Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
Office of Thrift Supervision

October 13, 2010

Mr. Timothy Segerson
Director, Division of Supervision
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314

Dear Mr. Segerson:

This is in response to your inquiry on behalf of the National Credit Union Administration ("NCUA") regarding the risk-based capital treatment of senior notes that have a NCUA full and unconditional guarantee of the timely payment of principal and interest.

As part of the Temporary Corporate Credit Union Liquidity Guarantee Program ("TCCULGP"), the NCUA will sell non-agency residential mortgage-backed securities ("RMBS") to a statutory trust ("issuing entity"). The issuing entity will then issue senior notes that will receive monthly payments from the underlying non-agency RMBS. In addition to the credit enhancement provided by the overcollateralization and excess interest generated by the underlying RMBS, the senior notes will be directly, fully and unconditionally guaranteed by the NCUA for the timely payment of principal and interest.

In a legal opinion dated September 9, 2009 ("NCUA Opinion"), the General Counsel of NCUA opined that the NCUA guarantee of debt issued under the TCCULGP is backed by the full faith and credit of the U.S. Government.[1] The NCUA Opinion states that the full faith and credit of the U.S. government would be available to satisfy any liabilities remaining under the NCUA guarantee if there are not sufficient resources available to satisfy the obligations. The NCUA Opinion cites an earlier opinion from the Office of Legal Counsel of the U.S. Department of Justice ("DOJ Opinion"). The DOJ Opinion concluded that lawful debt obligations of the NCUA incurred on behalf of the Central Liquidity Facility ("CLF")[2] are supported by the full faith and credit of the United States. This conclusion was based on the Attorney General's long-standing position that when Congress authorizes a federal agency or officer to incur obligations, those obligations are supported by the full faith and credit of the United States, unless the authorizing statute specifically provides otherwise.[3]

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[1] Letter from Robert Fenner, NCUA General Counsel, to J.P. Morgan Securities Inc. and Banc of America Securities LLC, dated September 9, 2009, p. 2.

[2] The CLF was established in 1978 by the National Credit Union Central Liquidity Facility Act, Pub. L. No. 95-630, Title XVIII, codified at 12 U.S.C. 1795 (1982). Its function is to provide for the liquidity needs of member credit unions.

[3] 6 Op. O.L.C. 262, 264 (citing 41 Op. Att'y Gen. 403, 405 (1959)).

The agencies' general risk-based capital rules state that a direct claim on, or portions of a claim that are unconditionally guaranteed by, an OECD government or a U.S. Government agency may be assigned a zero percent risk weight.[4] For risk-based capital purposes, a U.S. Government agency is defined as an instrumentality of the U.S. Government whose debt obligations are directly and unconditionally guaranteed as to the timely payment of principal and interest by the full faith and credit of the U.S. Government.[5]

Based on the NCUA Opinion and the DOJ Opinion that debt obligations guaranteed by the NCUA are backed by the full faith and credit of the U.S. Government, as well the terms of the TCCULGP and the senior notes, and other information reviewed and analyzed by the agencies, the agencies have determined that they would not object to a banking organization's assignment of a zero percent risk weight to the aforementioned senior notes that are directly and unconditionally guaranteed by the NCUA. This conclusion does not affect the ability of the agencies to exercise their supervisory, regulatory and examination authorities under applicable law and regulations and is subject to change if a material change in the information on which the agencies relied occurs.

Should you have any further questions with regard to this issue, please contact OCC: Paul Pogdorski, Risk Expert, Capital Policy, (202) 874-4755; FDIC: Bobby Bean, Chief, Capital Markets Branch, (202) 898-6705; FRB: John F. Connolly, Manager, Capital and Regulatory Policy, (202) 452-3621; or OTS: Teresa A. Scott, Senior Policy Analyst, (202) 906-6478.

Sincerely,

/s/Kevin Bailey
Kevin Bailey
Deputy Comptroller for Regulatory Policy
Office of the Comptroller of the Currency

/s/Anna Lee Hewko
Anna Lee Hewko
Assistant Director
Division of Banking Supervision and Regulation
Board of Governors of the Federal Reserve System

/s/Nancy Hunt
Nancy Hunt
Associate Director
Division of Supervision and Compliance
Federal Deposit Insurance Corporation

/s/Michael Solomon
Michael Solomon
Managing Director
Risk Management
Office of Thrift Supervision

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[4] 12 CFR part 3, Appendix A (OCC); 12 CFR parts 208 and 225, Appendix A (Board); 12 CFR part 325, Appendix A (FDIC); and 12 CFR part 567, subpart B (OTS).

[5] The NCUA is established as an independent agency in the executive branch of the U.S. Government. 12 U.S.C. 1752a(a).

Kevin Bailey
Deputy Comptroller for Regulatory Policy
Office of the Comptroller of the Currency

Anna Lee Hewko
Assistant Director
Division of Banking Supervision and Regulation
Board of Governors of the Federal Reserve System

Nancy W Hunt

Nancy Hunt
Associate Director
Division of Supervision and Compliance
Federal Deposit Insurance Corporation

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