

11 CV 7387
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CITIGROUP GLOBAL MARKETS INC.,

Defendant.

11-CV-_____ ()
ECF CASE

**CONSENT OF DEFENDANT
CITIGROUP GLOBAL MARKETS INC.**

1. Defendant Citigroup Global Markets Inc. ("Defendant") waives service of a summons and the complaint in this action, enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the Final Judgment as to Defendant Citigroup Global Markets Inc. ("Final Judgment") in the form attached hereto and incorporated by reference herein, which, among other things:

- a. permanently restrains and enjoins Defendant from violating Sections 17(a)(2) and (3) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77q(a)(2) and (3)];
- b. orders Defendant to pay disgorgement in the amount of \$160,000,000;

- c. orders Defendant to pay pre-judgment interest of \$30,000,000;
- d. orders Defendant to pay a civil penalty in the amount of \$95,000,000 under Section 20(d) of the Securities Act [15 U.S.C. §77t(d)]; and
- d. orders Defendant to comply with the undertakings described in Paragraph 6 of this Consent of Defendant Citigroup Global Markets Inc. ("Consent").

3. Defendant acknowledges that the civil penalty paid pursuant to the Final Judgment will be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that it shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by

or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including, but not limited to, payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

5. Defendant agrees that the costs associated with the distribution of the money paid in disgorgement and penalty pursuant to the Final Judgment will not be paid from that money paid in disgorgement and penalty but rather will be paid separately by Defendant.

6. For a period of three (3) years from the date of the entry of the Final Judgment, Defendant agrees to comply with the following undertakings:

- a. Product Review and Approval: The role of the relevant Capital Markets Approval Committee or Commitment Committee (the “Responsible Committees”) (or any other committee performing the function currently performed by either of the Responsible Committees) will be expanded to include all initial offerings of residential mortgage-related securities (other

than agency RMBS), including collateralized debt obligations referencing or including such securities (collectively “mortgage securities”) in which Defendant is the lead underwriter, placement agent, or plays a similar role (“mortgage securities offerings”). The Responsible Committees shall ensure that processes are in place so that written marketing materials for such mortgage securities do not include any material misstatement or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

- b. Role of Internal Legal and Compliance: For all mortgage securities offerings, Representatives of Defendant’s Legal Department or Compliance Department will review (i) all written marketing materials used by Defendant in connection with mortgage securities offerings (i.e., term sheets, investor presentations or “pitch books”, and other non-prospectus marketing materials), (ii) all offering circulars/prospectuses used by Defendant in connection with mortgage securities offerings, where Defendant does not retain outside counsel to review such materials; and (iii) any written submissions to either Defendant’s Capital Markets Approval Committee or Commitment Committee (the “Responsible Committees”) (or any other committee performing the function currently performed by either of the Responsible Committees) regarding any such mortgage securities offering. Defendant will establish a procedure for recording the occurrence of any such review, including the name of the Legal Department employee or Compliance Department employee who

conducted the review, the date of the review and the particular materials that were reviewed.

- c. **Role of Outside Counsel:** For all mortgage securities offerings where Defendant retains outside counsel to advise on the offering, such outside counsel will be asked to review all written marketing materials and offering circulars/prospectuses used in connection with the offering. To assist in this review, such outside counsel will be provided with documents sufficient to reflect all material terms of the transaction.
- d. **Internal Audit:** Defendant will conduct an internal audit review, on at least an annual basis, to determine that items (a), (b), and (c) are being complied with. Any deficiencies noted by internal audit shall be promptly addressed by Defendant.
- e. **Certification of Compliance by Defendant:** The General Counsel or the Global Head of Compliance of Defendant shall certify annually (one year, two years, and three years, respectively, after the date of entry of this Final Judgment), in writing, compliance in all material respects with the undertakings set forth above. The Commission staff may make reasonable requests for further evidence of compliance, including, but not limited to, evidence of compliance in the form of a narrative and documents and information sufficient to demonstrate compliance, and Defendant agrees to provide such evidence. The certification and any such additional materials shall be submitted to Kenneth R. Lench, Chief of the Structured and New

Products Unit, with a copy to the Office of Chief Counsel of the Enforcement Division.

7. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

8. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

9. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

10. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

11. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

12. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

13. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no

allegation in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

15. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

16. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to require its employees to make themselves available for interviews at such times and places reasonably request by the Commission staff; (ii) agrees to require that its employees testify at trial and other judicial proceedings when requested by Commission staff; (iii) will produce non-privileged documents and other materials as requested by the Commission staff; (iv) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (v) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (vi) with respect to such notices

18. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: October 14, 2011

CITIGROUP GLOBAL MARKETS INC.

By: Ed Turan
Name: Edward Turan
Title: Managing Director
Address: 388 Greenwich Street

On October 14, 2011, Ed Turan, a person known to me, personally appeared before me and executed executing the foregoing Consent of Defendant Citigroup Global Markets Inc. with full authority to do so on behalf of Citigroup Global Markets Inc. as its duly designated Officer.

[Signature]
Notary Public
Commission expires: 6/18/11

RODD CORNER
Notary Public - State of New York
No. 01CO6169041
Qualified in New York County
My Commission Expires June 18, 2011

Approved as to form:

[Signature]
Brad S. Karp, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3316
Attorney for Defendant

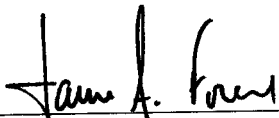
**UNANIMOUS WRITTEN CONSENT
OF
THE BOARD OF DIRECTORS
OF
CITIGROUP GLOBAL MARKETS INC.
(a New York Corporation)**

IN LIEU OF MEETING

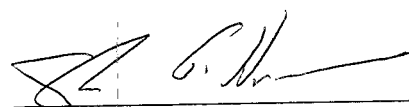
The undersigned, being all the members of the Board of Directors of Citigroup Global Markets Inc., a corporation organized and existing under the laws of the State of New York (the "Corporation"), pursuant to Section 708(b) of the Business Corporation Law of the State of New York, in lieu of acting at a meeting of the Board of Directors, hereby adopt the following resolution by unanimous written consent:

RESOLVED, that Edward G. Turan, an Officer of this Corporation, be and hereby is authorized to act on behalf of the Corporation, and in his sole discretion, to negotiate, approve, and make, in connection with the investigation conducted by the United States Securities and Exchange Commission ("Commission"), the Consent of Defendant Citigroup Global Markets Inc., attached hereto, in an action captioned Securities and Exchange Commission v. Citigroup Global Markets Inc. in the United States District Court for the Southern District of New York ("Court"); in this connection, the aforementioned Officer be and hereby is authorized to undertake such actions as he may deem necessary and advisable, including the execution of such documentation as may be required by the Commission or the Court, in order to carry out the foregoing.

IN WITNESS WHEREOF, the undersigned have executed this consent this 13th day of October 2011.



James A. Forese



John P. Havens

**CITIGROUP GLOBAL MARKETS INC. CERTIFICATE OF
CORPORATE RESOLUTION**

I, Rachel Stine, do hereby certify that I am the duly elected, qualified and acting Assistant Secretary of Citigroup Global Markets Inc. ("CGMI"), a New York corporation, and that the following is a complete and accurate copy of a resolution adopted by the Board of Directors of CGMI on October 13, 2011 by Unanimous Written Consent:

RESOLVED, that Edward G. Turan, an Officer of this Corporation, be and hereby is authorized to act on behalf of the Corporation, and in his sole discretion, to negotiate, approve, and make, in connection with the investigation conducted by the United States Securities and Exchange Commission ("Commission"), the Consent of Defendant Citigroup Global Markets Inc., attached hereto, in an action captioned Securities and Exchange Commission v. Citigroup Global Markets Inc. in the United States District Court for the Southern District of New York ("Court"); in this connection, the aforementioned Officer be and hereby is authorized to undertake such actions as he may deem necessary and advisable, including the execution of such documentation as may be required by the Commission or the Court, in order to carry out the foregoing.

I further certify that the aforesaid resolution has not been amended or revoked in any respect and remains in full force and effect.

IN WITNESS WHEREOF, I have executed this Certificate as a sealed instrument this 13th day of October 2011.

By:



Name: Rachel Stine
Title: Assistant Secretary
Citigroup Global Markets Inc.

Notary:



RODD CORNER
Notary Public - State of New York
No. 01CO6169041
Qualified in New York County
My Commission Expires June 18, 2015

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CITIGROUP GLOBAL MARKETS INC.,

Defendant.

11-CV-_____ ()
ECF CASE

FINAL JUDGMENT AS TO DEFENDANT
CITIGROUP GLOBAL MARKETS INC.

The Securities and Exchange Commission having filed a Complaint and Defendant Citigroup Global Markets Inc. (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment as to Defendant Citigroup Global Markets Inc. (“Final Judgment”) without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant’s agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Sections 17(a)(2) and (3) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)(2)

and (3)] in the offer or sale of any security or security-based swap agreement, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly: (a) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (b) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$160,000,000, representing profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$30,000,000, and a civil penalty in the amount of \$95,000,000 pursuant to Section 20(d)(2) of the Securities Act [15 U.S.C. §77t(d)(2)]. Defendant shall satisfy this obligation by paying \$285,000,000 within 14 days after entry of this Final Judgment to the Clerk of this Court, together with a cover letter identifying Citigroup Global Markets Inc. as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

The Clerk shall deposit the funds into an interest bearing account with the Court Registry Investment System ("CRIS") or any other type of interest bearing account that is utilized by the Court. These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held in the interest bearing account until further order of the Court. In accordance with 28 U.S.C. § 1914 and the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of this Court, to deduct from the income earned on the money in the Fund a fee equal to six percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Defendant's payment of disgorgement in this action, argue that it is entitled to, nor shall it further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a

Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall comply with the following undertakings, which shall expire three (3) years from the entry of this Final Judgment:

- A. Product Review and Approval: The role of the relevant Capital Markets Approval Committee or Commitment Committee (the "Responsible Committees") (or any other committee performing the function currently performed by either of the Responsible Committees) will be expanded to include all initial offerings of residential mortgage-related securities (other than agency RMBS), including collateralized debt obligations referencing or including such securities (collectively "mortgage securities") in which Defendant is the lead underwriter, placement agent, or plays a similar role ("mortgage securities offerings"). The Responsible Committees shall ensure that processes are in place so that written marketing materials for such mortgage securities do not include any material misstatement or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.
- B. Role of Internal Legal and Compliance: For all mortgage securities offerings, Representatives of Defendant's Legal Department or Compliance Department will

review (i) all written marketing materials used by Defendant in connection with mortgage securities offerings (i.e., term sheets, investor presentations or “pitch books”, and other non-prospectus marketing materials), (ii) all offering circulars/prospectuses used by Defendant in connection with mortgage securities offerings, where Defendant does not retain outside counsel to review such materials; and (iii) any written submissions to either Defendant’s Capital Markets Approval Committee or Commitment Committee (the “Responsible Committees”) (or any other committee performing the function currently performed by either of the Responsible Committees) regarding any such mortgage securities offering. Defendant will establish a procedure for recording the occurrence of any such review, including the name of the Legal Department employee or Compliance Department employee who conducted the review, the date of the review and the particular materials that were reviewed.

- C. Role of Outside Counsel: For all mortgage securities offerings where Defendant retains outside counsel to advise on the offering, such outside counsel will be asked to review all written marketing materials and offering circulars/prospectuses used in connection with the offering. To assist in this review, such outside counsel will be provided with documents sufficient to reflect all material terms of the transaction.
- D. Internal Audit: Defendant will conduct an internal audit review, on at least an annual basis, to determine that items (A), (B), and (C) are being complied with. Any deficiencies noted by internal audit shall be promptly addressed by Defendant.
- E. Certification of Compliance by Defendant: The General Counsel or the Global Head of Compliance of Defendant shall certify annually (one year, two years, and three

years, respectively, after the date of entry of this Final Judgment), in writing, compliance in all material respects with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Defendant agrees to provide such evidence. The certification and any such additional materials shall be submitted to Kenneth R. Lench, Chief of the Structured and New Products Unit, with a copy to the Office of Chief Counsel of the Enforcement Division.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent of Defendant Citigroup Global Markets Inc. is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: _____, 2011

UNITED STATES DISTRICT JUDGE