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By E-mail to: rule-comments@sec.gov

Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-0609
Attention: Jonathan G. Katz, Secretary

Re: Request for Comments, File Number S7-21-04

Ladies & Gentlemen:

Citigroup Inc. welcomes the opportunity to comment on the proposed rules addressing the registration, disclosure and reporting requirements for asset-backed securities (the "Proposal"), and would like to commend the Commission and its staff on the time, effort and thought that have manifestly been devoted to this valuable initiative.

Citigroup has participated in the review and development of the comment letters being sent to you by the American Bar Association's Section of Business Law (the "ABA letter") and the American Securitization Forum (the "ASF letter"). Citigroup endorses the analyses of the Proposal set forth in those letters and concurs in the overwhelming majority of the conclusions and recommendations to the Commission made therein.

This letter provides a limited number of comments on those aspects of the Proposal that are particularly relevant to Citigroup's affiliates that are originators, servicers, depositors and/or sponsors in securitization programs. Assets that Citigroup affiliates originate and that are presently included in our securitization programs are credit card receivables, residential mortgage loans, subprime mortgage loans and student loans. Our comments in this letter do not address any aspects of the Proposal that may be uniquely relevant to underwriters of asset-backed securities ("ABS"), to trustees or custodians in ABS programs or to sponsors of ABS programs that primarily involve assets originated by and purchased from third parties.

Definitions

Delinquent: Item 1100(b)(5) contains an instruction that the prospectus should include a description of how delinquencies are defined or determined. However, Item 1101(d) appears to mandate that "delinquent" be defined as "any portion of a contractually due payment is 30 days or more past due". For some asset classes, particularly subprime

mortgage loans, a servicer considers a mortgagor to be "current" if a substantial portion of a monthly payment is received; for example, if 90% of the monthly payment is received or if the payment shortfall is less than a *de minimis* amount, such as $5 or $10. The "substantial portion" standard is disclosed in the prospectus and is used by the servicer in its investor reporting on securitized pools as well as in the servicer's collection, chargeoff and default policy with borrowers. We do not believe that the Commission was intending to mandate a servicing policy for servicers of securitized assets. We believe that if the servicer's policy for defining delinquency is clearly stated in the prospectus and is consistently applied in its monthly servicing reports and business practices, investors will be able to assess the performance of securitized portfolios. Forcing a single delinquency standard on the entire servicing industry would result in future investor reporting being not comparable with historical reporting (which would appear completely counter to other elements of the Proposal). A change in delinquency standard would also present a servicer with the difficult choice of either maintaining two servicings standards (one for SEC filings and investor reports, and another for dealings with its borrowers) or altering its course of conduct with its borrowers.

Citigroup recommends that the definition of "Delinquent" be amended to require that the definition or means of determining delinquency that is actually and consistently applied by the servicer of the assets be clearly set forth in the prospectus and that standard would be acceptable for prospectus disclosure and monthly servicing reports.

Master Trusts: Item 1101(c)(3)(i) addresses the addition of assets to a master trust pool "in connection with future issuances" of securities. As a technical matter, assets are added to a master trust pool at times not related to supporting future issuances, such as required additions in order to maintain a particular asset level or a particular minimum seller interest, or simply at the option of the sponsor.

Citigroup recommends that the definition of "Master Trusts" be amended to delete the words "in connection with future issuances of asset-backed securities backed by such pool" or, alternatively, to add to the end of the reference "or as otherwise contemplated by the operative documents for the Master Trust".

Form S-3 Registration Statement and Exhibits

Filing of opinions for each takedown: Footnote 85 in the Proposal contemplates that, in addition to the opinions traditionally required to be filed as exhibits prior to effectiveness of an S-3 registration statement, final versions of these opinions rendered in connection with each takedown must be filed. In our experience, this is a change from prior market practice and is also a requirement that differs from established practice for debt securities issued by corporate entities. The qualifications and conditions contained in pre-effectiveness opinions have evolved to a market standard that results, in our experience, in opinions that are very similar for each particular asset class. In addition, we note that the texts of required closing opinions (except for some reasoned opinions, such as "true sale" opinions and the like, which are discussed below) are typically set forth in the form

of underwriting agreement that is filed as an exhibit to the registration statement, so any investor who is interested in such matters has access to those texts.

Citigroup believes that requiring opinions to be filed for each takedown would be an administrative burden that results in very little benefit to investors. For example, the pre-effectiveness tax opinion is often the most qualified, particularly for mortgage-backed securities due to the plethora of security types that can be issued. The closing tax opinion for a particular takedown would usually state, in pertinent part, simply that the tax disclosure in the prospectus supplement, "to the extent such statements summarize material tax consequences of the purchase, beneficial ownership and disposition of the [securities] to the holders thereof, are correct in all material respects." Likewise, takedown opinions relating to corporate formalities, no conflicts with other instruments or laws, no litigation, etc., basically confirm the satisfaction of customary closing conditions and are unlikely to generate much investor interest.

In the case of "true sale" and other similar opinions, these opinions are typically lengthy, "reasoned" opinions that are directed to a sophisticated audience, primarily the rating agencies rating the securities in a takedown and the independent accountants for the sponsor or depositor. Indeed, a level of sophistication and knowledge of securitization structures is necessary to understand these reasoned opinions, as they depend on an analysis of existing case law and other bodies of law, as well as stated assumptions and representations of fact by parties to the asset transfer instruments. Any legal uncertainties arising out of the transaction structure that could have a material effect on investors are disclosed as "risk factors" in the prospectus in a "plain English" manner. This disclosure is more likely to be useful to investors than reading an opinion.

Citigroup therefore recommends that the requirement to file takedown opinions be eliminated. However, if the Commission believes that these opinions are valuable to investors, Citigroup proposes that, instead of a filing requirement, the prospectus could state that these opinions would be available free of charge upon request by an investor, in much the same way as copies of other transaction documents (such as pooling agreements) are available to investors upon request, or, alternatively, these opinions could be made available on the website of the relevant entity. (In this regard, Citigroup notes that, after conducting a quick poll of our affiliates that deal with investor requests for information on our ABS backed by our own assets, it does not appear that any investor in an SEC-registered securitization has ever requested a copy of a closing opinion.)

Form S-3 eligibility: the Proposal would deny S-3 eligibility to a sponsor or depositor to the extent that the depositor or an issuing entity previously established by that depositor or sponsor failed to file in a timely manner all required materials under 13 or 15(d) of the Exchange Act during the prior 12-month period. Although Citigroup agrees with the view of the Commission that a sponsor that has been remiss in its filing obligations under one securitization program should not be allowed to simply set up a new program under a new S-3, Citigroup notes that denying S-3 eligibility to a particular sponsor based upon the failure of an affiliate to timely file Exchange Act reports is a departure from

established practice for corporate securities. In corporate structures, a failure by a subsidiary to timely file Exchange Act reports does not affect the ability of a parent to file an S-3, and vice versa. Citigroup believes that denying S-3 eligibility to one entity based upon the failures of any affiliate is not necessary to eliminate the potential abuse identified.

In addition, an exception to this S-3 eligibility requirement should be recognized in the context of acquisitions When a pre-existing portfolio of securitized assets is acquired, in order that the outstanding ABS not be adversely affected, the entity acting as depositor is often acquired along with the portfolio. It is often not possible to ascertain whether all required filings have been made, and have been made in a timely manner, by the acquired depositor until after the acquisition has been closed and the acquirer has access to historical servicing reports and records. The acquirer may not have full access to information prior to closing, mainly due to privacy laws and the proprietary concerns of the acquired business. After the acquisition is closed, the sponsor of the acquired portfolio is often also a sponsor of other securitized portfolios, especially when such sponsor is an existing servicer of assets of the same class of assets acquired.

It would be unfair to deny S-3 eligibility to such a sponsor based on the acts or omissions of an entity that occurred when such entity was not controlled by such sponsor. Citigroup respectfully recommends clarification of this part of the Proposal so that, for purposes of S-3 eligibility, a sponsor or other entity that acquires a portfolio of previously securitized assets is not responsible for the Exchange Act filings made or not made by acquired entities.

Finally, after consummation of an acquisition of previously securitized assets, the acquirer may discover, in addition to noncompliance with Exchange Act filing requirements, noncompliance by the prior responsible parties with provisions of the operative securitization documents, such as failures to service in accordance with the provisions of a pooling agreement or similar document. These failures could call into question the integrity of investor reporting. In such a case, the acquirer could be faced with the task of effecting compliance while simultaneously being under the obligation to continue filing monthly distribution reports on a timely basis. To address such a situation, Citigroup recommends to the Commission the solution proposed in the ABA letter in their discussion of S-3 eligibility, as it relates to modification of Rule 12b-25 under the Exchange Act. Citigroup believes this solution could easily be adapted to address the above situation.

Citigroup notes that the Proposal does not expressly address the varying concerns of compliance with disclosure and reporting obligations that arise in connection with acquisitions. We have attempted to raise a few of these concerns in this letter, and Citigroup respectfully requests that the Commission consider those concerns and related issues in its consideration of this letter and those from other industry participants, as well as in its continuing refinement of the Proposal.

Registration on Form S-3 of "underlying securities": in its discussion of proposed Rule 190, the Commission correctly noted that, in the case of credit card securitizations using a master trust and issuance trust structure, collateral certificates are "merely structural devices". Under current practice, a collateral certificate is required to be registered concurrently with the registration of the ABS that the certificate supports on Form S-3. An unfortunate consequence of the collateral certificate registration requirement is that the collateral certificate must be rated investment grade in order to be registered on an S-3, which in turn results in the expense of obtaining a rating on the collateral certificate, a rating which does not benefit investors (in fact, Citigroup would hazard the guess that very few investors even are aware that the collateral certificate is rated). The analysis by the rating agencies of the collateral certificate and its structure is subsumed in their ratings of the ABS which are backed by the cash flows on the collateral certificate. Citigroup recommends that the requirement that the collateral certificate be registered be eliminated or, alternatively, that for purposes of Form S-3 the rating requirement be eliminated.

Transaction Structure

"Callable" securities: Item 1112(f)(2) would mandate labeling as "callable" any class of ABS that had an optional or mandatory redemption or termination feature that may be exercised when 25% or more of the original pool balance is still outstanding. Although the discussion of this provision focuses on clean-up calls, the Item is not so limited. Citigroup recommends inserting the clean-up call context into Item 1112(f)(2).

Portfolio Data and Static Pool Data

The administrative burdens, as well as the difficulties resulting from lack of an industry standard in this area, are fully dealt with in the ABA letter, and Citigroup endorses that discussion. In addition, Citigroup would like to take this opportunity to offer the Commission its own views and some concrete examples of the difficulties with which Citigroup's affiliates would be faced under the current Proposal.

Sponsor data: Item 1104(e) would require, to the extent material, delinquency and loss information for static pools of a sponsor's periodic originations or purchases for three years plus any interim period, as well as such data separately for asset factors such as term, credit score, geography, etc. Citigroup respectfully suggests that this data for a sponsor will be, in many cases, of little or no benefit to investors.

If a sponsor originated/purchased assets solely for the purpose of securitization, then this data could be meaningful to investors. However, Citigroup believes many, if not most, sponsors also originate and purchase assets for other purposes, such as (using mortgages as an example) for resale to third parties, resale to entities such as GNMA, FNMA and FHMLC and for their own portfolios. Without extensive explanatory disclosures, it will be difficult for an investor to come to any rational conclusion regarding the correlation between a sponsor's originations and acquisitions generally and the performance of any particular offered pool of sponsor assets.

Servicer data: In contrast to sponsor data, as discussed above, Citigroup believes that providing loss and delinquency information on a servicer's total servicing portfolio is relevant to an investor, especially when the servicer is an established, seasoned servicer of assets. Historical data on a servicer's performance of its servicing duties on its own portfolio and on portfolios owned by third parties is, in Citigroup's experience, considered by investors in making a judgment as to how a servicer will perform those duties on a securitized portfolio. In the case of a sponsor that is also the servicer of securitized assets, focusing on the serviced portfolio eliminates some (but not all) of the non-comparability of portfolios discussed under "Sponsor data" above. Therefore, for the limited case in which the sponsor and the servicer are the same entity, Citigroup respectfully recommends that providing loss and delinquency information on the total servicing portfolio would be acceptable in lieu of such information that is required under the first two sentences of Item 1104(e).

Static pool data on prior securitized pools: using subprime mortgage loans as an example, the prospectus supplement published by Citigroup's affiliate that sponsors, services and securitizes these loans contains, on average, 36 pages of disclosure of pool characteristics, in addition to the summary pool data given in the summary section; the total prospectus plus supplement comes to about 130 pages. These 36 pages contain stratifications of the pool of fixed rate loans, the pool of floating rate loans and the total combined pool of loans by the factors suggested in Item 1104, as well as additional factors. In each calendar quarter of 2003, this affiliate issued one series of securities. If the Proposal had been in effect for a new securitization on January 1, 2004, it appears that Item 1104(e) would require at least quarterly updating of three of the four 2003 pools (of the four pools, one pool being in existence three quarters, one in existence two quarters, one in existence one quarter and one with no additional history). This updating would result in an additional 648 pages to the prospectus supplement (three pools times six total quarters in existence times 36 pages per pool), without considering any additional pagination required by quarterly loss and delinquency data on each of the three pools with a history. More frequent issuances, more frequent updating, and/or three years plus interim period instead of just one year, leads to even more astounding results.

The amount of time, effort and expense that would be needed to verify the accuracy of the data thus presented, to the standards mandated by a prospectus, is truly staggering. Even if this level of accuracy is achievable, Citigroup wonders whether an investor could possibly digest this amount of information during the limited period that the prospectus is available prior to closing.

Citigroup believes that investors are primarily interested in pool performance, and this investor interest is currently addressed through the providing of monthly servicer reports, which are generally available to investors upon request as well as being available on websites and, in the case of master trusts, these monthly servicer reports are presently filed on Form 8-K. Historical performance of assets based on factors such as term, interest rate type, credit score, etc., are of secondary interest. (Of note is the fact that the rating agencies have traditionally been the market participants that are concerned with

this facet of asset performance, and their conclusions are incorporated in their ratings and levels of required credit enhancement.)

However, if the Commission decides to retain static pool disclosure in the Proposal, Citigroup respectfully submits that the prospectus text is not the place for this amount of disclosure. If any location for this amount of data is proper, it is a website. While that solution may be logistically easier to enable, the concerns about liability for such data and the resources that must be dedicated to ensuring the accuracy of such data remain. Therefore, Citigroup recommends that (1) static pool data not be required for each and every prior securitized pool, but only for a selection of pools deemed by the sponsor to be representative of its pools, (2) the frequency of updating the static pool data for prior pools be annual, not monthly or quarterly, (3) the factors by which static pool data are stratified are within the judgment of the sponsor and the fact that stratification by additional factors is contained in the prospectus should not be binding for updating purposes and (4) disclosure of static pool data for prior securitized pools have the benefit of a "safe harbor' provision, much like that afforded forward looking statements. If these recommendations are implemented, the inclusion of static pool data by 8-K filing (and incorporation by reference in prospectuses) becomes a more feasible option.

An alternative approach, which Citigroup recommends for consideration, would be to distinguish between seasoned, frequent ABS sponsors and less mature, infrequent ABS sponsors. For this former group, historical loss and delinquency data for the sponsor's total securitized portfolio may be preferable to static pool disclosure. Data on a total securitized portfolio basis, if the securitized portfolio were sufficiently large, could well be more reliable, if only in a purely statistical sense, than data on selected prior pools as a predictor of asset performance. Although there can be no assurance that performance of a particular offered pool will be similar to that of an entire securitized portfolio, likewise there can be no assurance that a particular offered pool will perform like any other prior securitized pool.

Finally, the discussion above of static pool data focuses primarily on discrete securitized pools. Citigroup believes that, in the case of master trust structures where there is only one pool securitized, backing multiple issuances of ABS, an industry standard for prospectus disclosure has evolved in which loss, delinquency, payment rate and revenue information are given for the pool for the prior three years plus any interim period, plus selected stratification of the pool as of the end of the most recent quarter. This degree of disclosure would seem to satisfy the requirements of Item 1110 except that the second sentence of 1110(b) lists "examples of material characteristics that may be common for many asset types" which would lead one to infer that any item listed thereafter is deemed to be a "material characteristic". Citigroup respectfully recommends that this sentence be amended to conform to many other similar sentences in the Proposal that allow the responsible party to determine materiality, by deleting the word "material" before "characteristics", or to otherwise clarify that the characteristics listed are merely an illustrative guide.

Signatories on Exchange Act Reports

The Proposal contemplates that the depositor will sign the Exchange Act reports but also recognizes scenarios in which a servicer or master servicer may sign. Citigroup believes that, in some transactions, there are other parties more appropriately suited to perform this responsibility, such as a trustee or administrator. Accordingly, Citigroup requests that the Commission allow the parties to a securitization to decide among themselves who should sign Exchange Act reports, based on their access to information and respective duties in the securitization.

Transitional Provisions

The administrative burden and expense of effecting compliance with the Proposal, if adopted in its present form or to similar effect, will be dramatically different for sponsors/servicers of discrete asset pools and for sponsors/servicers of master trusts comprised of assets solely originated by it and their affiliates, on the one hand, than for sponsors/servicers of assets originated in part by third parties.

For discrete trusts, the ability exists in most cases to include necessary new provisions in operative documents so that, on a going forward basis, compliance with the ultimate form of the Proposal can be effected without detrimental effect to prior outstanding securitizations. Citigroup believes that for discrete trusts, although substantial document revisions, enhancements to existing information systems (and corresponding additional auditing procedures) and additional compliance procedures will be needed, a transition period of six to nine months from the effective date of the final Proposal should be sufficient.

For master trusts holding assets originated by a sponsor/servicer or its affiliates, compliance could be more difficult as revisions to operative documents and procedures will necessarily affect prior outstanding ABS, because prior and future ABS will be governed by the same operative documents and will be backed by the same asset pool. In addition to required information system enhancements and additional auditing and compliance procedures, any required revisions to operative documents will require the prior approval of rating agencies and, depending on the precise nature of the revisions, may require the consent of some classes of investors in outstanding ABS. For these master trusts, Citigroup recommends a transition period of not less than one year.

For master trusts holding assets, a substantial portion of which was acquired from entities not under the control of the sponsor/servicer or its affiliates, compliance would likely be even more difficult. The terms of the acquisition of these assets were negotiated, and the responsibilities of the parties allocated, in accordance with pre-existing requirements of law and the acquiring party's then existing reporting and disclosure standards. The entity currently responsible for investor reporting and disclosure may not have the contractual right to require the original originator to supply additional historical servicing data or servicing records and, even if such historical data were available, such data might not contain all the detail now contemplated by the Proposal. Recreating historical data, even with the cooperation of the original originator or servicer, may at worst be impossible and

at best would be expensive and time consuming. The worst case would be an originator/servicer of assets that decided to exit the business, sold off its portfolio in an asset sale and then shut down the business. In such a case, there may be "no phone number to call" in order to obtain additional historical servicing data or records or origination data. It would be unfair to deny access to the capital markets to these master trusts, as their sponsors/servicers cannot have predicted the precise nature of expanded disclosure and reporting requirements like those in the Proposal when the acquisition was negotiated. In these cases, Citigroup respectfully recommends that full and proper disclosure by the issuer in the prospectus of the total or limited unavailability of historical servicing data or origination data, and compliance going forward by the issuer with the applicable final requirements of the Proposal (e.g., once the portfolio has been serviced by the servicer for one year, the issuer would fully comply with its obligations regarding that one year of data), should be sufficient to satisfy the policies underlying the Securities Act.

Finally, Citigroup respectfully recommends that the Commission explicitly grandfather master trust issuers that neither file new registration statements nor issue additional ABS to the public after the effective date of the final Proposal. This grandfathering would benefit those securitization programs that are "winding down", i.e., paying off their ABS as they mature with the view of ultimate termination of the program. This grandfathering would also be beneficial to programs that, for whatever reason, would not be able to comply with the final rules and chose instead to cease public securitization transactions.

Citigroup appreciates this opportunity to comment on and address certain of the Commission's concerns set out in the Proposal. Given the broad scope of the Proposal, the diverse types of assets covered by the Proposal, the fact that an industry standard for disclosure and reporting has evolved for some asset types but not for other asset types, and the extensive and detailed analyses of the Proposal set forth in the ABA letter, the ASF letter and, we expect, in letters from other industry participants, Citigroup would very much appreciate the opportunity to review and comment on a revised form of the Proposal.

We would be pleased to discuss further any questions that the Commission may have with respect to our comments or recommendations. Please call the undersigned at (212) 559-9583 or Alan Birnbaum at (212) 559-3664 should you have any questions.

Very truly yours,

/s/ Michael J. Tarpley
Michael J. Tarpley
Senior Counsel—Capital Markets