



FINANCIAL INDUSTRY WEEK IN REVIEW

The Week in Review highlights this week's important legal, regulatory and related developments impacting the financial industry. Links to prior issues and Orrick Client Alerts can be found below.

January 16, 2009

Additional Assistance to Bank of America

On January 16, **Treasury**, the **Fed** and the **FDIC** announced additional measures to **guarantee approximately \$118 billion of Bank of America's assets** for up to ten years, including loans, RMBS and CMBS primarily acquired in its Merrill Lynch acquisition. Bank of America will absorb the first \$10 billion of losses; credit losses above \$18 billion will be funded by a non-recourse loan from the Fed. Treasury also agreed to invest \$20 billion in TARP funds in Bank of America through the Targeted Investment Program in exchange for preferred stock with an 8% dividend. [Treasury Release](#). [Fed Release](#). [FDIC Release](#).

Citi and Morgan Stanley Developments

On January 16, **Citi** announced that it will **reorganize** into two operating units: **Citicorp**, which will house the company's global bank, and **Citi Holdings**, which will be made up of brokerage and retail asset management (including its 49% stake in Morgan Stanley Smith Barney) and other "non-core" businesses (including the assets covered by the loss-sharing agreement with the U.S. government). [Citi Release](#).

On January 13, **Morgan Stanley** and **Citigroup Inc.** announced an agreement on a **joint venture** to combine Morgan Stanley's Global Wealth Management Group and Citi's Smith Barney, Quilter in the UK, and Smith Barney Australia, as part of a larger Citigroup reorganization effort to focus on investment and consumer banking. The new venture will be called Morgan Stanley Smith Barney. [Citi Release](#).

Moody's Alters Synthetic CDO Assumptions

On January 15, **Moody's** announced that it has **revised certain assumptions** that it uses to rate and monitor **corporate synthetic CDOs** to reflect global recessionary pressures and tightening credit conditions on corporate default rates. As a result, Moody's **expects to lower the ratings** of a large majority of corporate synthetic CDO tranches by three to seven notches on average. [Moody's Release](#). The Moody's release requires a free registration, which can be accessed through the link above.

TARP Developments

On January 12, on behalf of President-elect Obama, the Bush administration submitted a request to Congress to release the remaining **\$350 billion in TARP funds**. On January 15, the Senate failed to formally disapprove the request, meaning that the remaining TARP funds are released regardless of future House actions. [White House Release](#).

On January 9, **Representative Barney Frank** introduced the **TARP Reform and Accountability Act of 2009**, which places additional restrictions on companies which have received or will receive additional TARP funds and introduces **more stringent foreclosure prevention measures**. [TARP Reform and Accountability Act of 2009](#).

On January 12, **Fed Chairman Bernanke**, in a speech at the London School of Economics, recommended **three options for dealing with troubled assets**, including providing a guarantee on troubled assets in exchange for warrants, establishing and capitalizing "bad banks" which would in turn purchase troubled assets, and purchasing "bad assets" outright, as was originally proposed under TARP. [Chairman Bernanke's Speech](#).

On January 14, **Treasury** released the term sheet and FAQs related to the participation of **"Subchapter S" corporations** in the **Capital Purchase Program**. S corporations will have until February 13 to apply for the program and will be funded with subordinated debt rather than preferred stock, which is how other participating institutions have been funded. [Treasury Release](#).

FDIC Developments

On January 16, the **FDIC** board announced that it will propose changes to the **Temporary Liquidity Guarantee Program** which will extend the maturity of the debt guarantee from three to up to ten years in instances where the debt is supported by collateral and the issuance supports new consumer lending. [FDIC Release](#).

On January 12, the **FDIC** released a **Financial Institution Letter** indicating that financial institutions should implement processes to "monitor their use of capital injections, liquidity support and/or financing guarantees" obtained from Treasury, the FDIC or the Fed. [Financial Institution Letter](#).

FASB Guidance

On January 12, **FASB** released **Staff Position 99-20-1**, which amends the asset impairment guidance of EITF Issue No. 99-20 for **securitized financial assets**. FASB noted in the new FSP that every decline in the fair value of an asset does not represent an other-than-temporary impairment and that further analysis and judgment would be required. [FASB Staff Position](#).

Bank of Japan Initiative

On January 8, the **Bank of Japan** launched a program to provide an initial JPY1.22 trillion (US\$13.4 billion) in **emergency loans to financial institutions**, at favorable terms, to encourage bank lending. Under the program, Japan's central bank will accept bonds, commercial paper and short-term debt issued by companies as collateral and provide low-interest loans to the country's banks through March 2009. [Bank of Japan Release](#).

IRS Safe Harbor

On January 12, the **Internal Revenue Service** released **Rev. Proc. 2009-10**, which provides a **safe harbor** for the treatment of certain payments received by a **2a-7 money market fund** from its fund advisor and which are intended to maintain the fund's \$1.00 net asset value. The safe harbor is available provided the fund treats such payment as a short term capital gain in the taxable year of receipt. [Rev. Proc. 2009-10](#).

Summaries of U.S. and Worldwide Programs

The linked **summaries** provide brief descriptions of programs that have been introduced this year in the United States and worldwide in an attempt to restore and encourage liquidity and lending in the financial markets. [Summaries of U.S. Programs](#). [Summaries of Worldwide Programs](#).

The Financial Industry In Transition: A Timeline

See the linked **timeline** for a calendar of major U.S. and international financial events since January 2008. [Timeline](#)

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If you would like to discuss any aspect of this Week in Review or to receive additional information regarding the matters discussed above, please contact us at FinancialIndustryGroup@orrick.com.