds. Out of these revenues the principal underwriters paid their employees and the Affiliated Dealers for their distribution services. Due to the provision of these services each of the Citigroup Companies providing distribution services and each of the employees of these Citigroup Companies was an interested person of the Citigroup Advisers within the meaning of Section 2(a) (19)(B) of the 1940 Act. Prior to the Closing Date, three of the Citigroup Companies (CGMI, PFS Investments, Inc. ("PFSI," which is also the successor to PFSD) and CitiStreet LLC ("CitiStreet")), also received sub-accounting fees from some of the Funds for record-keeping services performed by those three companies. These sub-accounting services include maintaining shareholder records pertaining to: beneficial holder identification; purchases and sales; dividend payments; dividend reinvestments; aggregate number of shares beneficially held; share tax lots; taxable income and the components thereof, returns of capital, tax basis and similar records and preparing and forwarding to such beneficial holders tax form 1099. In the case of CGMI, PFSI and CitiStreet, these services were not paid for out of the Funds' Rule 12b-1 plans but rather by the Funds as normal operating expenses. Prior to the Transfer, personnel of the business unit operating the investment advisers of the Funds, who were also associated persons of one of the Citigroup brokers, supervised marketing and advertising for the Funds and structured and negotiated arrangements with third party distributors. In addition, CGMI and PFSI financed the sale of Class B shares and paid for the printing and distribution of prospectuses and sales literature.

After the Closing Date, CGMI and PFSI (the "Citigroup Principal Underwriters") have continued to serve (and will continue to serve) as principal underwriters for the Funds and the Affiliated Dealers have continued to perform (and will continue to perform) distribution services for CGMI, directly and through their employees, pursuant to selected dealer agreements with CGMI. Pursuant to new principal underwriting agreements entered into as of the Transfer, CGMI and PFSI have

agreed to act as agents for the Funds to offer shares of the Funds and accept purchases, redemptions and exchanges of such shares. Pursuant to these principal underwriting agreements, CGMI and PFSI are responsible for reviewing and submitting to the NASD any marketing materials they prepare; maintaining anti-money laundering programs, know your customer and privacy policies; maintaining applicable records of their activities; and maintaining policies and procedures for share transactions with investors and intermediaries. The Affiliated Dealers are responsible for offering shares of the Funds and forwarding purchase, redemption and exchange orders from their customers through CGMI as principal underwriter to the Funds. In offering shares they utilize marketing materials furnished by the Funds' principal underwriters. Accordingly, CGMI and PFSI have provided (and will continue to provide) the foregoing services for the Funds directly and through their employees and the Affiliated Dealers. The Citigroup principal underwriters continue to receive front-end and deferred sales charges from investors, Rule 12b-1 distribution and Rule 12b-1 shareholder servicing payments from the Funds (which may be payable through the Legg Mason principal underwriter as an administrative matter) and revenue sharing payments from the investment advisers to those Funds pursuant to written revenue sharing agreements providing in effect that the source of the revenue sharing payments by the investment advisers of the Funds to CGMI and PFSI will be the legitimate profits of those investment advisers. They also continue to finance the sale of Class B Shares and pay for the printing of certain marketing materials. The Citigroup principal underwriters will not utilize other revenue sources to compensate their employees and, in the case of CGMI, the Affiliated Dealers, for such distribution services. The revenue sharing payments will be used by CGMI and PFSI to support their distribution systems. The foregoing services are hereinafter referred to as the "Distribution Services" and the compensation received for such services as described above as the "Distribution Compensation." All elements of the Citigroup principal underwriters' compensation in connection with Distribution Services for a Fund will be disclosed in that Fund's registration statement or in the selling materials or order confirmation statements utilized by the Citigroup Companies.

After the Closing Date, the Citigroup Principal Underwriters have paid (and will continue to pay) their employees for providing the Distribution Services for the Funds using the Distribution Compensation received by them. In addition, after the Closing Date, CGMI has paid (and will continue to pay) the Affiliated Dealers for providing the Distribution Services for the Funds using the Distribution Compensation received by it ("Affiliated Dealer Compensation"). Finally, the Affiliated Dealers have paid (and will continue to pay) their employees for providing the Distribution Services for the Funds using the Affiliated Dealer Compensation received by them from CGMI. For reasons of administrative efficiency: (i) the Citigroup Principal Underwriters with respect to their employees may request that the relevant Fund or Legg Mason adviser forward the appropriate amount of Distribution Compensation to such employees, (ii) out of CGMI’s share of the Distribution Compensation, CGMI may request that the relevant Fund or Legg Mason adviser forward (a) the appropriate amount of Affiliated Dealer Compensation to each Affiliated Dealer and (b) the net remaining amount to CGMI, and (iii) at the request of the Affiliated Dealers with respect to their employees, CGMI may request that the relevant Fund or Legg Mason adviser forward the appropriate amount of

the Affiliated Dealer Compensation to such employees. In each case the Fund's amount would consist solely of 12b-1 payments and the Legg Mason adviser's amount would consist solely of revenue sharing payments.

After the Closing Date, the Citigroup Companies that currently perform sub-accounting services for some of the Funds have continued to receive (and will continue to receive) sub-accounting payments for such services. In addition, it is contemplated that one or more of the Citigroup Companies, possibly including Citigroup Companies in addition to CGMI, PFSI and CitiStreet, may provide the same or similar sub-accounting services in the future to Funds other than those for which sub-accounting services are currently provided. Any such appointment would be pursuant to an independent process and subject to the Funds' applicable policies under the supervision of the Funds' independent directors. These services are hereinafter referred to as the "Other Services" and are not governed by the Global Distribution Agreement.

Since the Closing Date, the Legg Mason principal underwriter, rather than CGMI and PFSI, has been primarily responsible for the overall direction and supervision of underwriting and distribution matters for the Funds, much in the same way as the lead or book-running principal underwriter in a public offering of closed-end fund shares supervises the distribution process. For example, under the principal underwriter agreements, the Legg Mason principal underwriter is responsible for due diligencing the Funds' prospectuses and sales materials and CGMI and PFSI are responsible for prospectus sections dealing with themselves and their roles as principal underwriters. Likewise, the Legg Mason principal underwriter is responsible for preparing marketing materials but CGMI and PFSI also conduct their own reviews of such materials to satisfy themselves that they comply with applicable regulatory guidelines. The Legg Mason principal underwriter retains a portion of the distribution compensation for its additional services that are not replicated by CGMI and PFSI.

The rates of the advisory, administrative, custodial, transfer agency, selling and other fees payable by the Funds or their shareholders have not been increased, and none of the services provided by the Citigroup Companies have been diminished, as a result of the Transfer except that Legg Mason rather than Citigroup is now responsible for charting overall marketing strategy and the dealer universe for distributing the Funds, due diligencing the Funds' prospectuses and marketing materials, clearing its marketing materials with the NASD and paying for the printing of prospectuses and marketing materials. There are no understandings, arrangements or agreements obligating Legg Mason or any of its affiliates or any of the Funds to execute any portfolio transaction with any person affiliated with the Citigroup Advisers.

Citigroup and Legg Mason have covenanted with each other and Citigroup has undertaken to the board of directors of the Funds (as reflected in the Funds' proxy statements seeking shareholder approval of new investment advisory agreements in connection with the Transfer) to comply with Section 15(f). It is our opinion, for the

reasons discussed in more detail below, that the payments received by the Citigroup Companies for the Distribution Services and Other Services after the Closing Date in the manner described satisfy the safe harbor conditions of Section 15(f). We are, however, unaware of any judicial or administrative interpretation of the application of Section 15(f) to these practices, particularly in the context of the separation of investment advisory and distribution services that occurred as a result of the Transfer and the Global Distribution Agreement. Accordingly, we seek interpretive advice from the staff confirming our opinion as to these matters.

Section 15(f) of the 1940 Act

Section 15(f) of the 1940 Act allows an investment adviser to receive any amount or benefit in connection with the sale of an interest in its business if two conditions are satisfied.

The first condition, set forth in Section 15(f)(1)(A), states that for a period of three years after an assignment of an advisory contract with a registered investment company, at least 75% of the members of the board of directors of the fund must not be interested persons of the new or predecessor investment adviser. The composition of the board of each of the Funds has satisfied this requirement at all times since the Closing Date. The second condition, Section 15(f)(1)(B), states that there must not be an "unfair burden" imposed on the company "as a result of" the assignment or any of the express or implied terms, conditions or understandings applicable thereto. The term unfair burden is defined in Section 15(f)(2)(B) as:

> [A]ny arrangement, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment advisers or corporate trustee or any interested person of any such adviser or any such corporate trustee receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, other than bona fide ordinary compensation as principal underwriter for such company, or (ii) from such company or its security holders for other than bona fide investment advisory or other services.

The Transfer is Consistent with the Purpose of Section 15(f)

Section 15(f) was added to the 1940 Act in 1975 to "make it clear that an investment adviser to a mutual fund may be sold at a profit under conditions designed to protect fund shareholders." S. Rep. No. 94-75, at 140 reprinted in 1975 U.S.S.C.A.N. 179, 317 (hereinafter "Senate Report 94-75"). In 1971, the Second Circuit had held that the "expectation of profits under an investment advisory contract is not an asset which, under the Investment Company Act, the adviser can assign outright." Rosenfeld v. Black,

445 F.2d 1337, 1344 (2d Cir. 1971). After the Second Circuit's decision in Rosenfeld, it was felt that legislation was necessary to clarify the law with respect to sales of interests in mutual fund investment advisory businesses in order to avoid potential undue burden on the investment company industry. See Thomas L. Hazen, Transfers of Corporate Control and Duties of Controlling Shareholders - Common Law, Tender Offers, Investment Companies - and a Proposal for Reform, 125 U. Pa. L. Rev. 1023, 1057-1060 (1977). The Congressional purpose in enacting Section 15(f), therefore, was to permit sales of mutual fund investment advisory businesses to the extent that the mutual funds being advised were themselves not unfairly burdened as a result of the transaction. Senate Report 94-75 at p. 7.

The legislative history of Section 15(f) and the prior studies of the Commission on which it was in large part modeled are replete with references to the goal of permitting sales of advisory businesses while avoiding harm to the mutual funds involved. See Senate Report 94-75 at 71. See also Letter from William J. Casey, Chairman of the Commission, to the Honorable Harrison A. Williams, Jr., Chairman of the S. Comm. on Banking, Housing, and Urban Affairs, Fed. Sec. L. Rep. P 78,671 (Mar. 10, 1972); Hearings on the Investment Company Act Amendments of 1967 before the Subcomm. on Commerce and Finance of the H. Comm. on Interstate and Foreign Commerce, 90th Cong., 1st Sess. (1967); Report of the Commission on the Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d Session (1966) at 152. The principal potential harms suggested were that the successor adviser might want to ensure somehow the permanency of its position in order to earn back the purchase price (see, e.g., Hearings on S.470 (Feb. 1973), Technical Statements of the Commission at 246 ("1973 Hearings"); and Hearings on H.R.10570 (1975), Statements of Philip A. Loomis, Jr., Commissioner, at 36-38), or that the successor adviser might want the right to execute portfolio transactions on behalf of the mutual funds on terms unfavorable to the funds or the selling advisor might want to retain such rights (see, e.g., Id.; and Senate Report 94-75, at 141). Based on our review of these materials, we have found no suggestion that any particular function or status, such as selected dealer, underwriter, custodian, transfer agent, administrator, or other service agent was viewed as inherently harmful and should be prohibited.

The Transfer has been carefully structured so as to protect the interests of the Funds and their shareholders. Steps were taken prior to the Closing Date to ensure that the Funds would continue to have full access to their current distribution networks and the Funds' directors approved new investment advisory agreements in connection with the Transfer after having been fully apprised of these distribution arrangements.

a. The Payments for Distribution Services Qualify for the Section 15(f)(2)(B)(i) Exception

Each of the elements of distribution compensation received by the Citigroup principal underwriters since the Closing Date is bona fide ordinary

compensation as principal underwriter. Front-end and deferred sales charges and Rule 12b-1 plan distribution and shareholder servicing payments are all elements of mutual fund distribution in common usage in the industry for many years. Front-end sales charges are specifically treated as underwriting compensation in the registration forms. See Instruction 2 to Item 1 of Form N-2 (closed-end funds) and Items 20(b) and 7 of Form N-1A (open-end funds). For level load and deferred load classes of mutual fund shares, the sales load is in effect paid by the fund to the principal underwriter over time in the form of Rule 12b-1 fees, which are consequently also ordinary principal underwriter compensation, or is charged against redemption proceeds if the investor redeems before the full amount of the sales load has been paid by the fund. In either case, the amounts received by each affiliated principal underwriter must be disclosed. See Item 20(b), columns (3) and (5), of Form N-1A. See also NASD Conduct Rule 2830(d)(2), which characterizes Rule 12b-1 plan payments as "asset-based sales charges." Financing sales of Class B Shares is also commonly done by the principal underwriter, who pays out of its retained earnings or financings at the time of sale a fixed amount to the selected dealer or employee making the sale and then recoups this payment plus interest (which NASD Conduct Rule 2830(d)(2) authorizes) through Rule 12b-1 payments over time. Other Rule 12b-1 payments are typically paid to the principal underwriter pursuant to "compensation" plans that compensate the principal underwriter for the full range of distribution services provided by the principal underwriter in the ordinary course, which may include advertising, marketing, prospectus printing and payments to selling dealers and sales personnel. Further, Rule 12b-1 requires that payments be for distribution purposes, and the NASD Conduct Rules 2710 and 2830 treat such payments as ordinary distribution compensation that a principal underwriter must include as underwriting compensation. Consequently, we believe these long standing elements of distribution compensation are ordinary principal underwriting compensation for purposes of Section 15(f).

Revenue sharing payments by fund advisers are also common and long-standing features of mutual fund distribution programs and represent payments in recognition of the costs of supporting a large sales force to sell a fund or family of funds and maintaining the presence of that fund or those funds in its sales system. Indeed, for many years prior to the enactment of Section 15(f), it was common practice for the investment adviser of a mutual fund to subsidize the operations of the distributor inasmuch as mutual fund distribution was not generally a profitable activity and, in the case of no-load funds, was by definition unprofitable. In the adopting release regarding Rule 12b-1 (SEC Rel. No. IC-11414 (1980)) the Commission noted that many investment advisers had historically utilized a portion of their assets or profits to promote distribution of the funds they managed and explained its position that the use by an investment adviser of its legitimate profits to support distribution was a permissible activity. The question the Commission was considering was not whether advisers paid for distribution services but whether such payments were indirect uses of fund assets to pay for distribution. From the principal underwriters' point of view, however, receipt of these payments is normal underwriting compensation no matter what the source. For example, since the standard sales load in the initial public offerings of closed-end funds declined from 6.0% to 4.5% several years ago, it has been common practice for the principal

underwriters in such offerings to receive trail payments from the investment advisers. For purposes of its rules on sales compensation, the NASD has uniformly treated these payments as underwriting compensation for purposes of its corporate financing compensation limitations under Rule 2710 of its Conduct Rules. See NASD Conduct Rule 2710(c)(2). Further, all elements of principal underwriter compensation in closed-end fund offerings must be noted on the prospectus cover and/or in the body of the prospectus. See Instruction 2 to Item 1 of Form N-2. The staff of the SEC has determined that revenue sharing payments are subject to disclosure under this item, which underscores our conclusion that revenue sharing payments are ordinary principal underwriters compensation.

As noted earlier, to accommodate the Affiliated Dealers, which have been performing distribution services relating to the Funds for years, CGMI and PFSI each intends to conduct its principal underwriter functions both directly and indirectly through its employees and, in the case of CGMI, the Affiliated Dealers. CGMI and PFSI will each be the recipient of "bona fide ordinary compensation as principal underwriter." Each will then pass appropriate compensation to its employees and, in the case of CGMI, the Affiliated Dealers for the continuance of long-standing distribution activities that enable the principal underwriter to perform its function. This is the normal mutual fund distribution paradigm envisioned by the 1940 Act and was as prevalent at the time Section 15(f) was enacted in 1975 as it is today. In our view, the compensation received by employees of CGMI and PFSI from CGMI and PFSI, by Affiliated Dealers of CGMI through CGMI, and by the employees of these Affiliated Dealers from their employer solely out of the ordinary principal underwriter compensation initially received by CGMI or PFSI satisfies the requirements of Section 15(f)(2)(B)(i) because these employees and Affiliated Dealers, even though these persons are not themselves principal underwriters but are interested persons of the Funds' predecessor and successor investment advisers and principal underwriters, are receiving compensation for their distribution activities directly or indirectly from a person (CGMI or PFSI) that is receiving bona fide ordinary principal underwriter compensation. That is, Section 15(f)(2)(B)(i) requires that the compensation be directly or indirectly out of principal underwriter compensation, not that each person in the distribution chain be a principal underwriter. The requirement that a principal underwriter be the direct recipient of compensation is understandable given the purposes of Section 15(f) inasmuch as it is only the principal underwriter function that the independent directors (which under Section 15(f) must constitute at least 75% of the board for at least three years) control through the statutory requirement that principal underwriters be in privity of contract with the Funds and the requirement in Section 15(b) that the boards of funds be able to terminate the principal underwriting arrangement at any time without penalty. Section 15(f)(2)(B)(i) then treats other sources of compensation for distribution as unfair burdens, thereby providing the directors with a means of assuring that the distribution function is not used as a means of conveying inappropriate types of compensation in connection with a sale of an investment adviser.

b. Payments for the Other Services Qualify for the Section 15(f)(2)(B)(ii) Exception

Another element of compensation that will be received by at least three of the Citigroup Companies in relation to the Funds is sub-accounting fees. This type of service is often provided by a principal underwriter or dealer (and is provided by the Citigroup Companies to several other unaffiliated mutual fund complexes) as part of the operating environment of the dealer and accordingly, as it is often received in connection with distribution, may be characterized either as ordinary distribution compensation or as compensation for bona fide "other services." See, e.g., Investment Company Institute, SEC No-Action Letter (Oct. 30, 1998). Inasmuch as the particular sub-accounting services provided by the Citigroup Companies are shareholder administrative services that the Funds themselves otherwise need to provide and are not paid for or required to be paid for by the Funds out of Rule 12b-1 plans, we believe that these services would qualify as bona fide "other services" under the Section 15(f)(2)(B)(ii) exception if appropriately approved by the directors of the Funds. Any decision by the boards of directors (including the independent directors) of the Funds to utilize these services going forward would be based on cost and service assessments at the time, would be a matter entirely left to the discretion of the independent directors, is not required by any of the transaction documents and would be viewed by Citigroup both as not being in any sense "a result of" the Transfer and as being bona fide other services.

Conclusion

For the reasons stated above, it is our opinion that the Distribution Compensation received (and to be received) directly by CGMI and PFSI and indirectly by the Affiliated Dealers and employees through CGMI and PFSI for the Distribution Services since the Closing Date as described herein constitute directly or indirectly "ordinary compensation as principal underwriter" for purposes of Section 15(f)(2)(B)(i) and that the Other Services constitute "other services" for purposes of Section 15(f)(2)(B)(ii). We request that the staff confirm that it interprets Section 15(f) in the same manner.

Sincerely,

/s/ Richard T. Prins