FEDERAL RESERVE BANK OF NEW YORK

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KENNETH LAMAR
VICE PRESIDENT

December 31, 2003

To: The Chief Executive Officer of Each U.S. Branch and Agency of a Foreign Bank Located in the Second Federal Reserve District

Enclosed are copies of forms for the following reports for the quarter ending December 31, 2003:

- Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002);

- Supplemental Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S); and

- The Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019).

There are no changes to the FFIEC 002, 002S or 019 reporting forms or instructions for December 31, 2003 report date. However, there is Supplemental Guidance for the FFIEC 002 addressing the reporting treatment of the Financial Accounting Standards Board Interpretations No. 45 and 46 and Standards 133 and 140.

Also, on December 5, 2003, the Federal Reserve published in the *Federal Register* (68 FR 68082) proposed changes to the FFIEC 002 report; effective March 31, 2004. A copy of this notice and draft FFIEC 002 reporting form are included with this letter. You are encouraged to review the proposed changes and provide any comments on or before the February 3, 2004 deadline.

Reports Monitoring

Please note that, under the Regulatory Reports Monitoring Program, the timeliness of receipt of each of these reports will be monitored. Submission of initial data via facsimile, even if prior to the deadline, does not constitute timely filing.

An original and one copy of the completed FFIEC 002 and FFIEC 002S report(s)(if applicable) must be returned to this Bank, by mail or messenger, no later than January 30, 2004. Any FFIEC 002/002S report received after 5:00 p.m. on January 30 will be considered late unless postmarked by January 28 or sent by overnight service by January 29th.

An original and one copy of the completed FFIEC 019 must be returned to this Bank, by mail or messenger by Tuesday, February 17, 2004. Any FFIEC 019 received after 5:00 p.m. on February 17 will be considered late unless postmarked by February 14th or sent by overnight service by February 16th. Completed reports should be submitted to:

Federal Reserve Bank of New York
Statistics Function
33 Liberty Street, 4th Floor
New York, NY 10045

We will also continue to monitor the accuracy of the periodic regulatory reports submitted for the December 31, 2003 report date. The staff of this Reserve Bank will monitor whether banking organizations are meeting their basic reporting requirements through the use of "validity edits." The current edits for the FFIEC 002/002S and FFIEC 019 reports that are subject to monitoring are unchanged and sent to you in a previous mailing.

FASB Interpretation No. 46

The FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities.* This interpretation explains how to identify a “variable interest entity” (“VIE”) (*e.g.*, a “special purpose entity”) and how an organization should assess its interests in a VIE to decide whether to consolidate that entity. VIEs often are created for a single specified purpose, for example, to facilitate securitization, leasing, hedging, research and development, and reinsurance.

In general, a VIE is an entity in which either the controlling financial interests are not voting interests or the equity investors do not bear the entity's residual economic risks. A variable interest is a contractual or ownership interest in an entity that changes when the value of the entity's net assets changes. An organization that has a variable interest (or a combination of variable interests) that will absorb a majority of a VIE's expected losses if they occur, receive a majority of the entity's expected residual returns if they occur, or both, is the "primary beneficiary" of the variable interest entity and must consolidate it.

For FFIEC 002 purposes, U.S. branches and agencies with variable interests in VIEs that were created after January 31, 2003, must apply the provisions of Interpretation No. 46 to those entities immediately. (This applies only to VIEs of the U.S. branch or agency and not to the VIEs of the parent bank or any of the parent bank's other offices). A bank that is a U.S. public company, or a subsidiary of a U.S. public company, and has a variable interest in a VIE created before February 1, 2003, must apply the provisions of Interpretation No. 46 to that entity no later that the beginning of the first interim or annual reporting period beginning after December 15, 2003. A U.S. public entity is defined as any company with securities listed on a U.S. exchange.

A U.S. branch or agency that is not a U.S. public company, but has a variable interest in a VIE created before February 15, 2003, must apply the provisions of Interpretation No. 46 to that entity no later than the end of the first annual reporting period beginning after June 15, 2003.

The assets and liabilities of a consolidated VIE should be reported on Schedule RAL of the FFIEC 002 on a line-by-line basis according to the asset and liability categories shown on the schedule. This reporting treatment also carries over to the other schedules in the FFIEC 002 report.

Reporting Asset-Backed Commercial Paper Conduits in Schedule S

U.S. branches or agencies must report the requested information on credit enhancements and liquidity facilities provided to asset-backed commercial paper conduits regardless of their accounting treatment for the conduit on Memorandum item 1 of Schedule S, Servicing, Securitization, and Asset Sale Activities. Thus, whether or not a U.S. branch or agency must consolidate the conduit for reporting purposes in accordance with FASB Interpretation No. 46, the U.S. branch or agency must report its maximum credit exposure arising from and its unused commitments to conduit structures in Memorandum items 1.a and 1.b, respectively.

For those asset-backed commercial paper programs that a U.S. branch or agency consolidates, any credit enhancements and liquidity facilities the bank provides to the conduit should not be reported in Schedule L, Derivatives and Off-Balance Sheet Items. In contrast, for programs that are not consolidated, the U.S. branch or agency should report the credit enhancements and liquidity facilities it provides to the programs in the appropriate items of Schedule L.

Deposit Accounts on Which the Interest Rate Has Been Reduced to Zero

Many U.S. branches and agencies offer deposit products, such as money market deposit accounts or NOW accounts, on which they periodically adjust the interest rate paid on the accounts in response to changes in market interest rates and other factors. If the adjustments on certain deposit accounts have reduced the interest rate to zero, but the interest rate paid on these accounts can be increased as market conditions change, the U.S. branch or agency should continue to report the deposits as interest-bearing accounts in item 4.a of Schedule RAL, Balance Sheet, and include them in the appropriate deposit items in Schedule K, Quarterly Averages.

FASB Interpretation No. 45

In November 2002, the FASB issued Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*. This interpretation clarifies that a guarantor is required to recognize, at the inception of a guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. Among the types of guarantee contracts to which the provisions of Interpretation No. 45 apply are:

- financial standby letters of credit, and
- performance standby letters of credit.

Commercial letters of credit and other loan commitments, and subordinated interests in securitizations, are not guarantees under Interpretation No. 45. U.S. branches and agencies should refer to Interpretation No. 45 for further information on the types of guarantee contracts to which the interpretation's initial recognition and measurement provisions do and do not apply.

For financial and performance standby letters of credit and other types of guarantees subject to the interpretation, when a U.S. branch or agency issues the guarantee, it must recognize on its balance sheet a liability for that guarantee. In general, the initial measurement of the liability is the fair value of the guarantee at its inception. When a U.S. branch or agency issues a guarantee in an arm's length transaction with outside parties, the liability recognized at the inception of the guarantee should be the premium or fee received or receivable by the guarantor. However, if the U.S. branch or agency issues a guarantee for no consideration, the liability recognized at inception should be an estimate of the guarantee's fair value.

In the unusual circumstance where, at the inception of a guarantee, it is probable that a loss has been incurred and its amount can be reasonably estimated, the liability to be initially recognized for that guarantee should be the greater of the premium or fee received or receivable by the guarantor or the estimated loss from the loss contingency that must be accrued under FASB Statement No. 5, *Accounting for Contingencies*.

Interpretation No. 45 does not prescribe a specific account for the guarantor's offsetting entry when it recognizes the liability at the inception of a guarantee because that offsetting entry depends on the circumstances. If a U.S. branch or agency issue a standby letter of credit or other guarantee in a standalone transaction for a premium or fee, the offsetting entry would reflect the consideration the U.S. branch or agency received, such as cash, a receivable, or a reduction of a deposit liability. In contrast, if the U.S. branch or agency received no consideration for issuing the guarantee, the offsetting entry would be to expense.

The interpretation does not describe in detail how a U.S. branch or agency's liability for its obligations under its guarantees should be measured subsequent to initial recognition. However, the accounting for fees received for issuing standby letters of credit has been, and should continue to be, governed by FASB Statement No. 91, *Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases*. Under Statement No. 91, such fees are termed "commitment fees."

Electronic Submission Option

Electronic submission of the FFIEC 002/002S reports is available to all U.S. branches and agencies. We encourage you to take advantage of this method of reporting submission. Vendors have developed a software package that provides the means to submit the FFIEC 002/002S electronically. Submitting reports electronically using the software package provides the following key benefits:

- A timely and efficient alternative to sending the report forms by mail;
- Data are checked automatically for miscalculated totals and blank fields; and
- A printed report is generated that can serve as your institution's permanent record of the report.

For information on filing the FFIEC 002/002S report electronically, please contact Carolyn Polite at (212) 720-5415.

Website

The FFIEC 002/002S and the FFIEC 019 forms and instructions are available on the FFIEC web site at http://www.ffiec.gov/ffiec_report_forms.htm.

Questions regarding the FFIEC 002/002S reports should be directed to Brian Goodwin at (212) 720-8316, Doug Herold at (212) 720-8591 or Peter Drake, Team Leader in the Regulatory Reports Division at (212) 720-2695.

Questions regarding the FFIEC 019 reports should be directed to Samantha Lewis-Hue, Reports Analyst of the International Reports Division at (212) 720-8037.

Sincerely,

Signed by Kenneth P. Lamar

Kenneth P. Lamar
Vice President
Statistics Function