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Formal Agreement between Citibank and the Office of the Comptroller of the Currency

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#2003-77

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY

Written Agreement by and between)
)
Citibank, N.A.)
New York, New York)
)
and)
)
The Office of)
The Comptroller of the Currency)
)

The Comptroller of the Currency of the United States of America ("Comptroller"), through his National Bank Examiners, has conducted ongoing examinations of Citibank, N.A. ("Bank") and reviewed available information relating to the Bank's complex structured finance transactions, including those with Enron Corporation and its affiliates (collectively, "Enron");

It is the common goal of the Bank and the Comptroller that the Bank operate in compliance with all applicable safety and soundness standards and applicable laws, rules, and regulations;

It is the further goal of the Bank and the Comptroller that the Bank effectively manage its reputational, legal, and credit risks;

In recognition of these common goals, the Bank has agreed to enter into this Written Agreement (the "Agreement") with the Comptroller;

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors ("Board"), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

**ARTICLE I
JURISDICTION**

(1) This Agreement shall be construed to be a "written agreement entered into with the agency" within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a "written agreement between such depository institution and such agency" within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a "formal written agreement" within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a "written agreement" within the meaning of 12 U.S.C. § 1818(u)(1)(A).

**ARTICLE II
SCOPE**

(5) Within 60 days of the date of this Agreement, the Bank shall submit to the Comptroller an acceptable corrective action plan ("Plan") regarding the Bank's complex structured finance activities. If approved by the Comptroller, the Bank shall implement and thereafter adhere to the Plan until it receives written notice from the Comptroller. To be acceptable, the Plan shall provide for a scope of coverage that appropriately defines and identifies the nature and characteristics of complex structured finance transactions. The plan shall also require that management certify to the board on an annual basis that the procedures required by the Plan have been established and are being adhered to. In addition, the Plan shall include provisions and timeframes described in the Articles below.

**ARTICLE III
TRANSACTION DOCUMENTATION**

(6) The Plan shall require, within 30 days of the Comptroller's approval of the Plan, appropriate documentation of each complex structured finance transaction. At a minimum, the Plan shall:

- (a) Define a specific and acceptable documentation framework for all types of complex structured finance transactions.
- (b) Require appropriate documentation to provide a complete and accurate record of the final transaction and contain all required approvals. Documentation must suffice to provide a clear audit trail regarding transaction evaluation and approval.
- (c) Prohibit consummation of transactions whose documentation does not meet the Plan's standards.

ARTICLE IV INTERNAL CONTROLS

(7) **Risk Management.** The Plan shall, within 30 days of the Comptroller's approval of the Plan:

- (a) Obligate the Bank's complex structured finance business managers or designees to certify their compliance with Bank policies on any transactions they recommend.
- (b) Require a reassessment of existing policies and procedures that address complex structured finance transactions. Ensure that policies appropriately address which approvals are required for all acceptable types of complex structured transactions; when to escalate particular aspects or issues within a transaction for additional analysis and approvals; and which approvals are

required for exceptions to Bank policies, including but not limited to how to handle repeated exceptions arising from the same customer or transactor.

- (c) Require appropriate documentation of the justification and approvals for any transaction that was declined by the operative committee but subsequently approved by a more senior executive officer or committee.
- (d) Implement an appropriate, formal internal process to independently assess reputational and legal risks of each complex structured finance transaction.
- (e) Require enhanced compliance processes to ensure adherence to applicable Bank policies, laws, rules, and regulations.

(8) **Approval Process.** The Plan shall, within 30 days of the Comptroller's approval of the Plan:

- (a) Require approval for each complex structured finance transaction by personnel or committee(s) that are separate and independent from the transactor and comprised of personnel with appropriate seniority, authority, and expertise.
- (b) Formalize appropriate standards by which the approvals required in (a) above shall be granted or denied.
- (c) Provide for appropriate management reports and documentation to support the approval processes, including but not limited to processes to ensure that transactions are not consummated when the required information is not provided to the approving personnel or committee(s).
- (d) Ensure reports effectively monitor the efficacy of the approval processes, including but not limited to assessment of compliance with any conditions to

the transaction that may have been added by the approving personnel or committee(s).

(9) **Training.** The Plan shall require, within 60 days of the Comptroller's approval of the Plan, the development of appropriate training for all personnel involved in complex structured finance transactions. Such training shall then occur within 90 to 120 days and periodically as needed. The training shall include, but not be limited to, the applicable legal requirements, the Bank's internal policies/standards, and the Bank's internal processes and controls.

(10) **Coordination across Business Lines.** The Plan shall, within 120 days of the Comptroller's approval of the Plan, establish systems to ensure appropriate coordination and communication between various business lines involved in or affected by complex structured finance transactions.

ARTICLE V CREDIT ANALYSIS

- (11) **Credit Analysis.** The Plan shall immediately require processes to ensure:
- (a) Appropriately thorough and documented analysis of the customer's intended purpose in entering into the complex structured finance transaction, including but not limited to analysis of the fit between the intended purpose and the transaction's terms and structure.
 - (b) Appropriately thorough and documented analysis of the economic substance of the transaction, especially when new or unusual structures are employed in the transaction.

- (c) Appropriately thorough and documented analysis of the off balance sheet transactions of a customer that materially affect the transaction or the creditworthiness of the customer.

**ARTICLE VI
INTERNAL AUDIT**

- (12) The Plan shall, within 30 days of the Comptroller's approval of the Plan:
 - (a) Require audit procedures to provide comprehensive coverage of complex structured finance activities. At a minimum, these procedures must (i) require audit to validate that all business lines and individual desks comply with all new standards and processes; and (ii) provide standards for when expanded audit procedures are required for specified types of complex structured finance transactions.
 - (b) Require the results of internal audit reports addressing structured finance activities to be reported directly to, and reviewed by, the audit committee.

CLOSING

- (13) The Bank shall submit the Plan, and any modifications thereto, to the Examiner in Charge at the following address:

Scott N. Waterhouse
Examiner in Charge
880 Third Ave., Fifth Floor
New York, NY 10022-4730

- (14) Although the Board has agreed to submit the Plan to the Comptroller for approval, the Board has the ultimate responsibility for proper and sound management of the Bank.

- (15) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United

States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(16) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(17) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Comptroller for good cause upon written application by the Board.

(18) This Agreement is intended to be, and shall be construed to be, a supervisory "written agreement entered into with the agency" as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set his/her hand on behalf of the Comptroller.

/s/ Douglas W. Roeder

July 28, 2003

Douglas W. Roeder
Senior Deputy Comptroller
Large Bank Supervision

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

Signed

Alan MacDonald

July 22, 2003

Date

Signed

Marjorie Magner

July 22, 2003

Date

Signed

Michael Masin

July 22, 2003

Date

Signed

Deryck Maughan

July 22, 2003

Date

Signed

William Rhodes

22/7/03

Date

Signed

Onno Ruding

July 22, 2003

Date

Signed

Petros Sabatacakis

July 22, 2003

Date

Signed

Todd Thomson

July 22, 2003

Date

Signed

Robert Willumstad

July 22, 2003

Date