September 7, 2012

The Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Re: Suggested Legislative Modifications to the Volcker Rule Related to Municipal Securities

I. Introduction

Citigroup Global Markets Inc.[1] ("Citi") greatly appreciates the invitation from Representative Spencer Bachus and the Committee on Financial Services (the "Committee") to provide ideas and suggestions for legislative alternatives to Section 619 (the "Volcker Rule") of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). While Citi applauds the legislative objectives of the Volcker's Rule, we believe that the statute, as currently enacted, does not achieve these goals in a precise and tailored manner. Instead, it is overly broad and could have unnecessary and unintended consequences, particularly for the municipal securities market. We believe that these unintended consequences could impede the efficiency and transparency of the municipal securities market by bifurcating the market and increasing financing costs for a substantial portion of the issuer community.

Citi's Municipal Securities Division ("Citi MSD") previously submitted a comment letter[2] to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Securities and Exchange Commission (collectively, the "Agencies") describing certain potential adverse impacts that the Volcker Rule and the Agencies' notice of proposed rulemaking[3] (the "Volcker Proposal") would have on the municipal securities market. Citi MSD requests that the Committee review this letter, which sets forth suggested legislative modifications to the Volcker Rule, in conjunction with our previous Comment Letter on the Volcker Proposal.

II. Government securities exemption should be expanded to include obligations issued by agencies and instrumentalities of states and political subdivisions

In our Comment Letter, Citi MSD described the potential bifurcation of the municipal securities market that would result from the limited exemption from the Volcker Rule for municipal securities that constituted "obligations of any State or of any political subdivision thereof."[4] The Agencies indicated, in footnote 165 of the Volcker Proposal, that the statutory language of the Volcker Rule set forth in the prior sentence did not allow them to "extend the government obligations exemption to transactions in obligations of an agency of any State or political subdivision thereof." This interpretation of the statute

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[1] Citigroup Global Markets Inc. is a registered broker-dealer and one of the largest municipal securities dealers in the U.S. with an average municipal securities trading volume of approximately 15,000 institutional customer trades, 35,000 retail customer trades and 11,000 inter-dealer trades per month. Citi has been the number one ranked underwriter for negotiated underwritings of municipal securities for 13 of the last 15 years. Citigroup Global Markets Inc. is an indirect wholly-owned subsidiary of Citigroup, Inc., a bank holding company and the indirect parent of Citibank, N.A., a national banking association.

[2] Citigroup Global Markets Inc. comment letter dated January 27, 2012 from Howard Marsh, Managing Director and Head of the Municipal Securities Division ("Comment Letter") attached hereto as Appendix A.

[3] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationship With, Hedge Funds and Private Equity Funds, Fed. Register/Vol. 76, No. 215/ Monday, November 7, 2011.

[4] Dodd-Frank Act Section 619 amending Section 13(d)(1)(A) of The Bank Holding Company Act of 1956 (12U.S.C. 1841 et seq.).

would effectively exclude agencies or instrumentalities of municipalities and States, which comprise up to 59% of the market, from the benefit of the exemption.

Citi MSD does not believe that such a narrow reading of the statute is warranted and identified numerous references to the term "political subdivision" in Federal and state statutes that clearly intended to capture agencies, instrumentalities and municipal corporations under the definition of political subdivision. We also identified the potential risks to the municipal securities market of such a narrow interpretation including, among other things, higher financing costs for issuers of such securities, decreased liquidity for such obligations due to market making restrictions imposed by the Volcker Rule and Volcker Proposal, and the need for legislative action by numerous States and municipalities to avoid such adverse impacts.

The narrow interpretation of the government obligations exemption is also inconsistent with well established definitions under existing law. In the Comment Letter, Citi MSD suggested that the Agencies expand the government obligations exemption in the Volcker Proposal to be consistent with the definition of "municipal securities" under section 3(a)(29) of the Securities Exchange Act of 1934 (the "Exchange Act"). In order to provide the Agencies with additional legislative support for such an interpretation, Citi MSD respectfully requests that the Committee consider proposing an amendment to the Volcker Rule that would replace the reference to "obligations of any State or of any political subdivision thereof" at the end of Section 13(d)(1)(A) of The Bank Holding Company Act with ""municipal securities" as such term is defined in the Securities Exchange Act of 1934".

The Committee could also turn to the language of Dodd-Frank itself for an alternative formulation of the government obligation exemption. Instead of using the Exchange Act definition of municipal securities, the statute could exempt "obligations issued by a "municipal entity" (as defined in section 15B(e)(8) of the Securities Exchange Act of 1934". The term "municipal entity" was added to the Exchange Act under Section 975 of the Dodd-Frank Act and includes:

"...any State, political subdivision of a State, or municipal corporate instrumentality of a State, including—

(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;
(B) any plan, program, or pool of assets sponsored or established by the State, political subdivion, or municipal corporate instrumentality or any agency, authority, or instrumenatliy thereof; and
(C) any other issuer of municipal securities."

Either one of these alternatives would provide the municipal securities market and the Agencies with clear guidance that all municipal securities were intended to be covered by the government obligation exemption, thus helping to avoid the adverse consequences that we described in the Comment Letter.

III. Congress should create an exemption under the definition of "Covered Funds" that would exclude municipal tender option bond programs

In our Comment Letter, Citi MSD also expressed concerns about banks and their affiliates being subject to restrictions on investing in or sponsoring municipal tender option bond programs ("TOBs"). TOBs involve trusts that provide municipal security investors with a tax efficient financing structure so that tax-exempt income from a municipal bond held by the trust can be passed through to investors of securities issued by the TOB. TOBs are captured under the definition of "Covered Funds" in the Volcker Rule because of their reliance on sections 3(c)(1) or 3(c)(7) for an exemption from registration under the Investment Company Act of 1940.

TOBs are a critical financing vehicle for municipal bond investors, provide money market funds with qualified investments secured by municipal securities, and serve as a significant source of demand for both primary and secondary offerings of municipal securities. Critically, TOBs serve these important functions while avoiding many of the characteristics of Covered Funds that were the intended targets of the Volcker Rule's restrictions. If TOBs are deemed Covered Funds, banks could not serve as sponsors, liquidity providers or residual interest holders of a TOB, precluding them from financing their municipal bond positions through TOBs, driving up the costs of their investments in municipal securities and thus decreasing the demand for municipal securities. A reduction in TOBs would also deprive money market funds of the money market eligible floater securities that are issued by TOBs, precluding such funds from investing in municipal securities through a TOB thereby further diminishing demand for municipal securities. The repercussion of treating TOBs as "Covered Funds" is clear – decreased demand for municipal securities resulting in decreased liquidity for investors and higher financing costs for issuers.

As a result, in its Comment Letter, Citi MSD requested that the Agencies consider including an exemption for TOBs from the Covered Fund definition in the Volcker Proposal. We respectfully request that the Committee consider creating a similar exemption for TOBs in the Volcker Rule itself for the reasons set forth in that letter. Alternatively, the Committee could propose a more limited exemption that references certain characteristics of TOBs that would allow the Committee and the Agencies to distinguish TOBs from hedge funds and private equity funds. The following language could be added to the end of the Volcker Rule definition of "Hedge Fund; Private Equity Fund" to achieve this purpose:

"; provided, however, that any trust created to allow a party to finance a security position while retaining the economic interests of an owner of the underlying security, and that has the following characteristics, will be excluded from this definition:

(A) the underlying securities were issued by a single obligor;

(B) there is no investment advisor or asset manager for the trust;

(C) the sponsor has no ability to control the securities in the trust and the party with economic ownership of the trust can only remove, not add, securities from the trust;

(D) the trust is structured as a partnership for the purpose of providing investors in the trust's securities with a pass-through of tax-exempt interest income from the underlying securities; and

(E) if the economic owner of the underlying securities is a banking entity, (i) the underlying securities in the trust are consolidated on the banking entity's balance sheet, (ii) the

underlying security is an eligible investment for the banking entity under applicable banking and securities regulation and (iii) appropriate risk capital is allocated, as necessary, against such security position.

Citi appreciates the opportunity to provide the Committee with these legislative suggestions. If you have any questions or wish to discuss the above comments further, please contact the undersigned at 212 723-5373.

Respectfully,

Citigroup Global Markets Inc.

By: _____
Howard Marsh
Managing Director and Head of the
Municipal Securities Division

Copy to:

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 2-3
Washington, DC 20219
Docket ID OCC-2011-14; RIN 1557-AD44

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW.,
Washington, DC 20551
Attn: Jennifer J. Johnson, Secretary
Docket No. R-1432; RIN 7100-AD82

Federal Deposit Insurance Corporation
550 17th Street, NW.,
Washington, DC 20429
Attn: Comments
Robert E. Feldman, Executive Secretary
RIN No. 3064-AD85

Securities and Exchange Commission
100 F Street, NE.,
Washington, DC 20549-1090
Attn: Elizabeth M. Murphy, Secretary
Release No. 34-65545; File No.S7-41-11; RIN 3235-AL07

APPENDIX A

January 27, 2012

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 2-3
Washington, DC 20219
Docket ID OCC-2011-14; RIN 1557-AD44

Board of Governors of the Federal Reserve System
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Release No. 34-65545; File No.S7-41-11; RIN 3235-AL07

Re: Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds

I. INTRODUCTION

Citigroup Global Markets Inc.[1] ("Citi") appreciates the opportunity to comment on the above referenced proposal (the "Volcker Proposal") that would implement Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). In this letter, Citi is commenting specifically on those aspects of the Volcker Proposal that we believe would have the greatest impact on the U.S. municipal securities market.[2] The municipal securities market is a highly diverse and highly fragmented over-the-counter market. In contrast to the markets for U.S. government securities and corporate bonds, which are dominated by a wide variety of institutional investors, the municipal securities market is largely a retail-oriented market. Accordingly, the proper functioning of the over-the-counter municipal securities market from an investor perspective is highly dependent on robust market-making and liquidity intermediation activity by municipal securities dealers, the largest of which are banking

[1] Citigroup Global Markets Inc. is a registered broker-dealer and one of the largest municipal securities dealers in the U.S. with an average municipal securities trading volume of approximately 15,000 institutional customer trades, 35,000 retail customer trades and 11,000 inter-dealer trades per month. Citi has been the number one ranked underwriter for negotiated underwritings of municipal securities for 15 of the last 16 years. Citigroup Global Markets Inc. is an indirect wholly-owned subsidiary of Citigroup, Inc., a bank holding company and the indirect parent of Citibank, N.A., a national banking association.

[2] This letter is specifically in response to Questions 30, 78, 120 and 124 in the Notice of Proposed Rulemaking as they relate to the municipal securities market.

entities subject to the Volcker Rule. Moreover, without the liquidity provided by municipal securities dealers, municipal issuers would undoubtedly experience an increase in their financing costs. In light of the structural budget problems already faced by States and other municipal issuers, Citi believes that higher financing costs could have a material and adverse effect on the financial condition of such issuers and their securities. For this reason, Citi urges the Agencies to carefully evaluate the effect that the final version of the Volcker Proposal will have on the municipal securities market.

The Volcker Proposal includes an exemption to the proprietary trading restrictions for obligations of any State or any political subdivision thereof[3] which is critically important for municipal issuers and investors. However, Citi believes that the statement in the Volcker Proposal that the government obligations exemption does not extend "to transactions in obligations *of an agency* of any State or political subdivision thereof"[4] is an overly narrow interpretation of the statutory language that is not required by principles of statutory interpretation and is inconsistent with existing Federal statutes, regulatory guidance, State legislation and market usage of the term "political subdivision". The terms "political subdivision", "agency", "authority", "municipal corporation" and similar terms are used interchangeably in the municipal securities market to refer to issuers of municipal securities that are exempt from registration under the Securities Act of 1933 (the "Securities Act"). In addition, Federal pronouncements in regulations and statutory guidance on the definition of "political subdivision" generally treat agencies as being a type of political subdivision or at least define political subdivision broadly enough to include municipal agencies.

By excluding obligations of "agencies" of States and their political subdivisions, the government obligations exemption would be difficult to implement and would result in inconsistent application of the exemption across different jurisdictions because each municipal jurisdiction applies its own definition of political subdivision to its issuer entities. If implemented as such, the Volcker Proposal would arbitrarily, unfairly, and unnecessarily harm State and local governments and their constituents by raising costs in a significant segment of the municipal market that relies on agency-issued municipal securities to fund essential activities, including but not limited to, utility systems, infrastructure projects, affordable housing, hospitals, universities, other not-for-profit institutions and small general governments.

The limitation on the scope of the government obligations exemption would, as currently drafted, impair the ability of banks to engage in activities that are essential to the liquidity of municipal securities, thereby adversely impacting liquidity for investors and the rates that issuers or obligors of such securities would have to pay. Indeed, this limitation would create a confusing and bifurcated market of securities that are exempt from the proposal and others that are not. No segment of the municipal bond market would be immune from the adverse price impact, including State, county and city obligations. To remedy the foregoing concerns, Citi recommends that the scope of the government obligations exemption be expanded to include *all* municipal securities, as defined in Section 3(a)(29) of the Securities Exchange Act of 1934 ("Exchange Act"). As discussed in more detail below, Citi believes that the Agencies have the authority under the statutory language to read the term "political subdivision" more broadly to include municipal agency securities.

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[3] §__.6(a)(iii) of the Proposed Common Rules in the Notice of Proposed Rulemaking for the Volcker Proposal.
[4] Footnote 165 in the Notice of Proposed Rulemaking for the Volcker Proposal.

Citi also believes the Volcker Proposal's failure to expressly exempt tender option bond programs ("TOBs")[5] from its restrictions on covered fund activities and covered transactions with covered funds will have a significant adverse effect on the municipal securities market. Accordingly, Citi recommends that the Volcker Proposal be modified to expressly exempt TOBs (both those established on behalf of customers and on a dealer's own behalf) from these restrictions. TOBs provide an important segment of the municipal market with a means to finance their securities in a manner that is economically comparable to repurchase agreements, which are already excluded under the Volcker Proposal. In addition, by precluding banks and their affiliates from investing in, sponsoring or providing certain extensions of credit to TOB trusts, the Volcker Proposal could have the inadvertent effect of eliminating a safe and valuable investment for money market investors and a significant source of demand for municipal securities by money market mutual funds. Decreased demand could result in decreased liquidity for investors and higher financing costs for municipal issuers—even those that are considered among the safest credits in the market.

II. OVERVIEW OF THE MUNICIPAL SECURITIES MARKET AND THE NEED FOR A BROAD EXEMPTION COVERING ALL MUNICIPAL SECURITIES

The municipal securities market is a highly diverse and highly fragmented over-the-counter market. As of September 30, 2011, there was approximately $3.7 trillion[6] principal amount of municipal securities outstanding with 78,000 issuers and one million cusips[7]- more than 30 times the number of unique issuers and 45 times the number of unique cusips compared to the corporate bond market.[8]

	Municipal Bond Market	**Corporate Bond Market**
Par Outstanding	$3.7 trillion	$5.0 trillion[9]
Number of Issuers	78,000	2,500
Number of CUSIPs	1,000,000	22,000

In contrast to the dramatic diversity of municipal assets demonstrated above, there is a dramatic lack of diversity among investors in municipal assets. Due to: 1) the preferential U.S. federal tax treatment of most municipal securities when held by individuals (or the household sector), 2) strict "de minimus" limitations on the tax preference for corporate investors, and 3) the fact that a large proportion of the demand for all fixed income securities comes from entities that either pay no federal tax or have a very low tax rate, the investor base is heavily concentrated with individual U.S. residents through direct

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[5] Please refer to detailed explanation of the TOB structure under "IV. EXCLUSION FROM VOLCKER PROPOSAL FOR TENDER OPTION BOND PROGRAMS" below.

[6] Flow of Funds Accounts of the United States (Flows and Outstandings, Third Quarter 2011), Board of Governors of the Federal Reserve System, December 8, 2011; p. L211.

[7] Citi estimate as of December 2011 using data from JJ Kenny, Standard & Poor's, a division of The McGraw-Hill Companies, Inc.

[8] Citi estimate of marketable corporate bonds as of December 2011 based on data from The Yield Book. This estimate is consistent with quotations provided by Citi Investment Research & Analysis.

[9] Citi estimate of marketable corporate bonds as of December 2011 based on data from The Yield Book. This estimate is consistent with quotations provided by Citi Investment Research & Analysis. The Flow of Funds Accounts of the United States (Flows and Outstandings, Third Quarter 2011), Board of Governors of the Federal Reserve System, December 8, 2011; p. L212, provides $7.74 trillion for this value.

holdings (51%).[10] By contrast, only 9% of U.S. Treasuries, 3% of U.S. government agency obligations and 15% of corporate bonds are held by the household sector.[11] Foreign investors, life insurance companies and pension funds are largely absent from the municipal market (each holding 3% or less of the municipal market), while holding 21%, 18% and 7%, respectively, of the corporate bond market.[12] By Citi's estimate, aggregate holdings of municipal securities by these three sectors combined would still not exceed 3% of the market today if not for the temporary spike in issuance of taxable municipal securities during 2009-10 as a result of the Build America Bond program, which sunset on December 31, 2010.The diversity of municipal assets, combined with the retail dominance of demand, creates an inelasticity in demand that is only mitigated by over-the-counter market-making by dealers and banks. With such a substantial percentage of municipal securities in retail hands, individual investors are most exposed to the negative consequences of illiquidity in the municipal bond market.

Moreover, the average daily trading volume in municipal securities is $8.9 billion across 35,500 transactions in over 14,000 unique cusips.[13] In any given year, Citi estimates that as many as 430,000 different cusips are traded. The average trade size is $250,000 and the median trade size is just $25,000, further demonstrating the fragmented and retail oriented nature of the municipal market.[14]

	Municipal Bond Market	**Corporate Bond Market**
Avg Daily Trading Volume	$8.9 billion	$14.5 billion[15]
Avg Trade Par	$250,000	$3 million[16]
Median Trade Par	$25,000	n/a
Household Ownership	51%[17]	15%[18]

Given the absence of a centralized electronic exchange for municipal securities and the diversity of issuers and issues, dealers facilitate market-making activity in the municipal market through their willingness to take risk positions. Without the liquidity provided by dealers, issuers would be subject to higher financing costs because of the low volume of trading in their securities. Moreover, in stressed market conditions, such as those in 2008 and late 2010, retail investors that ordinarily comprise a substantial percentage of the demand for municipal securities may dramatically reduce their holdings, directly and via mutual funds, leaving only dealers as active market participants. If this were to occur in an environment where dealers' abilities to provide liquidity were severely compromised by the Volcker Proposal, the effect of individuals liquidating into a distressed, illiquid market would be devastating for

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[10] Flow of Funds Accounts of the United States (Flows and Outstandings Third Quarter 2011), Board of Governors of the Federal Reserve System, December 8, 2011; section L.211.
[11] Id., sections L.209, L.210, and L.212.
[12] Id.
[13] Citi compilation of Municipal Securities Rulemaking Board data as of December 2011.
[14] Citi compilation of Municipal Securities Rulemaking Board data as of December 2011.
[15] Citi compilation of TRACE date extracted from Bloomberg LP as of December 2011.
[16]Citi compilation of TRACE date extracted from Bloomberg LP as of December 2011.
[17] Flow of Funds Accounts of the United States (Flows and Outstandings Third Quarter 2011), Board of Governors of the Federal Reserve System, December 8, 2011; section L.211.
[18] Flow of Funds Accounts of the United States (Flows and Outstandings Third Quarter 2011), Board of Governors of the Federal Reserve System, December 8, 2011; section L.212.

existing bondholders and issuers. For the foregoing reasons, a broad government obligations exemption in the Volcker Proposal is critically important for the efficient functioning of the municipal bond market.

III. GOVERNMENT OBLIGATIONS EXEMPTION FROM PROPRIETARY TRADING RESTRICTIONS SHOULD NOT EXCLUDE AGENCY SECURITIES

A. Current Proposal Conflicts with Existing Federal Statutes and Guidance

Section __.6(a) of the Volcker Proposal permits the purchase or sale of a covered financial position that includes, among others, an obligation issued by any State or any political subdivision thereof. In footnote 165 of the Volcker Proposal, the Agencies state that: "Consistent with the statutory language, the proposed rule does not extend the government obligations exemption to transactions in obligations *of an agency* of any State or political subdivision thereof." We respectfully disagree with this interpretation. While there appears to be no legislative history to the Dodd-Frank Act providing any color on the scope of the government obligations exemption, we do not believe that it should be narrowly read to exclude obligations of municipal agencies.

Footnote 165 of the Volcker Proposal hinges on the presumption that there is a clear distinction between an "agency" and a "State or political subdivision". In fact, numerous federal regulatory and statutory references indicate the opposite. Regulators and legislators have repeatedly and consistently included an agency as an example of a political subdivision or defined political subdivision broadly enough to include all municipal agencies, authorities, districts, municipal corporations and similar entities. Federal regulations often define the term political subdivision broadly by describing the functional purposes of an entity and including entities "created by", or that constitute an "instrumentality of" or a "subdivision or department of", a public unit.

When a word or phrase is not defined in a statute but has been borrowed from other statutes where it was defined, or where there is a common accepted meaning in the relevant area of law addressed by the statute, the Agencies and courts are at liberty to consider the word or phrase a "term of art" with a specialized meaning.[19] As Justice Jackson declared in Morissette v. United States, "[W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless otherwise instructed. In such a case, absence of contrary direction may be taken as satisfaction with widely accepted definitions, not as departure from them."[20] While there is not necessarily centuries of legal tradition with respect to the term "political subdivision", there are certainly numerous precedents in federal law and regulation to which the Agencies can refer when seeking to interpret the term.

We invite the Agencies to consider the legislative history of the Securities Act of 1933 and the corresponding determination that the term political subdivision, which was not separately defined in the statute, carries with it the full meaning described below. We suggest that this history provides guidance

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[19] CRS Report for Congress; Statutory Interpretation: General Principles and Recent Trends; Updated August 31, 2008; pp. 5-6.

[20] Morissette v. United States, 342 U.S. 246, 263 (1952). See also Miles v. Apex Marine Corp., 498 U.S. 19,32 (1990) ("We assume that Congress is aware of existing law when it passes legislation").

for the Agencies on how to interpret the term for purposes of the Volcker Proposal. The legislative history of the Securities Act states:

> *"The term 'political subdivision' carries with it the exemption of such securities as county, town, or municipal obligations, as well as school district, drainage district, and levee district, and other similar bonds. The line drawn by the expression 'political subdivision' corresponds generally with the line drawn by the courts as to what obligations of States, their units and instrumentalities created by them, are exempted from Federal taxation."*[21]

This interpretation, would, at a minimum, include all State-created instrumentalities and units that issue tax-exempt debt, including agencies. While the 73rd Congress did not provide a definition of the term in the statute, it did provide guidance that allows courts and regulators to take a more expansive view of the term. Likewise, the Agencies should not feel so constrained when interpreting the term for purposes of the Volcker Proposal, notwithstanding the absence of a definition.

The National Bank Act is another example of a Federal statute that explicitly lists State agencies and authorities as examples of political subdivisions. The National Bank Act is informative in that it is a statute that was enacted to ensure the safety and soundness of national banking institutions yet it takes a view on agency securities that appears to directly conflict with the interpretation under the Volcker Proposal. 12 USC § 24 (seventh) provides that:

> *"In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of title 26) issued by or on behalf of any State or political subdivision of a State,* ***including*** *any municipal corporate instrumentality of 1 or more States,* ***or any public agency or authority*** *of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 1831 of this title).[emphasis added]"*

This provision clearly permits well capitalized national banks to deal in, underwrite and invest in securities issued by public agencies and authorities. Any restriction on a bank's ability to do so under the Volcker Proposal would, therefore, be contrary to, and effectively repeal, certain portions of the National Bank Act. We believe that if Congress intended such a drastic action, they would have provided clearer guidance regarding their legislative intent to overturn an existing law.

There also exist numerous examples of regulators repeatedly and consistently either including agencies as examples of a political subdivision or defining the term political subdivision broadly enough to include all municipal agencies, authorities, districts, municipal corporations and similar entities. Federal regulations often define the term political subdivision broadly by describing the functional purposes of an entity and including entities "created by", or that constitute an "instrumentality of" or a "subdivision or department of", a public unit. There appears to be no intent to exclude one particular subcategory of entities separately defined as agencies. The following examples of regulatory definitions

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[21] Federal Supervision of Traffic in Investment Securities in Interstate Commerce — H.R. Rep. No 85, 73rd Cong., 1st sess. (1933).

of, or guidance on the term "political subdivision", all either specifically include agencies or are broad enough to include all State and local agencies:

1. In 12 CFR §1.2, the Office of the Comptroller of the Currency (the "OCC") defines political subdivision as "*a county, city, town, or other municipal corporation, a public authority, and generally any publicly-owned entity that is an instrumentality of a State or of a municipal corporation.*"

2. In OCC regulation 12 CFR §160.30 with regard to the lending and investing authority of Federal savings associations, "*State and local government obligations*" include "*obligations issued by any state, territory, or possession of the United States or political subdivision thereof (including any* ***agency****, corporation, or instrumentality of a state or political subdivision)*". Furthermore, 12 CFR §160.42 states "*Political subdivision means a county, city, town, or other municipal corporation, a public authority, or a publicly-owned entity that is an instrumentality of a state or a municipal corporation.*"

3. OCC regulation 12 CFR §161.38 states that "*The term political subdivision includes any subdivision of a public unit, any principal department of such public unit: (a) The creation of which subdivision or department has been expressly authorized by state statute, (b) To which some functions of government have been delegated by state statute, and (c) To which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts and bridge or port authorities and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies or boards within principal departments.*"

   Citi cannot identify any State or municipal agencies or authorities that are "subordinate or non-autonomous" as they typically are autonomous in that they have their own governing bodies and legislative authorization to control funds that secure a bond offering.

4. The Federal Deposit Insurance Corporation has defined political subdivision under Part 330.15, as including "*drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by state statute or compacts between the states. It also includes any subdivision of a public unit mentioned in paragraphs (a)(2), (a)(3) and (a)(4) of this section or any principal department of such public unit: (1) The creation of which subdivision or department has been expressly authorized by the law of such public unit; (2) To which some functions of government have been delegated by such law; and (3) Which is empowered to exercise exclusive control over funds for its exclusive use.*"

5. The Federal Financial Institutions Examination Council has issued FFIEC 031 and FFIEC 041 instructions include "*school districts, irrigation districts, and drainage and sewer districts*" as political subdivisions. Furthermore, these instructions state that "*Securities issued by states and political subdivisions in the U.S. include...(2) Revenue obligations, which are securities whose debt service is paid solely from the revenues of the projects*

financed by the securities rather than from general tax funds, (3) Industrial development and similar obligations..."

This definition appears to include all municipal bond issuers as political subdivisions, including industrial development bond issuers such as the New York City Industrial Development Agency and the Mississippi Business Finance Corporation, which issued more than $2 billion of Gulf Opportunity Zone Industrial Revenue Bonds to help the local economy recover from the devastating effects of Hurricane Katrina.

6. The Internal Revenue Service regulation 26 CFR §1.103-1 defines political subdivision as "*any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any State or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of any such unit.*"

   This definition is very broad, and was used in IRS Private Letter Ruling #200204032 (release date January 25, 2002; index #103.02-01) to determine that a municipal "Agency" consisting of Member Utilities and Electric Associations was indeed a political subdivision for purposes of the Internal Revenue Code.

In light of the existing statutory definition, legislative history and examples of regulatory interpretations offered above, we request that the Agencies not deviate from the currently accepted understanding of the term "political subdivision." As exemplified above, the term does not need to be limited to counties, cities, towns and other geographically identifiable areas. Rather, the term can and has captured in its scope entities that have been authorized to issue bonds for a myriad of purposes, including authorities or instrumentalities of any State or political subdivision. Importantly, adopting the accepted interpretation would also be consistent with market practice, in which there is no identifiable distinction between municipal agencies, authorities and similar entities – other than the terms used in the naming of such bodies. Therefore, the Agencies should not feel that the use of the term "political subdivision" in Section 619 of the Dodd-Frank Act requires them to exclude agencies from the definition as there are ample precedents to the contrary.

B. Current Proposal Is Inconsistent with State Interpretations

If the government obligations exemption of the Volcker Proposal were enacted as currently drafted to exclude "agencies", it would cause significant confusion in the municipal securities market because of the inconsistent usage of the terms "agency" and "political subdivision" under State and local laws. There is no uniform prescription among the 50 States for the creation, organization or classification of agencies, authorities or political subdivisions. States address this differently under their constitutions and statutes (please see Appendices A and B for excerpted language from specific State and municipal statutes that identify certain agencies as political subdivisions or that define political subdivision broadly enough to include agencies). As a result, market participants use the terms interchangeably to refer to entities that are capable of issuing municipal securities for different purposes.

In Georgia, for example, municipal bond issuing authorities and agencies are political subdivisions of the State.[22] In Indiana, the Indiana Municipal Power Agency is identified as "*a body corporate and politic and a political subdivision of the State of Indiana*" in its official statement.[23] In Louisiana, the Louisiana Housing Finance Agency is identified under the Louisiana Housing Finance Act as "*a political subdivision and an instrumentality of the state*". Some entities, such as the Port Authority of New York and New Jersey, were created as political subdivisions while others, such as the New Jersey Turnpike Authority, are identified as instrumentalities of the State and therefore could be viewed as an agency, political subdivision or both. These examples highlight the confusion regarding the status of authorities and agencies under the government obligations exemption that will result if the Agencies adopt the language in footnote 165 of the Volcker Proposal.

The different treatment of similarly situated entities in different jurisdictions will create confusing and contradictory outcomes that provide no regulatory benefit, will be difficult to administer and will negatively impact the municipal securities market. Rather than rely on each State's definition of an agency or political subdivision, we believe a consistent market-wide determination that all municipal securities are exempt from the proprietary trading restriction of the Volcker Proposal would best support an efficient municipal market. Alternatively, States and political subdivisions would have to take the logical, but wasteful, step of reorganizing their debt issuances away from agencies, or reclassifying their agency issuers as political subdivisions.

C. Current Proposal Will Have a Detrimental Impact on Municipal Issuers

If the government obligation exemption is read to exclude agency securities and if the term agency is deemed to include all agencies and other similar entities, including authorities, that are arguably not a State or political subdivision, it could negatively impact over one-half of the municipal securities market without an offsetting improvement in the safety and soundness of banking entities. Of approximately $3.7 trillion of municipal securities outstanding in 2011, roughly $1.2 trillion consists of general obligation bonds of a State or political subdivision thereof, $0.3 trillion consists of revenue bonds issued by States and their political subdivisions, and $2.2 trillion consists of municipal revenue bonds issued by agencies and authorities.[24] The Volcker Proposal appropriately includes "*limited as well as general obligations of the relevant government entity*"[25] in the government obligations exemption. However, the Volcker Proposal would potentially govern (i.e., it would not exempt) 59% of the $3.7 trillion municipal bond market through the operation, and overly strict interpretation, of footnote 165.

The organizational form of a governmental issuing entity, whether a political subdivision, an agency or both, does not determine the characteristics of a debt obligation. Rather, a broad range of factors, including legal and credit considerations, are determinative. There is often no distinction in credit quality, market risk or liquidity between a revenue bond issued by an agency versus a similar bond issued directly by a municipal government. For example, the City of Los Angeles, California issues water revenue bonds directly (under the name Los Angeles Department of Water & Power) that are rated AA/Aa2 and would appear to be exempted from the Volcker Proposal. By comparison, the Desert Water Agency provides water to over 70,000 people in Palm Springs, California, is highly rated and by virtue of

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[22] Georgia State Code Title 50, Chapter 15, Section 1 and Title 47, Chapter 20, Section 3.
[23] Indiana Municipal Power Agency, 2011A Official Statement, p. 13.
[24] Citi estimate based on JJ Kenny, Standard & Poor's, a division of The McGraw-Hill Companies, Inc.
[25] Volcker Proposal Notice of Proposed Rulemaking, p. 123; SEC Release No. 34-65545.

its name would not be exempt from the Volcker Proposal. This is an arbitrary distinction with no basis in credit, liquidity or market dynamics.

The current proposal, if adopted, would result in a myriad of conflicting outcomes and, we believe, unintended consequences. Many states utilize authorities and agencies as their primary, and sometimes only, financing vehicle. Indiana, for instance, has limited ability to issue direct debt and typically issues bonds through conduit authorities that would likely be deemed subject to the proprietary trading restrictions of the Volcker Proposal. The State of New York issues debt primarily through its authorities and agencies but occasionally issues debt directly. The proposed scope of the government obligations exemption would subject a large portion of the State of New York's debt to the proprietary trading restrictions while exempting directly issued parity debt—an outcome that has no practical justification and is obviously contradictory. What public policy is served by causing New York Housing Finance Agency or New York Municipal Water Finance Authority debt to be subject to the rule? We would suggest none, especially given the low-income housing and critical infrastructure projects that they finance.

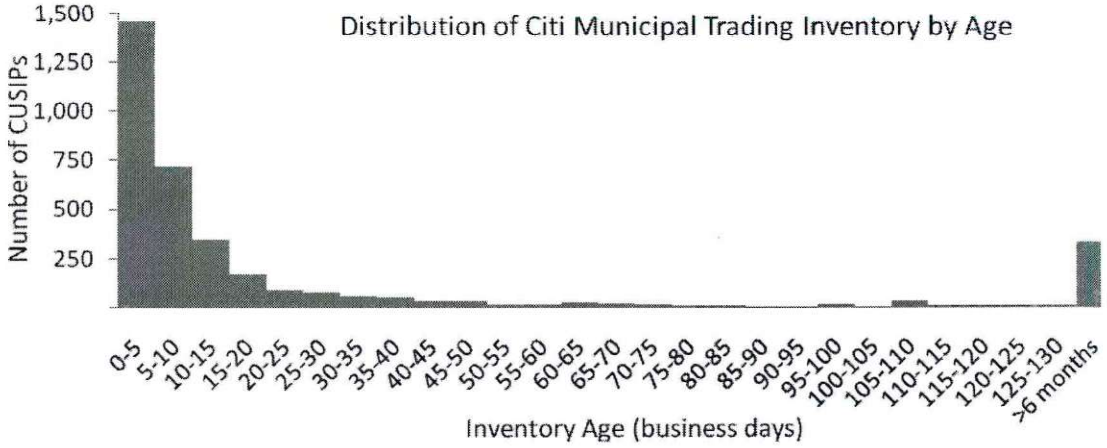
The Volcker Proposal also has the potential to penalize small municipalities all over the country that routinely issue direct general obligation and revenue bonds through pooled bond programs (issued by agencies and authorities) in order to obtain lower yields and provide economies of scale. The Virginia Resources Authority, established by the State of Virginia in 1984, has funded 875 projects exceeding $4.2 billion of investment in local communities relying primarily on the municipal market to fund those programs. The State of New York Municipal Bond Bank Agency ("MBBA") was created in 1972 to help municipalities gain access to the capital markets by aggregating local debt in a pooled program. In 2010, MBBA helped 16 local governments acquire financing under the American Recovery and Reinvestment Act through a pooled loan program. It seems unwise to raise costs and decrease liquidity for small municipalities precisely at the time they are struggling to manage responsibly declining revenues, rising service demands and large pension/healthcare costs.

Joint action agencies are another type of pooled municipal financing structure that would be penalized under the Volcker Proposal. These municipal agencies enable local governments to combine their resources to finance electric power generation and transmission facilities rather than having each municipal government finance their own projects. The Municipal Electric Authority of Georgia ("MEAG"), for example, serves 49 communities from Acworth to Whigham. MEAG finances projects, including the first new nuclear plant in the US, which its member communities could not undertake individually. Other public power agencies that would be negatively impacted include the Texas Municipal Power Agency, Southern California Public Power Authority, Florida Municipal Power Agency, Energy Northwest (OR), Intermountain Power Agency (UT), Illinois Municipal Electric Agency, and North Carolina Eastern Municipal Power Agency, among others. Restricting the development of critical public utility infrastructure would seriously undermine our nation's growth prospects and economic competiveness.

In addition, the types of transactions and projects that involve securities issued by agencies and authorities include, among others, those involving essential purpose utility systems, infrastructure projects, affordable housing developments, airports, public healthcare, universities and other not-for-profits, each of which are vital to municipalities and communities around the country. Increasing funding costs for issuers and obligors of such transactions can have a direct impact on the quality of life for individuals around the country if these projects are curtailed or cancelled.

D. Less Liquid Municipal Securities and Primary Offerings Will Be Adversely Affected Without a Broader Exemption

Due to the fragmented nature of the municipal market and the significant number of issuers and cusips, many agency and authority securities are traded infrequently. As one of the largest market makers in municipal securities, Citi executes around 2,800 municipal securities transactions on any given trading day, almost entirely on a principal basis, and its dealer inventory typically contains 2,500 to 4,000 unique municipal securities cusips. Although roughly 24% of unique cusips are re-traded the same day and another 29% the next day, certain securities are held for extended periods as part of Citi's commitment to investors to maintain an active municipal securities market. Citi's median holding period for a dealer inventory position in municipal securities is 8 business days and its average holding period is 120 days (see chart below). This large difference between the median and average holding periods is attributable to the fact that most large blocks are traded quickly while some of the smaller blocks trade less frequently and are held in inventory for longer periods. These smaller infrequently traded blocks are typically held by individuals who place particular reliance on the market-making activity of dealers to provide them with liquidity. This would no longer appear possible under the Volcker Proposal, since for many securities the near term demands of clients, particularly for the most illiquid securities, are not quantifiable and revenue would be generated from price volatility over the holding period.



Another concern about the proposed bifurcation of municipal securities due to the overly narrow government obligations exemption is its potential impact on the municipal new issue market, particularly during periods of heavy supply and periods when mutual funds or other major investors are net sellers of municipal bonds. Currently, whenever new issue supply exceeds the net cash available from institutional and retail investors, the required yield on new issues may rise. Institutions sell existing holdings into dealer inventory, and use the cash raised to purchase the new issue. Under the Volker Proposal, it may not be possible for dealers to bid and hold this incremental secondary market paper. As a consequence, new issues—whether exempt or not—will be priced at yields high enough for the bonds to be placed from existing cash. This yield level may be markedly higher than the yield required under current market conditions.

The new issue market will also be adversely affected if dealers are not permitted to acquire and hold municipal agency bonds that were not successfully sold by the syndicate during a primary offering. Dealers typically step in to acquire such bonds from the issuer and seek to resell them to the market over time while holding the securities in its dealer inventory. This allows the issuer to complete a successful offering of all of its securities even when demand for certain of its bonds may be lacking. This is particularly true in the competitive new issue market where it is common for dealers to have to acquire one or more entire maturities in an offering because there is no demand for such maturities in the market. If dealers are not permitted to make such purchases, bond issuances may have to be priced at higher yields to ensure that all series are sold to the public immediately during the primary offering, resulting in higher financing costs for issuers. New issue yields will also rise to the extent that investors perceive the municipal bond market to be less liquid and/or more volatile. It is standard practice for investors in fixed income securities to require a higher yield on a given bond if its inherent liquidity is reduced for any reason, or its inherent market volatility increases. For the reasons noted above, we expect that leaving municipal agency securities out of the exemption from limitations on market-making would make them less liquid and more volatile, and which would result in a significant increase in borrowing costs.

In addition, higher new issue yields will adversely impact investors in the secondary market because yields in the secondary market would have to rise to remain competitive with new issue pricing. If yields for new issue agency securities increase, investors will seek higher yields for comparable securities in the secondary market, thereby causing a substantial erosion in the value of outstanding securities.

The exclusion of agency securities from the government obligation exemption would, therefore, have a material and adverse effect on the entire municipal securities market and its participants. Banks, individuals and other investors in municipal securities will see a decrease in the value of their investments, and municipal issuers will see an increase in the cost of financing their projects as they pay a higher liquidity premium in the new issue market.

E. Recommendation

As an alternative to the confusion and bifurcation of the municipal market that is currently contemplated by the Volcker Proposal, we strongly urge the Agencies to expand the scope of the government obligations exemption to encompass *all* municipal securities, as defined in Section 3(a)(29) of the Exchange Act. The Exchange Act definition is well established and provides clarity regarding the scope of the municipal securities exemption. Market participants would have a clear understanding of the scope of the exemption and would benefit from the consistency of the definition across both securities and banking regulations. We regard this as the best approach in light of the negative impact that a narrower interpretation would have on the municipal securities market.

IV. THE VOLCKER PROPOSAL SHOULD EXCLUDE TENDER OPTION BOND PROGRAMS

As currently drafted, it appears that the Volcker Proposal would capture TOBs as a "covered fund" because such trusts would be investment companies under the Investment Company Act of 1940 ("1940 Act") but for the exemptions in section 3(c)(1) and 3(c)(7). Citi believes that TOBs were inadvertently captured by this overly broad definition because TOBs are nothing like the hedge funds and private equity funds that the Volcker Proposal seeks to prohibit banks from investing in. TOBs are not

vehicles through which investors make speculative investments in securities or companies, but rather a vehicle designed to allow investors to finance their investments in municipal securities. The effect of the characterization of TOBs as covered funds is that banks and their affiliates would be prohibited from retaining an ownership interest in securities issued by a TOB or acting as a sponsor of a TOB. The limitation on relationships with a covered fund ("Super 23A provisions") would also restrict banks from engaging in credit enhancement or liquidity support for TOBs. The inability of banks and their affiliates to provide these services or to invest in TOBs could result in the demise of TOB programs, thereby eliminating a significant source of investments for money market funds and significantly reducing demand for municipal securities.

TOBs were created to allow investors to finance their municipal securities portfolios through a secured tax efficient structure that allows the tax-exempt income from the underlying long-term security to pass through to the holders of the securities issued by the TOB. In effect, TOBs serve as the municipal market equivalent of repurchase agreements or secured lending by permitting investors to finance their municipal securities positions at short term money market rates. In addition, the cost to finance municipal securities through a TOB typically is less than traditional repurchase agreements or other forms of secured financings. Citi has been involved with TOBs since the early 1990s to finance investments in municipal securities on its own behalf and on behalf of its customers. Citi currently has $7 billion of outstanding TOBs to fund its inventory of municipal securities. Citi also has sponsored another $5 billion in TOBs that finance customer investments. The total market for TOBs is currently estimated at approximately $75 billion.[26]

TOBs usually contain one or more highly rated municipal securities. The security is deposited into the TOB trust which then issues two types of securities: (1) a floating rate certificate and (2) a residual certificate. The floating rate certificates are money market eligible instruments that pay a coupon based on the short term SIFMA rate, which is lower than the coupon on the underlying municipal security. The floating rate certificates are money market eligible because of the high rating of the underlying asset as well as the right of a floater holder to put the security back to the liquidity provider. The residual certificate is retained by an investor who is paid any amounts remaining in the TOB from the coupon payments on the underlying municipal security after the TOB trust pays the floating rate certificate holders and expenses associated with the TOB. Both the floating rate certificates and the residual certificates are collateralized by the underlying municipal security, but the floating rate certificates have the added benefit of a tender option supported by liquidity from a bank. Any losses incurred by the liquidity provider are economically borne by the residual holder through a reimbursement agreement. Accordingly, to the residual holder, the economics of a TOB mimic the economics of a repurchase agreement.

TOBs also provide tax-exempt money market investors with qualified investments secured by municipal securities. Money market funds would not otherwise be permitted to invest in long term municipal securities but for the floating rate certificates that are created by TOBs. The rating of the underlying security and/or liquidity provider, together with the seven day tender option, makes the floating rate certificate "money market" eligible under section 2a-7 of the 1940 Act. Therefore, TOBs allow money market funds to provide a significant source of demand for municipal securities while also providing such funds with a safe investment that offers them liquidity and tax-exempt income.

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[26] Citi estimate.

The Volcker Proposal already exempts transactions in government obligations from its restrictions, and TOBs are simply a vehicle to economically finance such positions. While the scope of the government obligations definition is still subject to comment, regardless of the outcome, banks and their affiliates should be expressly permitted to participate in TOBs (both those established on behalf of customers and on the bank's own behalf) for all municipal securities because banking regulations already allow national banks to underwrite, trade and invest in such securities, as set forth in the government obligations discussion above. Owning municipal securities through a TOB poses no greater threat to the safety and soundness of a bank than direct ownership of such securities. TOBs allow banks to make investments in an asset class that has already been deemed to be a qualified investment, but at better funding levels than it would be able to obtain otherwise. Elimination of TOB financing would in fact be detrimental to the liquidity of banks in an environment where access to capital and funding have become more critical than ever.

Section __.3(b)(2)(iii)(A) of the Volcker Proposal specifically excludes covered financial positions that arise under a repurchase or reverse repurchase agreements because they "operate in economic substance, as secured loans and are not based on expected or anticipated movements in asset prices"[27]. TOBs are intended to provide banks and other investors with a means of financing their investment in a similar manner to a secured loan but with the added benefit of serving as a pass-through of the tax-exempt income from the underlying security to holders of both the floating rate and residual certificates. The latter benefit is predicated on TOB security holders bearing a portion of the risk of a change in value of the underlying security, which is achieved through a partnership structure, and is the primary reason why municipal bonds cannot use a standard repurchase arrangement. Furthermore, from an accounting perspective, the TOB residual holder typically consolidates the entire TOB trust on its balance sheet according to GAAP. Hence, the TOB residual investor shows a municipal bond and a liability (financing) in the same manner as if the investor had financed that position with a repurchase agreement or securities lending agreement. Therefore given the importance of TOBs to the municipal market and its' similarities to repurchase agreements, TOBs should get the benefit of the covered financial position exclusion.

The financing provided by TOBs also facilitates investments by banks and their customers in municipal securities, a benefit to issuers and obligors. At its peak, TOB investments constituted as much as $175 billion[28] of demand for municipal securities. This amount has gone down to $75 billion[29] today, but it still represents a significant source of demand for municipal securities. Without it, issuers and obligors could suffer increased financing costs resulting from decreased demand for their securities. In the current economic environment when pension and other post-employment benefit obligations are placing tremendous fiscal burdens on States and their political subdivisions, any incremental increase in borrowing costs caused by a lack of demand for municipal securities can have serious consequences for issuers, obligors and the public.

V. CONCLUSION

In conclusion, we respectfully request that the Agencies expand the definition of government obligations in the proprietary trading rules in the Volcker Proposal to be consistent with the definition of

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[27] Volcker Proposal Notice of Proposed Rulemaking, p. 62; SEC Release No. 34-65545.
[28] Citi estimate.
[29] Citi estimate.

municipal securities in the Exchange Act in order to avoid an arbitrary fragmentation and dislocation of a substantial portion of the municipal securities market. Furthermore, we request that TOBs be excluded from the scope of the Volcker Proposal so that banks, their affiliates and customers will continue to have access to a critical financing vehicle that provides them with secured short term financing, encourages their participation as investors in the municipal market, and preserves an important low-risk class of municipal assets for section 2a-7 money market investors.

Citi appreciates the opportunity to comment on the Volcker Proposal. If you have any questions or wish to discuss the above comments further, please contact the undersigned at 212 723-5373.

Respectfully,

Citigroup Global Markets Inc.

By: /s/ Howard Marsh
Howard Marsh
Managing Director and Head of the
Municipal Securities Division

APPENDIX A:

EXAMPLES OF AGENCIES OR AUTHORITIES THAT ARE ALSO POLITICAL SUBDIVISIONS

1) **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**
"The Port Authority is **a municipal corporate instrumentality and political subdivision of the States of New York and New Jersey**, created and existing by virtue of the Compact of April 30, 1921, made between two States, and thereafter consented to by Congress of the United States. In the Compact, the two States recited their confident belief that a better coordination of the terminal, transportation and other facilities of commerce in the Port of New York would result in great economies benefitting the nation as well as the States and that the duties development of such facilities

2) **NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY**
"Power Agency is a **public body and body corporate and politic** organized in December 1976 under the laws of the State of North Carolina**....**The General Assembly of North Carolina adopted the joint Municipal Electric Power and Energy Act (the "Act") as **Chapter 159B of the General Statutes of North Carolina** on May 1, 1975. The Act authorizes municipalities owning electric systems in North Carolina to create joint agencies with authority to plan, finance, develop...operate, and maintain electric generation and transmission facilities...North Carolina municipalities which own and operate electric distribution systems have formed two joint power agencies, each of which is a separate legal and financial entity managed through the arrangements mentioned below. Collectively, these agencies have as members a majority of the municipalities in the State which own and operate electric distribution systems. Power Agency is comprised of municipalities that purchased their power...

3) **FLORIDA MUNICIPAL POWER AGENCY**
"FMPA is a governmental legal entity, organized and existing under (i) Section 163.01, Part II of the Florida Statutes (the "Florida Interlocal Cooperation Act"), (ii) Chapter 3261, Part II of the Florida Statues (the "Joint Powers Act"), and (iii) an interlocal agreement creating FMPA among the 29 memebers of FMPA (the "Members") executed pursuant to the foregoing statutory authority (the "Interlocal Agreement"). The Members of FMPA are twenty-nine Florida city commissions, city and town councils, utility commissions and utility authorities. Under Florida law, FMPA has authority to undertake and finance specified projects and, among other things, to plan, finance, acquire..."

..."FMPA was created on February 24, 1978 in accordance with the provisions of Article VII, Section 10 of the Florida Constitution, the Florida Interlocal Cooperation Act, the Joint Powers Act and the Interlocal Agreement as executed by the then Members of FMPA."

a. Section 163.01(3)(b) of the Florida Statutes defines a **public agency as "a political subdivision, agency**, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under subsection (7), an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States."

4) **INDIANA MUNICIPAL POWER AGENCY**
"IMPA, a body corporate and politic and a **political subdivision** of the State of Indiana, was created by contract by certain of its current Members on June 12, 1980. Organized and existing under the

provisions of the IMPA Act, IMPA was formed for the purpose of…The 2009 Bonds will be issued pursuant to Indiana Code 8-1-2.2, as amended and in effect on the issue date of the 2009 Bonds (the 'IMPA Act')."

a. The INDIANA CODE (the code of laws for the state of Indiana)
   i. IC 36-1-2-13 -- Sec. 13. "Political Subdivision" means municipal corporation or special taxing district.
   ii. IC 36-1-2-10 -- Sec. 10. . "Municipal corporation" means unit, school corporation, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued. The term does not include special taxing district."

5) **LOUISIANA HOUSING FINANCE AGENCY**

Louisiana Revised Statutes; Title 40: Public Health and Safety; Chapter 3-A. Louisiana Housing Finance Act §40:600.3 Creation of the agency

There is hereby created a public body corporate and politic known as the Louisiana Housing Finance Agency. The agency shall be a ***political subdivision and instrumentality of the state***, allocated to the Department of the Treasury, in accordance with the provisions of Article IV, Section 1 and Article XIV, Section 6 of the Louisiana Constitution of 1974, in the manner provided in R.S. 36:769(J). The agency shall exercise its prescribed statutory powers, duties and functions as provided in R.S. 36:769(J).

APPENDIX B:

EXAMPLES OF STATE DEFINITIONS OF POLITICAL SUBDIVISION THAT INCLUDE AGENCIES AND AUTHORITIES

1) NEW YORK

From Title 1 of Article 1 of the Public Authorities Law –

§ 2. Definitions. As used in this chapter:

1. "**state authority**" shall mean a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York, with one or more of its members appointed by the governor or who serve as members by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including subsidiaries of such public authority or public benefit corporation.

2. "**local authority**" shall mean (a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (b) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government; (c) a local industrial developmental **agency or authority** or other local public benefit corporation; (d) an affiliate of such local authority; or (e) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law.

2) GEORGIA

Title 50, Chapter 15, Section 1 (**50-15-1**)

As used in this chapter, the term:

"Political subdivision" means the state or any local subdivision of the state or public instrumentality or public corporate body created by or under authority of state law, including, but not limited to, municipalities, counties, school districts, special taxing districts, conservation districts, authorities, and any other state or local public instrumentality or corporation which has the right to bring and defend actions or to issue its bonds or other obligations as evidence of indebtedness under any provision of law and also means any corporate or other entity which leases a public improvement to such political subdivision; and the term also means the governing body of such political subdivision and its members and officers in their official capacity.

Title 47, Chapter 20, Section 3 (**47-20-3**)

As used in this chapter, the term:

(21) "Political subdivision" means any county, municipality, or local school district of this state or any authority created for or on behalf of any such political subdivision or created for or on behalf of any combination of such political subdivisions.

3) MINNESOTA

"Political subdivision" means any county, statutory or home rule charter city, school district, special district, any town exercising powers under chapter 368 and located in the metropolitan area, as defined in section 473.121, subdivision 2, and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the Economic Opportunity Act of 1964 (Public Law 88-452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to a government entity, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with a government entity.