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Fitch Comments on ABS from FDIC Insured Banks under New Rules

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Fitch Ratings-New York-21 October 2009: Upcoming changes to the Federal Accounting Standards Board (FASB) rules regarding off-balance sheet securitizations have created some asset-backed securities (ABS) market uncertainty regarding FDIC treatment of transfers of financial assets in the event of conservatorship or receivership of an FDIC-insured institution. A key concern is whether the changes introduced by the FASB could re-characterize existing transactions and how this issue would be addressed post implementation of the new accounting rules. Fitch Ratings has been in dialogue with the FDIC regarding these issues to seek clarity on how certain transfers and structures will be treated going forward.

While awaiting clarification, ratings higher than the origination entity may not be achievable on certain transactions, particularly master trust and other revolving structures absent mitigating factors. For static and discreet pool securitizations, where the ability of sponsors to lend support is more limited and there is greater clarity regarding true sale treatment, Fitch 'AAA' ratings are expected to remain achievable.

For all proposals pre- and post-implementation of the new FASB rules, Fitch will review the transaction structure, documents and opinions to determine whether the securitization ratings for the senior tranche or tranches can be de-linked sufficiently from those of the seller or originating institution in order to achieve a 'AAA' level. Fitch expects to be able to continue to assign ratings for junior or mezzanine tranches since those ratings are more likely to be closer to the sponsoring bank's rating, limiting the magnitude of a rating change in the event of a recharacterization.

The comfort previously provided by the FDIC that it would not seek to recover financial assets transferred in connection with a securitization or participation is being jeopardized by SFAS 166 since the FDIC's Rule 360.6 (the Rule) regarding the treatment of the transfer of financial assets upon convervatorship or receivership contains a precondition that the transfer qualify as a sale under GAAP provisions.

In the unexpected event that existing transactions are re-characterized and the assets are no longer sufficiently remote from the FDIC's receivership or conservatorship powers, senior ratings would likely move to the senior unsecured of the sponsoring financial institution.

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