EXHIBIT 211

Dow Jones Business News

Dow Jones Business News

March 9, 2009 Monday 3:05 PM GMT

LENGTH: 620 words

HEADLINE: UPDATE: Lloyds Shares Drop As Government Stake Increases

BYLINE: By Simon Kennedy

BODY:

LONDON (Dow Jones) -- Shares in Lloyds Banking Group dropped as much as 14% Monday after the government took a tough line on its asset insurance deal, leaving existing shareholders with an even slimmer stake in the struggling bank.

The terms of the deal, announced over the weekend, will see the government's stake in Lloyds (LYG) rise to 65% from 43%, with the potential to go higher still. The bank's CEO Eric Daniels had reportedly been pushing for a deal that kept the government holding below 50%.

Lloyds is also paying a heftier premium to insure the assets than rival Royal Bank of Scotland (RBS) did in late February -- reflecting the high-risk of many of the loans made by HBOS, which Lloyds acquired at the start of the year.

Shares in the group gave up 8% in afternoon trading, having fallen as much as 14% shortly after markets opened. The announcement also weighed heavily on Barclays (BCS), which has reportedly considered seeking government insurance on some assets. Shares in Barclays dropped around 12%.

Deutsche Bank analyst Jason Napier said he expects other U.K. banks to take part in the scheme before a deadline at the end of the month.

While Barclays may agree an insurance deal, it reportedly wants to pay cash for any support, rather than have the government as a shareholder.

Risky loans

Lloyds is insuring 260 billion pounds ($367 billion) of gross assets for a fee of 15.6 billion pounds, or 6% of the total. RBS agreed to pay a much smaller fee of 2%, though it also made some concessions over claiming tax losses.

Lloyds will also have to pay the first 25 billion pounds of losses -- again more expensive than the 19.5 billion pounds RBS could have to pay on its bigger pool of assets.

Keefe, Bruyette & Woods analyst Mark Phin said total losses on Lloyds' insured portfolio, including the impairments already taken, need to reach 50.6 billion pounds before the deal starts to be a benefit to shareholders.

Analysts at BNP Paribas said the high price of the insurance likely reflects the weaker quality of the loans being covered. He said for Lloyds to break-even on the deal losses on the portfolio would need to be around 6.1% a year for the next three years -- or roughly double the implied loss rate on RBS' insurance deal.

The price Lloyds is paying reflects the scale of the problems it faces from the acquisition of HBOS.

Impairment losses at HBOS surged to 9.9 billion pounds in 2008 from around 2 billion pounds in 2007 as it faced losses from its mortgage book and from corporate loans it made to the construction and home-building sectors before those markets crashed.

In comparison, impairment losses on Lloyds' own more conservative lending book rose 68% in 2008 to around 3 billion pounds.

Under the terms of the agreement the government will convert 4 billion pounds of existing preference shares into common stock, lifting its stake to 65%. Lloyds will pay the 15.6 billion pound fee through issuing B-shares to the government. If those B-shares are converted into common stock, the government stake could rise as high as 77%, though its voting rights would be capped at 75%.

Deutsche Bank's Napier said the agreement largely eliminates the short-term risk of the bank being completely nationalized, but he maintained his sell-rating on the stock.

"The weak profits and sliding capital base are likely to keep investors apathetic," Napier noted.

U.K. Prime Minister Gordon Brown on Monday reaffirmed his backing for Lloyds CEO Daniels and the bank's Chairman Victor Blank and said the group's takeover of HBOS was in the best interests of the country.

The government helped hurry the deal through and even set aside anti-competition rules to ensure the takeover went through. [03-09-09 1105ET]

NOTES:
PUBLISHER: Dow Jones & Company, Inc.

LOAD-DATE: August 16, 2010

EXHIBIT 212

1 of 1 DOCUMENT

The International Herald Tribune

March 7, 2009 Saturday

SECTION: FINANCE; Pg. 17

LENGTH: 681 words

HEADLINE: Pressure rises on banks to participate in U.K. bailout

BYLINE: Julia Werdigier - The New York Times Media Group

DATELINE: LONDON

BODY:

As the British government prepares to tighten its grip on yet another ailing bank, pressure is mounting on Barclays and other lenders that have turned down government help to change course and join the Treasury's latest attempt to revive the economy.

Lloyds Banking Group, created in a government-brokered takeover this year, was locked in negotiations with the Treasury late Friday over the terms of an asset protection plan. If agreed to, the plan would insure £250 billion, or $352 billion, of Lloyds assets and increase Britain's stake in the bank beyond the current 43 percent, the BBC reported Friday.

The move would make Lloyds the second British bank, after Royal Bank of Scotland, to join the government's asset protection plan. The spotlight would then turn to Barclays, whose shares slumped 29 percent this week amid renewed fears about future write-downs.

A Barclays spokesman said Friday that the bank was talking with the government about joining the plan but had not made a decision.

Malcolm Herring, of Baring Asset Management in London, said: "There is still concern out there about the valuation of some of Barclays' assets. Barclays indicated it may participate, but negotiating the terms is very difficult."

Barclays and other financial services firms, including British subsidiaries of foreign banks, have until the end of this month to sign up to the government plan.

Royal Bank of Scotland, which last month posted the biggest annual loss in British corporate history, became the first bank to participate in the plan by dumping £325 billion of leveraged loans, commercial real estate debt and other illiquid assets into a separate unit partly backed by the government.

Under the plan, the government would be responsible for part of the losses in exchange for a fee and a legal commitment by the bank to increase lending. RBS agreed to pay the fee in shares, which could increase the government's stake to more than 80 percent.

The asset protection plan is the latest attempt by the government to revive the British economy by relieving banks of bad assets and freeing them to write new loans. But the implementation of the program has been slowed by disagreements over fees, and banks' reluctance to surrender shares to the government.

Recent banking takeovers, mainly spurred by the credit crisis, left acquirers with assets difficult to value or sell, and contributed to concerns about future write-downs. RBS said last month that most of its losses stemmed from its acquisition of the Dutch lender ABN AMRO at the peak of the market.

Separately, Lloyds Banking Group said its traditional Lloyds TSB banking business reported a profit last year, while HBOS, the British mortgage lender Lloyds acquired as part of a government rescue, lost money. The group's subordinated debt rating was cut to junk by Standard & Poor's on Friday because of the effect from the HBOS takeover.

Barclays' profit last year rose 1 percent, to £4.38 billion, including a £2.3 billion gain it booked on its acquisition of Lehman Brothers' U.S. business on the difference between the fair value of assets and the price paid for them. Despite attempts by the bank president, Robert Diamond, and other executives to improve transparency, concerns remained among some shareholders and analysts about how the bank had valued assets held by its securities unit.

Some investors suggested that Barclays could pay the fees in cash, financed by selling new shares, to avoid having the government as a shareholder. But the 57 percent decline of its shares this year and a deteriorating economic outlook are bound to make any capital increase more difficult. Barclays' latest capital increase, when it sold shares to Abu Dhabi's royal family and two Qatari investors, was criticized by shareholders, who said terms were unfavorable.

Bracing for further deterioration of the global economy, HSBC Holdings, the biggest European bank, plans this year to raise £12.5 billion by selling shares at a large discount to their current value in a rights issue. HSBC has not sought capital from the British government.

LOAD-DATE: March 11, 2009

EXHIBIT 213

1 of 2 DOCUMENTS

Citywire

March 9, 2009 Monday 8:40 AM GMT

LENGTH: 263 words

HEADLINE: Morning Market: Malaise in banking sector casts early shadow

BODY:

The malaise in the banking sector continues casting an early shadow over the rest of the market.

HSBC slump 43p to 318p ahead of the rights issue, Barclays decline 6p to 59p following weekend reports that it is looking to place toxic assets worth up to £60 billion into a government insurance scheme and Lloyds sink 4p to 38p in the wake of the government's long-awaited rescue package which is being questioned by shareholders.

By 8.30am the FTSE 100 index was 22 points lower at 3,510 and the Mid-350 index off six points at 5,825.

Resisting the general dull trend were Aviva, recovering 6p to 169p helped by a positive ntoe from JP Morgan and Tullow Oil surging 67p to 803p cheered by a significant find in offshore Ghana.

A UBS rating upgrade supported Compass Group at 291.25p, up 2p, while AstraZeneca at £21.81, up 35p and Shire, 795p,up 13p, benefited from their perceived 'safe haven' status.

Among companies reporting Hiscox spurted 11.5p to 295p following a mixed set of results, Petrofac gained 15p to 460p after a positive update and Bovis Homes improved 12p to 390p, the pre-tax loss of £78 million already discounted.

Favourable comment on last week's figures lifted Wood Group a further 3.5p to 207.75p, but a JP Morgan rating downgrade chopped 47p from Lonmin at £10.60.

Resolution declined 8.25p to 99p as the FSA investigated the former chairman and executive directors, but Gooch & Housego jumped 13.5p to 47.5p after receiving a $10 million banking facility.

Unite Group rose 10.25p to 49.25p despite a 21% decline in adjusted net asset value and no final dividend.

LOAD-DATE: March 11, 2009

EXHIBIT 214

1 of 1 DOCUMENT

London Evening Standard

The Evening Standard (London)

March 9, 2009 Monday

LENGTH: 469 words

HEADLINE: BANKS DIVE AFTER LLOYDS NATIONALISED

BYLINE: NICK GOODWAY

BODY:

MORE than £1.6 billion was wiped off the stock-market value of Britain's big four High Street banks today as investors digested the weekend nationalisation of Lloyds Banking Group.

Chairman Sir Victor Blank and chief executive Eric Daniels held urgent meetings with the bank's top investors, trying to persuade them they had no choice but to let the Government take majority control in return for insuring £260 billion of toxic assets.

Lloyds shares crashed more than 10%, falling 4.9p to 37.1p. When the Government bought its initial stakes in Lloyds and its ill-fated merger partner HBOS at the start of the year, it paid 173.3p and 113.6p respectively for its shares. That gave the taxpayer a 43% stake in the merged group, which will now rise to 65% and could go as high as 77%. The rest of the banking sector fared just as badly. HSBC, which is in the midst of a £12.5 billion rights issue, fell 22æp to 338p. The other nationalised bank, Royal Bank of Scotland, was off 1.4p at 18.4p. Richard Curr, head of dealing at Blue Index, said: "Traders are offloading shares in all the banks, not just Lloyds. Our view is that Barclays and others will follow Lloyds into the Asset Protection Scheme, and as such we remain firm sellers of the UK banking sector."

Analysts pointed out that Lloyds has been forced to pay a much higher price to the Treasury than RBS.

On the face of it, RBS chief executive Stephen Hester got away paying an insurance premium of 2% on the £325 billion of toxic assets he has had guaranteed.

Lloyds, by contrast, is paying 5% for the cover on its toxic basket, which came 83% from HBOS and primarily its Bank of Scotland commercial lending arm and just 17% from the original staid Lloyds business.

Blank and Daniels will emphasise the strength of the new bank's balance sheet following the Treasury's injection of £17 billion of fresh capital. Daniel's claimed that would "ensure the group can weather the severest of economic downturns".

BARCLAYS READY TO TALK ABOUT TALKS

Barclays is set to start "talks about talks" with the Treasury today as it calculates whether or not its should take part in the Government's Asset Protection Scheme. Shares in the bank tumbled 6.8p to 58p.

Negotiations with Government officials are likely to be even more tense than the long, drawn-out bargaining with Lloyds which was settled late on Friday.

Chief executive John Varley and his chairman Marcus Agius have made much of the fact that Barclays, which has assets and liabilities of more than £2000 billion, has avoided partial or even full nationalisation by raising capital from existing shareholders and several sovereign wealth funds.

Speculation over how much of its toxic assets Barclays could try to have guaranteed range from £50 billion to £80 billion, but some analysts say this would be far too little.

LOAD-DATE: March 30, 2009

EXHIBIT 215

Derivatives Week

March 9, 2009

LENGTH: 143 words

HEADLINE: Barclays Loses 25% Value On Toxic-Debt Prediction

BODY:

Barclays' value dropped by 25% after analysts predicted the bank would have to write down nearly twice as much in toxic debt than earlier expected. Sandy Chen, an analyst at Panmure Gordon, had estimated a write-down of GBP5.8 billion (USD8.174 billion) as a result of Barclays' growing exposure to derivatives due to the fact that the fair value of some collateralized debt obligations plunged after rating agencies downgraded them. Chen said that figure could climb due to fresh defaults on underlying bonds and further downgrades, noting, "If corporate defaults jump and structured credits undergo another wave of downgrades, we think that the structure of swaps with monolines and other counterparties that Barclays put in place to limit losses could buckle - leading to further impairments and/or write-downs."

Click here to read the story from London Times

LOAD-DATE: June 4, 2009

EXHIBIT 216

FILED UNDER SEAL

BARCLAYS

31st October 2008

Barclays announces Capital Raising

The Board of Directors of Barclays today announces a proposal to raise up to £7.3 billion of additional capital from existing and new strategic and institutional investors.

The Capital Raising, which is subject to approval by Barclays shareholders, will be effected through an issue of £3 billion of Reserve Capital Instruments, with an associated issue of warrants, and an issue of up to £4.3 billion of Mandatorily Convertible Notes.

As a result of the Capital Raising, Barclays expects to fully satisfy its commitment, as announced to the market on 13th October 2008, to raise new external capital as part of its overall plan to achieve the new higher capital targets set by the UK Financial Services Authority for all UK banks.

The Capital Raising will:

- enable Barclays simultaneously to achieve its tier one and equity capital issuance commitments to the FSA with certainty and ahead of the previously announced timetable;
- strengthen links with existing large shareholders and introduce a substantial new investor to Barclays; and
- provide the opportunity for existing institutional shareholders to participate in the Capital Raising by subscribing for Mandatorily Convertible Notes.

The Board estimates that, taking into account the proceeds of the Capital Raising, on a pro forma basis (assuming issue and conversion of £4.3 billion of Mandatorily Convertible Notes) Barclays would have reported a tier one ratio of 11.3% and an equity tier one ratio of 7.6% as at 30th June 2008. This excludes the impact of any future exercise of the Warrants.

Barclays has also today released its Interim Management Statement stating that Group profit before tax for the nine months ended 30th September 2008 was slightly ahead of 2007. Income growth was strong, and costs grew broadly in line with the rate of income growth. Impairment charges grew at a similar rate to the first half of the year. Third quarter 2008 results included a preliminary estimate of the net benefits arising on the acquisition of Lehman Brothers North American investment banking and capital markets businesses; and net losses from credit market writedowns of £129 million, comprising writedowns of £1.2 billion offset by £1.1 billion gains on the

EXHIBIT PENGAD 800-631-6989 PLX 442 5 NOV 15 DB fair valuation of issued notes. In October, credit spreads narrowed substantially leading to a reversal of £1 billion gains on the fair valuation of issued notes.

Highlights of the Capital Raising

Key highlights of the Capital Raising include:

- An issue of £3 billion of Reserve Capital Instruments ('RCIs') to Qatar Holding and entities representing the beneficial interests of HH Sheikh Mansour Bin Zayed Al Nahyan, a member of the Royal Family of Abu Dhabi ('HH Sheikh Mansour Bin Zayed Al Nahyan'). The RCIs will pay an annual coupon of 14% until June 2019. In conjunction with this issue, Qatar Holding and HH Sheikh Mansour Bin Zayed Al Nahyan have also subscribed (for a nominal consideration) for warrants ('Warrants') to subscribe at their option for up to 1,516,875,236 new ordinary shares of Barclays PLC ('Ordinary Shares') with an exercise price of 197.775 pence per share (equal to the Average Barclays Closing Price) or £3 billion in aggregate, representing 18.1% of Barclays existing issued ordinary share capital. The Warrants are exercisable at any time for a five year term from the date of issue.

- An issue of £2.8 billion of Mandatorily Convertible Notes ('MCNs') to Qatar Holding, Challenger Universal Limited ('Challenger') and HH Sheikh Mansour Bin Zayed Al Nahyan, and a further issue of up to £1.5 billion of MCNs to existing institutional shareholders and other institutional investors by way of an accelerated non-underwritten bookbuild placing. The MCNs all carry the same terms and conditions. The MCNs will pay an annual coupon of 9.75% until conversion into Ordinary Shares, which will occur on or before 30th June 2009. Conversion will result in the issue of 2,805,396,799 new Ordinary Shares, representing 33.5% of Barclays existing issued ordinary share capital. The conversion price is 153.276 pence, a discount of 22.5% to the Average Barclays Closing Price.

- Ordinary Shares to be issued upon conversion of the MCNs, and, as the case may be, the exercise of Warrants, will increase Barclays equity tier one ratio, while the RCIs will qualify as innovative tier one capital to the extent they are within the innovative tier one allowance as defined by the FSA.

Investors

Qatar Holding has agreed to invest £500 million in MCNs and £1.5 billion in RCIs, and has subscribed for Warrants to purchase up to £1.5 billion of Ordinary Shares. Challenger has agreed to invest £300 million in MCNs. Assuming the conversion of their MCNs and full exercise of their Warrants, and taking into account their existing holdings of Barclays shares, Qatar Holding would hold 1,607,402,170 Ordinary Shares, representing 12.7% of the fully diluted share capital (assuming the issue and conversion of £4.3 billion of MCNs and full exercise of Warrants) (the 'Fully Diluted Share Capital') and Challenger would hold 353,704,737 Ordinary Shares, representing 2.8% of the Fully Diluted Share Capital.

HH Sheikh Mansour Bin Zayed Al Nahyan has agreed to invest £2 billion in MCNs and £1.5 billion in RCIs, and subscribed for Warrants to purchase up to £1.5 billion of Ordinary Shares. Assuming the conversion of their MCNs and full exercise of their Warrants, HH Sheikh Mansour Bin Zayed Al Nahyan would be beneficially entitled to 2,063,273,339 Ordinary Shares, representing 16.3% of the Fully Diluted Share Capital.

Barclays has appointed Barclays Capital, Credit Suisse and JPMorgan Cazenove as joint bookrunners to undertake an accelerated non-underwritten bookbuild placing of up to a further

£1.5 billion of MCNs with existing institutional shareholders and other institutional investors (the 'Institutional Placing').

John Varley, Group Chief Executive of Barclays, said:

"The capital raising announced today enables Barclays to meet the capital issuance plan agreed with the UK authorities following the decision by the FSA to increase the capital ratio requirements for all UK banks. We are pleased to have the continuing support of Qatar Holding and Challenger, and to welcome HH Sheikh Mansour Bin Zayed Al Nahyan as a substantial new investor, as well as enabling broad participation by existing institutional shareholders. Today's capital raising provides certainty and speed of execution, and combined with the strong third-quarter performance in a volatile operating environment enables us to continue to implement our strategy and build our business by serving clients and customers around the world."

Marcus Agius, Chairman of Barclays, said:

"Given the continuing uncertainties in world capital markets, the Board of Barclays resolved to satisfy the capital raising requirements agreed with the UK authorities without delay. This we have done. The Board believes that this maintains Barclays as a strong, independent and well capitalised bank."

Details of the Capital Raising

1. Introduction

The Board of Directors of Barclays today announces a Capital Raising to raise up to £7.3 billion of new capital through the issue of MCNs, RCIs and Warrants.

Capitalised terms used in this announcement have the meanings given in Appendix 1.

2. Reasons for the Capital Raising

On 13th October 2008, Barclays announced that, following the decision of the FSA to set stronger capital ratio requirements for all UK banks, the Board had agreed a plan to increase the capital of Barclays through measures including the raising of over £6.5 billion of tier one capital, of which £3 billion would be in the form of preference shares and the remainder would be in the form of Ordinary Shares.

In common with other large UK-headquartered banks, Barclays has had detailed discussions with the FSA regarding its balance sheet and capital position. Target capital levels have been agreed with the FSA which include consideration of a number of possible stress scenarios. The Capital Raising, together with other measures management is taking in the business to improve Barclays capital position, are in accordance with the plans agreed with the FSA.

The Board has completed a thorough exploration of possible capital raising structures and arrangements to meet its commitment to the FSA. A fully pre-emptive offer to all Shareholders would require a period of market risk exposure of up to some two months which the Board believes represents a risk that is unacceptable to shareholders at this time. The Board has concluded that the Capital Raising provides the best combination of financial terms, certainty and speed for Barclays, which are important given current market conditions. The Board attaches a high degree of importance to pre-emption rights generally and has sought to recognise these to the extent possible in the context of the Capital Raising by giving institutional investors the ability to participate in the issue of MCNs.

The objective of the plan to raise tier one capital via the issue of preference shares will be met through the issuance of the RCIs. Coupons on the RCIs should be tax deductible for Barclays and the RCIs qualify as tier one capital, within the innovative tier one allowance as defined by the FSA. The issuance of MCNs rather than Ordinary Shares enables certainty of commitment of the required ordinary equity within a short period of time and permits the immediate economic participation of certain significant investors, prior to the receipt of any required regulatory approvals.

Barclays remains committed to mobilise an additional £1.5 billion in equity resources from balance sheet and operational efficiencies referred to in the announcement of 13th October 2008. Barclays also announced on 13th October 2008 that, in the light of the new capital ratios agreed with the FSA and in recognition of the need to maximise capital resources in the current economic climate, the Board has concluded that it would not be appropriate to recommend the payment of a final dividend for 2008.

The Board estimates that, taking into account the proceeds of the Capital Raising, on a pro forma basis (assuming the issue and full conversion of £4.3 billion of MCNs) Barclays would have reported a tier one ratio of 11.3% and an equity tier one ratio of 7.6% as at 30th June 2008. This excludes the impact of any future exercise of the Warrants.

3. Details of the Mandatorily Convertible Notes

The MCNs will carry an annual coupon of 9.75%, payable quarterly in arrears, until conversion into Ordinary Shares. The MCNs will have a mandatory conversion date of 30th June 2009. Conversion of any outstanding MCNs will occur on the mandatory conversion date and will be at the holder's option up until the fifth business day prior to such date. The conversion price is fixed at 153.276 pence, a discount of 22.5% to the Average Barclays Closing Price (subject to certain limited adjustment events summarised in Appendix 2).

Qatar Holding has agreed to subscribe for £500 million of MCNs and Challenger has agreed to subscribe for £300 million of MCNs. HH Sheikh Mansour Bin Zayed Al Nahyan has agreed to subscribe for £2 billion of MCNs.

Barclays Capital, Credit Suisse and JPMorgan Cazenove, who are acting as joint bookrunners, will undertake an accelerated non-underwritten bookbuild placing of up to an additional £1.5 billion of MCNs to existing institutional shareholders and other institutional investors. Books are open with immediate effect and are expected to close at 5:00pm today but may be closed earlier or later at the discretion of the joint bookrunners and without further notice. Further details of the MCNs and the bookbuild placing are set out in Appendices 2 and 3.

The issue of the MCNs is conditional upon receipt of necessary shareholder approvals. Subject to obtaining the required shareholder consents, the MCNs are expected to be issued on the third business day following the General Meeting.

The MCNs will not qualify as capital until conversion into Ordinary Shares. Applications will be made for the MCNs to be admitted to the Official List of the UKLA and to trading on the London Stock Exchange's regulated market. Barclays has undertaken to apply for the Ordinary Shares to be issued upon conversion of the MCNs to be admitted to listing on the Official List of the UKLA and admitted to trading on the London Stock Exchange's regulated market.

4. Details of the Reserve Capital Instruments and Warrants

The RCIs are perpetual securities, redeemable in whole (but not in part) at the option of Barclays Bank PLC from June 2019. The RCIs will pay an annual coupon of 14% until June 2019 and 3-month LIBOR plus 13.4% thereafter. The initial coupon represents a cost to Barclays of approximately 10% on an after-tax basis. The RCIs will qualify as innovative tier one capital to the extent they are within the innovative tier one allowance as defined by the FSA.

Qatar Holding and HH Sheikh Mansour Bin Zayed Al Nahyan have each agreed to subscribe for £1.5 billion of RCIs. In conjunction with this subscription, Qatar Holding and HH Sheikh Mansour Bin Zayed Al Nahyan have each subscribed (for a nominal consideration) for Warrants to subscribe for up to £1.5 billion of new Ordinary Shares. The exercise price of the Warrants will be 197.775 pence, equal to the Average Barclays Closing Price, subject to certain anti-dilutive provisions. The Warrants are exercisable at any time for a five year period following issue.

The issue of the RCIs is conditional upon receipt of necessary shareholder approvals. Subject to obtaining the required shareholder consents, the RCIs are expected to be issued on the third business day following the General Meeting. The Warrants were subscribed for unconditionally today but exercise is conditional upon obtaining necessary shareholder approvals and issuance of the RCIs. The original subscribers for the Warrants are entitled to a reduction in the warrant exercise price in the event that Barclays issues further Ordinary Shares by way of a rights issue between 1 July 2009 and 30 June 2011 and the share price at the time of the rights issue is less than 197.775 pence.

Applications will be made for the RCIs and the Warrants to be admitted to the Official List of the UKLA and to trading on the London Stock Exchange's regulated market (or, in the case of the Warrants, an alternative recognised investment exchange or regulated market). The Warrants may be traded separately from the RCIs.

5. Enlarged share capital

Conversion of the MCNs would result in the issue of 2,805,396,799 new Ordinary Shares, equivalent to 33.5% of Barclays existing ordinary share capital (assuming issue and conversion of £4.3 billion of MCNs). Full exercise of the Warrants would result in the issue of a further 1,516,875,236 new Ordinary Shares, equivalent to 18.1% of Barclays existing ordinary share capital. The resultant shareholdings of Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan are set out below:

	MCNs		RCIs/Warrants			
Investor	£m	Number of Ordinary Shares[1]	£m	Number of Ordinary Shares[2]	Holding of current issued ordinary share capital[3]	Holding of issued ordinary share capital after conversion and exercise[4]
Qatar Holding	500	326,208,930	1,500	758,437,618	6.2%	12.7%
Challenger	300	195,725,358	-	-	1.9%	2.8%
HH Sheikh Mansour Bin Zayed Al Nahyan	2,000	1,304,835,721	1,500	758,437,618	-	16.3%
Institutional investors[5]	1,500	978,626,790	-	-	NA	NA
Total	4,300	2,805,396,799	3,000	1,516,875,236	NA	NA

1 On conversion of the MCNs
2 On exercise of the Warrants
3 Based on 8,370,447,337 Ordinary Shares in issue as at 30th October 2008
4 Pro-forma assuming issue and full conversion of £4.3 billion of MCNs and exercise in full of the Warrants
5 Assuming £1.5 billion of MCNs issued pursuant to the Institutional Placing

6. Commissions and fees

Net proceeds of the Capital Raising are expected to be up to £7.0 billion, after commissions, fees and expenses of £0.3 billion.

Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan will each receive a commission of 4 per cent. of the principal amount of the MCNs for which they have respectively agreed to subscribe.

Qatar Holding and HH Sheikh Mansour Bin Zayed Al Nahyan will each receive a commission of 2 per cent. of the principal amount of the RCIs for which they have respectively agreed to subscribe.

In addition, Qatar Holding will receive a fee of £66 million for having arranged certain of the subscriptions in the Capital Raising.

Credit Suisse and JPMorgan Cazenove will each receive a fee of 0.75 per cent. of the principal amount of the MCNs placed in the Institutional Placing.

Credit Suisse and JPMorgan Cazenove will each receive a fee of £900,000 (£1.8 million in total) in respect of their roles assisting Barclays in relation to the RCIs.

Barclays will pay the commissions on the due date for issue of the MCNs and RCIs. The commissions are payable even if the proposed resolutions are not passed at the General Meeting.

7. Current trading and prospects

Barclays has also today released its Interim Management Statement stating that Group profit before tax for the nine months ended 30th September 2008 was slightly ahead of 2007. Income growth was strong, and costs grew broadly in line with the rate of income growth. Impairment charges grew at a similar rate to the first half of the year. Third quarter 2008 results included a preliminary estimate of the net benefits arising on the acquisition of Lehman Brothers North American investment banking and capital markets businesses; and net losses from credit market writedowns of £129 million, comprising writedowns of £1.2 billion offset by £1.1 billion gains on the fair valuation of issued notes. In October, credit spreads narrowed substantially leading to a reversal of £1 billion gains on the fair valuation of issued notes.

8. Dividend policy

As announced on 13th October 2008, in the light of the new capital ratios agreed with the FSA and in recognition of the need to maximise capital resources in the current economic climate, the Board has concluded that it would not be appropriate to recommend the payment of a final dividend for 2008. The Board intends to resume dividend payments in the second half of 2009, at which time it is intended to pay dividends quarterly.

9. Approvals

The issue of the RCIs and the MCNs, and exercise of the Warrants, are conditional upon receipt of the requisite shareholder approvals. The Board has resolved to convene a General Meeting on or around 24th November 2008 to approve, amongst other matters, an increase in the Company's authorised ordinary share capital sufficient to permit completion of the Capital Raising, and to grant authorities for the issue of new Ordinary Shares in accordance with the terms of the MCNs and the Warrants.

A circular convening the General Meeting will be sent to Shareholders on or around 8th November. Copies of the circular will be forwarded to the FSA and will be available for inspection at the UKLA's Document Viewing Facility, which is situated at: The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

The Board will unanimously recommend that shareholders vote in favour of all the resolutions to be proposed at the General Meeting, as the Directors intend to do in respect of their own beneficial holdings.

The acquisition by Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan of the full amount of the shareholdings resulting from the conversion of their MCNs and the exercise of their Warrants will require certain approvals to be obtained from, and filings to be made with, regulators and other governmental authorities in a number of countries in which Barclays operates. Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan have undertaken to Barclays not to deliver a conversion notice under the MCNs or exercise their rights under the Warrants to the extent that certain relevant approvals and filings have not been obtained and made. In addition, the terms of the MCNs envisage that where a holder of MCNs does not deliver a conversion notice prior to the mandatory conversion of the MCNs, the Ordinary Shares in Barclays that would otherwise have been issued to that holder on such conversion will be issued to the trustee of the MCNs and sold for that holder's benefit.

10. Expected timetable of principal events

The expected timetable of the principal events is set out below:

Placing of MCNs to institutional investors	31st October 2008
Posting of Barclays shareholder circular	8th November 2008
General Meeting	24th November 2008
Issuance of MCNs and RCIs	27th November 2008
Mandatory conversion date of MCNs	30th June 2009
Last date for exercise of the Warrants	31st October 2013

11. Advisers

Barclays Capital is acting as Sole Global Coordinator, and Barclays Capital, Credit Suisse and JPMorgan Cazenove are acting as Joint Bookrunners in respect of the placing of MCNs to existing shareholders and other institutional investors.

Barclays Capital is acting as Sole Financial Adviser in respect of the Capital Raising, and Sole Placing Agent in respect of the investment by Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan

ANALYST AND INVESTOR INFORMATION

A conference call for analysts and institutional investors will be hosted by John Varley, Barclays Group Chief Executive. The call will commence at **09.30 (GMT) 31st October 2008.**

The telephone number is **0845 401 9092 (UK callers)** or **+44 (0) 20 3023 4419 (all other locations)**, with the access code **'Barclays Announcement'**. The briefing will also be available as a live audio webcast and accompanying slide presentation on the Investor Relations website at: www.barclays.com/investorrelations and a recording will be posted on the website.

ENQUIRIES

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About Barclays

Barclays is a major global financial services provider engaged in retail and commercial banking, credit cards, investment banking, wealth management and investment management services with an extensive international presence in Europe, the United States, Africa and Asia. With over 300 years of history and expertise in banking, Barclays operates in over 50 countries and employs approximately 150,000 people. Barclays moves, lends, invests and protects money for over 42 million customers and clients worldwide. For further information about Barclays, please visit our website www.barclays.com.

About Qatar Holding

Qatar Holding LLC is a wholly owned subsidiary of Qatar Investment Authority which was founded by the State of Qatar in 2005 to strengthen the country's economy by diversifying into new asset classes. Building upon the heritage of investments dating back more than three decades, its growing portfolio of long-term strategic investments complement the State of Qatar's wealth in natural resources. Qatar Holding was incorporated in April 2006 within the jurisdiction of Qatar Financial Centre as the prime vehicle for strategic and direct investments by the State of Qatar. Headquartered in the Qatar Financial Centre, Qatar Holding is structured to operate at the very highest levels of global investing, with a planned presence in all major capital markets.

About Challenger

Challenger Universal Limited was incorporated in June 2008 in the British Virgin Islands as a special purpose vehicle to hold shares in Barclays. Challenger is indirectly and beneficially owned by His Excellency Sheikh Hamad Bin Jassim Bin Jabr Al-Thani (the chairman of Qatar Holding) and his family.

About HH Sheikh Mansour Bin Zayed Al Nahyan

The investment by HH Sheikh Mansour Bin Zayed Al Nahyan is being made through PCP Gulf Invest 1 Limited, PCP Gulf Invest 2 Limited and PCP Gulf Invest 3 Limited. These companies were incorporated in Jersey in October 2008 as special purpose vehicles to hold respectively MCNs, RCIs and Warrants. The companies represent beneficial interests of HH Sheikh Mansour Bin Zayed Al Nahyan. Amongst other business interests HH Sheikh Mansour Bin Zayed Al Nahyan is Minister of Presidential Affairs of the UAE and Chairman of International Petroleum Investment Company.

Forward Looking Statements

This announcement contains certain forward-looking statements with respect to certain of the Group's plans and its current goals and expectations relating to its future financial condition and performance and which involve a number of risks and uncertainties. Barclays cautions readers that no forward-looking statement is a guarantee of future performance and that actual results could differ materially from those contained in the forward-looking statements. These forward-looking statements can be identified by the fact that they do not relate only to historical or current facts. Forward-looking statements sometimes use words such as " may", "will", "seek", "continue", "aim", "anticipate", "target", "expect", "estimate", "intend", "plan", "goal", "believe" or other words of similar meaning. Examples of forward-looking statements include, among others, statements regarding the Group's future financial position, income growth, impairment charges, business strategy, projected levels of growth in the banking and financial markets, projected costs, estimates of capital expenditures, and plans and objectives for future operations and other statements that are not historical fact.

By their nature, forward-looking statements involve risk and uncertainty because they relate to future events and circumstances, including, but not limited to, UK domestic and global economic and business conditions, the effects of continued volatility in credit markets, liquidity conditions in the market, market related risks such as changes in interest rates and exchange rates, effects of changes in valuation of credit market exposures, change in valuation of issued notes, the policies and actions of governmental and regulatory authorities, changes in legislation, the further development of standards and interpretations under IFRS applicable to past, current and future periods, evolving practices with regard to the interpretation and application of standards under IFRS, progress in the integration of the North American investment banking and capital markets operations of Lehman Brothers into the Group's business and the quantification of the benefits resulting from such acquisition, the outcome of pending and future litigation, the success of future acquisitions and other strategic transactions and the impact of competition – a number of which factors are beyond the Group's control. As a result, the Group's actual future results may differ materially from the plans, goals, and expectations set forth in the Group's forward-looking statements. Any forward-looking statements made herein speak only as of the date they are made. Except as required by the FSA, the London Stock Exchange or applicable law, Barclays expressly disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained in this announcement to reflect any change in Barclays expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

Nothing in this announcement is intended, or is to be construed, as a profit forecast or to be interpreted to mean that earnings per Barclays Ordinary Share for the current or future financial years will necessarily match or exceed the historical published earnings per Barclays Ordinary Share.

This announcement is not a prospectus but an advertisement. A prospectus relating to the admission for trading of RCIs (the "RCI Prospectus") is expected to be published on or around the issue date of the RCIs and a prospectus relating to the admission for trading of MCNs (the "MCN Prospectus") is expected to be published on or around the issue date of the MCNs. This announcement may not be passed on in the United Kingdom except to persons in circumstances in which Section 21(1) of the Financial Services and Markets Act 2000 does not apply.

This announcement has been issued by and is the sole responsibility of Barclays. No representation or warranty, express or implied, is or will be made as to, or in relation to, and no responsibility or liability is or will be accepted by Credit Suisse Securities (Europe) Limited or JPMorgan Cazenove Limited or by any of their respective affiliates or agents as to or in relation to, the accuracy or completeness of this announcement or any other written or oral information made available to or publicly available to any interested party or its advisers, and any liability therefore is expressly disclaimed.

When published, copies of the RCI Prospectus and the MCN Prospectus will be available from the website of the London Stock Exchange.

This announcement, including the Appendices, is not being issued and may not be distributed directly or indirectly in or into the United States, Canada, Australia, Japan and South Africa or any jurisdiction into which the same would be unlawful. This announcement is for information only and shall not constitute an offer to buy, sell, issue, or subscribe for, or the solicitation of an offer to buy, sell or issue, or subscribe for any securities, nor shall there be any sale of securities in the United States or in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. The securities referred to herein have not been, and will not be, registered under the U.S. Securities Act of 1933, as amended, and may not be offered, sold, exercised or transferred in the United States absent registration or an applicable exemption from registration requirements. No public offering of securities will be made in the United Kingdom, the United States or elsewhere.

The MCNs may not be offered or sold directly or indirectly within the borders of the People's Republic of China (which, for such purposes, does not include the Hong Kong or Macau Special Administrative Regions or Taiwan) (the "PRC"). This announcement or the information contained herein has not been approved by or registered with any relevant governmental authorities in the PRC and may not be offered for sale in the PRC. Investors with registered addresses in, or who are resident or ordinarily resident in, or a citizen of, the PRC are responsible for obtaining all relevant government regulatory approvals/licences (if any) themselves, including, but not limited to, any which may be required from the State Administration of Foreign Exchange and other competent regulatory authorities and complying with all relevant PRC regulations (if applicable), including, but not limited to, any relevant foreign exchange regulations and/or overseas investment regulations.

This announcement has not been registered as a prospectus with the Monetary Authority of Singapore, and the offer of securities in Barclays is made in reliance on the offering exemption under Section 273(1)(cd) of the Securities and Futures Act, Chapter 289 of Singapore (the "SFA"). Accordingly, this announcement and any other document or material in connection with the offer or sale of securities may not be circulated or distributed, nor may the securities be offered or sold, whether directly or indirectly, to any person in Singapore other than: (i) to a shareholder of Barclays pursuant to Section 273(1)(cd) of the SFA; or otherwise (ii) pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

The recipient of this announcement understands, acknowledges and agrees that this announcement has not been approved by the UAE Central Bank, the Emirates Securities or Commodities Authority ("ESCA") or any other authorities in the UAE, nor has the placement agent, if any, received authorisation or licensing from the UAE Central Bank, ESCA or any other authorities in the United Arab Emirates to market or sell securities or other investments within the United Arab Emirates. No marketing of any securities or services has been or will be made from within the United Arab Emirates and no subscription to any securities or other investments may or will be consummated within the United Arab Emirates. It should not be assumed that the placement agent, if any, is a licensed broker, dealer or investment advisor under the laws applicable in the United Arab Emirates, or that it advises individuals resident in the United Arab Emirates as to the appropriateness of investing in or purchasing or selling securities or other securities. The securities referred to herein are not to be offered or sold directly or indirectly to the public in the United Arab Emirates. This announcement does not constitute a public offer of securities or units in funds in the United Arab Emirates in accordance with the Commercial Companies Law, Federal Law No. 8 of 1984 (as amended) or otherwise.

The recipient of this announcement understands, acknowledges and agrees that the securities referred to herein have not been and will not be offered, sold or publicly promoted or advertised in the Dubai International Financial Centre other than in compliance with laws applicable in the Dubai International Financial Centre, governing the issue, offering or sale of securities. The Dubai Financial Services Authority has not approved this announcement nor taken steps to verify the information set out in it, and has no responsibility for it.

This announcement has not been filed with, reviewed or approved by the Qatar Central Bank, the Qatar Financial Centre Regulatory Authority or any other relevant Qatar governmental body or securities exchange, nor any foreign governmental body or securities exchange.

The placing is not and will not be made, directly or indirectly, in the United States, Canada, Australia, Japan or South Africa or any other jurisdiction in which the same would be prohibited (the "Restricted Jurisdictions") unless by means of lawful prior registration or qualification under the applicable laws of the Restricted Jurisdiction, or under an exemption from such requirements. Accordingly, copies of this announcement, including the appendices, are not being, and must not be, mailed or otherwise distributed or sent in, into or from any Restricted Jurisdiction into which the same would be unlawful. Persons receiving this announcement (including, without limitation, custodians, nominees and trustees) must inform themselves about, and observe, any relevant restrictions and must not distribute, mail or send it in, into or from any Restricted Jurisdiction, and so doing may render any purported acceptance of the placing invalid. Persons (including, without limitation, nominees and trustees) who have a contractual or other legal obligation to forward a copy of this announcement should seek appropriate advice before taking any action.

MEMBERS OF THE PUBLIC ARE NOT ELIGIBLE TO TAKE PART IN THE CAPITAL RAISING. THIS ANNOUNCEMENT (INCLUDING THE APPENDICES) AND THE TERMS AND CONDITIONS SET OUT HEREIN ARE FOR INFORMATION PURPOSES ONLY AND ARE DIRECTED ONLY AT (A) PERSONS IN MEMBER STATES OF THE EUROPEAN ECONOMIC AREA WHO ARE QUALIFIED INVESTORS WITHIN THE MEANING OF ARTICLE 2(1)(E) OF DIRECTIVE 2003/71/EC; (B) IN THE UNITED KINGDOM, QUALIFIED INVESTORS WHO ARE PERSONS WHO (I) HAVE PROFESSIONAL EXPERIENCE IN MATTERS RELATING TO INVESTMENTS FALLING WITHIN ARTICLE 19(5) (INVESTMENT PROFESSIONALS) OF THE FINANCIAL SERVICES AND MARKETS ACT 2000 (FINANCIAL PROMOTION) ORDER 2005 (THE "ORDER"); OR (II) ARE PERSONS FALLING WITHIN ARTICLE 49(2)(A) TO (D) HIGH NET WORTH COMPANIES, UNINCORPORATED ASSOCIATIONS, ETC OF THE ORDER; OR (III) ARE PERSONS TO WHOM IT MAY OTHERWISE BE LAWFULLY COMMUNICATED (ALL SUCH PERSONS TOGETHER BEING REFERRED TO AS "RELEVANT PERSONS". THIS ANNOUNCEMENT (INCLUDING THE APPENDICES) AND THE TERMS AND CONDITIONS SET OUT HEREIN MUST NOT BE ACTED ON OR RELIED ON BY PERSONS WHO ARE NOT RELEVANT PERSONS. ANY INVESTMENT OR INVESTMENT ACTIVITY TO WHICH THIS ANNOUNCEMENT (INCLUDING THE APPENDICES) AND THE TERMS AND CONDITIONS SET OUT HEREIN RELATES IS AVAILABLE ONLY TO RELEVANT PERSONS AND WILL BE ENGAGED IN ONLY WITH RELEVANT PERSONS. NEITHER THE APPENDICES NOR THE ANNOUNCEMENT OF WHICH THEY FORM A PART CONSTITUTE AN OFFER FOR SALE OR SUBSCRIPTION OF ANY SECURITIES IN BARCLAYS.

Barclays Capital, which is authorised and regulated in the United Kingdom by the FSA, is acting exclusively for Barclays and Barclays Bank PLC and for no-one else in connection with the Capital Raising, and will not be responsible to anyone other than Barclays and Barclays Bank PLC for providing the protections afforded to customers of Barclays Capital nor for providing advice to any other person in relation to the Capital Raising or any other matter referred to herein.

Credit Suisse Securities (Europe) Limited, which is authorised and regulated in the United Kingdom by the FSA, is acting for Barclays and Barclays Bank PLC and for no-one else joint bookrunner in relation to the placing of MCNs to existing shareholders and other institutional investors, and will not be responsible to any other person for providing the protections afforded to customers of Credit Suisse Securities (Europe) Limited nor for providing advice to any other person in relation to the offering of MCNs to existing shareholders and other institutional investors or contents of this announcement or any other matter referred to herein.

JPMorgan Cazenove Limited, which is authorised and regulated in the United Kingdom by the FSA, is acting for Barclays and Barclays Bank PLC and for no-one else in connection with the Capital Raising, and will not be responsible to anyone other than Barclays and Barclays Bank PLC for providing the protections afforded to customers of J.P.Morgan Cazenove Limited nor for providing advice to any other person in relation to the Capital Raising or any other matter referred to herein.

Barclays Capital, Credit Suisse Securities (Europe) Limited and JPMorgan Cazenove Limited are not underwriting the placing of MCNs to existing shareholders and other institutional investors.

Neither the content of Barclays website nor any website accessible by hyperlinks on Barclays website is incorporated in, or forms part of, this announcement.

APPENDIX 1

DEFINITIONS

"£"	means the lawful currency of the United Kingdom;
"Average Barclays Closing Price"	means the average of the closing middle market quotations of a Barclays Ordinary Share as derived from the Daily Official List on 29th and 30th of October 2008, being 197.775 pence;
"Barclays" or the "Company"	means Barclays PLC;
"Board" or "Board of Directors"	means the board of directors of Barclays;
"Capital Raising"	means the proposed transactions described in this announcement;
"Challenger"	means Challenger Universal Limited, a company representing the beneficial interests of His Excellency Sheikh Hamad Bin Jassim Bin Jabr Al-Thani, the chairman of Qatar Holding, and his family;
"Credit Suisse"	means Credit Suisse Securities (Europe) Limited;
"Daily Official List"	means the daily record setting out the prices of all trades in shares and other securities conducted on the London Stock Exchange;
"FSA"	means the UK Financial Services Authority;
"Fully Diluted Share Capital"	means the fully diluted share capital of Barclays PLC assuming maximum issue and conversion of MCNs and full exercise of Warrants, being 12,692,719,372 ordinary shares;
"General Meeting"	means the general meeting of Barclays to be convened as soon as reasonably practicable to seek approvals relating to the Capital Raising;
"Group"	means Barclays and its subsidiary undertakings;
"HH Sheikh Mansour Bin Zayed Al Nahyan"	means PCP Gulf Invest 1 Limited, PCP Gulf Invest 2 Limited and PCP Gulf Invest 3 Limited, entities representing the beneficial interests of HH Sheikh Mansour Bin Zayed Al Nahyan
"IFRS"	means International Financial Reporting Standards;
"JPMorgan Cazenove"	means JPMorgan Cazenove Limited;
"London Stock Exchange"	means London Stock Exchange PLC;
"Official List"	means the official list of the UKLA;
"Ordinary Shares"	means Ordinary Shares of 25 pence each in the capital of Barclays;
"Qatar Holding"	means Qatar Holding LLC;
"Shareholder"	means a holder of Ordinary Shares;
"UK" or "United Kingdom"	means the United Kingdom of Great Britain and Northern

	Ireland; and
"UKLA" or the "UK Listing Authority"	means the FSA in its capacity as the competent authority for listing under Part VI of the UK Financial and Markets Act 2000.

APPENDIX 2

SUMMARY OF TERMS AND CONDITIONS

Barclays Bank PLC £4.3 billion Mandatorily Convertible Notes (the MCNs)

Issuer:	Barclays Bank PLC
Securities Offered:	Up to £4.3 billion 9.75 per cent. Mandatorily Convertible Notes due 2009 convertible into Ordinary Shares
Issue Size:	Up to £4.3 billion
Currency:	Pounds Sterling
Form and Denomination:	Bearer form in denominations of £50,000
Status:	Senior Unsecured
Issue Price:	100%
Mandatory Conversion Date:	30 June 2009
Maturity Date:	30 September 2009
Annual Coupon:	9.75%, payable quarterly in arrears
Mandatory Conversion:	Unless previously purchased and cancelled or converted, each MCN will be mandatorily and automatically converted on the Mandatory Conversion Date for such number of Ordinary Shares as results from dividing the principal amount of the MCN by the Conversion Price in effect on the Mandatory Conversion Date (rounded down to the nearest whole number of Ordinary Shares). Holders of MCNs shall not be entitled to receive fractions of an Ordinary Share and shall not be entitled to receive a cash payment in lieu thereof
Optional Conversion:	Each holder of an MCN shall have the right at any time from the business day following the Closing Date until the close of business on the fifth business day prior to the Mandatory Conversion Date to convert each MCN for such number of Ordinary Shares as results from dividing the principal amount of

	the MCN by the Conversion Price in effect on the conversion date (rounded down to the nearest whole number of Ordinary Shares). Holders of MCNs shall not be entitled to receive fractions of an Ordinary Share and shall not be entitled to receive a cash payment in lieu thereof
Conversion Price:	153.276 pence, representing a 22.5% discount to the Average Barclays Closing Price, subject to adjustment as described below
Adjustment to the Conversion Price:	The issue of new shares or certain other securities and rights of Barclays PLC, at any time commencing on the Issue Date and ending on the Optional Conversion Date or on the Mandatory Conversion Date, at a price (the Future Placing Price) lower than the then current Conversion Price will (subject to exceptions for Ordinary Shares issued pursuant to employee share schemes, under the Warrants or as a result of certain corporate events) result in a downward adjustment to the Conversion Price (subject to a minimum Conversion Price of the then par value per Ordinary share (currently 25 pence) so that it equals the Future Placing Price. The Conversion Price will also be subject to adjustment if Barclays PLC distributes an extraordinary dividend or certain dilutive events occur, including, bonus issues, rights issues or an adjustment to the nominal value or redenomination of the Ordinary Shares
Fees and commissions:	Arrangement fee of £66 million payable to Qatar Holding. Commitment fee of 4% of the amount of MCNs agreed to be subscribed, payable to Qatar Holding and HH Sheikh Mansour Bin Zayed Al Nahyan, such that Qatar Holding will receive £20 million and HH Sheikh Mansour Bin Zayed Al Nahyan will receive £80 million

Closing & Settlement Date:	The third business day after the date on which the requisite shareholder approvals are received
Failure by a holder of MCNs on Mandatory Conversion:	In the event that a holder of MCNs does not deliver a conversion notice and confirm its instructions to transfer its interest in the MCNs to the paying and conversion agent and pay the conversion expenses to the Issuer on or prior to 4 business days prior to the Mandatory Conversion Date, the Ordinary Shares to which such holder is entitled will be issued to the trustee of the MCNs (or one or more other duly appointed nominees) or as the trustee may direct on the Mandatory Conversion Date and sold by or on behalf of the trustee (or such nominees) as soon as practicable. Subject to the deduction of costs and expenses, the net proceeds of sale shall be distributed rateably to the relevant holders
Taxation:	Payments in respect of MCNs will be made subject to any withholding or deduction for or on account of taxes or as required by law. There is no requirement to pay any additional or further amounts to holders in respect of such withholding or deduction
Governing Law:	English Law
Listing of the MCNs:	Applications to be made for admission to listing on the Official List of the UK Listing Authority and to trading on the London Stock Exchange.

APPENDIX 3

FURTHER DETAILS OF THE PLACING

THIS ANNOUNCEMENT IS NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, DIRECTLY OR INDIRECTLY IN OR INTO THE UNITED STATES, CANADA, AUSTRALIA OR JAPAN OR ANY JURISDICTION INTO WHICH THE SAME WOULD BE UNLAWFUL.

IMPORTANT INFORMATION ON THE PLACING FOR INVITED PLACEES ONLY.

MEMBERS OF THE PUBLIC ARE NOT ELIGIBLE TO TAKE PART IN THE PLACING. THE ANNOUNCEMENT AND THIS APPENDIX (WHICH FORMS PART OF THE ANNOUNCEMENT) AND THE TERMS AND CONDITIONS SET OUT IN THE ANNOUNCEMENT AND THIS APPENDIX ARE FOR INFORMATION PURPOSES ONLY AND ARE DIRECTED ONLY AT: (A) PERSONS IN MEMBER STATES OF THE EUROPEAN ECONOMIC AREA WHO ARE QUALIFIED INVESTORS WITHIN THE MEANING OF ARTICLE 2(1)(E) OF DIRECTIVE 2003/71/EC; (B) IN THE UNITED KINGDOM, QUALIFIED INVESTORS WHO ARE PERSONS WHO (I) HAVE PROFESSIONAL EXPERIENCE IN MATTERS RELATING TO INVESTMENTS FALLING WITHIN ARTICLE 19(5) (INVESTMENT PROFESSIONALS) OF THE FINANCIAL SERVICES AND MARKETS ACT 2000 (FINANCIAL PROMOTION) ORDER 2005 (THE "ORDER"); OR (II) ARE PERSONS FALLING WITHIN ARTICLE 49(2)(A) TO (D) (HIGH NET WORTH COMPANIES, UNINCORPORATED ASSOCIATIONS, ETC OF THE ORDER); OR (III) ARE PERSONS TO WHOM IT MAY OTHERWISE BE LAWFULLY COMMUNICATED (ALL SUCH PERSONS TOGETHER BEING REFERRED TO AS "RELEVANT PERSONS"). THIS APPENDIX AND THE TERMS AND CONDITIONS SET OUT HEREIN MUST NOT BE ACTED ON OR RELIED ON BY PERSONS WHO ARE NOT RELEVANT PERSONS. ANY INVESTMENT OR INVESTMENT ACTIVITY TO WHICH THIS APPENDIX AND THE TERMS AND CONDITIONS SET OUT HEREIN RELATES IS AVAILABLE ONLY TO RELEVANT PERSONS AND WILL BE ENGAGED IN ONLY WITH RELEVANT PERSONS. NEITHER THIS APPENDIX NOR THE ANNOUNCEMENT OF WHICH IT FORMS PART CONSTITUTE AN OFFER FOR SALE OR SUBSCRIPTION OF ANY SECURITIES IN THE ISSUER.

In particular, the MCNs referred to in this announcement have not been and will not be registered under the US Securities Act of 1933, as amended (the "Securities Act") and may not be offered, sold, exercised or transferred within the United States (as required in Regulation S under the Securities Act) except pursuant to an exemption from, or as part of a transaction not subject to, the registration requirements of the Securities Act. The MCNs are being offered and sold outside the United States only and in accordance with Regulation S under the Securities Act.

The MCNs have not been approved or disapproved by the U.S. Securities and Exchange Commission, any State securities commission or other regulatory authority in the United States, nor have any of the foregoing authorities passed upon or endorsed the merits of the Placing or the accuracy or adequacy of this announcement. Any representation to the contrary is unlawful.

The relevant clearances have not been, and nor will they be, obtained from the securities commission of any province or territory of Canada; no prospectus has been lodged with or registered by, the Australian Securities and Investments Commission or the Japanese Ministry of Finance; and the MCNs have not been, and nor will they be, registered under or offered in compliance with the securities laws of any state, province or territory of Canada, Australia or Japan. Accordingly, the MCNs may not (unless an exemption under the relevant securities laws is applicable) be offered, sold, resold or delivered, directly or indirectly, in or into the United States, Canada, Australia or Japan or any other jurisdiction outside the United Kingdom where it would be unlawful to do so.

Persons (including, without limitation, nominees and trustees) who have a contractual or other legal obligation to forward a copy of this Appendix or this announcement should seek appropriate advice before taking any action.

The MCNs to be issued pursuant to the Placing will not be admitted to trading on any stock exchange other than the London Stock Exchange.

Neither the content of Barclays' website nor any website accessible by hyperlinks on Barclays' website is incorporated in, or forms part of, this announcement.

If you have been invited and choose to participate in the placing of the £1.5 billion in aggregate principal amount of 9.75 per cent. Mandatorily Convertible Notes due 2009 (the "MCNs") proposed to be issued by Barclays Bank PLC (the "Issuer") and which will carry the right to be converted into fully paid ordinary shares ("Ordinary Shares") currently of 25 pence each in the capital of Barclays PLC ("Barclays") (the "Placing"), by making an oral or written offer to subscribe for MCNs (the "Placees"), you will be deemed to have read and understood this Announcement, including this Appendix, the Interim Management Statement and the Terms and Conditions (as defined below) in their entirety and to be making such offer on the terms and conditions, and to be providing the representations, warranties, acknowledgements and undertakings contained in this Appendix to the Issuer, Barclays and the Bookrunners (defined below). In particular, each such Placee represents, warrants and acknowledges that:

(a) it is a Relevant Person (as defined above) and undertakes that it will acquire, hold, manage or dispose of any MCNs that are allocated to it for the purposes of its business; and

(b) it is outside the United States and/or it is subscribing for the MCNs in an "offshore transaction" (within the meaning of Regulation S under the Securities Act).

See "Representations, Warranties and Undertakings" below for further representations and warranties that Placees (and any person acting on a Placee's behalf) will be deemed to make by participating in the Placing.

Details of issue and of the MCNs

Of the £4.3 billion in aggregate principal amount of the MCNs which may be issued pursuant to the Capital Raising, £2.8 billion in aggregate principal amount of MCNs has been subscribed by Qatar Holding, Challenger and HH Sheikh Mansour Bin Zayed Al Nahyan (the "Strategic Investors"). Barclays Capital, Credit Suisse Securities (Europe) Limited ("CS") and JPMorgan Cazenove Limited ("JPMC", and together with Barclays Capital and CS, the "Bookrunners"), as agents of the Company, are offering up to £1.5 billion in aggregate principal amount of MCNs to existing institutional shareholders and other potential institutional investors via the Placing. The aggregate principal amount of MCNs which the Issuer will issue to Placees shall not exceed £1.5 billion (or such greater amount as may be agreed between the Issuer and the Bookrunners).

No element of the Placing is underwritten. The MCNs issued to the Strategic Investors and to existing institutional shareholders and other potential institutional investors will carry the same terms and conditions and will rank pari passu among themselves.

The MCNs will pay an annual coupon of 9.75%, payable quarterly in arrears, until conversion into Ordinary Shares. The MCNs have a mandatory conversion date of 30 June 2009. Conversion of any outstanding MCNs will occur automatically on the mandatory conversion date and will be at the holder's option up until the fifth business day prior to such date. Assuming no adjustment to the Conversion Price, Conversion will result in the issue of 2,805,396,799 new Ordinary Shares, representing 33.5% of Barclays' existing issued Ordinary Share capital. The issue price of the MCNs will be 100 per cent. of their principal amount (the "Issue Price"). The MCNs will be issued in denominations of £50,000 and integral multiples thereof and will carry the right to convert into Ordinary Shares. Timing of conversion is at noteholders' option but it must occur by 30 June 2009. The initial conversion price is 153.276 pence, a discount of 22.5% to the average of the closing middle market quotations of an Ordinary Share as derived from the daily record setting out the prices of all trades in shares and other securities conducted on the London Stock Exchange on the 29th and 30th of October 2008, being 197.775 pence, subject to certain adjustments to be contained in the terms and conditions of the MCNs (the "Terms and Conditions").

The issue of the MCNs is dependent upon Barclays receiving the necessary corporate approval from its Shareholders at the general meeting of Shareholders to be held on or around 24 November 2008 (or, if such meeting is adjourned, at any such adjourned meeting) in relation to, amongst other things: (i) an increase in the authorised Ordinary Share capital of Barclays sufficient to allow the conversion of the MCNs; (ii) granting the directors of Barclays authority pursuant to section 80 of the Companies Act 1985 to allot a sufficient number of Ordinary Shares to enable each holder to convert its MCNs in full; and (iii) the disapplication of pre-emption rights pursuant to Section 95 of the Companies Act 1985 in order to allow Warrants in respect of 1,516,875,236 Ordinary Shares in Barclays to be exercised in full and (iv) approval of the issue, upon conversion of the MCNs, of new Ordinary Shares at a price representing a discount of more than 10 per cent (collectively, the "Resolutions").

A Placee's obligation to take up the MCNs is subject only to the passing of the relevant Resolutions at the general meeting of the Shareholders. The Ordinary Shares will, when issued following conversion of an MCN, be credited as fully paid and will rank pari passu in all respects with the existing Ordinary Shares including the right to receive all dividends and other distributions declared, made or paid in respect of such Ordinary Shares after the date of conversion of the MCNs.

In this Appendix, unless the context otherwise requires, "Placee" means a person (including individuals, funds or others) by whom, or on whose behalf, a commitment to subscribe for MCNs has been given to the Bookrunners.

Application for listing and admission to trading

Application will be made to the Financial Services Authority (the "FSA") for admission of the MCNs to the Official List of the FSA (the "Official List") and to London Stock Exchange plc for admission to trading of the MCNs on the Regulated

Market (together, "Admission"). It is expected that the issue of the MCNs will become effective on or around 28 November 2008 and that unconditional dealings in the MCNs will commence shortly thereafter.

Bookbuild

The Bookrunners will today commence the bookbuilding process in respect to the Placing (the "Bookbuild") to determine demand for participation in the Placing by Placees. This Appendix gives details of the terms and conditions of, and the mechanics of participation in, the Placing. No commissions will be paid to Placees or by Placees in respect of any MCNs.

The Bookrunners and the Issuer shall be entitled to effect the Placing by such alternative method to the Bookbuild as they may, in their sole discretion, determine.

Participation in, and principal terms of, the Placing

1. The Bookrunners are arranging the Placing as the bookrunners and agents of the Issuer.

2. Participation in the Placing will only be available to persons who may lawfully be, and are, invited to participate by the Bookrunners. The Bookrunners and their respective affiliates are entitled to enter bids in the Bookbuild as principal.

3. The aggregate principal amount of MCNs to be sold through the Placing will be determined by the Bookrunners and will be announced on a Regulatory Information Service following the completion of the Bookbuild (the "Pricing Announcement").

4. To bid in the Bookbuild, Placees should communicate their bid by telephone to their usual sales contact at the Bookrunners. Each bid should state the aggregate principal amount of MCNs for which the prospective Placee wishes to subscribe. Bids may be scaled down by the Bookrunners on the basis referred to in paragraph 8 below.

5. The Bookbuild is expected to close at 5:00 p.m. (GMT) on 31 October 2008 but may be closed earlier or later at the discretion of the Bookrunners and without further notice. The Bookrunners may, in agreement with the Issuer, accept bids that are received after the Bookbuild has closed.

6. Each Placee's allocation will be determined by the Issuer in its sole discretion and will be confirmed to Placees orally by either of the Bookrunners as agent of the Issuer following the close of the Placing, and a trade confirmation will be dispatched as soon as possible thereafter. The terms of this Appendix will be deemed incorporated by reference therein. The Bookrunners' oral confirmation to such Placee will constitute an irrevocable legally binding commitment upon such person (who will at that point become a Placee) in favour of the Bookrunners and the Issuer, under which the Placee agrees to subscribe for the aggregate principal amount of MCNs allocated to it at the Issue Price on the terms and conditions set out in this Appendix.

7. Each prospective Placee's allocation and commitment will be evidenced by a contract note issued to such Placee by one of the Bookrunners. The terms of this Appendix will be deemed incorporated by reference therein.

8. The Bookrunners may choose to accept bids, either in whole or in part, on the basis of allocations determined at their discretion (in agreement with the Issuer) and may scale down any bids for this purpose on such basis as it may determine. The Bookrunners may also, notwithstanding paragraphs 4 and 5 above, subject to the prior consent of the Issuer (i) allocate MCNs after the time of any initial allocation to any person, and (ii) allocate MCNs after the Bookbuild has closed to any person submitting a bid after that time.

9. A bid in the Bookbuild will be made on the terms and subject to the conditions in this Announcement (including this Appendix) and will be legally binding on the Placee on behalf of which it is made and except with the Bookrunners' consent will not be capable of variation or revocation after the time at which it is submitted. Each Placee will also have an immediate, separate, irrevocable and binding obligation, owed to the Bookrunners, to pay the Bookrunners (or as the Bookrunners may direct) in cleared funds an amount equal to the aggregate principal amount of the MCNs such Placee has agreed to subscribe. Each Placee's obligations will be owed to the Issuer and to the Bookrunners.

10. Except as required by law or regulation, no press release or other announcement will be made by the Bookrunners or the Issuer using the name of any Placee (or its agent), in its capacity as Placee (or agent), other than with such Placee's prior written consent.

11. Irrespective of the time at which a Placee's allocation pursuant to the Placing is confirmed, settlement for all MCNs to be acquired pursuant to the Placing will be required to be made at the same time, on the basis explained below under "Registration and Settlement".

12. All obligations under the Bookbuild and Placing will be unconditional save for the passing of the Resolutions.

13. By participating in the Bookbuild, each Placee will agree that its rights and obligations in respect of the Placing will not be capable of rescission or termination by the Placee.

14. To the fullest extent permissible by law, none of the Bookrunners nor any of its affiliates shall have any liability to Placees (or to any other person whether acting on behalf of a Placee or otherwise). In particular, none of the Bookrunners, the Issuer nor any of its or their affiliates shall have any liability (including to the extent permissible by law, any fiduciary duties) in respect of the Bookrunners' conduct of the Bookbuild or of such alternative method of effecting the Placing as the Bookrunners and the Issuer may agree.

Prospectus

A prospectus will be submitted to be approved by the FSA in relation to the Issuer's application for Admission in due course but Placees' commitments will be made solely on the basis of the information contained in this Announcement (including this Appendix), the Interim Management Statement and the Terms and Conditions released by Barclays and the Issuer today, and subject to the further terms set forth in the contract note to be provided to individual prospective Placees. Each Placee, by accepting a participation in the Placing, agrees that the content of this Announcement (including this Appendix), the Interim Management Statement and the Terms and Conditions is exclusively the responsibility of the Issuer and Barclays and confirms that it has neither received nor relied on any other information, representation, warranty, or statement made by or on behalf of the Issuer or Barclays or Barclays Capital, CS or JPMC or any other person and none of Barclays Capital, CS and JPMC nor the Issuer nor Barclays nor any other person will be liable for any Placee's decision to participate in the Placing based on any other information, representation, warranty or statement which the Placees may have obtained or received. Each Placee acknowledges and agrees that it has relied on its own investigation of the business, financial or other position of the Issuer and Barclays in accepting a participation in the Placing and the risks associated with investing in the Issuer's or Barclays' securities. Nothing in this paragraph shall exclude the liability of any person for fraudulent misrepresentation.

Registration and Settlement

Settlement of transactions in the MCNs will take place within the facilities of Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, société anonyme ("Clearstream").

Each Placee allocated MCNs in the Placing will be sent a trade confirmation stating the aggregate principal amount of MCNs allocated to it, the aggregate amount owed by such Placee and settlement instructions in accordance with standing arrangements between the Placee and the relevant Bookrunner. Each Placee agrees that it will do all things necessary to ensure that delivery and payment is completed in accordance with the standing Euroclear or Clearstream settlement instructions that it has in place with the relevant Bookrunner.

It is expected that settlement will occur on or about 27 November 2008.

Interest is chargeable daily on payments not received from Placees on the due date in accordance with the arrangements set out above at the rate of two percentage points above LIBOR as determined by the Bookrunners.

Each Placee is deemed to agree that, if it does not comply with these obligations, the Bookrunners may sell the MCNs allocated to that Placee on such Placee's behalf and retain from the proceeds, for the Issuer's account and benefit, an amount equal to the aggregate amount owed by the Placee plus any interest due. The relevant Placee will, however, remain liable for any shortfall below the aggregate amount owed by it.

If the MCNs are to be delivered to a custodian or settlement agent, Placees should ensure that the trade confirmation is copied and delivered immediately to the relevant person within that organisation.

Representations, Warranties and Undertakings

By participating in the Placing each Placee (and any person acting on such Placee's behalf):

1 represents and warrants that it has read this Announcement, including this Appendix, the Interim Management Statement and the Terms and Conditions in their entirety;

2 acknowledges that the MCNs are being purchased for investment purposes, and not with a view to distribution within the meaning of United States securities laws;

3 acknowledges that no offering document or prospectus currently exists in connection with the placing of the MCNs and represents and warrants that it has not received a prospectus or other offering document in connection therewith;

4 acknowledges that (a) application will be made for the MCNs to be admitted to the Official List and traded on the Regulated Market of the London Stock Exchange and the Issuer and Barclays are therefore required to publish certain business and financial information in accordance with the FSA's Listing Rules, the Prospectus Rules and the Disclosure Rules and Transparency Rules and the rules and practices of the London Stock Exchange (collectively, the "Exchange Information "), which includes a description of the nature of the Issuer's and Barclays' business and the Issuer's and Barclays' most recent balance sheet and profit and loss account, and similar statements for preceding financial years, and that it is able to obtain or access the Exchange Information without undue difficulty; (b) it may not rely, and has not relied, on any investigation that the Bookrunners, any of their affiliates or any person acting on its or their behalf may have conducted with respect to the MCNs or the Issuer and/or Barclays and/or the Barclays Group, and none of such persons has made any representation to the Placee, express or implied, with respect to the Issuer and/or Barclays and/or the Barclays Group, the MCNs or the accuracy, completeness or adequacy of Exchange Information or any other publicly available information; (c) it has conducted its own investigation with respect to the Issuer and Barclays and the MCNs; (d) it has received all information that it believes is necessary or appropriate in connection with its purchase of the MCNs; (e) it has made its own assessment and has satisfied itself concerning the relevant tax, legal, currency and other economic consideration relevant to its investment in the MCNs; and (f) it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of any prospective investment in the MCNs. It also acknowledges and agrees that it will not hold the Bookrunners or any of its affiliates responsible for any misstatements in or omissions from any publicly available information, including the Exchange Information, concerning the Issuer, Barclays and/or the Barclays Group;

5 acknowledges that none of the Bookrunners nor the Issuer nor Barclays nor any of their affiliates nor any person acting on its behalf has provided, and will not provide it, with any material regarding the MCNs or the Issuer or Barclays or the Barclays Group other than this Announcement, the Interim Management Statement and the Terms and Conditions; nor has it requested any of the Bookrunners, the Issuer or Barclays, any of their affiliates or any person acting on behalf of any of them to provide it with any such information;

6 acknowledges that the content of this Announcement, the Interim Management Statement and the Terms and Conditions is exclusively the responsibility of the Issuer and Barclays and that none of the Bookrunners, nor any person acting on its behalf has or shall have any liability for any information, representation or statement contained in this Announcement, the Interim Management Statement and the Terms and Conditions or any information previously published by or on behalf of the Issuer or Barclays or the Barclays Group and will not be liable for any Placee's decision to participate in the Placing based on any information, representation or statement contained in this Announcement, the Interim Management Statement and the Terms and Conditions or otherwise. Each Placee further represents, warrants and agrees that the only information on which it is entitled to rely and on which such Placee has relied in committing itself to acquire the MCNs is contained in this Announcement, the Interim Management Statement and the Terms and Conditions and any information previously published by the Issuer or Barclays or the Barclays Group by notification to a Regulatory Information Service, such information being all that it deems necessary to make an investment decision in respect of the MCNs and that it has neither received nor relied on any other information given or representations, warranties or statements made by any of the Bookrunners or the Issuer or Barclays and none of the Bookrunners nor the Issuer nor Barclays will be liable for any Placee's decision to accept an invitation to participate in the Placing based on any other information, representation, warranty or statement. Each Placee further acknowledges and agrees that it has relied on its own investigation of the business, financial or other position of the Issuer and Barclays and the Barclays Group in deciding to participate in the Placing;

7 acknowledges that none of the Bookrunners nor any person acting on its behalf nor any of its affiliates has or shall have any liability for any publicly available or filed information or any representation relating to the Issuer, Barclays or the Barclays Group, provided that nothing in this paragraph excludes the liability of any person for fraudulent misrepresentation made by that person;

8 acknowledges that it satisfies all standards for investors in investment of the type of acquired herein imposed by its jurisdiction of residence or otherwise;

9 acknowledges that it is authorised and qualified to purchase the MCNs and the person signing has been duly authorised to do so;

10 acknowledges that it is not, and at the time the MCNs are acquired will not be a resident of Australia, Canada or Japan, and that the MCNs and the Ordinary Shares for which the MCNs are convertible have not been and will not be

registered under the securities legislation of Australia, Canada or Japan and, subject to certain exceptions, may not be offered, sold, taken up, renounced or delivered or transferred, directly or indirectly, within those jurisdictions;

11 acknowledges and agrees that none of the MCNs nor the Ordinary Shares for which the MCNs are convertible have been nor will be registered under the Securities Act.

12 understands that the offer and sale of the MCNs and the Ordinary Shares for which the MCNs are convertible is being made in reliance on an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and acknowledges and agrees that, for so long as the MCNs are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, none of the MCNs nor such Ordinary Shares may be offered, sold or pledged or otherwise transferred except in an offshore transaction in accordance with the applicable requirements of Regulation S under the Securities Act or pursuant to another applicable exemption from registration under the Securities Act, and in each case in accordance with any applicable securities laws of any state of the United States and the laws of other jurisdictions. Each Placee understands that no representation has been made as to the availability of any exemption under the Securities Act for the reoffer, resale, pledge or transfer of the MCNs or the Ordinary Shares for which the MCNs are convertible, which may be further subject to the applicable restrictions on transfer of the MCNs and the Ordinary Shares set forth in the Terms and Conditions.

13 represents and warrant that it is not in the United States (within the meaning of Regulation S under the Securities Act) and/or it is subscribing for the MCNs in an "offshore transaction" (within the meaning of Regulation S under the Securities Act).

14 represents, warrants and agrees that it is subscribing for the MCNs for its own account (or for the account of its affiliates or funds managed by it or its affiliates with respect to which it either have investment discretion or which are outside the United States (as defined above)), in each case, not with a view to, or for resale in connection with, the distribution thereof or the distribution of the Ordinary Shares for which the MCNs are convertible, into the United States.

15 agrees not to deposit the MCNs or the Ordinary Shares for which the MCNs are convertible into any unrestricted depositary facility maintained by any depositary bank (including, without limitation, Barclays' existing American Depositary Shares facility with JPMorgan Chase Bank, N.A.) unless and until such time as the Ordinary Shares are no longer "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act.

16 represents and warrants that neither it, nor any of its affiliates, is a "bank holding company" within the meaning of the Bank Holding Company Act of 1956 ("BHCA"), or is subject to the International Banking Act of 1978. Neither it, nor any of its affiliates own or control (within the meaning of the BHCA and the rules and interpretations of the U.S. Federal Reserve thereunder) (a) any bank or other financial institution located in the United States or having operations in the United States or (b) any non-U.S. financial institution that owns or controls any Bank or other financial institution located in the United States or having operations in the United States.

17 understands that a holder converting MCNs shall be required to represent and agree in a in an exchange notice that at the time of execution and deposit of such exchange notice it or the person who has the beneficial interest in that MCN is not in the United States (within the meaning of Regulation S) and it, or such person, purchased such MCN, or the beneficial interest therein, in a transaction made in accordance with Rule 903 or Rule 904 of Regulation S. No Ordinary Shares will be issued to a noteholder unless the noteholder satisfies the foregoing conditions;

18 unless otherwise specifically agreed with the Bookrunners, represents and warrants that it is, or at the time the MCNs are acquired that it will be, the beneficial owner of such MCNs, or that the beneficial owner of such MCNs is not a resident of Australia, Canada or Japan;

19 represents and warrants that the issue to it of MCNs will not give rise to a liability under any of sections 67, 70, 93 or 96 of the Finance Act 1986 (depositary receipts and clearance services);

20 represents and warrants that it has complied with its obligations in connection with money laundering and terrorist financing under the Proceeds of Crime Act 2002, the Terrorism Act 2003 and the Money Laundering Regulations 2003 (the "Regulations") and, if making payment on behalf of a third party, that satisfactory evidence has been obtained and recorded by it to verify the identity of the third party as required by the Regulations;

21 if a financial intermediary, as that term is used in Article 3(2) of the EU Prospectus Directive (which means Directive 2003/71/EC and includes any relevant implementing measure in any member state) (the "Prospectus Directive"), represents and warrants that the MCNs acquired by it in the Placing will not be acquired on a non-discretionary basis on behalf of, nor will they be acquired with a view to their offer or resale to, persons in a Member State of the European Economic Area which has implemented the Prospectus Directive other than qualified investors (as

defined in Article 2(1)(e) of the Prospectus Directive), or in circumstances in which the prior consent of the Bookrunners has been given to the offer or resale;

22 represents and warrants that it has not offered or sold and, prior to the expiry of a period of six months from Admission, will not offer or sell any MCNs to persons in the United Kingdom, except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their business or otherwise in circumstances which have not resulted and which will not result in a breach of section 19 of the Financial Services and Markets Act 2000 ("FSMA");

23 represents and warrants that it has not offered or sold and will not offer or sell any MCNs to persons in the European Economic Area prior to Admission except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their business or otherwise in circumstances which have not resulted in and which will not result in an offer to the public in any member state of the European Economic Area within the meaning of the Prospectus Directive;

24 represents and warrants that it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) relating to the MCNs in circumstances in which section 21(1) of the FSMA does not require approval of the communication by an authorised person;

25 represents and warrants that it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the MCNs in, from or otherwise involving, the United Kingdom;

26 represents and warrants that it is a "qualified investor" (as defined in Article 2(1)(e) of the Prospectus Directive);

27 represents and warrants that it and any person acting on its behalf is entitled to acquire the MCNs under the laws of all relevant jurisdictions and that it has all necessary capacity and has obtained all necessary consents and authorities to enable it to commit to this participation in the Placing and to perform its obligations in relation thereto (including, without limitation, in the case of any person on whose behalf it is acting, all necessary consents and authorities to agree to the terms set out or referred to in this Announcement) and will honour such obligations;

28 undertakes that it (and any person acting on its behalf) will make payment for the MCNs allocated to it in accordance with this Announcement on the due time and date set out herein, failing which the relevant MCNs may be placed with other subscribers or sold (for and on behalf of the Issuer) as the Bookrunners may in their sole discretion determine and without liability to such Placee;

29 acknowledges that none of the Bookrunners, nor any of its affiliates, nor any person acting on behalf of any of them, is making any recommendations to it, advising it regarding the suitability of any transactions it may enter into in connection with the Placees and that participation in the Placing is on the basis that it is not and will not be a client of the Bookrunners and that none of the Bookrunners has any duties or responsibilities to it for providing the protections afforded to its clients or customers or for providing advice in relation to the Placing;

30 undertakes that the person who acquires the MCNs will be (i) itself or (ii) its nominee, as the case may be. None of the Bookrunners nor the Issuer nor Barclays will be responsible for any liability to stamp duty, stamp duty reserve tax or any other stamp, issue, securities, transfer, registration, documentary or other duties or taxes (including any interest, fines or penalties relating thereto) payable in the UK or elsewhere resulting from a failure to observe this requirement. Each Placee and any person acting on behalf of such Placee agrees to participate in the Placing and it agrees to indemnify the Issuer, Barclays and the Bookrunners in respect of the same;

31 acknowledges that any agreements entered into by it pursuant to these terms and conditions and any non-contractual obligations arising out of or in relation to these terms and conditions shall be governed by and construed in accordance with the laws of England and Wales and it submits (on behalf of itself and on behalf of any person on whose behalf it is acting) to the exclusive jurisdiction of the English courts as regards any claim, dispute or matter arising out of any such contract or any such non-contractual obligation, except that enforcement proceedings in respect of the obligation to make payment for the MCNs (together with any interest chargeable thereon) may be taken by the Issuer, Barclays or the Bookrunners in any jurisdiction in which the relevant Placee is incorporated or in which any of its securities have a quotation on a recognised stock exchange;

32 agrees that the Issuer, Barclays, the Bookrunners and their respective affiliates and others will rely upon the truth and accuracy of the foregoing representations, warranties, acknowledgements and undertakings which are given to the Bookrunners on its own behalf and on behalf of the Issuer and/or Barclays and are irrevocable;

33 agrees to indemnify and hold the Issuer, Barclays, the Bookrunners and their respective affiliates harmless from any and all costs, claims, liabilities and expenses (including legal fees and expenses) arising out of or in connection

with any breach by the Placee of the representations, warranties, acknowledgements, agreements and undertakings in this Appendix and further agrees that the provisions of this Appendix shall survive after completion of the Placing;

34 understands that if it subscribes for MCNs in the Placing, it will be deemed to have made for the benefit of the Bookrunners all such representations, warranties, acknowledgements, agreements and undertakings contained herein;

35 acknowledges that its commitment to subscribe MCNs on the terms set out herein and in the contract note will continue notwithstanding any amendment that may in future be made to the terms of the Placing and that Placees will have no right to be consulted or require that their consent be obtained with respect to the Issuer's and/or Barclays' conduct of the Placing; and

36 understands that the foregoing representations, warranties, agreements, acknowledgements and undertakings are required in connection with United States and other securities laws and that the Bookrunners and their affiliates and others will rely upon the truth and accuracy of the representations, warranties, agreements, acknowledgements and undertakings. It irrevocably authorises the Bookrunners to produce this letter to any interested party in any administrative or legal proceeding or official enquiry with respect to the matter set forth therein.

The Issuer has agreed to settle a Placee's subscription (and/or the subscription of a person for whom such Placee is contracting as agent) free of stamp duty, stamp duty reserve tax and any other stamp, issue, securities, transfer, registration, documentary or other duties or taxes (including any interest, fines or penalties relating thereto) payable in the UK or elsewhere, subject to the settlement relating only to a subscription by it and/or such person direct from the Issuer and/or from Barclays for the MCNs in question (and, if there is any such duty or tax payable in the UK or elsewhere, it will be paid by the Issuer but not, for the avoidance of doubt, the Bookrunners).

Each Placee, and any person acting on behalf of the Placee, acknowledges that the Bookrunners do not owe any fiduciary or other duties to any Placee in respect of any representations, warranties, undertakings or indemnities in the Subscription Agreement.

Each Placee and any person acting on behalf of the Placee acknowledges and agrees that the Bookrunners or any of their respective affiliates may, at its absolute discretion, agree to become a Placee in respect of some or all of the MCNs.

When a Placee or person acting on behalf of the Placee is dealing with the Bookrunners, any money held in an account with the Bookrunners on behalf of the Placee and/or any person acting on behalf of the Placee will not be treated as client money within the meaning of the rules and regulations of the FSA made under the FSMA. The Placee acknowledges that the money will not be subject to the protections conferred by the client money rules; as a consequence, this money will not be segregated from the Bookrunners' money in accordance with the client money rules and will be used by the Bookrunners in the course of their own business and the Placee will rank only as a general creditor of the Bookrunners.

All times and dates in this Announcement may be subject to amendment. The Bookrunners shall notify the Placees and any person acting on behalf of the Placees of any changes.

EXHIBIT 217

Financial Services

Barclays shuts Equifirst US mortgage lender

FEBRUARY 17, 2009 by: Saskia Scholtes in New York and Peter Thal Larsen in London

Barclays Capital has put up the shutters on its US mortgage lending business because of "market conditions" less than two years after buying it.

The decision to close Equifirst is embarrassing for Barclays, which bought the business from Alabama-based Regions Financial in a belated effort to break into the US mortgage market. The shutdown of Equifirst also marks the latest failure in a series of bank misadventures with acquisitions of high-risk mortgage lenders.

Deutsche Bank in December closed MortgageIT, which it bought for $430m (£302m) in January 2007, Merrill Lynch last year shut First Franklin, for which it paid $1.3bn in September 2006, and Wachovia, now owned by Wells Fargo, notoriously overpaid for its $26bn 2006 acquisition of California-based Golden West.

However, Barclays' losses on the investment are lower than they might have been because the bank was able to cut the price it paid for Equifirst by two-thirds to $76m, between announcing the deal in January 2007 to closing it in April.

Equifirst, based in Charlotte, North Carolina, was one of the 20 top US subprime mortgage lenders in 2006, originating more than $10bn of home loans a year, according to Inside Mortgage Finance (http://www.imfpubs.com/).

The company did not typically keep the loans it made on its own books but sold them on to investment banks that would package them into mortgage-backed securities for investors.

As the US housing market began to slow and mortgage originations plummeted, banks such as Barclays and Merrill Lynch scurried to buy originators that would bring a reliable source of new mortgages in-house.

But as the market for mortgage-backed securities began to evaporate amid rising late payments and defaults, many such deals foundered.

In 2007, Equifirst originated $3.8bn of subprime home loans. By the second half of 2008, the lack of buyers for such mortgages prompted the lender to convert to making loans conforming to Federal Housing Administration standards.

Just a few months ago Barclays executives were still pointing to Equifirst as providing the bank with a foothold in the market when it recovered.

Equifirst has stopped accepting new applications, but will honour its outstanding commitments.

Barclays' mortgage servicing business, HomeEq, and mortgage-backed securities operations are not affected, the bank said.

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EXHIBIT 218

Barclays faces SFO investigation

29 August 2012 | Business

Share

Barclays says the UK's Serious Fraud Office has started an investigation into payments between the bank and Qatar Holding LLC, part of sovereign wealth fund Qatar Investment Authority.

Barclays is already facing an investigation by the Financial Services Authority

The probe relates to 2008 when Barclays was raising money from Middle East investors during the banking crisis.

The Financial Services Authority had said in July it was looking at issues around Barclays' deal with the Qataris.

Separately, in June Barclays was fined £290m for rigging Libor interest rates.

Investors will be closely watching Barclays share price when the London stock market reopens for trade on Thursday morning. Its shares had closed down by 1.38% at 186.35 pence on Wednesday.

Semi-nationalised

The SFO confirmed that the Barclays statement was correct but declined to release further details of the investigation. Barclays also refused to comment.

But it is understood that after the FSA investigation was begun in July, information was made available to the SFO prompting it open a formal investigation.

Barclays has not revealed which payments between it and Qatar are being investigated by the SFO.

The bank raised some £2bn from Qatar Holding in 2008.

Funds raised from investors in Qatar and Abu Dhabi that year allowed Barclays to avoid being semi-nationalised along with Royal Bank of Scotland and Lloyds.

In July, the Financial Services Authority said it was investigating both the bank and four current and former senior employees, including finance director Chris Lucas.

Resignation

Barclays is currently experiencing one of the most stormy times in its recent history.

It was fined £290m by UK and US regulators for manipulating Libor, an interbank lending rate which affects mortgages and loans.

Chief executive Bob Diamond resigned in the wake of the affair.

Barclays has also been caught up in another investigation, relating to the mis-selling of complex financial products - interest rate swaps - to small businesses.

EXHIBIT 219

Ex-Barclays Executives Said to Face Round Two With SFO on Qatar

Bloomberg News Enterprise
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News Story

- U.K. prosecutor interviewing former executives for second time
- John Varley, Roger Jenkins among those called by prosecutors

By Suzi Ring

(Bloomberg) --
The U.K. Serious Fraud Office has started re-interviewing former Barclays Plc executives over the bank's 2008 Qatar fundraising, as the agency aims to complete its investigation by the end of the year.

The SFO in recent weeks began questioning individuals in connection with the case for the second time, according to four people with knowledge of the situation, who asked not to be identified because the interviews are private. Among the executives called in are one time Chief Executive Officer John Varley and two other officials who oversaw parts of operations in the Middle East, Roger Jenkins and Richard Boath.

The SFO first interviewed about a dozen former executives, including ex-CEO Bob Diamond, in 2014, two years after opening its investigation. The agency is looking into possible corruption connected to the 322 million pounds ($422 million) the London-based bank paid the Qatar Investment Authority in advisory fees in relation to its 7 billion-pound fundraising at the height of the 2008 financial crisis to avoid a state bailout.

The interview requests come after Barclays handed over about 100,000 internal documents to the SFO from the Qatar deal earlier this year, ending a long-running dispute with the agency over their disclosure. The bank had previously claimed the files were covered by attorney-client privilege and the parties were weeks away from a court hearing when the bank changed its mind. The decision came a few months after Barclays appointed Jes Staley as its new CEO.

Officials at the SFO and Barclays declined to comment, as did lawyers for Varley, Jenkins and Boath.

The newly released documents are also being examined by the U.K. Financial Conduct Authority, which issued a 50 million-pound fine against Barclays in 2013 over its failure to adequately disclose the Qatari fees. The bank said it will challenge the penalty, which has been put on hold due to the SFO's criminal investigation. The FCA also fined a number of the individuals, whose appeals are being delayed for the same reason. A spokesman for the FCA declined to comment on how the new documents could affect the penalties.

Lawyers for the SFO told a London court in May the agency was planning to conclude its investigation by the end of the year with decisions on whether to file charges soon after.

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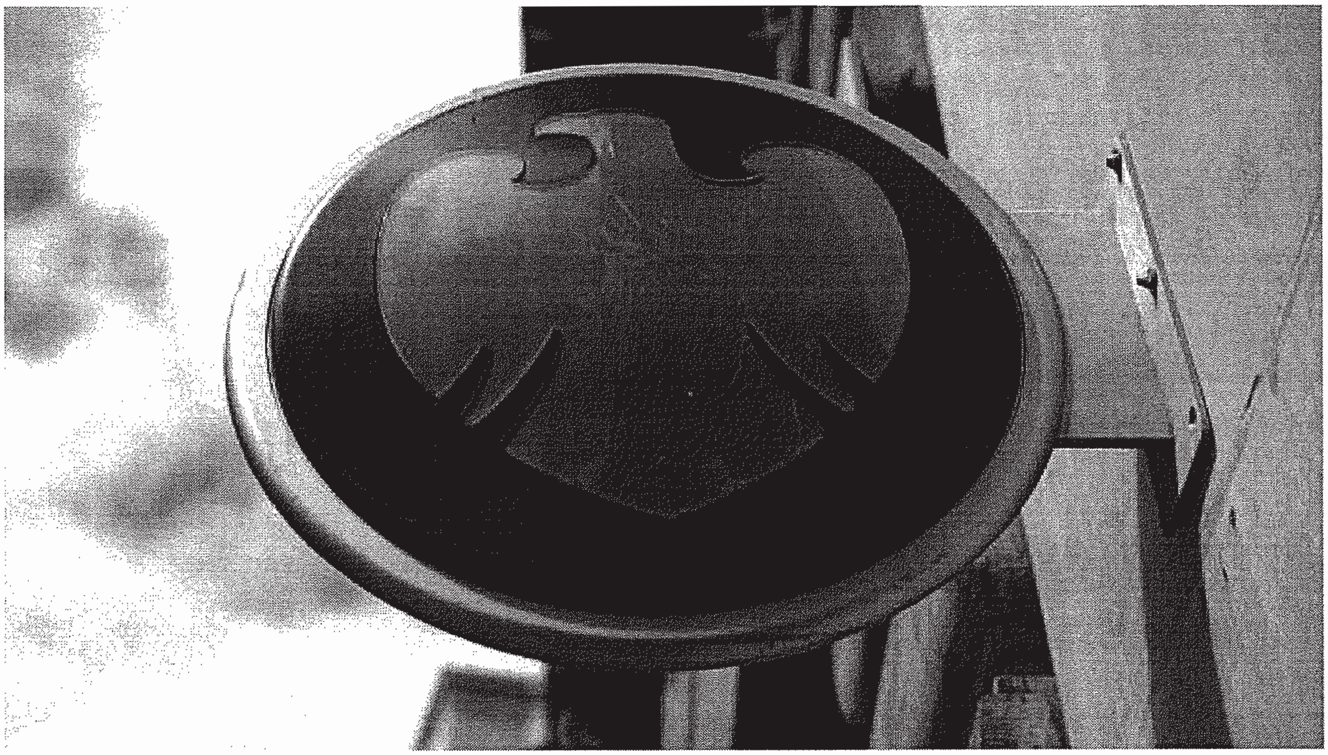
EXHIBIT 220

Barclays

Barclays criminal probe to last until at least early 2017

Bank being investigated over disclosures of payments to Qatari investors



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MAY 19, 2016 by: **Caroline Binham** in London

Barclays will not learn for at least seven more months whether it will face criminal charges over its financial arrangements with Qatar at the height of the financial crisis, a London court heard.

The UK Serious Fraud Office hopes to make a charging decision about the bank in "early 2017", a barrister for Barclays told the High Court on Thursday as part of a £1bn lawsuit against the bank.

PCP, the firm founded by Amanda Staveley, is suing the bank over payments to Qatari investors connected to an emergency cash call in October 2008. PCP represented Abu Dhabi during the same transaction, which helped Barclays avoid a taxpayer bailout.

Barclays (http://www.ft.com/topics/organisations/Barclays_Bank_PLC) had asked a London court to postpone Ms Staveley's lawsuit pending the SFO's investigation, lest it affect the outcome of that probe.

But the bank abandoned its position in a u-turn at the end of Thursday's court hearing. It must now pay Ms Staveley's legal costs to the tune of £100,000 and serve a defence to PCP's claim within four weeks, Mr Justice Leggatt ordered.

The SFO investigation started nearly four years ago and is examining whether Barclays made inadequate or misleading statements to the market about its arrangements with Qatari investors as part of the October 2008 fundraising. Andrew Onslow QC for the SFO told the court that the SFO is also looking at an earlier June 2008 one that involved only the Qataris.

In addition, the SFO is probing a loan made to the State of Qatar by Barclays, John Wardell QC for PCP said, citing correspondence between the bank to the SFO. The Financial Times has previously reported (http://next.ft.com/content/47d412ce-6bd1-11e2-a700-00144feab49a) that one of the central threads of the SFO's investigation is whether the bank loaned Qatar the money to reinvest during the capital raising.

The SFO has interviewed under caution — when suspects are read their rights — some of Barclays' top brass at the time, including former chief executives John Varley and Bob Diamond, and the man who led the cash call, Roger Jenkins, as well as the bank's former general counsel. No charges have been filed by the SFO against the individuals.

PCP's lawsuit accuses the bank of making £346m in secret and inadequately disclosed payments to Qatari investors after they saw the value of their June 2008 investment plummet as the financial crisis took hold and decimated the value of banks' shares. These payments, described in the lawsuit as a "sham", are on top of the £300m in fees paid by the bank that Barclays disclosed at the time of announcing the deal.

PCP argues that Ms Staveley was promised the same deal offered to Qatar.

Barclays will deny the agreement with Qatar was a sham or that there was dishonesty, said Bankim Thanki QC, acting for the bank. The bank says the money covered legitimate fees for separate services provided by Qatar that PCP was not in a position to provide, the court heard.

The SFO probe reached a turning point in January, when the bank waived privilege on key evidence that the SFO had tried to access. Privilege keeps advice between lawyers and clients confidential, even in a criminal probe.

The bank hoped that waiving privilege would help restart its discussions with the SFO over a so-called deferred prosecution agreement, a form of plea deal.

The drawn-out nature of the SFO's probe is a blow to Jes Staley and John McFarlane, the bank's chief executive and chairman, who have both expressed a desire to move on from legacy conduct issues that have plagued the bank and meant that £20bn of its underlying profits have been wiped out in recent years because of fines and compensation.

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EXHIBIT 221

theguardian

Ex-Barclays banker alleges unfair dismissal after interview with SFO

Richard Boath claims his position was jeopardised when Serious Fraud Office shared transcript with bank, tribunal hears

Richard Boath was interviewed for the SFO investigation into Barclays' emergency cash call in 2008. Photograph: Carl Court/AFP/Getty Images

Simon Bowers

Wednesday 23 November 2016 12.49 EST

A former senior Barclays banker claims he was unfairly dismissed after the Serious Fraud Office shared with his employer a 900-page transcript of interviews he gave to criminal investigators probing the bank, a tribunal has heard.

Richard Boath, who until his dismissal earlier this year was Barclays' co-head of global finance, gave a lengthy interview in March 2014. It took place as part of the SFO's investigation into the bank's £7.3bn emergency capital-raising in 2008, at the height of the banking crisis.

The transcript was kept private for more than two years, but earlier this year it was shared with Barclays when the SFO used Boath's interview to support an application for a warrant to search the bank.

Jonathan Cohen QC, Boath's lawyer, told a preliminary tribunal hearing in east London on Wednesday that his client had been pushed out after Barclays learned what Boath had told the SFO.

"We say that Mr Boath's position was severely jeopardised," Cohen said. This was as a "direct result" of the SFO sharing a transcript of Boath's interview. Cohen added: "He will say, 'The reason I find myself out on my ear ... is because the SFO did that'."

The transcript is now the focus of a dispute about whether Boath's forthcoming unfair dismissal case should be heard in private. At a preliminary hearing on Wednesday, lawyers for the Guardian and other media argued that the case should be heard in public.

But lawyers for the SFO told the hearing that holding the tribunal in public would threaten the agency's ongoing investigations and any potential prosecutions. They argued a public hearing raised the prospect of potential witnesses or defendants - who might feature in a future trial - learning the details of Boath's SFO interviews and, as a result, amending their own statements.

No charges have been brought by the SFO, which is focusing on allegations concerning certain fees paid in relation to Barclays' deals in 2008 to raise capital from sovereign funds in Qatar and Abu Dhabi. Without this extra capital the bank would have been forced to accept a UK government bailout.

Boath is seeking to make his employment claim against Barclays under whistleblower protection laws. If successful, the scale of any resulting award would be unlimited.

Lawyers for the bank said Barclays did not accept Boath was a whistleblower. The tribunal heard Boath had been interviewed by the SFO under caution, a practice used for potential suspects.

The preliminary tribunal hearing continues.

EXHIBIT 222

Barclays Loaned Qatar $3 Billion to Fund 2008 Deal, Lawsuit Says

Published: Sep 01 2016 09:32:35

News Story

- PCP Capital Partners helped broker Middle East transaction
- Shareholders hurt by bank's 2008 fundraising, PCP Says

By Jeremy Hodges

(Bloomberg) --
Barclays Plc loaned $3 billion to Qatar to help fund a share purchase as the lender sought investment from the Middle East at the peak of the 2008 financial crisis, according to a U.K. lawsuit brought by Amanda Staveley's investment firm.

Barclays failed to disclose the loan and paid the Qatari investors an additional 280 million pounds ($371 million) in "hidden" fees, lawyers for investment firm PCP Capital Partners said in documents filed at the U.K. High Court Sept. 1. The London-based bank's 7.3 billion-pound capital raising was a "fraud on its shareholders," according to the lawsuit.

Barclays avoided a government bailout in 2008 by seeking a capital injection from private investors in Abu Dhabi and Qatar. The bank is being investigated by the U.K. Financial Conduct Authority over whether it adequately disclosed fees from the transactions. PCP says it was misled about the deal and is suing Barclays for about 750 million pounds, according to its court documents.

"We believe the claim against Barclays is misconceived and without merit and Barclays will be vigorously defending it," the lender said in an e-mail. PCP declined to comment. The story was reported earlier by Sky News on Thursday.

Staveley received as much as 40 million pounds in commissions for her role in raising money for Barclays, the New York Times reported in 2008.

The case is: PCP Capital Partners LLP & Anr v. Barclays Bank Plc, High Court of Justice Queens Bench Division, CL-2016-000049

--With assistance from Kit Chellel and Gavin Finch .

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<u>EXHIBIT 223</u>

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BARCLAYS CAPITAL

Competitor Analysis

Q1 2008 Results Review

Finance Committee
04 June 2008

Key Messages

- Barclays Capital recorded a profit of £0.2bn in Q108, one of only three banks to record a Q1 profit which included results from the very challenging trading conditions in March. The other banks were BNP Paribas and Société Générale
- Barclays Capital reported £1.0bn of credit related losses in Q1: £0.7bn in Alt-A, £0.5bn in ABS CDO Super Senior, £0.5bn in other sub prime and a partial offset of £0.7bn gains on own credit
- Barclays Capital is one of only four banks to have a made a cumulative profit in the last nine months, whilst UBS, the worst performer, reported losses of £18.4bn
- In Q1 the peer group, including Barclays Capital, disclosed total net investment banking losses of £37bn compared to the £39bn disclosed in Q4
- ABS CDO's accounted for 27% (FY 07: 57%) of the total peer group's, and 29% (FY 07: 62%) of Barclays Capital's gross losses. Citi had the highest ABS CDO losses in Q1 of £2.9bn (FY 07: £7.1bn), whilst also retaining the highest exposure at quarter end of £11.4bn (FY 07: £14.6bn), nearly three times that of Barclays Capital at quarter end
- The contagion has spread beyond subprime this quarter with 18% (FY 07: 3%) of losses in Alt-A exposures and 18% (FY 07: 7%)of losses in leveraged finance
- Our fixed income and debt underwriting revenues of £1.0bn and £0.2bn respectively remain in the top quartile despite the impact of the credit market dislocation
- Barclays Capital's cost:net income ratio has declined by 19% to 79%, but remains the fourth most favourable in the peer group

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Q108 Competitor Results Summary

Barclays Capital, BNP and SocGen are the only peers with a March Quarter end to report a Q108 profit

	PBT Growth Q108/Q107 (%)	Net Income Growth Q108/Q107 (%)	Cost/Net Income Ratio Q108 (%)	PBT (£bn)	Comments
Morgan Stanley*	(25)	(13)	66	1.1	Modest losses in Q1 of £0.8bn after disclosing £5bn total losses in 2007; Record equity sales & trading results
Goldman Sachs*	(56)	(35)	74	1.1	Investment banking, FICC and principal investments all reported declines YoY; cost: net income ratio deteriorated by [illegible]% while comp: net income ratio remained flat
Lehman Brothers*	(61)	(31)	81	0.3	£0.9bn of write-downs in Q1; £0.5bn relating to commercial real estate; Strong liquidity position was highlighted in the results
Societe Generale	(72)	(37)	80	0.2	SocGen, BNP and Barcap are the only banks in the peer group with a March quarter end that have recorded a positive PBT in the quarter
BNP Paribas	(73)	(48)	76	0.2	BNP maintain modest exposures relative to peers, however they rescinded their Q4 comments with respect to maintaining 2007 revenues through 2008
Barclays Capital	(76)	(56)	79	0.2	Strong contributions from fixed income and commodities and growth in portfolio, prime services and foreign exchange
Bear Stearns*	(82)	(40)	90	0.1	JP Morgan announced the take-over of Bear in March at $10 per share compared to an all time high in Jan 07 of $169
JPMorganChase	(105)	(61)	105	(0.1)	£[illegible]bn losses in investment banking, fixed income down [illegible]% YoY
Deutsche Bank	(174)	(86)	282	(1.2)	£1.4bn losses within leveraged finance; declines in all areas YoY leading to second quarterly loss for CB&S in last nine months
Credit Suisse	(274)	(110)	n/m: Negative Net Income	(1.7)	£[illegible]bn of losses due to ABS CDOs; YoY declines in all areas and [illegible]% increase in DVaR to £[illegible]m
Merrill Lynch	(283)	(111)	n/m: Negative Net Income	(2.0)	£3.9bn of losses disclosed in Q1, bringing total losses up to £15.5bn; Significant exposures remain; 10% headcount reduction planned over 2008
Bank of America	(308)	(126)	n/m: Negative Net Income	(0.9)	£[illegible]bn of investment banking write-downs; declines in all businesses except equity underwriting
Citi	(458)	(198)	n/m: Negative Net Income	(6.0)	£7.3bn of write-downs in Q1; currently negotiating the sale of £12bn of leveraged finance portfolio
UBS	(1,284)	(337)	n/m: Negative Net Income	(8.8)	£8.8bn of write downs in Q1; the worst net income and PBT result of all peers

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* Denotes a February quarter end

Note: HSBC and RBS do not disclose Q1 PBT figures

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Peer Group Credit Losses...

Total credit related write-downs top £100bn following Q1 2008 announcements

Bank (£bn)	Investment Banking	Consumer Banking	Other	Total 2008	Total FY 2007	Total Losses
	Q1 2008 Peer Group Losses					
Citi	7.3	1.2	-	8.5	14.6	23.1
UBS	8.8	-	-	8.8	9.3	18.1
Merrill Lynch	3.9	-	-	3.9	11.6	15.5
RBS	5.3	-	-	5.3	2.7	8.0
Bank of America	1.1	2.0	-	3.1	4.2	7.3
Morgan Stanley	0.8	-	-	0.8	5.0	5.8
Societe Generale	0.5	-	-	0.5	5.2	5.7
JPMorgan	1.1	1.4	-	2.5	2.1	4.6
Deutsche Bank	2.0	-	-	2.0	1.8	3.8
Credit Agricole	0.8	-	-	0.8	2.8	3.6
Credit Suisse	2.0	-	-	2.0	1.0	3.0
HSBC	(0.1)	0.8	-	0.7	2.1	2.8
Barclays	**1.0**		-	**1.0**	**1.6**	**2.6**
Goldman Sachs	1.0	-	0.3	1.3	0.7	2.0
Lehmans	0.9			0.9	0.9	1.8
Bear Stearns	0.3	-	-	0.3	1.2	1.5
BNP Paribas	0.4	-		0.4	0.9	1.3
Total	37.1	5.4	0.3	42.8	67.8	110.5

Notes: 1) Goldman Sachs, Bear Stearns, Morgan Stanley and Lehman Brothers have February period end. 2) Investment banking losses are net of own credit

Commentary on Q108

- Citi: £2.9bn write-downs within ABS and ABS CDOs
- UBS: Largest Q1 net write downs of £9.8bn partially offset by £1.0bn of own credit gains
- Merrill Lynch: £1.5bn losses from monolines, £1.0bn from ABS CDOs. £1.1bn own credit reduces net loss
- RBS: £5.3bn of losses estimated for the whole of 2008. £1.9bn of losses within ABS CDOs, £1.8bn within monolines and £0.7bn within Alt-A. £0.6 estimated for Own Credit
- JP Morgan: £1.4bn losses in US consumer banking on top of £0.9bn of leveraged loan losses and £0.6bn of Alt-A losses
- Morgan Stanley: Modest losses in Q1, mainly relating to leveraged loan exposures
- Deutsche Bank: £1.4bn within the leveraged finance book, with the remainder from residential and commercial real estate
- Credit Agricole: £0.5bn from monolines and £0.4bn from ABS CDOs. £0.2bn own credit
- Credit Suisse: £1.3bn of losses within ABS CDOs, £0.9bn within leveraged loans
- HSBC: Losses in the investment bank more than offset by gains on own debt. Increased impairment in the US consumer finance business
- Barclays: Half of write-downs within Alt-A with £0.7bn own credit; excludes the impact of credit valuation adjustments taken through reserves
- Goldman Sachs: £1.0bn of losses split evenly between Alt-A and leveraged loans. Q1 losses nearly double the whole of FY 07. Other losses of £0.3bn relate to FV adjustments on corporate principal investments
- Lehman Brothers: Largest write-downs came in commercial real estate in Q1, unlike the residential asset class in FY 07
- BNP losses mainly from subprime £0.2bn and £0.2bn from monolines

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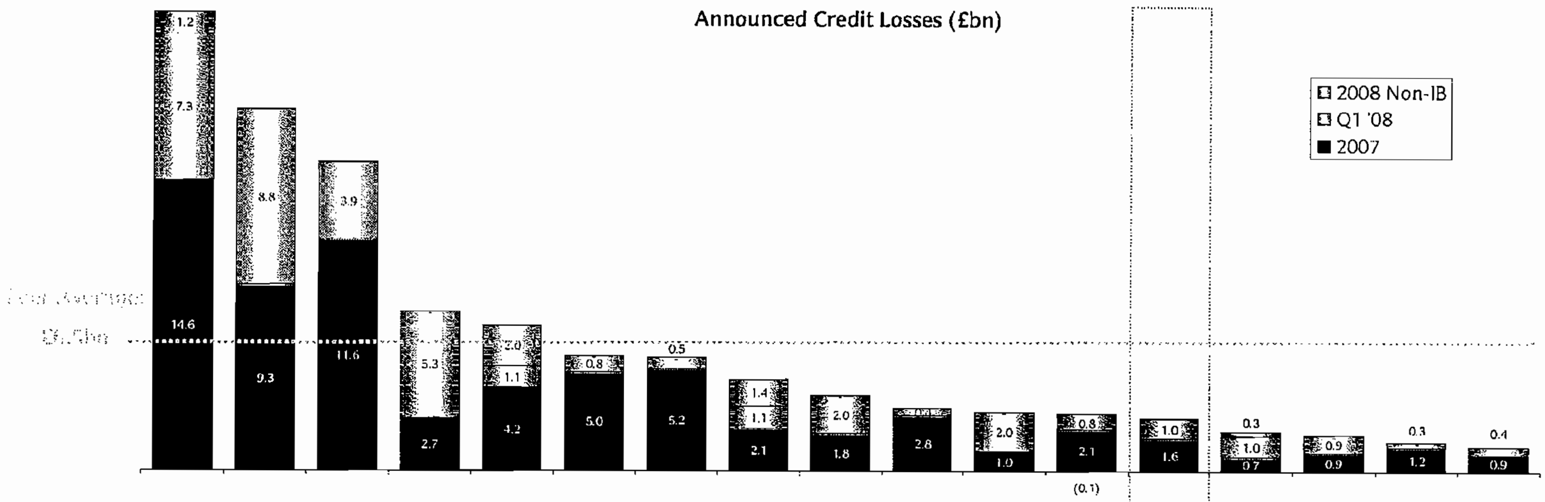
Breakdown of Q1 2008 Investment Banking Losses



	Citi	UBS	Merrill Lynch	RBS	Bank of America	Morgan Stanley	Société Générale	JP Morgan	Deutsche	Credit Agricole	Credit Suisse	HSBC	Barclays Capital	Goldman Sachs	Lehman Brothers	Bear Stearns	BNP Paribas
FY 2007 (£bn's)																	
IB Losses	11.0	9.0	11.6	1.9	3.3	5.0	1.8	1.1	1.8	2.8	1.0	1.1	1.6	0.7	0.9	1.2	0.7
Non-IB Losses (excl.AM)	3.6	0.3		0.8	0.9		3.4	1.0				1.0					0.1
Q1 2008 (£bn's)																	
ABS CDOs	2.9	2.7	1.0	1.9	0.8		0.3	0.1			1.3		0.5		0.7		
Other Sub prime	1.0	1.6	0.3	0.5	(0.1)	0.1	0.0	0.1	0.4		0.0	0.3	0.5		0.4	0.3	0.0
Alt-A	1.5	3.1	1.0	0.7		0.9		0.6					0.3	0.5			
CMBS/CRE	0.3	0.3	0.4	0.2	0.1				0.3		0.4		0.0		0.5		
Other ABS							0.4					0.6					
Monolines	0.8	0.9	1.5	1.8		0.3	0.2			0.5		0.4	0.1				0.2
Leveraged Loans	1.6	0.1	0.5	1.3	0.2	0.5	0.0	0.9	1.4		0.9	0.2	(0.0)	0.5	0.8		0.1
Own Credit	(0.6)	(1.0)	(1.1)	(0.6)		(0.4)	(0.4)	(0.5)	(0.1)	(0.2)	(0.7)	(1.4)	(0.7)		(0.3)		(0.1)
Other		1.2	0.3	(0.4)		0.1				0.0			0.2				0.2
Investment Banking Losses	7.3	8.8	3.9	5.3	1.1	0.8	0.5	1.1	2.0	0.4	2.0	(0.1)	1.0	1.0	0.9	0.3	0.4
Non-IB Losses (excl.AM)	1.2		0.0		2.0			1.4				0.8		0.3			
Total 2008 Losses	8.5	8.8	3.9	5.3	3.1	0.8	0.5	2.5	2.0	0.4	2.0	0.8	1.0	1.3	0.9	0.3	0.4

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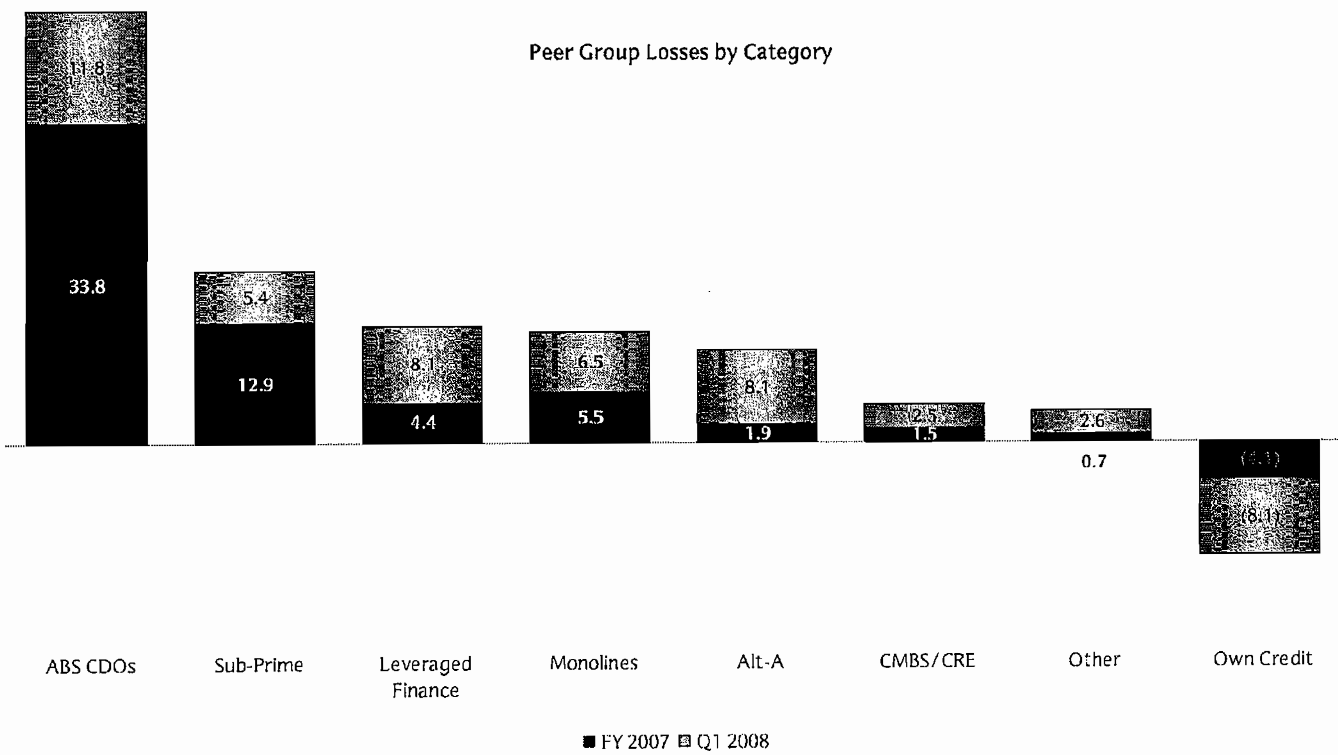
Notes:
1) Included in Citi losses is £1.0bn ($2.0bn) of Alt-A related losses taken to reserves which was disclosed in the 10-Q
2) Included in 'Other' UBS losses is £0.1bn ($0.2bn) of temporary impairment losses due to security financing taken to reserves
3) Included in various Merrill Lynch losses is £1.6bn ($3.1bn) of losses due to Alt-A (£0.7bn) and CMBS (£0.3bn) and Other taken to reserves

Investment Banking Losses by Category

- £37.1bn of losses were disclosed in Q1 2008 in addition to the £56.6bn relating to 2007 as a result of the credit market dislocation
- The largest losses are still in ABS CDOs but the proportion from alt-A, monolines and leveraged finance products grew significantly
- Barcap reported £1.0bn of losses in Q108 compared to an average of £2.5bn in the peer group
- Including FY07 Barcap's total losses of £2.6bn is significantly lower than £6.5bn average among the peer group



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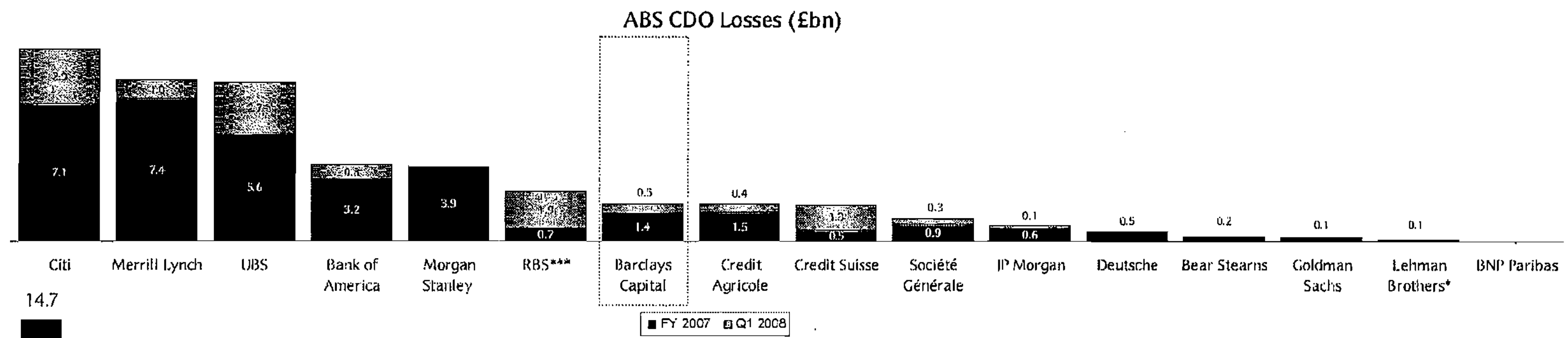
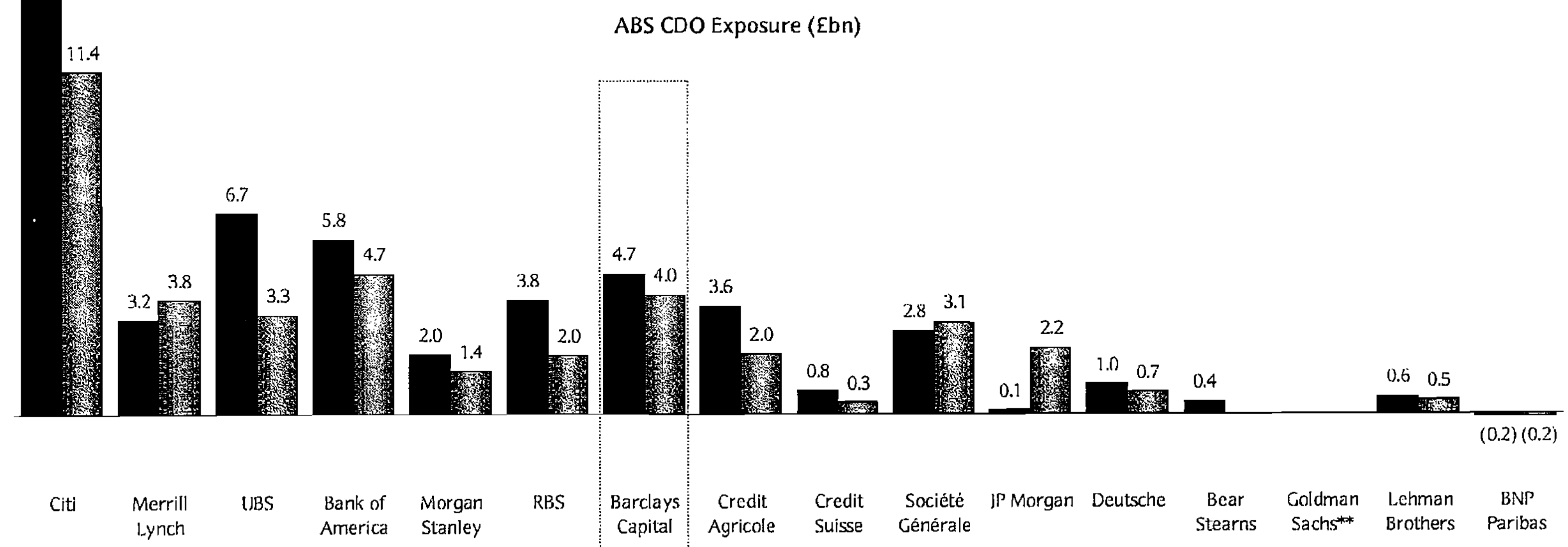
Losses and Exposures: ABS CDOs





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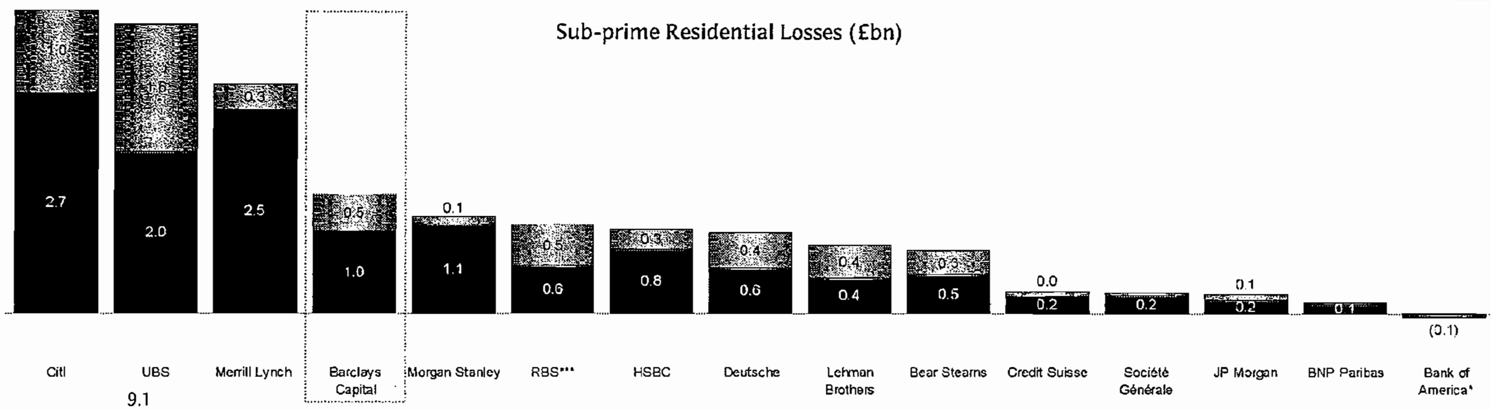
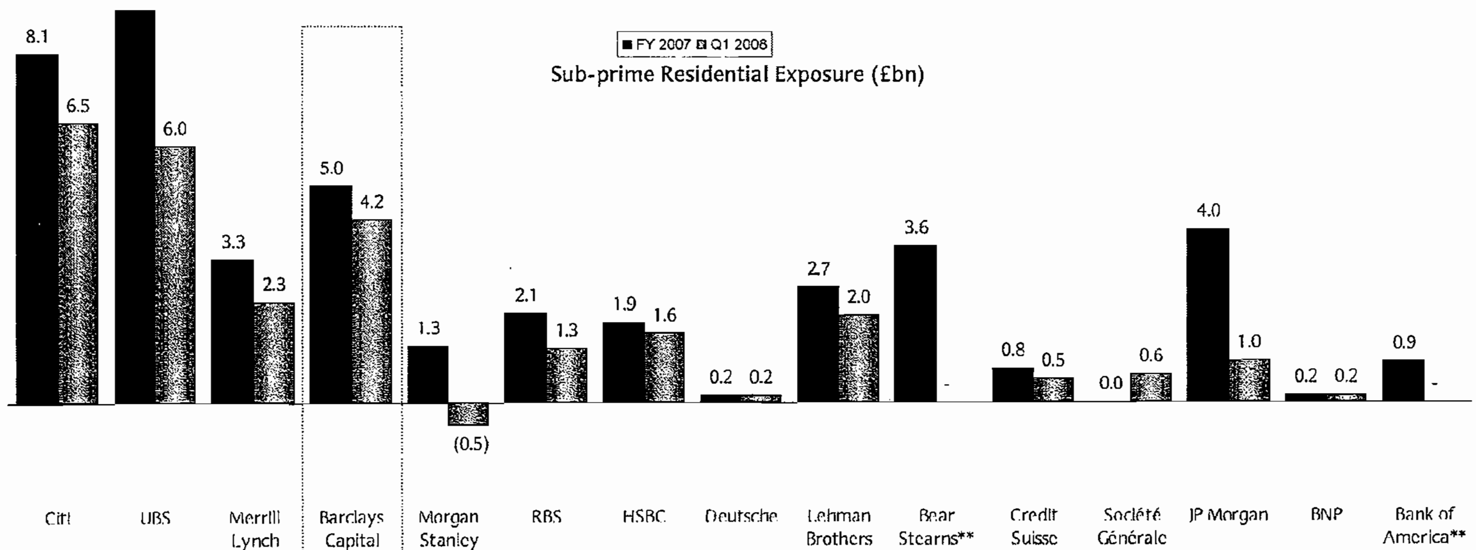
* Losses not material. ** No exposure details provided. ***RBS Mortgage losses within ABN have been included

Losses and Exposures: Sub-prime Residential Exposure

Sub-prime Residential Losses (£bn)



Sub-prime Residential Exposure (£bn)



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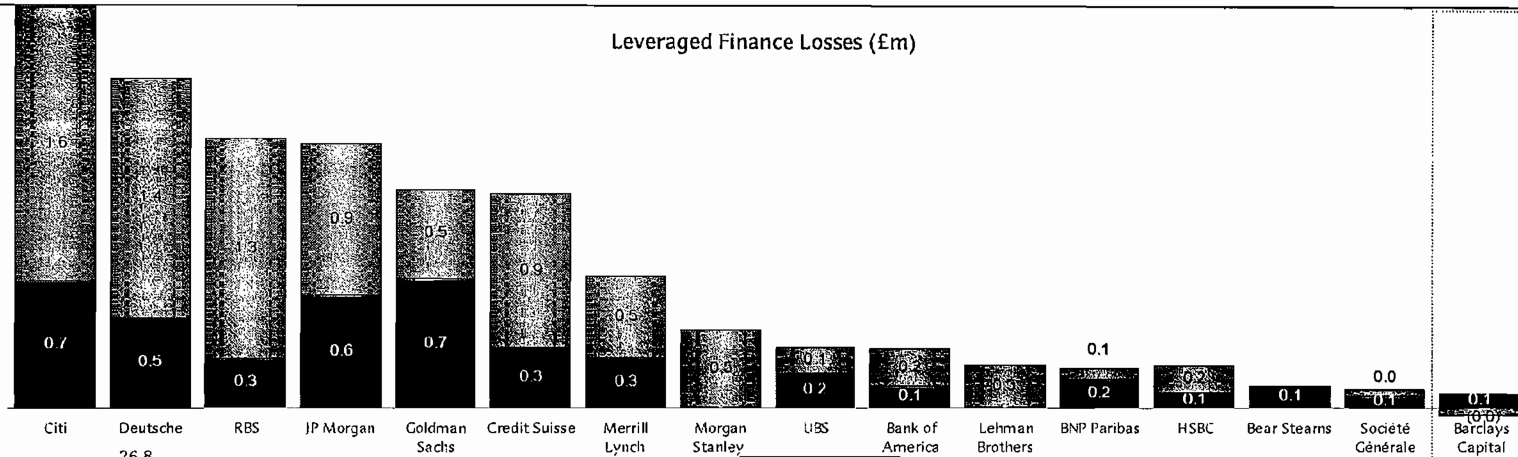
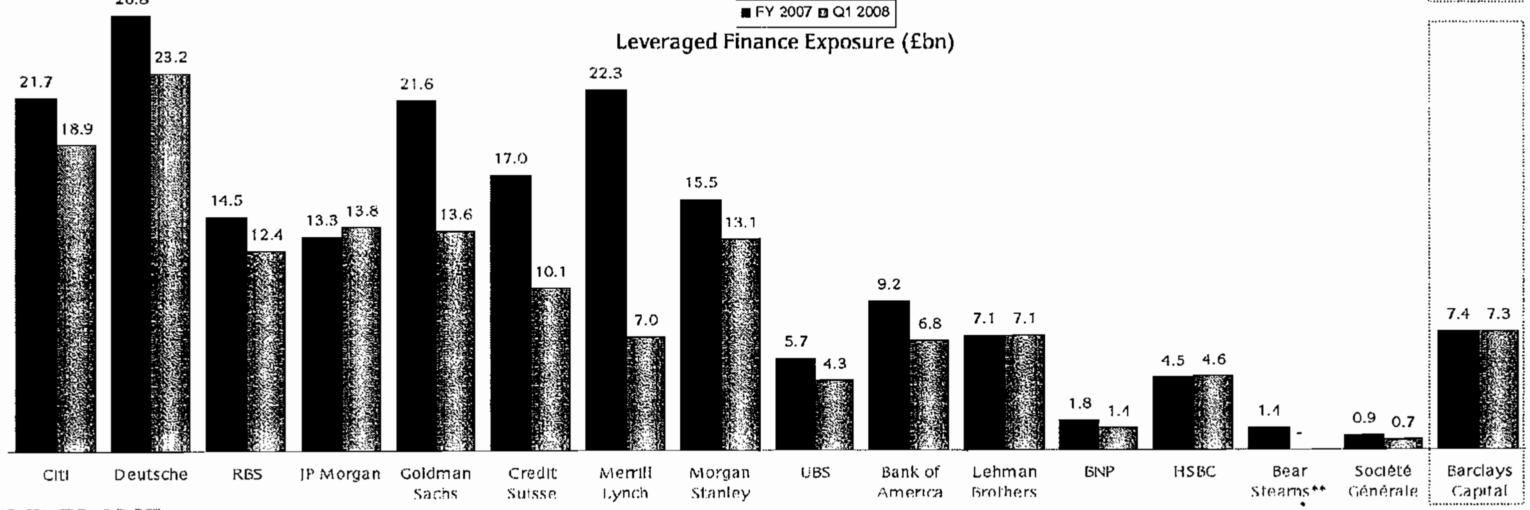
* Losses not disclosed. ** No exposure details provided. ***RBS Mortgage losses within ABN have been included

Losses and Exposures: Leveraged Finance





** No exposure details provided.

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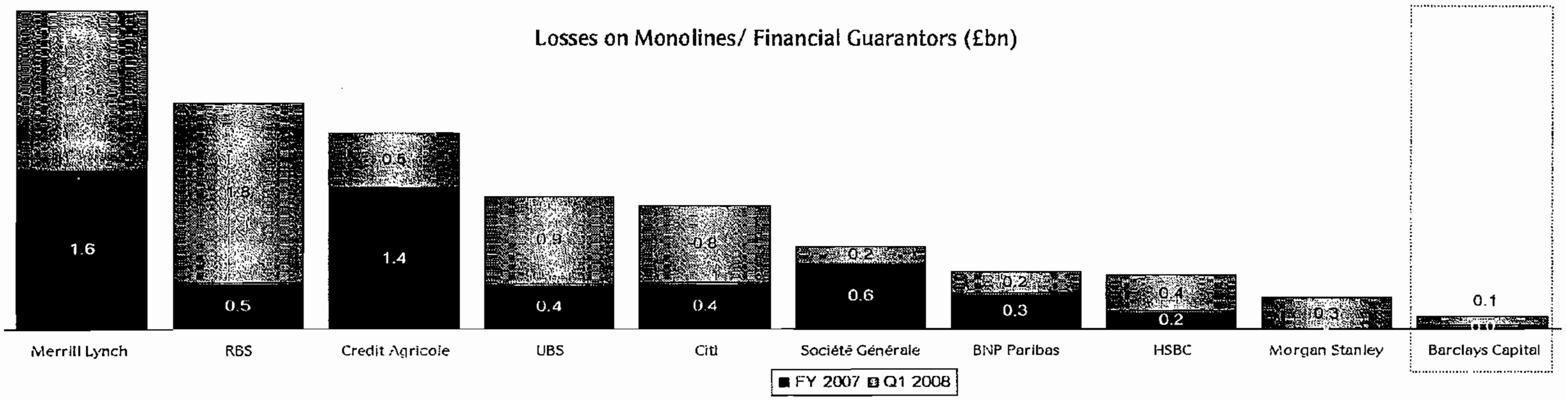
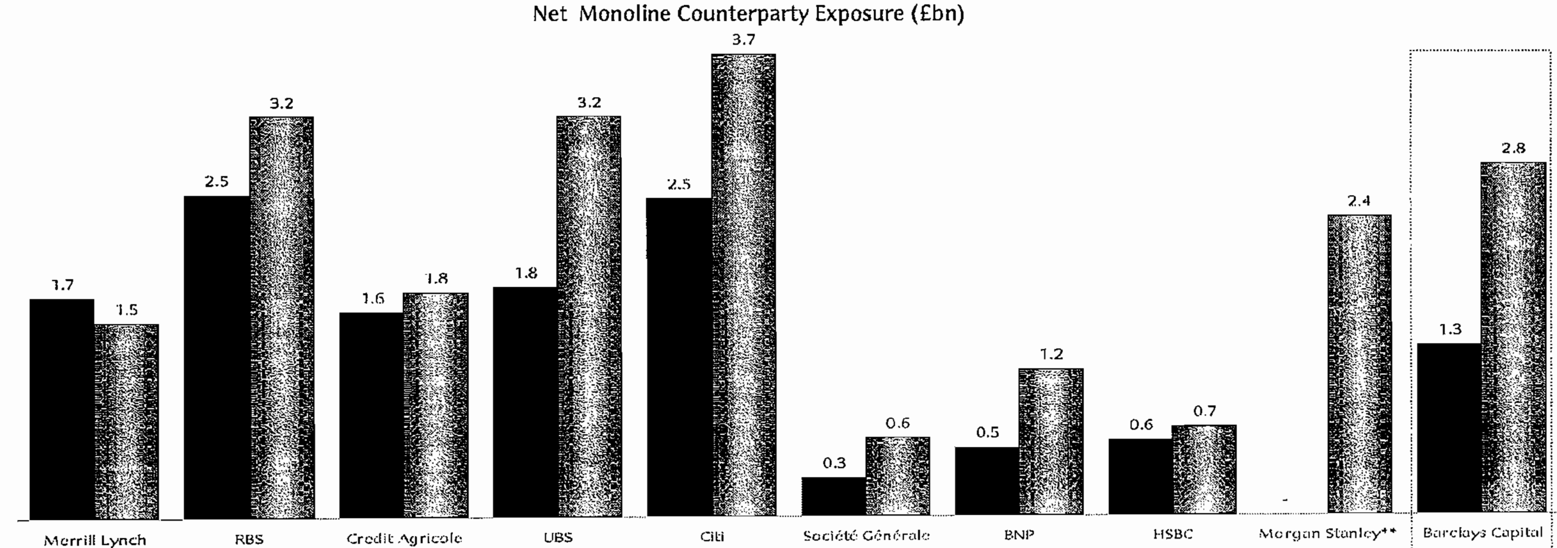
Losses and Exposures: Monolines





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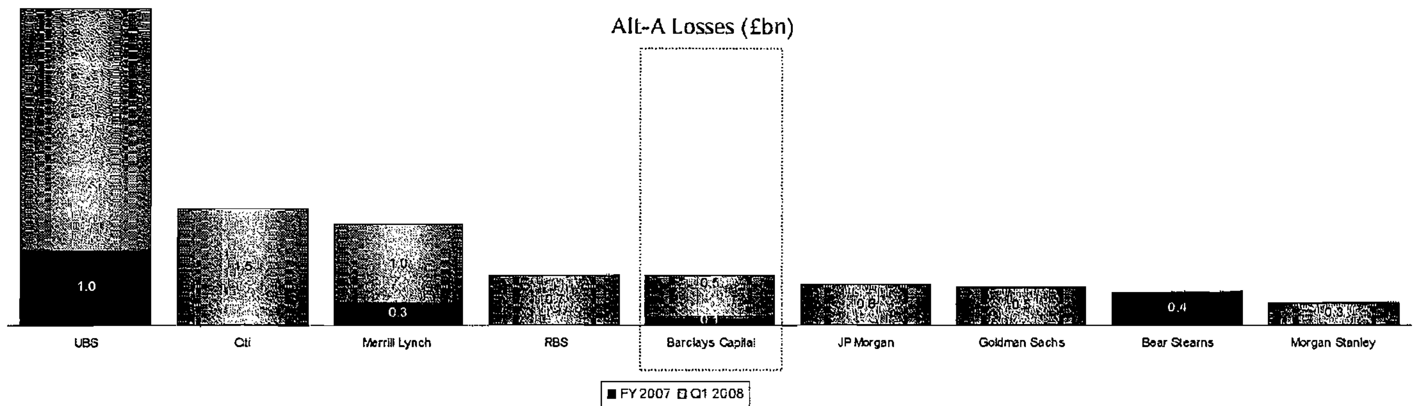
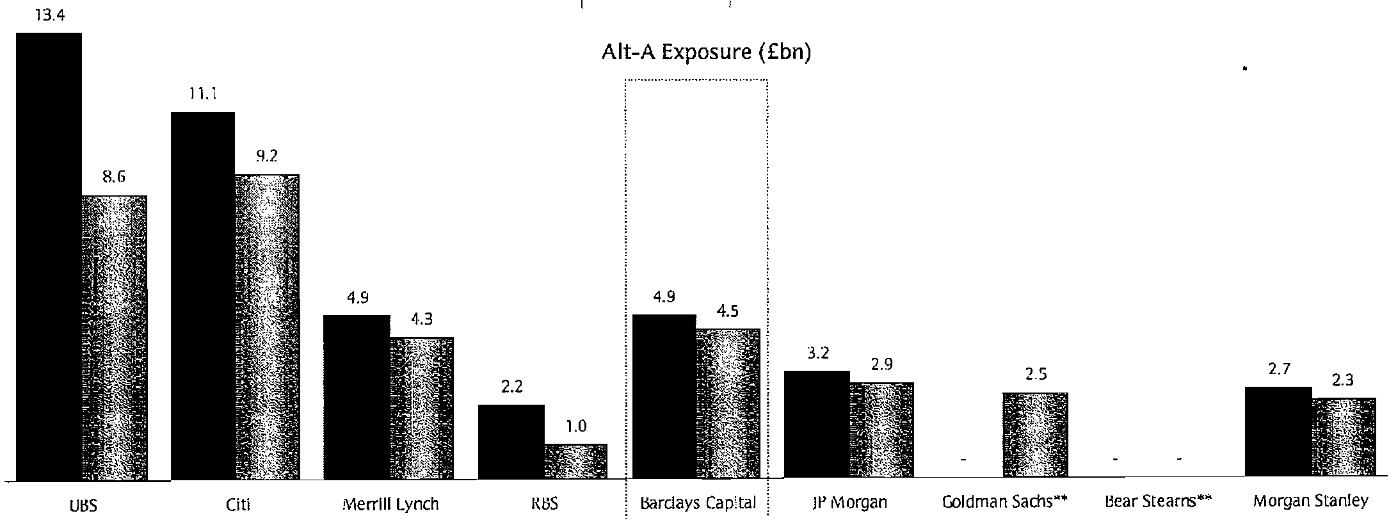
** No exposure details provided for Q1 2008

Losses and Exposures: Alt-A





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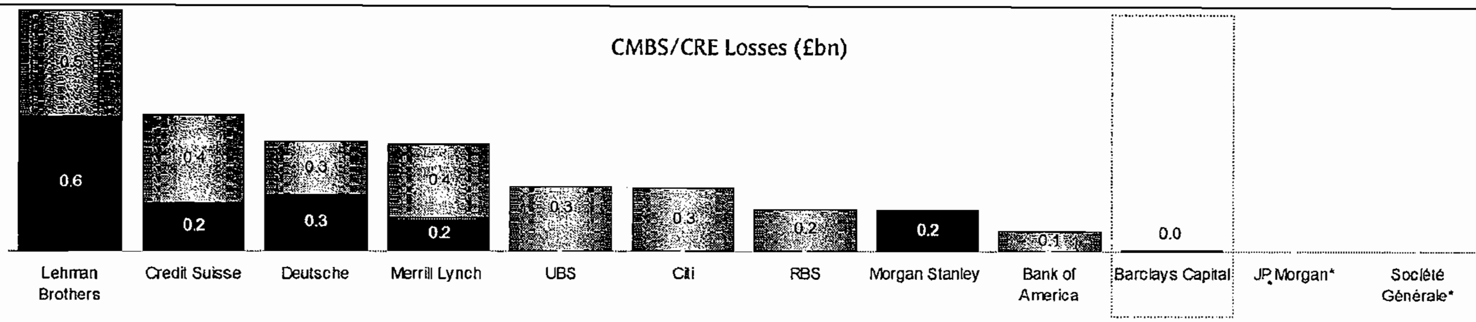
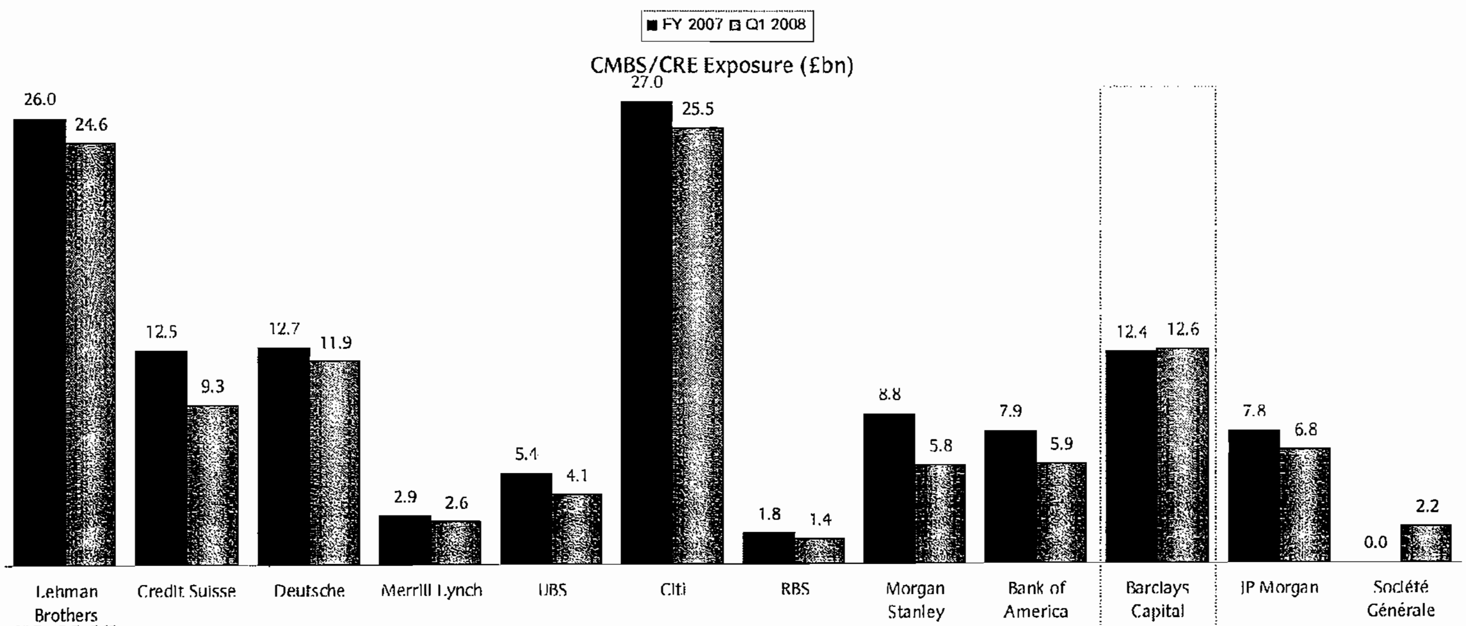
Included in Citi losses is £1.0bn ($2.0bn) of Alt-A related losses taken to reserves which it disclosed in its 10-Q

**No exposure details provided

Losses and Exposures: CMBS/Commercial Real Estate





BARCLAYS CAPITAL

* Losses not disclosed

CONFIDENTIAL

Disclosure of marks by peers has been limited...

	Dec-07			Mar-08					
£m	RBS	Deutsche	UBS	RBS	Citi	Merrill Lynch	Deutsche	SocGen	UBS
ABS CDO Super Senior									
ABCP CDO's					70%				
High Grade	84%		72%	52%	41%				34%
Mezzanine	70%		50%	20%	22%				33%
Net Exposure Before Hedging									
Hedges									
$CDOs^2$			29%						18%
Net ABS CDO Super Senior	**79%**		**58%**	**40%**				**49%**	**33%**
Other U.S. Sub-prime									
Securites									
Whole loans									
Residuals	72%			38%					
RMBS			74%						57%
Warehouse and Retained RMBS CDOs			27%						10%
Total other US subprime									
Alt-A									
Super Senior RMBS CDOs			74%						30%
AAA rated RMBS's			96%						70%
Other RMBS			60%						44%
Securities									
Whole Loans									
Residuals	83%			50%					
Other Alt-A (banking book)									
Total Alt-A						70%	67%		
MTM Exposure to Monoline insurers	74%			52%					
US Commercial Mortgages (trading book)	97%			83%			95%		
SIV/SIV Lites									
Leveraged Finance (banking book)	96%	96.1%		88%			91%		94%

BARCLAYS CAPITAL

BARC-ADS-01015076

<u>EXHIBIT 224</u>

FILED UNDER SEAL

* * * C O N F I D E N T I A L * * *

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BARCLAYS BANK PLC)
SECURITIES LITIGATION)
------------------------) No. 1:09-cv-01989-
This Document Relates to:) PAC
All Actions)
------------------------)

September 29, 2015
9:34 a.m.

Deposition of SEAN TEAGUE, held at the offices of Sullivan & Cromwell LLP, 125 Broad Street, New York, New York, pursuant to subpoena, before Laurie A. Collins, a Registered Professional Reporter and Notary Public of the State of New York.

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Philadelphia, PA 19103

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the desk or agreed between the valuations team and front office.

Q. Within this three-day period, why would -- why could they be incorporated in the prior month's close?

A. Because the prior month's close would be finalized at that point in time.

Q. After three days, then, it would be finalized?

MR. TOMAINO: Objection to form.

Q. After three months the prior month's ledger would have been finalized?

MR. TOMAINO: Objection to form, foundation. I'm not sure what you mean by "ledger."

MR. RUSSO: Strike that.

Q. Within three days after month's end, the month end, the prior month's closing end process was integrated --

THE REPORTER: I apologize. I got all confused on that one. I apologize.

MR. RUSSO: I'll start again.

Q. So you testified that if there were any provisions taken within the first three days after

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month end those provisions could have been recorded in the prior month's P&L; is that correct?

MR. TOMAINO: Objection to form.

A. Yes. You would have the ability to take any provisions within the first three days of the month into the prior month if -- if it is seen, to be clear, that that provision is something that would have been accurately taken in the previous month.

If there was any information, i.e., the markets changed on the first of the next month, that is not a provision you would take into the prior month.

Q. And why could provisions that were taken after the first three days of the month not be incorporated into the prior month's P&L?

MR. TOMAINO: Objection to form.

A. To the best of my knowledge, from an accounting perspective you need to close the books, so you need to basically finalize that month end. So within approximately three days where you have flexibility, after which point in time any changes would not be -- you wouldn't be able to take any changes into the prior month at that point in time.

The window in most scenarios was three days, I believe, at month end. At year end it might be a little bigger, like five days, but I don't recall the exact, you know, number of days. Most scenarios, each month end is three days.

Q. And after three days the month-end closing process would have been complete?

MR. TOMAINO: Objection to form, foundation.

A. That would better -- a better question for somebody within the product control line area. But yes, within three days, that's usually when they close the books and everything is now -- you move on, new life, new month.

Q. Okay. So let's turn to page 42 of this document. You see the document is entitled product control independent valuations group?

A. Yes.

Q. And as you said, you were a manager within the credit valuations group within the 2007/2008 time period; is that correct?

A. That's correct.

EXHIBIT 225

1 of 1 DOCUMENT

theguardian

Guardian.com

February 2, 2009

LENGTH: 530 words

HEADLINE: Bank bosses face grilling by MPs

HIGHLIGHT:

Former and current bank bosses face gruelling sessions with MPs in the inquiry into the banking crisis

BODY:

The disgraced former bank bosses Sir Fred Goodwin and Andy Hornby face gruelling sessions before the Treasury committee of MPs next week as part of the ongoing investigation into the financial crisis.

The former heads of RBS and HBOS will appear on Tuesday followed by the new and surviving banking executives on Wednesday.

Goodwin and Hornby will appear with Sir Tom McKillop and Lord Stevenson, their respective chairmen, to face questions about how they drove their banks to the brink of collapse.

The new RBS chief executive, Stephen Hester, will join Lloyds chief executive Eric Daniels, Barclays chief executive John Varley, Abbey chief executive António Horta-Osório, chief executive, and HSBC UK managing director Paul Thurston at the hearing the following day.

By the time Varley faces up to the combative MPs, he will have presented Barclays' 2008 results at which he will attempt to persuade the City that the bank's promise to report profits of at least £5.3bn is credible.

The figures have been brought forward by a week to next Monday but doubts continue to linger in the City about the performance of Barclays, whose shares today lost nearly 11% to make it the second biggest faller in the FTSE 100 after ratings agency Moody's downgraded its debt on fears for further credit crunch losses. Moody's, which has been reviewing the rating since September, said it was concerned that "significant further writedowns" could affect Barclays which has admitted it expects a credit crunch hit of about £8bn in 2008.

"Although Barclays has not taken any government capital to date, Moody's considers the systemic importance of the bank and the likelihood of receiving government support in case of need to be high," the agency said, reducing Barclays rating to Aa3 - following other agencies in recent weeks.

The fall in Barclays shares to 94.9p followed a rise of 110% last week - making it the best performing bank stock in the world - after Varley and chairman Marcus Agius assured shareholders about the bank's financial position.

Analysts at Bernstein noted that City worries about nationalisation of banks was overdone. "The UK banks are still pricing in a probability rather than a possibility of nationalisation ... We would argue that this significantly overstates the chance of full state ownership." They believe the government's promise to insure banks' toxic assets and a change to the rules relating to the amount of capital a bank must hold should allow total nationalisation to be avoided.

The taxpayer will soon own 70% of RBS and owns 43% of Lloyds Banking Group, created when Lloyds TSB rescued HBOS in deal completed last month.

The government today began to exert its influence over Lloyds when two new non-executive directors were appointed to the board with a remit to represent the government - and other shareholders. The two were confirmed as Tony Watson, the former head of pensions company Hermes, and former US banker Tim Ryan.Sir Victor Blank, Lloyds chairman, said: "[Watson's] views on the relationship between companies and shareholders and the need to challenge constructively are well known and very much shared by myself and the rest of the board."

LOAD-DATE: February 3, 2009

EXHIBIT 226

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BARCLAYS BANK PLC SECURITIES LITIGATION	:	Master File No. 1:09-cv-01989-PAC
	:	ECF Case
This Document Relates to: All Actions	:	

LEAD PLAINTIFFS' OBJECTIONS AND RESPONSES TO THE BARCLAYS DEFENDANTS' FIRST SET OF INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (the "Federal Rules"), and Rules 26.3 and 33.3 of the Local Civil Rules of the United States District Court for the Southern and Eastern Districts of New York (the "Local Rules"), Court-appointed Lead Plaintiffs Dennis Askelson and Alfred Fait (collectively "Plaintiffs") hereby respond and object to the Barclays Defendants' First Set of Interrogatories (the "Interrogatories") served by defendants Barclays Bank PLC, Barclays PLC, Marcus Agius, David G. Booth, Sir Richard Broadbent, Richard Leigh Clifford, Fulvio Conti, Daniel Cronje, Dame Sandra J.N. Dawson, Robert Edward Diamond, Jr., Gary A. Hoffman, Sir Andrew Likierman, Dr. Christopher Lucas, Sir Nigel Rudd, Stephen George Russell, Frederik Seegers, John Michael Sunderland and John Silvester Varley.

The responses contained herein are based upon information and documents known to Plaintiffs at this time and are given without prejudice to Plaintiffs' right to supplement these responses at any time prior to trial, and without prejudice to Plaintiffs' rights at summary judgment or trial to produce evidence of any subsequently discovered facts, including those unearthed during the remainder of fact discovery, which remains ongoing, and expert discovery, which has not yet commenced. By making the accompanying objections and responses to the Barclays Defendants' Interrogatories, Plaintiffs do not waive, and hereby expressly reserve, their right to assert any and all objections as to the admissibility of such responses into evidence in this action, on any and all grounds, including, but not limited to, relevancy, materiality and admissibility, and on any ground that would require exclusion of any response herein if it were introduced in court. All objections and grounds, including relevance, are expressly reserved and may be interposed at the time of trial.

GENERAL OBJECTIONS

1. To the extent the Interrogatories seek discovery of information that is the subject of expert testimony, they require the disclosure of information before the time contemplated by Fed. R. Civ. P. 26(a) and the Revised Scheduling Order in this case, and ask plaintiffs to provide information not currently within their knowledge, Plaintiffs object to the Interrogatories as premature on the grounds that fact discovery is ongoing and expert discovery has not yet commenced. Furthermore, Plaintiffs continue to review documents produced by the Barclays Defendants, many of which were produced to Plaintiffs on or after the court-ordered deadline for the substantial completion of document production. Likewise, Plaintiffs continue to review the documents that have been produced by the Underwriter Defendants and were recently produced by third parties, and may identify additional documents supporting their claims up to and during trial in this action. Finally, while the Barclays Defendants produced a privilege log on July 24, 2015, the Barclays Defendants also represented on that date that additional privilege logs will be forthcoming. To date, Plaintiffs have not received any additional privilege logs from the Barclays Defendants. Likewise, the Underwriter Defendants have not, to date, produced any privilege logs. Through the meet and confer process, Plaintiffs anticipate that additional documents which were initially withheld as privileged by the Barclays Defendants and the Underwriter Defendants will be produced. Accordingly, Plaintiffs' responses herein are based on information currently known to Plaintiffs.

2. Plaintiffs object to the Interrogatories as overbroad and unduly burdensome in scope, to the extent that they: (i) are duplicative of one another; (ii) are compound or contain multiple discrete subparts beyond the 25-interrogatory limit under Fed. R. Civ. P. 33; (iii) seek information beyond the scope permitted by L.R. 33.3(c), which allows discovery concerning a party's "claims and contentions," and not "all facts and evidence" supporting such claims or contentions; (iv) seek information outside of Plaintiffs' actual knowledge; and/or (v) seek information within the Barclays Defendants' possession, custody or control.

3. Plaintiffs object to the Interrogatories to the extent they call for the disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege or immunity. Such disclosure as may hereafter occur pursuant to the Interrogatories shall not include any information protected by such privileges or doctrines. Inadvertent disclosure of any such information shall not constitute a waiver of any applicable privilege, protection or immunity, in whole or in part.

4. Plaintiffs object to the Interrogatories to the extent that they call for the disclosure of information that is not relevant to the parties' claims or defenses, or reasonably calculated to lead to the discovery of admissible evidence.

5. Plaintiffs object to the Interrogatories as untimely, to the extent they purport to be a request for production under FED. R. CIV. P. 34.

<u>OBJECTIONS TO THE INSTRUCTIONS AND DEFINITIONS</u>

1. Plaintiffs object to the Instructions, including paragraph 4 of the Instruction, as unduly burdensome to the extent individual interrogatories seek discovery of overlapping information. With respect to such instances of overlap, it is unduly burdensome for Plaintiffs to disclose the same information multiple times in response to multiple interrogatories, when a

single response will suffice. For these reasons, where appropriate, Plaintiffs may incorporate by reference their responses to one interrogatory into other interrogatory responses.

2. Plaintiffs object to the Instructions on the grounds that they call for speculation. To the extent Plaintiffs lack knowledge or sufficient information to answer any interrogatory or part thereof, Plaintiffs will only identify the name and address of those persons, if any, actually known to have such knowledge. To the extent Plaintiffs identify any additional persons whose identities are responsive to these Interrogatories through their ongoing review of documents, Plaintiffs may supplement these responses, as appropriate, and to the extent required, at a later time.

3. Plaintiffs object to the Instructions to the extent they seek to impose upon Plaintiffs duties and obligations that go beyond those imposed by the Federal Rules, including to the extent they seek to require Plaintiffs to supplement these responses with information that has been disclosed to the Barclays Defendants in some other manner or of which they are, or have otherwise become, aware.

4. Plaintiffs object to the Instructions as overly broad and unduly burdensome to the extent that they call for the disclosure of information not required by the Federal or Local Rules, such as the nature of any investigation undertaken in responding to these Interrogatories, as well as an estimate of costs required to conduct such investigation.

5. Plaintiffs further object to the Instructions to the extent they seek disclosure of information protected by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or immunity.

6. Plaintiffs object to the definition of "Financial Statements" set forth in paragraph 4 of the Definitions as so vague, ambiguous, overbroad and unduly burdensome as to preclude

Plaintiffs from providing a meaningful response. Specifically, Defendants define "financial statements" as comprising each and every filing that Barclays and Barclays PLC ever made with the U.S. Securities and Exchange Commission (the "SEC") without regard to time period, and regardless of whether the SEC filing disclosed financial information relevant to this Action.

7. Plaintiffs object to the definition of "You" and "Your" set forth in paragraph 9 of the Definitions as overbroad and unduly burdensome insofar as it calls for the disclosure of information beyond that required by the Local Rules. *See* L.R. 26.3(6). Plaintiffs further object to the Barclays Defendants' definition of the words "You" and "Your" to the extent that it calls for the disclosure of information protected by the attorney-client privilege, the attorney work product doctrine and/or any other applicable privilege or immunity. In responding to the Interrogatories, Plaintiffs will disclose information known only to them or their counsel, except where such information is privileged.

8. Plaintiffs object to paragraph 10 of the Definitions as overbroad and unduly burdensome insofar as it calls for the disclosure of information beyond that required by the Local Rules, which defines a "person" as "any natural person or any legal entity, including, without limitation, any business or governmental entity or association." L.R. 26.3(6). In responding to the Interrogatories, Plaintiffs will disclose information known only to them or their counsel, except where such information is privileged.

RESPONSES AND OBJECTIONS TO SPECIFIC INTERROGATORIES

INTERROGATORY NO. 1:

Identify (a) all statements in the Offering Documents that You contend were false or misleading, and (b) for each such statement, all facts and evidence that You rely on to support Your contention that the statement was false or misleading.

<u>Response to Interrogatory No. 1</u>:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time each statement in the Offering Documents that they contend was false and misleading and all facts and evidence that they are relying on to support their contentions that the Offering Documents were false and/or misleading. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, insofar as the statements pled in the Complaint and/or identified below exceed 25 in number, Plaintiffs object to this Interrogatory on the grounds that sub-part (b) of this Interrogatory and all subsequent Interrogatories herein, and sub-parts thereof exceed the 25-interrogatory limit under FED. R. CIV. P. 33.

Subject to and without waiver of the foregoing objections, Plaintiffs direct Defendants to the allegations set forth in the Complaint. By way of further response, Plaintiffs contend that the statements set forth below, among others, which were included in the Company's 2007 Form 20-F and incorporated by reference into the Offering Documents, were materially untrue and/or misleading.

A. Barclays' Valuations of Its Credit Market Exposures

Page 53 of the 2007 Form 20-F purports to identify "Barclays Capital credit market positions," breaking them down into the following categories: (i) ABS CDO Super Senior; (ii) Other US sub-prime; (iii) Alt-A; (iv) monoline insurers; (v) commercial mortgages; (vi) SIV-lite liquidity facilities; (vii) structured investment vehicles; and (viii) leveraged finance positions. The 2007 Form 20-F reported the Company's alleged exposures to each category of credit market positions as of December 31, 2007. In addition, the Company reported that during 2007, it recorded a total of £1,635 million in "net losses" on these positions "due to dislocations in the credit markets." Page 25 of the 2007 Form 20-F disclosed that "Exposures relating to US subprime were actively managed and declined over the period. Barclays Capital's 2007 results reflected net losses related to the credit market turbulence of £1,635m, of which £795m was included in income, net of £658m gains arising from the fair valuation of notes issued by Barclays Capital." Plaintiffs contend that the 2007 Form 20-F materially misstated the fair value of Barclays' credit market exposures. Barclays' misstatements in this respect also caused, by way of example, its Risk Weighted Assets ("RWAs") to be misstated and the corresponding strength of its Tier 1 equity ratio and Tier 1 capital ratios to be misstated.

In addition, Plaintiffs contend that Defendants materially misstated the total amount of writedowns and charges necessary to record these positions at fair value. For example, with respect to Barclays' ABS CDO Super Senior positions, the Company had previously represented to investors that it was valuing its ABS CDO Super Senior positions using observable market data, including the level of the ABX indices. Yet the level of losses implied by the declines in the relevant ABX and TABX indices were materially larger than the £1,412 million in writedowns and charges reflected in the 2007 Form 20-F.

By way of further example, Barclays also misstated the fair value of its £5,037 million portfolio of "other US sub-prime" exposures, which purportedly consisted of £3,205 in whole loan exposures and £1,832 in "Other direct and indirect exposures." While the Company valued its performing whole loans at 100% of par as of December 31, 2007, and its entire portfolio was marked at an average price of 94% of par, Barclays' whole loan positions were worth far less given, among other things, observable market data, the low credit quality of the Equifirst and non-Equifirst whole loans, and the continued attempts by internal valuation experts and PwC to record larger writedowns on the whole loan portfolio. The value of Barclays' whole loan portfolio was also misstated to the extent Barclays used a discounted cash flow model which utilized the London Interbank Offer Rate ("LIBOR") in calculating a discount rate to value its whole loan positions. More specifically, in a settlement with the U.S. Department of Justice, Barclays admitted that at various times from 2006 through 2009, its traders manipulated the LIBOR rate downward. This would have artificially reduced the discount rate Barclays used to value its whole loan positions and therefore caused the positions to be misstated.

Similarly, while Barclays valued its AAA-rated subprime securities at 92% of par, its non-AAA subprime securities at 61% of par, and its subprime derivatives and other loan positions at 100% of par, these positions were also materially misstated, as evidenced by, among other things, the steep declines in the relevant ABX and TABX indices during 2007. Further, while Barclays valued its post-NIM residuals at £233 million, or 24% of par, as of year-end 2007, it was widely acknowledged within Barclays that these assets were worthless and would need to be written down to zero. Additionally, Barclays' valuation of its Alt-A whole loan and securities were materially misstated at year end 2007.

Additionally, Barclays' use of FTID pricing data instead of the ABX Index to value certain of its credit market positions, including, but not limited to its SIV and SIV-lite exposures, caused the value of these positions to be materially overstated.

Barclays' failure to sufficiently writedown its credit market positions at year-end 2007 rendered the Offering Documents materially false and misleading and concealed, among other things, material risks associated with these credit market positions and their impact on the Company's financial condition.

B. Barclays' Additional Disclosures Regarding Its Credit Market Positions

Plaintiffs also contend that the additional disclosures contained in the 2007 Form 20-F regarding Barclays' credit market positions were materially false and misleading for numerous other reasons. For example, unlike Barclays' peers, the 2007 Form 20-F presented its writedowns and charges net of fair value gains on its own credit ***and*** net of any income/interest earned on the impacted assets. The 2007 Form 20-F stated that writedowns were being netted against fair value gains on Barclays' credit, but it did not disclose that the writedowns were also being netted against income, nor did it disclose the gross writedowns and charges recorded on these positions to investors. For example, while the Company disclosed £1,412 million in ABS CDO Super Senior writedowns and charges during 2007, Barclays actually recorded £1,816 million in gross writedowns and charges on these assets. Similarly, Barclays actually recorded a total of £2,999 million in gross writedowns and charges on its credit market exposures in 2007, not the £1,635 million net writedown it disclosed in the 2007 Form 20-F. Barclays' failure to disclose this material information rendered the Offering Documents materially misleading and concealed, among other things, numerous material risks associated with these credit market positions and their impact on the Company's financial condition.

Additionally, the Offering Documents were materially false and misleading as of the time of the Offering because they failed to disclose that the Company's credit market positions had deteriorated materially during the first quarter of 2008, and led the Company to internally record billions of dollars in losses on these positions at the time of the Offering. Further, the 2007 Form 20-F's disclosures regarding the high quality of the whole loans originated by Equifirst were materially misleading. Barclays had internally acknowledged at the time of the Offering that the credit quality of those assets had deteriorated significantly during the first three months of 2008 and delinquencies in the Equifirst whole loan portfolio had increased in each of the preceding 11 months. Barclays had also recorded material writedowns in the fair value of its Alt-A credit market exposures during the first quarter of 2008. The failure to disclose, among other things, these material facts and trends, and their likely impact on the Company's financial condition, caused the Offering Documents to be materially untrue and misleading, and concealed, among other things, numerous material risks associated with these credit market positions and their impact on the Company's financial condition.

Defendants also failed to break out the writedowns recorded on Barclays' whole loan and other subprime positions, and failed to report the Company's exposures on a gross basis. For example, when disclosing the size of its exposures to whole loans and other credit market positions, Barclays failed to state that it had offset these exposures by approximately £369 million in purported hedges. Moreover, while the Company recorded writedowns and impairment charges of approximately £116 million on its whole loan positions, £431 million on subprime residuals, and £496 million on other subprime exposures in 2007 – for a total of £1,043 million – these writedowns were not separately disclosed to investors.

Defendants also failed to disclose that Barclays was not marking its portfolio of leveraged loans to market. Moreover, the 2007 Form 20-F's disclosure of £7,368 million in leveraged finance positions materially understated the Company's true exposure as of year-end 2007, which was actually £9,027 million.

Similarly, Barclays' disclosures in the 2007 Form 20-F regarding its credit market exposures were materially incomplete, and omitted, among other things, certain subprime and other mortgage-related positions residing in Barclays' Portfolio Management banking book.

The Company's failure to disclose these facts rendered the Offering Documents materially untrue and misleading and concealed, among other things, numerous material risks associated with these credit market positions and their impact on the Company's financial condition.

C. Barclays' Statements Regarding Its Exposure to Monoline Insurers

The 2007 Form 20-F stated that "Barclays Capital held assets with insurance protection or other credit enhancements from monoline insurers," and disclosed that "[t]he value of exposure to monoline insurers under these contracts was £1,335 [million] as of year-end 2007." This representation was materially untrue and misleadingly incomplete. For example, the £1,335 million figure materially understated the Company's true monoline exposure. In truth, Barclays was exposed to over £21 billion in assets wrapped by monoline insurers as of year-end 2007, and its credit equivalent exposure to such assets was over $7 billion. Barclays' Form 20-F disclosure materially understated the Company's true exposure to monoline insurers, and thus rendered the

Offering Documents materially false and misleading and concealed, among other things, numerous material risks associated with the Company's monoline exposures and their impact on the Company's financial condition.

Moreover, Barclays' materially incomplete disclosures became misleading by the time of the Offering. As the monoline insurers were downgraded and the fair market value of the assets wrapped by monoline insurers continued to decline during the first quarter of 2008, the "value" of Barclay's monoline exposure more than doubled to £2.8 billion by March 31, 2008. Likewise, Barclays' failed to disclose that it had recorded a £59 million writedown on the "value" of its monoline exposures during 2007. The failure to disclose, among other things, these facts and negative trends and their likely impact on Barclays' financial condition rendered the Offering Documents materially untrue and misleading and concealed, among other things, numerous material risks associated with Barclays' monoline exposures and their impact on the Company's financial condition.

D. Statement That Barclays' Financial Instruments Are Measured at Fair Value

The 2007 Form 20-F stated that "[f]inancial instruments entered into as trading transactions, together with any associated hedging, are measured at fair value and the resultant profits and losses are included in net trading income, along with interest and dividends arising from long and short positions and funding costs related to trading activities." *See* 2007 Form 20-F at 48. With respect to whole loans, the 2007 Form 20-F went on to state that:

> The fair value of mortgage whole loans are determined using observable quoted prices or recently executed transactions for comparable assets. Where observable price quotations or benchmark proxies are not available, fair value is determined using cash flow models where significant inputs include yield curves, collateral specific loss assumptions, asset specific prepayment assumptions, yield spreads and expected default rates.

As noted above, these statements were materially untrue and misleading at the time of the Offering because Defendants materially misstated Barclays' credit market exposures as of year-end 2007. Moreover, the Company failed to value its subprime whole loan positions using observable market data like the ABX index and/or recently executed transactions, and instead relied solely upon a discounted cash flow analysis that artificially inflated the value of these positions.

E. <u>Financial Results, Disclosures Regarding Writedowns and Impairment Charges, and Balance Sheet Metrics for Year-end 2007</u>

Defendants' material misstatements regarding Barclays' credit market exposures as of year-end 2007 also led to an overstatement of the total assets and shareholder equity figures reflected in the 2007 Form 20-F. Further, because mark-to-market writedowns to Barclays' credit market exposures flow through to its income statement, the Company's failure to record adequate writedowns on its credit market positions also led to the material overstatement of, among other things, the Company's reported 2007 profit before tax figure of £7,076 million, and Barclays Capital's reported "5% increase in profit before tax to £2,335m."

F. <u>Statements Concerning the Subprime and Credit Market Disruptions</u>

While the 2007 Form 20-F addressed the disruption in the subprime mortgage markets in 2007, it misleadingly suggested that Barclays had successfully navigated through the credit market downturn and had significantly reduced its credit market exposures. As an example, in its discussion of "Wholesale credit risk," the 2007 Form 20-F, states:

> The results of severe disruption in the US sub-prime mortgage market were felt across many wholesale credit markets in the second half of 2007, and were reflected in wider credit spreads, higher volatility, tight liquidity in interbank and commercial paper markets, more constrained debt issuance and lower investor risk appetite. Although impairment and other credit provisions in Barclays Capital rose as a consequence of these difficult market conditions, our risks in these portfolios were identified in the first half and management actions were taken to

> reduce limits and positions. Further reductions and increased hedging through the rest of the year continued to bring net positions down and limited the financial effect of the significant decline in market conditions. Our ABS CDO Super Senior positions were reduced during the year and our remaining exposure reflected netting against writedowns, hedges, and subordination. At the end of the year, market conditions remained difficult with reduced liquidity in cash and securitised products, and reflected stress at some counterparties such as monoline insurers.

In discussing purported trends for 2008, Barclays discussed the broader economic environment in general, but did not specifically reference the impact those economic conditions were to have on the Company's financial condition:

> Going into 2008, the credit environment reflects concern about weakening economic conditions in our major markets. Credit spreads and other indicators signal that the credit cycle has changed after a long period of stability. We expect some deterioration in credit metrics as default probabilities move toward their medium-term averages. This environment has led to a more cautious approach to credit assessment, pricing and ongoing control in the financial industry, which we believe will continue through the year.

Furthermore, Barclays claimed that with respect to the second half of 2007, "Exposures relating to US subprime were actively managed and declined over the period." These statements and others were materially untrue and misleading because, among other things, Barclays' writedowns and impairment charges were materially misstated, and its credit market positions were materially misstated, as of year-end 2007. The disclosed writedowns and impairment charges were also materially misleading because, while the 2007 Form 20-F notes that such charges were offset by "£658m [in] gains arising from the fair valuation of notes issued by Barclays Capital," it failed to disclose that Barclays also netted these writedowns against more than £700 million in interest and other income earned on these assets. Moreover, Barclays failed to disclose the likely impact of this current and anticipated trend on its future financial condition – or the fact that the continued downturn in the mortgage market had already negatively impacted its first quarter 2008 performance by the time of the Offering. The failure to make such disclosures rendered the Offering Documents materially untrue and misleading and concealed, among other things, numerous material risks associated with these credit market positions and their continuing impact on the Company's financial condition. Moreover, hedging activity against Barclay's credit market exposures were acknowledged by senior management as being ineffective and the overall credit market exposure to U.S. subprime had not decreased in 2007, but increased.

Similarly, the 2007 Form 20-F's disclosure that "[t]he profitability of Barclays businesses could be adversely affected by a worsening of general economic conditions in the United Kingdom, globally or in certain individual markets such as the US or South Africa," and that a market downturn could "adversely affect the credit quality of Barclays . . . assets" or "cause the Group to incur mark to market losses on its trading portfolios" was materially misleading. By the time of the Offering, these risks had already materialized, the credit quality of its assets had declined markedly and the Company had already internally recorded billions of dollars in undisclosed mark-to-market losses on its credit market positions. Barclays' failure to disclose these facts, among other things, rendered the Offering Documents materially misleading and concealed, among other things, numerous material risks associated with these credit market positions and their impact on the Company's financial condition.

G. Statements Concerning Barclays' Capital Position and RWAs

The 2007 Form 20-F also contained a series of materially misleading statements regarding the Company's capital position and RWAs. For example, the Company reported a Basel II Tier 1 capital ratio of 7.6%, Basel II Equity Tier 1 ratio of 5.1%, and total RWAs of £353.476 billion. In addition, with respect to Barclays Capital, the 2007 Form 20-F disclosed that "[r]isk weighted assets increased 23% to £169.1bn . . . reflecting growth in fixed income, equities and credit derivatives." Additionally, the 2007 Form 20-F discussed Barclays' "internal targets for its key capital ratios," which purportedly accounted for "[p]ossible volatility of reported profits and other capital resources compared with forecast."

These representations were materially misleading because, unbeknownst to investors, the growth in RWAs in 2007 was due, in large part, to the impact of the mortgage meltdown on the Company's credit market positions. In addition, Barclays Capital's RWAs had increased dramatically in the months prior to the Offering, and was negatively impacting the Company's capital position at the time of the Offering. In fact, by the time of the Offering, among other things: (i) Barclays Capital would be unable to meet its RWA target for year-end 2008; (ii) the FSA had already informed the Company that it expected Barclays' equity Tier 1 ratio to meet its internal target of 5.25% by year-end 2008; and (iii) as a result, the Company was already discussing the need to raise further capital in 2008 in addition to the capital raised in the Offering by way of further equity offerings. None of these facts were disclosed to investors in the Offering.

Defendants' failure to disclose these material facts and negative trends, among others, rendered the Offering Documents materially false and misleading and concealed, among other things, Barclays' growing unbudgeted RWAs, declining Tier 1 equity ratio and Tier 1 capital ratios, and the material fact that Barclays would need to raise additional capital in the months following the Offering.

H. Statements Regarding Barclays' Risk Management Practices

As set forth in the Complaint, the 2007 Form 20-F represented that Barclays "actively manages its credit exposures and when weakness in exposures are detected – either in individual exposures or in groups of exposures – action is taken to mitigate risk." This statement was materially untrue and misleading because, among other things, rather than actively managing Barclays' subprime risks in 2007 as the credit markets deteriorated: (i) Barclays fired the traders and executives responsible for managing the Company's subprime and Alt-A risks, (ii) there was no trader in charge of the subprime and other credit market positions that were responsible for the Company's 2007 writedowns and impairments several months prior to and following year-end 2007, and (iii) instead of seeking to divest Barclays' subprime risks, the Company's executives embarked upon a strategy to "portfolio" certain of these positions – *i.e.,* rather than reducing its exposure to certain subprime positions, Barclays merely transferred the positions to the Company's banking book in an effort to avoid marking them at fair value.

INTERROGATORY NO. 2:

With respect to each statement identified in Your response to Interrogatory No. 1, identify (a) each individual whom You contend subjectively disbelieved the statement, and (b) for each such individual, all facts and evidence that You rely on to support Your contention that the individual subjectively disbelieved the statement.

RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs object to this Interrogatory to the extent that it seeks information that is not relevant to the claims or defenses of any party, or reasonably calculated to lead to the discovery of admissible evidence. Specifically, Plaintiffs are not required to prove that one or more Defendants subjectively disbelieved each and every statement identified in response to Interrogatory No. 1 in order to establish the Defendants' liability under the Securities Act of 1933. Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify each and every individual who Plaintiffs contend subjectively disbelieved each and every statement set forth in Plaintiffs' response to Interrogatory No. 1, and all facts and evidence supporting this contention. Nor is such disclosure required, *inter alia*, because many of the alleged misstatements were not opinions, and given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiffs object to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33.

Subject to and without waiver of the foregoing objections, Plaintiffs refer Defendants to their responses and objections to Interrogatory No. 1 set forth herein. By way of further response, Plaintiffs state the following:

To the extent that Plaintiffs are required to prove that any individual subjectively disbelieved any of the materially false or misleading statements contained in the Offering Documents, including, but not limited to, Barclays' valuations of its credit market provisions as of year-end 2007, Plaintiffs contend that Barclays' officers, directors, executives and employees, including but not limited to the following individuals, were aware of the falsity of those statements: Marcus Agius, David G. Booth, Sir Richard Broadbent, Richard Leigh Clifford, Fulvio Conti, Daniel Cronje, Dame Sandra J.N. Dawson, Robert Edward Diamond, Jr., Gary A. Hoffman, Sir Andrew Likierman, Dr. Christopher Lucas, Sir Nigel Rudd, Stephen George Russell, Frederik Seegers, John Michael Sunderland, John Silvester Varley, Rich Ricci, Paul Menefee, Michael Wade, Adam Godden, John Kreitler, John Carroll, Tom Hamilton, Vincent Balducci, Stephen King, Sean Teague, Richard Landreman, Nick Lambert, Joseph Kaczka, Christopher Kraus, Eric Bommensath, Grant Kvalheim, Michael Keegan, Keith Harding, Patrick Clackson, Paul Copson, Eric Yoss, Tom McCosker, James Walker, Gavin Chapman, and Marcus Morton.

INTERROGATORY NO. 3:

Identify (a) each fact that You contend was omitted from the Offering Documents and whose omission You contend rendered the Offering Documents materially false or misleading, and (b) for each such fact, all facts and evidence You rely on to support Your contention that the omission of such fact rendered the Offering Documents materially false or misleading.

RESPONSE TO INTERROGATORY NO. 3:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that: (i) it seeks disclosure of "each fact" and "all facts and evidence" supporting Plaintiffs' claims; (ii) the information sought to be disclosed was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) it seeks the disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time every fact that Plaintiffs contend was omitted from the Offering Documents and all facts and evidence supporting their contention that the omission of such fact rendered the Offering Documents materially false and misleading. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiffs object to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 2 set forth herein. By way of further response, Plaintiffs contend that the omission of the following material facts, among others, caused the Offering Documents to be materially false and misleading.

A. Failure to Disclose Material Facts Concerning Barclays' Credit Market Exposures

As set forth more fully in Plaintiffs' response to Interrogatory No. 1, the Offering Documents were materially false and misleading because Defendants failed to disclose material facts concerning Barclays' credit market exposures, including, among other things, the Company's gross credit market exposures, gross writedowns and charges, notional and credit equivalent exposure to monoline insurers and writedowns on these monoline exposures, the amount of Barclays' exposures to each of the asset classes wrapped by monoline insurers (e.g., ABS CDO super senior positions, CLOs, etc.), and the components of its "other" subprime exposures and writedowns recorded on these exposures. In addition, Defendants failed to disclose that Barclays was not marking its leveraged loan portfolio to market, and failed to disclose certain subprime and mortgage-related positions residing in the Company's Portfolio Management banking book. Furthermore, the Offering Documents failed to disclose the portion of Defendants' credit market exposures which were not marked to fair value because they were classified as loans and receivables, including portions of the Company's whole loan portfolio, and when such assets were classified as loans and receivables.

B. Failure to Disclose First Quarter 2008 Developments and Negative Trends Concerning Barclays' Subprime Credit Market Exposures

As set forth more fully in Plaintiffs' response to Interrogatory No. 1, the Offering Documents were materially false and misleading because Defendants failed to disclose numerous material facts and negative trends concerning Barclays' credit market exposures that materialized between year-end 2007 and the time of the Offering, including, among other things, the large first quarter writedowns internally booked on these assets, the rapidly deteriorating credit quality of these assets, and the likely impact of these negative facts and trends on the Company's financial condition. The failure to disclose these material facts and trends, among other things, concealed material risks associated with these credit market positions and Barclays' financial condition.

C. Failure to Disclose Material Growth in RWAs and Materially Declining Capital and Equity Ratios

As set forth more fully in Plaintiffs' response to Interrogatory No. 1, the Offering Documents were materially false and misleading because Defendants failed to disclose material facts, negative trends and risks concerning Barclays' materially growing RWAs and declining capital and equity ratios, which existed at the time of the Offering. These material facts, negative trends and risks include, among other things, Barclays' and Barclays Capital's rising RWAs prior to the Offering and the negative impact of these RWAs on the Company's Tier 1 capital and Tier 1 equity ratios, the Company's inability to reduce Barclays Capital's RWAs in order to meet internal capital and equity ratios, the FSA's indication prior to the Offering that Barclays would need to raise its equity Tier 1 equity ratio to 5.25% by year-end 2008, the internal efforts to reduce RWAs and the likely impact of such reductions on Barclays' profitability, and the need to raise additional capital following the Offering to offset the Company's growing RWAs. The failure to make these disclosures concealed material risks regarding, among other things, Barclays' financial position and capital needs.

INTERROGATORY NO. 4:

Identify all facts and evidence that You rely on to support Your allegation in Paragraph 12 of the Complaint that "[t]he evidence demonstrating that defendants over-valued Barclays' assets was objectively verifiable, known to defendants, and directly tied to Barclays' assets," including but not limited to the specific "assets" to which that paragraph refers and the "objectively verifiable" evidence to which that paragraph refers.

RESPONSE TO INTERROGATORY NO. 4:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 4. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiffs object to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1 and 2.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 2 set forth herein.

INTERROGATORY NO. 5:

Identify all facts and evidence that You rely on to support Your contention in Paragraph 135(a) of the Complaint that "Barclays knowingly failed to properly write down its exposure to U.S. subprime and Alt-A mortgages, CDOs, monoline insurers and RMBS in accordance with applicable accounting standards, and failed to adequately disclose the risks posed by these assets," including but not limited to the amount by which You contend that Barclays "failed to properly write down its exposure" to each listed asset class.

RESPONSE TO INTERROGATORY NO. 5:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays

Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 5. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiff objects to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1, 2 and 4.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 2 set forth herein.

INTERROGATORY NO. 6:

Identify all facts and evidence that You rely on to support Your contention in Paragraph 135(c) of the Complaint that "Barclays failed to disclose the substantial and material risk that the Company's U.S. subprime and Alt-A exposure had on its stated capital ratio, shareholder's equity and the risk that the same posed to the Company's future capital ratio and liquidity."

<u>RESPONSE TO INTERROGATORY NO. 6</u>:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 6. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiff objects to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1 and 3.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 3 set forth herein.

<u>INTERROGATORY NO. 7</u>:

Identify all facts and evidence that You rely on to support Your contention in Paragraph 135(d) of the Complaint that the "Company's failure to disclose and comply" with items identified in Paragraph 135 "was in contravention of Barclays' stated risk management policies and public recommendations," including but not limited to the specific "stated risk management policies and public recommendations" to which that paragraph refers and the manner in which You contend that Barclays contravened such policies and recommendations.

<u>RESPONSE TO INTERROGATORY NO. 7</u>:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 7. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiff objects to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1 and 3.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 3 set forth herein.

INTERROGATORY NO. 8:

Identify all facts and evidence that you rely on to support your contention in paragraph 184 of the complaint that "Barclays' writedowns of its risky assets contained in the 2007 20-F were knowingly or recklessly inadequate," including but not limited to the extent to which you contend that such "writedowns" were "inadequate."

RESPONSE TO INTERROGATORY NO. 8:

Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 8. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by

Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiff objects to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1 and 2.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 2 set forth herein.

INTERROGATORY NO. 9:

Identify all statements in the Offering Documents or in Barclay's Financial Statements that you contend violated any applicable accounting rules or principles, including but not limited to (a) the specific statements that you contend violated those rules or principles, (b) the accounting rules or principles that you contend were violated and the manner in which they were violated, and (c) all facts and evidence that you rely on to support these contentions.

RESPONSE TO INTERROGATORY NO. 9:

Plaintiffs object to the use of the term "Financial Statements" in this Interrogatory, as defined by the Barclays Defendants, on the grounds that such term it is so vague and ambiguous as to render a meaningful response not possible, is so broad as to comprise information not relevant to the parties' claims and defenses, or reasonably likely to lead to the discovery of admissible evidence, and would impose upon Plaintiffs an undue burden in responding to this Interrogatory. Plaintiffs object to this Interrogatory as overbroad and unduly burdensome to the extent that it seeks: (i) disclosure of "all statements" and "all facts and evidence" supporting Plaintiffs' claims; (ii) information that was pled in the Complaint and, thus, is known to the Barclays Defendants, or is otherwise within Defendants' possession, custody and control; and (iii) disclosure of information beyond that required by the Federal and Local Rules and applicable caselaw. Plaintiffs further object to this Interrogatory on the grounds that it is premature, as fact discovery is ongoing. *See* Pretrial Order (Dkt. #126). Plaintiffs also object to this Interrogatory on the grounds that it calls for the disclosure of information that is the subject of expert testimony at a time when expert discovery has not yet commenced. *Id.*

Accordingly, it would be unduly burdensome for Plaintiffs to identify at this time all facts and evidence supporting the contention set forth in Interrogatory No. 8. Nor is such disclosure required, particularly given that much of the evidence supporting Plaintiffs' claims is within the Barclays Defendants' possession, custody or control, including but not limited to Barclays' public statements and filings with the SEC, the documents produced in this Action by Defendants and third parties, the deposition testimony obtained in this Action and the documents marked as exhibits at those depositions, to which the Barclays Defendants have equal access. Furthermore, Plaintiff objects to this request to the extent that it exceeds the 25-interrogatory limit (including subparts) under FED. R. CIV. P. 33. Plaintiffs also object to this Interrogatory on the grounds that it is subsumed within and therefore duplicative of Interrogatory Nos. 1 and 2.

Subject to and without waiver of the foregoing objections, Plaintiffs refer the Barclays Defendants to their responses and objections to Interrogatory Nos. 1 and 2 set forth herein.

INTERROGATORY NO. 10:

Identify the date and amount of every dividend payment that You have received with respect to Series 5 ADS.

RESPONSE TO INTERROGATORY NO. 10:

Plaintiffs object to this Interrogatory on the grounds that it calls for the disclosure of information that is neither relevant to either party's claims or defenses, nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs further object to this Interrogatory as unduly burdensome the extent that the information sought is within the Barclays Defendants' possession, custody and control, and was the subject of the Barclays Defendants' questioning at the deposition of Lead Plaintiff Askelson in this matter.

Subject to and without waiver of the foregoing objection, Lead Plaintiff Askelson responds as follows:

DATE	AMOUNT OF DIVIDEND
June 15, 2008	$879.00
September 15, 2008	$1,219.00
December 15, 2008	$1,229.68
March 15, 2009	$1,219.39
June 15, 2009	$1,218.75
September 15, 2009	$1,218.75
December 15, 2009	$1,218.75
March 15, 2010	$1,218.75
June 15, 2010	$1,218.75
September 15, 2010	$1,218.75
December 15, 2010	$1,218.75
March 18, 2011	$1,218.75
June 2011	$1,218.75
September 2011	$1,218.75
December 2011	$1,218.75
March 2012	$1,218.75
June 2012	$1,218.75
September 2012	$2,229.30
December 2012	$2,617.27
March 2013	$2,617.27
June 2013	$2,616.76
September 2013	$2,616.76
December 2013	$2,616.76
March 2014	$2,616.76
June 2014	$2,616.76
September 2014	$2,616.76
December 2014	$2,616.76
March 2015	$2,616.76
June 2015	$2,616.76
September 2015	$2,616.76

Subject to and without waiving the foregoing objections, Lead Plaintiff Fait responds as follows:

Refer to the documents produced to date by Lead Plaintiff Fait, Bates nos. BARC-AF-0000001-17. Mr. Fait believes he received all dividends he was entitled to receive during the time he owned Series 5 ADS.

Dated: November 16, 2015

KESSLER TOPAZ
MELTZER & CHECK, LLP

/s/ Sharan Nirmul
Sharan Nirmul

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Co-Lead Counsel for Lead Plaintiffs

DECLARATION OF SERVICE BY E-MAIL

I, Kevin S. Sciarani, not a party to the within action, hereby declare that on November 16, 2015, I served the attached LEAD PLAINTIFFS' OBJECTIONS AND RESPONSES TO THE BARCLAYS DEFENDANTS' FIRST SET OF INTERROGATORIES on the parties in the within action by e-mail addressed as follows:

COUNSEL FOR DEFENDANTS:

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I declare under penalty of perjury that the foregoing is true and correct. Executed on November 16, 2015, at San Diego, California.

KEVIN S. SCIARANI

EXHIBIT 227

KESSLERTOPAZ MELTZERCHECK LLP
ATTORNEYS AT LAW

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Please reply to the Radnor Office

July 22, 2016

VIA E-MAIL

Michael T. Tomaino Jr., Esq.
Sullivan & Cromwell LLP
125 Broad Street
New York, New York 10004-2498

Scott D. Musoff, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, New York 10036

Re: *In re Barclays Bank PLC Securities Litigation*, No. 09-CV-1989

Dear Counsel:

As discussed during our meet and confer on Friday, July 15, 2016, set forth below are the statements and/or omissions that Plaintiff currently intends to pursue at trial. Plaintiff provides this information without waiver as to his right to modify this list in accordance with the procedures for pre-trial submissions set forth in the Court's pre-trial orders.

Plaintiff currently intends to prove at trial in this matter that each of the following statements made by Defendants in the Annual Report of Barclays PLC and Barclays Bank PLC filed on Form 20-F on March 26, 2008 with the SEC and incorporated by reference in the Prospectus Supplement filed with the SEC on Form 424B5 on or about April 8, 2008 ("Offering Materials") was an untrue statement of a material fact or each such statement omitted to state material facts required to be stated therein or necessary to make it not misleading:

- At page 4: Barclays delivered profit before tax of £7,076m. Earnings per share were 68.9p and we increased the full year dividend payout to 34p, a rise of 10%. Income grew 7% to £23,000m. Growth was well spread by business, with strong contributions from International Retail and Commercial Banking, Barclays Global Investors and Barclays Wealth. Net income, after impairment charges, grew 4% and included net losses of £1,635m relating to credit market turbulence, net of £658m of gains arising from the fair valuation of notes issued by Barclays Capital and settlements on overdraft fees in relation to prior years of £116m in UK Retail Banking. Impairment charges and other credit provisions rose 30% to £2,795m. Impairment charges relating to US sub-prime mortgages and other credit market exposures were £782m.

- At page 5: At 31st December 2007, our Basel I Tier 1 Capital ratio was 7.8% (2006: 7.7%). We started managing capital ratios under Basel II from 1st January 2008. Our Basel II Tier 1 Capital ratio was 7.6%. Our Equity Tier 1 ratio was 5.0% under Basel I (2006: 5.3%) and 5.1% under Basel II.

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- At page 5: Barclays Capital delivered a 5% increase in profit before tax to £2,335m. Net income was ahead of last year, reflecting very strong performances in most asset classes including interest rates, currencies, equity products and commodities. Results also included net losses arising from credit market turbulence of £1,635m net of gains from the fair valuation of issued notes of £658m.

- At page 7: Barclays' disclosure of total RWAs of £353.476 billion.

- At page 25: The US sub-prime driven market dislocation affected performance in the second half of 2007. Exposures relating to US sub-prime were actively managed and declined over the period. Barclays Capital's 2007 results reflected net losses related to the credit market turbulence of £1,635m, of which £795m was included in income, net of £658m gains arising from the fair valuation of notes issued by Barclays Capital. Impairment charges included £840m against ABS CDO Super Senior exposures, other credit market exposures and drawn leveraged finance underwriting positions.

- At page 40: Barclays Capital total assets rose 28% to £839.7bn (2006: £657.9bn). Derivative assets increased £109.3bn primarily due to movements across a range of market indices. This was accompanied by a corresponding increase in derivative liabilities. The increase in non-derivative assets reflects an expansion of the business across a number of asset classes, combined with an increase in drawn leveraged loan positions and mortgage-related assets. Risk weighted assets increased 23% to £169.1bn (2006: £137.6bn) reflecting growth in fixed income, equities and credit derivatives.

- At page 43: At 31st December 2007, the Tier 1 capital ratio was 7.8% and the risk asset ratio was 12.1%. From 31st December 2006, total net capital resources rose £7.9bn and risk weighted assets increased £55.6bn. Tier 1 capital rose £4.4bn, including £2.3bn arising from profits attributable to equity holders of the parent net of dividends paid.

- At page 49: Other US sub-prime whole loan and net trading book exposure was £5,037m (30th June 2007: £6,046m). Whole loans included £2,843m (30th June 2007: £1,886m) acquired since the acquisition of EquiFirst in March 2007, all of which were subject to Barclays underwriting criteria. As at 31st December 2007 the average loan to value of these EquiFirst loans was 80% with less than 3% at above 95% loan to value. 99% of the EquiFirst inventory was first lien.

- At page 51: Upon an event of default or other triggering event, the Group may acquire control of a CDO and, therefore, be required to fully consolidate the vehicle for accounting purposes. The potential for transactions to hit default triggers before the end of 2008 has been assessed and included in the determination of impairment charges and other credit provisions (£782m in relation to ABS CDO Super Senior and other credit market exposures for the year ended 31st December 2007).

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- At page 53: Net exposure to the Alt-A market was £4,916m (30th June 2007: £3,760m), through a combination of securities held on the balance sheet including those held in consolidated conduits and residuals.

- At page 53: Barclays Capital Credit Market Positions.

- At page 53: Table on page 53.

- At page 53: ABS CDO Super Senior net exposure was £4,671m (30th June 2007: £7,432m). Exposures are stated net of writedowns and charges of £1,412m (30th June 2007: £56m) and hedges of £1,347m (30th June 2007: £348m). The collateral for the ABS CDO Super Senior exposures primarily comprised Residential Mortgage Backed Securities. 79% of the RMBS subprime collateral comprised 2005 or earlier vintage mortgages. On ABS CDO super senior exposures, the combination of subordination, hedging and writedowns provide protection against loss levels to 72% on US sub-prime collateral as at 31st December 2007. None of the above hedges of ABS CDO Super Senior exposures as at 31st December 2007 were held with monoline insurer counterparties.

- At page 53: Exposures in our commercial mortgage backed securities business comprised commercial real estate loans of £11,103m (30th June 2007: £7,653m) and commercial mortgage backed securities of £1,296m (30th June 2007: £629m).

- At page 53: At 31st December 2007, drawn leveraged finance positions were £7,368m (30th June 2007: £7,317m). The positions were stated net of fees of £130m and impairment of £58m driven by widening of corporate credit spreads.

- At page 53: Barclays Capital held assets with insurance protection or other credit enhancement from monoline insurers. The value of exposure to monoline insurers under these contracts was £1,335m (30th June 2007: £140m). There were no claims due under these contracts as none of the underlying assets were in default.

- At page 53: Barclays Capital credit market exposures resulted in net losses of £1,635m in 2007, due to dislocations in the credit markets. The net losses primarily related to ABS CDO super senior exposures, with additional losses from other credit market exposures partially offset by gains from the general widening of credit spreads on issued notes held at fair value.

- At page 53: Barclays Capital held other exposures impacted by the turbulence in credit markets, including: whole loans and other direct and indirect exposures to US sub-prime and Alt-A borrowers; exposures to monoline insurers; and commercial mortgage backed securities. The net losses in 2007 from these exposures were £823m.

- At page 53: Loans and advances to customers included £152m (30th June 2007: £692m) of drawn liquidity facilities in respect of SIV-lites. Total exposure to other structured investment vehicles, including derivatives, undrawn commercial paper backstop facilities and bonds held in trading portfolio assets was £590m (30th June 2007: £925m).

- At page 65: The results of severe disruption in the US sub-prime mortgage market were felt across many wholesale credit markets in the second half of 2007, and were reflected in wider credit spreads, higher volatility, tight liquidity in interbank and commercial paper markets, more constrained debt issuance and lower investor risk appetite. Although impairment and other credit provisions in Barclays Capital rose as a consequence of these difficult subprime market conditions, our risks in these portfolios were identified in the first half and management actions were taken to reduce limits and positions. Further reductions and increased hedging through the rest of the year continued to bring net positions down and limited the financial effect of the significant decline in market conditions. Our ABS CDO Super Senior positions were reduced during the year and our remaining exposure reflected netting against writedowns, hedges, and subordination. At the end of the year, market conditions remained difficult with reduced liquidity in cash and securitised products, and reflected stress at some counterparties such as the monoline insurers.

- At page 78: The Group actively manages its credit exposures and when weaknesses in exposures are detected – either in individual exposures or in groups of exposures – action is taken to mitigate the risks. These include steps to reduce the amounts outstanding (in discussion with the customers, clients or counterparties if appropriate), the use of credit derivatives and, sometimes, the sale of the loan assets.

Plaintiff currently intends to prove at trial in this matter that the Offering Materials omitted to state the following material facts that were required to be stated therein or were necessary to make the above statements not misleading:

- The notional amount of credit market positions wrapped by monolines (e.g., ABS CDO, CLOs, CMBS).

- The gross losses, writedowns and charges on credit market positions.

- The material increase in losses and writedowns on credit market positions, including Alt-A and Whole Loan positions for Q12008.

- That a material portion of Defendants' credit market positions were not marked to fair value because they were classified as loans and receivables.

- Material facts, negative trends and risks concerning Barclays' growing RWAs and declining capital and equity ratios.

- Material subprime and mortgage-related positions residing in Barclays' Portfolio Management banking book.

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- Material credit market positions wrapped by monoline and non-monoline insurers through negative basis trades.
- Materials facts under all applicable rules and regulations, including, but not limited to, Item 303, Item 503, IAS 10, and IFRS 7.

We are available next week to continue our discussions regarding the scope of summary judgment briefing.

Sincerely,

Sharan Nirmul

cc: All Counsel of Record (via e-mail)

EXHIBIT 228

FILED UNDER SEAL

EXPERT REPORT

Of

D. PAUL REGAN CPA/CFF, CFE

In re BARCLAYS BANK PLC SECURITIES LITIGATION.

Case No. 1:09-cv-01989-PAC

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

TABLE OF CONTENTS

I. INTRODUCTION

A. THE NATURE OF MY ASSIGNMENT

1. I have been retained through my employer, Hemming Morse, LLP, Certified Public Accountants and Forensic Consultants ("HM"), on behalf of Lead Plaintiff Dennis Askelson, and all others similarly situated, in the above-referenced matter by their class counsel, Robbins Geller Rudman & Dowd LLP and Kessler Topaz, Meltzer & Check LLP. My retention is to provide testimony as to whether the impacts of "significant disruption to the credit markets" beginning in the second half of 2007[1] encountered by Barclays PLC, together with Barclays Bank PLC ("Barclays" or "the Company"), required Barclays to enhance its disclosures in order to comply with International Financial Reporting Standards ("IFRS") and reporting rules established by the Securities and Exchange Commission ("SEC Rules") within its:
   a. 2007 Annual Report on Form 20-F as originally filed with the SEC on March 26, 2008 ("2007 Annual Report"); and
   b. As disclosed or incorporated by reference in the Company's Supplemental Prospectus on Form 424B filed with the SEC on April 8, 2008 ("April 2008 Prospectus").

B. EVIDENCE CONSIDERED AND PROFESSIONAL STANDARDS APPLIED

2. As a testifying expert providing consulting services, I am bound by professional standards, including the duty to act with integrity and objectivity. Consistent with those requirements, my opinions, which are expressed throughout this expert report, are my present opinions and are based on the information I have considered to date. These opinions are further based on my knowledge, training, education, and experience, as well as the various evidence cited in this report. This evidence is of the type that would ordinarily be relied on by an expert in accounting related matters. During this engagement, I have considered certain documents. These documents are identified in **Exhibit B**.[2]

3. This report should not be construed as expressing opinions on matters of law, which are outside my expertise and are for the Court to determine. However, to the extent I have interpreted contracts, court cases, or other evidence, these interpretations necessarily reflect my understanding thereof from an accounting perspective.

4. In my work I have been assisted by others in my firm who have acted under my direction and control.[3] However, the opinions in this report are my own. I recognize that I am an expert witness, not a witness of fact. My understanding of the relevant facts comes

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[1] 2007 Annual Report on Form 20-F, p. 123.

[2] Counsel provided me with access to an electronic database, which I understand includes all discovery in this matter, as well as testimony and related exhibits. Each of the documents that I have relied upon is referenced in this Expert Report.

[3] As used herein, other than references to my education and experience, "I" and "We" shall mean either me personally or those HM personnel under my supervision. Likewise, "My," "Our," and "Us" shall refer to actions taken by me personally or by those HM personnel under my supervision.

primarily from the documents and testimony which I have considered.

5. I understand that this report may be made available to other parties in this litigation, to their counsel and experts, as well as to the Court. It has been prepared for use in this action. In all other respects, this report is confidential. It should not be used, reproduced or circulated for any other purpose, in whole or in part, without my prior written consent.

6. HM is being compensated for my services at $715 per hour, in accordance with its retention agreement in this matter. This compensation is not contingent on the outcome of this matter. As discovery in this case is ongoing as of the date of my expert report, my work on this matter is continuing and my opinions may be amended or supplemented as a result of additional study by me or additional information learned prior to or at trial. At trial, I may use exhibits referenced in this expert report, graphics illustrating concepts discussed in this expert report and other demonstratives or summarizing exhibits.

C. QUALIFICATIONS

7. I am a Certified Public Accountant, licensed in the State of California, and Chairman of HM, an accounting firm with more than 100 employees. My work in the accounting profession includes experience as an auditor and as a consultant. My expert qualifications, including my testimony in the last four years and the publications I have authored, are described in **Exhibit A** hereto.

8. I have been a Certified Public Accountant for more than 40 years. During this time I have both supervised and participated in audits of public companies. I have served on boards of directors of public companies, and non-profit entities. I have also served on audit committees of public companies and non-profit entities. I served as the engagement partner or concurring partner on more than 100 audits between 1975 and 1995. The largest engagement that I supervised was the audit of a public company with more than 100 subsidiaries operating throughout the world. Personnel in more than 20 offices participated in that audit and performed audit procedures in various cities in the United States, United Kingdom, Brazil, Hong Kong, Singapore, Germany and Japan.

9. I have also provided accounting and/or auditing consulting services on more than 750 complex litigation matters. Many of these have required an extensive analysis and application of relevant U.S. Generally Accepted Auditing Standards ("GAAS"), Public Company Accounting Oversight Board ("PCAOB") Standards, GAAP and SEC Rules. These cases have also frequently involved, among other matters, GAAP issues and damage determination. I have also testified on accounting issues where the accounting standards were Canadian GAAP, UK GAAP, Australian GAAP and Korean GAAP. My testimony has involved evaluations and implementation of SEC reporting requirements, including disclosures pertaining to Management's Discussion and Analysis. I have performed these analyses and provided testimony for clients that include large and small companies in the private sector, public accounting firms, as well as for various states and federal agencies (e.g., FDIC, SEC, and PCAOB).

10. My experience includes the review of financial records of entities across a diverse range of industries, including banking, real estate, financial services, high technology, pharmaceutical, distribution and consumer products companies. My consulting and/or

expert witness experience has involved companies with operations in multiple locations in the United States, as well as in many other countries. The companies whose financial statements I have analyzed in connection with this work include, for example: Enron, Countrywide Financial, Lehman Brothers, New Century Financial, Fannie Mae, DeLorean Motor Company, Xerox, Phar-Mor, and Parmalat. There have been many other matters in which I have testified about accounting and GAAP related issues, including those involving the following financial institutions:

Bank of America	Farmers Savings Bank
Amerifirst Bank	San Jacinto Savings Association
Chemical Bank	Central Bank and Trust Co.
Pima Federal	New Century Bank
Sierra Mortgage	Fidelity Bancshares, Inc.
Bum Bright Bank	Matrix Bankcorp, Inc.
University Savings Association	Freddie Mac

11. From 1976 through today I have testified and been accepted as an expert in more than 125 trials and arbitrations and given more than 225 depositions. These cases were generally in state and federal courts.

12. I am a member of the California Society of Certified Public Accountants ("CalCPA"). I have served on its statewide Litigation Services Steering Committee since 1990 and I was its Chair during 2002 / 2004. This Steering Committee provides guidance to the more than 800 members of its four Operating Sections - (1) Business Valuation, (2) Economic Damages, (3) Fraud and (4) Family Law. For two and one-half years (through August of 1998), I was Chair of its 250 member Economic Damages Section. I served as Chair of the 28,000-member CalCPA during 2004 / 2005 and in 2009 received CalCPA's Distinguished Service Award.

13. I am a member of the American Institute of Certified Public Accountants ("AICPA"). The AICPA had a national Forensic and Litigation Services Committee ("FLSC") (formerly the Litigation and Dispute Resolution Subcommittee). From 1998 until July of 2001, I served as one of the nine members of this national committee. The FLSC oversaw and provided guidance to the AICPA's 340,000 members relating to litigation consulting and dispute resolution. The FLSC also provided guidance and supervision to its subcommittees, which includes the subcommittee on Economic Damages. I served as Chairperson of the subcommittee on Economic Damages from 1999 to July 2001.

14. From October 2003 until October 2011, I was a member of the AICPA's Governing Council. Under Rule 203 of the Code of Professional Conduct of the AICPA, its Council is the body which has the authority to designate which accounting principles constitute GAAP. In May of 2008, after a period of study and analyses of IFRS accounting provisions, including a comparison of the principle differences between U.S. GAAP and IFRS, the AICPA Council amended Rule 203 to give AICPA members the option to include IFRS as GAAP, as an alternative to U.S. GAAP. I was among the members of Council that evaluated and voted for that amendment.

15. From August 2008 until October 2011, I served on the AICPA's Forensic and Valuation Services Executive Committee. This nine-person committee is the AICPA's standards setting body for CPAs performing forensic and valuation services. I have also been designated by the AICPA as a CFF ("Certified in Financial Forensics").

II. SUMMARY OF OPINIONS

16. In connection with this assignment, I have reached the following opinions:

    a. Barclays failed to disclose material losses and related asset impairments recognized after the reporting period within its 2007 Annual Report and its April 2008 Prospectus in violation of SEC Rules and IFRS.

    b. Barclays omitted known risk trends and loss events that were evident to management and materially affected the Company's future results of operations in its 2007 Annual Report and April 2008 Prospectus in violation of SEC Rules.

17. These opinions and other information presented in the accompanying exhibits are my present opinions. They are held with a reasonable degree of certainty. Amendments or supplements to this report and its accompanying exhibits may be required because of developments prior to or at trial, including, but not limited to, the discovery of new evidence, expert discovery, and the testimony of any other witnesses in deposition or at the trial.

III. BACKGROUND

A. BARCLAYS

18. Barclays PLC Group is a major global financial services business operating in Europe, North America, Africa, Asia and other parts of the world. [4] It provides retail and commercial banking, credit cards, investment banking, wealth management and investment management services.[5] Barclays operates through the following seven business segments: (1) UK Banking, (2) Barclaycard, (3) International Retail and Commercial Banking, (4) Barclays Capital, (5) Barclays Global Investors, (6) Barclays Wealth, and (4) Head Office and other operations.[6]

19. Of particular relevance to matters discussed herein, Barclays Capital provides the Company's investment banking services, including finance and risk management products. Barclays Capital's product offerings consist of the following activities:[7]

    a. *Credit related offerings* - primary and secondary activities for loans and bonds for investment grade, high yield and emerging market credit, as well as hybrid capital

[4] 2007 Annual Report on Form 20-F, p. 110 and 115.

[5] *Id.* at 115.

[6] *Id.* at p. 247.

[7] *Id.* at p. 25.

products, asset based finance, mortgage backed securities, credit derivatives, structured capital markets and large asset leasing;

b. *Rate related offerings* - fixed income, foreign exchange, commodities, emerging markets, money markets, prime services and equity products; and

c. *Private equity offerings.*

20. Barclays, including Barclays Capital, is regulated by several entities including but not limited to, the Financial Services Authority ("FSA"), the SEC, the Financial Institution Regulatory Authority ("FINRA"), the Board of Governors of the Federal Reserve System ("FRB") and the Office of the Comptroller of the Currency ("OCC").[8]

21. During the relevant period, key members of Barclays' executive management and Board of Directors included:

a. *John Varley* - Mr. Varley served as Barclays' Executive Director, Chairman of Executive Committee and Group Chief Executive Officer ("CEO"). Pursuant to the Sarbanes-Oxley Act of 2002, Mr. Varley certified that Barclays' 2007 Annual Report fully complied with relevant IFRS and SEC rules and fairly presented, in all material respects, the Company's financial condition, results of operations and cash flows. Mr. Varley further affirmed that Barclays' 2007 Annual Report did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;[9]

b. *Robert E. Diamond Jr,* - Mr. Diamond served as Barclays' Executive Director, President of Barclays PLC, CEO of the Company's Investment Banking and Investment Management and was a member of Barclays' Executive Committee.[10]

c. *Christopher Lucas* – Mr. Lucas served as Barclays' Executive Director, Group Finance Director and was a member of the Company's Executive Committee. Pursuant to the Sarbanes-Oxley Act of 2002, and consistent with Mr. Varley's assurances, Mr. Lucas certified that Barclays' 2007 Annual Report fully complied with IFRS and relevant SEC rules and fairly presented, in all material respects, the Company's financial condition and results of operations.[11]

d. *Sir Richard Broadbent* – Mr. Broadbent served as Barclays' Senior Independent Director and Chairman of the Board Risk Committee ("BRC"). During the relevant period, the Board Risk Committee was responsible for reviewing the Company's risk profile and approving relevant internal control framework and corresponding control requirements.[12]

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[8] *Id.* at p. 110.

[9] *Id.* at p. 113, Exhibit 12.1 and Exhibit 13.1.

[10] *Id.* at p. 113.

[11] *Id.* at p. 113, Exhibit 12.1 and Exhibit 13.1.

[12] *Id.* at p. 112.

B. International Financial Reporting Standards

22. The National Commission on Fraudulent Financial Reporting stated in 1987:

> *[W]hen a company raises funds from the public, that company assumes an obligation of public trust and a commensurate level of accountability to the public. . . .* ***One of the most fundamental obligations of the public company is the full and fair public disclosure of corporate information, including financial results.***[13] [Emphasis added.]

23. The Securities and Exchange Commission ("SEC") required that Barclays, as a foreign private issuer, present annual financial statements prepared in conformity with US GAAP or IFRS.[14] During the relevant period at issue, Barclays filed its financial statements purporting to comply with IFRS.[15]

24. Accordingly, Barclays' management was responsible for reporting and presenting the Company's financial statements in accordance with IFRS, as published by the International Accounting Standards Board ("IASB"). In this respect, Barclays' Group Chief Executive and Group Finance Director certified to the material presentation of the Company's annual financial statements under IFRS. For example, in Barclays 2007 Annual Report on Form 20-F, Mr. Varley and Mr. Lucas certified that:

> *The Annual Report on Form 20-F for the year ended December 31, 2007 (the "Report") of the Companies* ***fully complies with the requirements of section 13(a) of the Securities Exchange Act of 1934 and information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Companies.***[16] [Emphasis added.]

25. IFRS are intended to provide a single set of high quality, understandable, enforceable and globally accepted financial reporting standards based on clearly articulated principles.[17] These standards require high quality, transparent and comparable information in financial statements and other financial reporting to help investors, other participants in the various capital markets of the world and other users of financial information make economic decisions.[18]

26. To achieve these objectives IFRS establishes recognition, measurement, presentation and

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[13] Report of the National Commission on Fraudulent Financial Reporting, October 1987, p. 5.

[14] SEC Release Nos. 33-8879; 34-57026, International Series Release No. 1306; File No. S7-13-07.

[15] See for example, 2007 Annual Report on Form 20-F, p. 146. Note: In November 2007, the SEC eliminated the requirement of foreign registrants, including Barclays, to reconcile their financial statements with U.S. GAAP, providing they complied with IFRS. As such, Barclays' 2007 Annual Report filed with the SEC, purportedly prepared under IFRS, contained no reconciliation to U.S. GAAP. SEC Release Nos. 33-8879; 34-57026, International Series Release No. 1306; File No. S7-13-07.

[16] 2007 Annual Report on Form 20-F, Exhibit 13.1 906 Certification.

[17] International Financial Reporting Standards, *Preface to International Financial Reporting Standards,* ¶6.

[18] *Id.*

disclosure requirements dealing with transactions and events that are important in general purpose financial statements. These requirements are set forth in various accounting standards, including International Accounting Standards ("IAS"), individual IFRS published by the IASB, and related interpretations published or adopted by the International Financial Reporting Interpretations Committee ("IFRIC") and Standards Interpretation Committee ("SIC").[19]

C. THE CREDIT CRISIS

27. By the end of 2007, what we now know as the "Great Recession," was under way. In November 5, 2007, during the Consumer Bankers Association 2007 Fair Lending Conference in Washington, D.C., Governer Randall S. Kroszner of the Federal Reserve System addressed the "widely known" increase in delinquencies and foreclosures related to subprime mortgages.[20] Governor Kroszner blamed this "sharp rise in payment problems among subprime mortgages" on the loosening of underwriting standards, the practice of "risk-layering"[21] and the use of "piggyback loans"[22] in late 2005 and 2006.[23]

28. The significant decrease in housing prices caused many borrowers to be "under water" and unable to refinance their mortgages.[24] The structuring of non-traditional loans, including adjustable rate and interest only mortgages, further exposed borrowers to significant payment shock upon interest rate reset and/or increased principal payments.[25] Payment shock arising from monthly payment increases of between 25% to 30% typically occurred two years after the origination of many loans and could cause under water homeowners to simply walk-away from the property.[26]

29. From December 2006 to March 2008, U.S housing prices had declined 8.3% (*see* Exh. 2).

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[19] Official Journal of the European Union, Annex International Accounting Standards.

[20] Governer Randall S. Kroszner, *The Challenges Facing Subprime Mortgage Borrowers,* November 5, 2007.

[21] *Id.* Risk-layering refers to the practice of lending to borrowers whose profile exhibits an accumulation of several different risk factors. FDIC, Law Regulations, Related Acts, 5000 - Statements of Policy, Interagency Guidance on Nontraditional Mortgage Product Risks.

[22] *Id.* Second mortgages or home equity loans that increase the loan-to-value on a real estate asset. "Piggyback loans" can only exercise a subordinate claim in the event of foreclosure. Lendingtree.com, Glossary, Definition of a piggyback loan.

[23] Governer Randall S. Kroszner, *The Challenges Facing Subprime Mortgage Borrowers,* November 5, 2007.

[24] *Id.* "In the past, many subprime borrowers have avoided such payment increases by refinancing; for example, about two-thirds of subprime 2/28s originated in 2003 and 2004 were terminated through a refinancing or a home sale by the time of the first scheduled reset. Prepayments on subprime variable-rate loans originated in late 2005 and 2006, however, have occurred at a slower pace, likely in part because of a combination of sluggish house price appreciation and high initial cumulative loan-to-value ratios has left some homeowners with too little equity to qualify for new loans."

[25] *Id.*

[26] *Id*. "For the most common type of subprime variable-rate loan, the so-called "2/28" loan, this reset occurs after two year, before which payments are typically based on a fixed below-market rate. In early 2007, the typical mortgage experiencing a first reset had its rate increase from 7 percent to 9-1/2 percent, producing an increase of 25 percent to 30 percent in the monthly payment."

A similar tale is told by the 56% decline in monthly new private housing unit building permits, from 2.2 million in January 2006 to 967,000 in March 2008 (*see* Exh. 3). Delinquency on single-family residental mortgages also increased dramatically, from 1.62% in April 2006 to 3.69% and 4.38% in January and April 2008, respectively (*see* Exh. 4). Unemployment, a lagging indicator of macroeconomic performance, had increased from 4.4% in May 2007 to 5.1% in March 2008, a 16% increase in less than a year (*see* Exh. 5).

30. The impact of these severely deteriorating conditions affected the risk and loss exposure of many assets held by major investment banks, including Barclays. These assets included the following:

   a. *Asset Backed Securities ("ABS")* – ABSs are securitized investment products backed by underlying pools of assets. For example, Residential Mortgage Backed Securities ("RMBS"), typically issued by a trust, are securities backed by pools of mortgages collateralized by residential property. Similarly, Commercial Mortgage Backed Securities ("CMBS") are securities backed by pools of mortgages collateralized by commercial property. Risk exposure affecting an ABS can vary significantly. Among other risks, RMBSs and CMBSs are exposed to: (1) credit related to the non-performance of their underlying assets; and (2) corresponding market risk relating to the underlying property value collateralizing non-performing mortgages.

   b. *Collateralized Debt Obligations ("CDO"), including "Super Senior" ("SS") Securities* – CDOs are securitized investment products consisting of debt instruments (*i.e.*, loans and/or securities) and/or pools of single debt instruments and tranches of other CDOs. Accordingly, CDOs are a type of ABS. However they are often securitized at levels further removed from the underyling assets (*i.e.* mortgages, loans, etc.). Multiple "tranches" of securities are issued under a CDO and provide investors varying interest rates, maturity dates and credit risks. As such, risks can vary by CDO and corresponding tranche. For example, a Mezzanine CDO is "a CDO consisting of tranches of multiple pools or CDOs of RMBS, each of which is rated BBB or lower."[27] Super Senior CDOs refer to "that portion of a CDO or asset pool with credit enhancement in excess of the minimum required for a AAA rating."[28]

   c. *Collateralized Loan Obligations* ("CLO") – CLOs are CDOs that are collateralized by loans. CLOs were therefore exposed to many of the same risks affecting CDOs and the underlying collateralizing loans.

   d. *Credit Default Swaps* (CDS) – CDSs are derivative instruments that provide credit protection against loss on an underlying asset (*e.g.*, RMBSs). Insurers, including monoline insurers (see description below in paragraph 34), sell credit protection through CDSs in exchange for contractually stated premiums or fees. While neither party to a CDS was required to own the underlying asset being protected, CDSs purchased in connection with assets held were commonly referred to as "wrapped

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[27] International Swap and Derivative Association article, Counterparty Credit Risk Management in the US Over-the-Counter (OTC) Derivatives Markets, Part II, November 2011, p. 3.

[28] *Id.*

assets."[29] Absent credit related devaluations or impairments, differences between the wrapped asset's generated income and the CDS premium cost, to the extent positive, was referred to as "negative basis" and represented expected net profit to the holder. As described further below, given the extensive amounts of CDSs outstanding during the relevant period, CDS holders were exposed to increasing risks of non-performance by the insurers. As non-performance credit risk rose, CDS values declined.

31. The impact of deteriorating market conditions affected the measurement and reporting of these and other financial instruments. Provisions under professional accounting standards, including IFRS IAS 39,[30] established rules for determining resulting impairment write-downs and fair value adjustments. By February 10, 2008, leaders of the G7 group of industrialized nations estimated that worldwide losses stemming from the U.S. mortgage crisis could reach $400 billion.[31] By then, many major international banks disclosed massive write-downs to their investments in subprime and mortgage related assets.[32]

32. By the end of 2007, the subprime crisis had caused the bankruptcies of several lending institutions (*see* Exh. 1), including:

    a. Ownit Mortgage Solutions, Inc. (1/3/2007, Chapter 11).

    b. American Freedom Mortgage (1/29/2007, Chapter 7).

    c. Mortgage Lenders Network USA Inc. (2/5/2007, Chapter 11).

    d. New Century Financial (4/2/2007, Chapter 11).

33. The demise of the investment bank Bear Stearns also made headlines during the relevant period (*see* Exh. 1). On June 7, 2007, Bear Stearns announced it was halting redemptions on two funds with significant holdings in subprime related assets. Two weeks later, on June 20, 2007, Merrill Lynch seized $800 million in assets from hedge funds managed by Bear Stearns. On June 22, 2007, Bearn Stearns revealed that it had spent $3.2 billion bailing out its funds due to its supbrime exposure. Bear Stearns was eventually acquired by JPMorgan Chase at a fraction of its share price on March 17, 2008, a transaction backed by $30 billion in Federal Reserve loans.[33]

34. In addition to affected lending institutions and investment banks, the 2007 market deterioriation directly affected insurance companies, including AIG and monoline insurance entities. During the relevant period monoline insurers' primary business entailed

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[29] See for example, Barclays 2008 Annual Report on Form 20-F, pp. 98, 101 and 104.

[30] IAS 39 establishes the requirements for recognizing and measuring financial assets under IFRS. For example, as recognized thereunder, a financial asset is impaired and impairment losses are incurred if: (a) there is objective evidence of impairment as a result of one or more events that occurred after the initial recognition of the asset (a 'loss event'); and (b) that loss event (or events) has an affect on the estimated future cash flows of the financial asset (or group of financial assets) that can be reliably estimated.

[31] The Global Economic & Financial Crisis: A Timeline Mauro F. Guillén Director of the Lauder Institute, p.6.

[32] See Exhibit 1.

[33] Refer to Exhibit 1 for citations in this paragraph.

insuring municipal bonds, MBSs, CDOs, CLOs and other assets.[34] As ultimately described within a November 2011 International Swap and Derivative Association article, *Counterparty Credit Risk Management in the US Over-the-Counter (OTC) Derivatives Markets, Part II*, as the underlying ratings of mortgage backed securities and other insured assets deteriorated businesses sought greater protection from these insurers, exposing them to increased credit risks:

> *For years, virtually all the monolines were rated AAA and this enabled their insured products to trade well in the market.* ***Unfortunately, monolines looked for new asset classes to insure. One of them was CDOs of RMBS and they participated in a huge way. Monolines wrote insurance policies on tens of billions of dollars on CDOs of RMBS. They also wrote insurance on CDOs of CMBS, home equity loans and a variety of other structured finance products****. ...*
>
> *Mortgage market conditions began deteriorating in 2007 but CDO activity was very strong until the middle of that year.* ***As conditions worsened, banks rushed to buy protection on super senior securities they held in inventory. Market prices of RMBS and CDOs fell, some in spectacular fashion. The market prices of the underlying securities soon implied that the monolines would be faced with losses well beyond their means to service. The first outright casualty was ACA which announced in the fall of 2007 that its equity would be wiped out. It was forced to enter into a restructuring plan in early 2008.***[35] [Emphasis added.]

35. As monoline insurers' liabilities grew, investment bank counterparties, including Barclays, became exposed to these insurers no longer having the financial resources to protect their wrapped investments. As described further in the referenced article, this resulted in significant, industry-wide credit loss exposure resulting from the notional amounts under these arrangements becoming due from monoline insurers:

> *In 2007 and 2008, as monolines' credit spreads continued to widen and default became more and more of a possibility, the banks were forced to take [Credit Valuation Adjustment or "CVA" charges] on the receivables they recorded for the insurance policies. ...*
>
> *While the financial positions of the monoline insurers continued to deteriorate, banks recorded ever larger CVA Charges. As it became clear that certain insurers would not survive, banks became willing to cancel, or commute, the insurance claims with the monolines for cash or other consideration. Then, based on the CVA Charges that the banks had already taken, additional write-downs or write-ups*

[34] International Swap and Derivative Association article, Counterparty Credit Risk Management in the US Over-the-Counter (OTC) Derivatives Markets, Part II, November 2011, p. 6.

[35] International Swap and Derivative Association article, Counterparty Credit Risk Management in the US Over-the-Counter (OTC) Derivatives Markets, Part II, November 2011, p. 7.

would be recorded and Notional Amount of Insurance would be reduced by the stated amount of the now cancelled insurance contracts. ...[36]

36. Importantly, the exposure to monoline counterparies represented the full notional value of the assets they insured. Stated differently, a monoline insurer's non-performance put at risk the insured's ability to collect the entire notional value.

D. Barclays's 2007 Annual Report and April 2008 Prospectus Filed with the Securities and Exchange Commission

37. The mission of the SEC is to "protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation." Critical to this mission are the laws and rules established by the SEC that govern the securities industry in the United States. In the wake of the stock market crash of 1929 the SEC established two pivotal laws designed to restore and maintain investor confidence: The Securities Act of 1933 and The Securities Act 1934. The SEC website reflects the Acts' original purpose:

> *When the stock market crashed in October 1929, public confidence in the markets plummeted. Investors large and small, as well as the banks who had loaned to them, lost great sums of money in the ensuing Great Depression. There was a consensus that for the economy to recover, the public's faith in the capital markets needed to be restored ... Congress — during the peak year of the Depression — passed the Securities Act of 1933.* ***This law, together with the Securities Exchange Act of 1934, which created the SEC, was designed to restore investor confidence in our capital markets by providing investors and the markets with more reliable information and clear rules*** *of honest dealing. The main purposes of these laws can be reduced to two common-sense notions:*
>
> *Companies publicly offering securities for investment dollars must tell the public the truth about their businesses, the securities they are selling, and the risks involved in investing.*
>
> *People who sell and trade securities – brokers, dealers, and exchanges – must treat investors fairly and honestly, putting investors' interests first.*[37] [Emphasis added]

38. The Acts are premised on the underlying concept that "all investors … should have access to certain basic facts about an investment prior to buying it, and so long as they hold it."[38] The SEC acknowledges that to achieve this objective:

> ***… [it] requires public companies to disclose meaningful financial and other information to the public.*** *This provides a common pool of knowledge for all investors to use to judge for themselves whether to buy, sell, or hold a particular*

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[36] *Id.*

[37] "What We Do" section of SEC home website at www.sec.gov.

[38] *Id.*

security. Only through the steady flow of timely, comprehensive, and accurate information can people make sound investment decisions.[39] [Emphasis added]

39. Under the Acts, public registrants, including Barclays, are initially and periodically thereafter required to disclose meaningful financial and other information to the public. Specifically, the Acts required Barclays to file, among other reports, annual audited financial statements. These reports (*e.g.*, Form 20-F) filed with the SEC are available to the general public, and are intended not only for use by the SEC but also for use by stockholders, potential investors, creditors, and others.

40. Before a company can offer its securities for sale to the public or have its securities listed on a national exchange, the securities must be registered with the SEC. On August 31, 2007, Barclays filed a "short-form"[40] Registration Statement on Form F-3 (Registration No. 333-145845). The "shelf" Registration Statement once filed, permitted the Company to sell certain securities under supplemental prospectus offerings.[41]

41. Relevant to matters at issue in this case, on April 8, 2008 Barclays' filed a Supplemental Prospectus on Form 424B5 with the SEC. Thereunder, the Company issued 100 million shares of non-cumulative callable dollar preference shares to be sold at a price per share of $25 (*i.e.* $2.5 billion in aggregate, the Series 5 Offering).[42]

42. Pursuant to SEC Rules, Barclays' was required to update, include and/or incorporate by reference specifically defined information in its April 2008 Prospectus, including:

    a. *Summary of Information, Risk Factors and Ratio of Earnings to Fixed Charges (Reg S-K, Item 503)* – Amongst other reporting requirements, Item 503 required disclosure of the most significant risk factors that make the offering speculative or risky;[43]

    b. *Material changes (Form F-3, Part 1, Item 5)* – Certain material changes occurring since the end of the latest fiscal year (*i.e.* December 31, 2007) required disclosure under Item 5;[44] and

    c. *Incorporation of Certain Information by Reference (Form F-3, Part 1, Item 6)* – Relevant annual financial statements as filed on Form 20-F (*i.e.* 2007 Annual Report on Form 20-F) required incorporation by reference.[45]

43. In connection with these requirements, Barclays' April 2008 Prospectus incorporated by

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[39] *Id.*

[40] Barclays Registration Statement on Form F-3 dated August 31, 2007. Form F-3 is considered a "short form" because it relies heavily on the registrant's 1934 Act reports, which are incorporated by reference. Accounting Research Manager, SEC Practice, Foreign Registrants Form F-3 Background.

[41] Accounting Research Manager, SEC Practice, Foreign Registrants Form F-3 Background.

[42] April 2008 Prospectus on Form 424B5, Cover.

[43] SEC Rules, Form F-3, Item 3, Regulation S-K, Item 503.

[44] SEC Rules, Form F-3, Item 5.

[45] SEC Rules, Form F-3, Item 6.

reference the Company's 2007 Annual Report on Form 20-F.[46] As discussed below beginning at paragraph 74, Barclays was required to disclose significant risks affecting the Company, including known trends and events that were reasonably likely to have a material effect on the Company's future operating performance.[47]

44. The following sections provide an overview of the risk related disclosures made by Barclays, within its 2007 Annual Report and April 2008 Prospectus.

1. Disclosures within Barclays 2007 Annual Report Regarding the 2007 Credit Market Dislocations and Disruption in the US Sub-Prime Market.

45. Barclays' 2007 Annual Report acknowledged that economic stress, including market dislocations and disruptions affected the Company's financial performance during the latter half of 2007.[48] As described below, Barclays' also disclosed that it recognized "net losses" totaling £1.6 billion in connection with the 2007 dislocated market conditions and US sup-prime exposures:

> *The US sub-prime driven market dislocation affected performance in the second half of 2007. Exposures relating to US sub-prime were actively managed and declined over the period.* ***Barclays Capital's 2007 results reflected net losses related to the credit market turbulence of £1,635m, of which £795m was included in income, net of £658m gains arising from the fair valuation of notes issued by Barclays Capital. Impairment charges included £840m against ABS CDO Super Senior exposures, other credit market exposures and drawn leveraged finance underwriting positions.***[49] [Emphasis added.]

46. Barclays Capital's actual 2007 gross losses due to the dislocation of the credit markets, including both impairments and fair value losses, totaled approximately £3.0 billion.[50] While presented net of income and gains from the Company's own debt devaluations in its 2007 Annual Report (*i.e.,* £1.6 billion),[51] these gross losses were ultimately disclosed in Barclays 2008 Annual Report on March 24, 2009:

> ***Barclays Capital's 2007 results reflected gross losses of £2,999m (2006: £nil) due to the dislocation of credit markets.*** *These losses were partially offset by income and hedges of £706m (2006: £nil) and gains of £658m (2006: £nil) from the general*

[46] April 2008 Prospectus on Form 424B5, p. S-11.

[47] SEC Interpretation: Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Release Nos. 33-8350; 34-48960; FR-72, December 29, 2003.

[48] 2007 Annual Report on Form 20-F, pp. 27 and 46.

[49] Excluding gains realized in connection with declines in Barclays Capital's own outstanding debt, implied gross losses related to the "credit market turbulence" totaled approximately £2.3 billion (£1.6 billion of net losses plus £0.7 billion of gains." arising from the fair valuation of notes issued by Barclays Capital"). 2007 Annual Report on Form 20-F, p. 25.

[50] 2008 Annual Report on Form 20-F, p. 46.

[51] 2007 Annual Report on Form 20-F, p. 25.

*widening of credit spreads on structured notes issued by Barclays Capital. **The gross losses comprised £2,217m (2006: £nil) against income and £782m (2006: £nil) in impairment charges**.*[52] [Emphasis added.]

47. Despite these losses, Barclays repeatedly affirmed its ability to manage the Company's key risks and the reduction of its exposure to declining 2007 credit and market conditions. For example, Barclays' disclosed in its 2007 Annual Report: [Emphasis added.]

> *Barclaycard profit before tax increased 18% (£82m) to £540m (2006: £458m), **driven by strong international growth coupled with a significant improvement in UK impairment charges**. ...*[53]
>
> *Although impairment and other credit provisions in Barclays Capital rose as a consequence of these difficult sub-prime market conditions, **our risks in these portfolios were identified in the first half and management actions were taken to reduce limits and positions**. **Further reductions and increased hedging through the rest of the year continued to bring net positions down and limited the financial effect of the significant decline in market conditions**. **Our ABS CDO Super Senior positions were reduced during the year and our remaining exposure reflected netting against writedowns, hedges, and subordination.** [...]*[54]
>
> ***The Group actively manages its credit exposures and when weaknesses in exposures are detected – either in individual exposures or in groups of exposures – action is taken to mitigate the risks.** These include steps to reduce the amounts outstanding (in discussion with the customers, clients or counterparties if appropriate), the use of credit derivatives and, sometimes, the sale of the loan assets. [...]*[55]
>
> ***Unsecured retail exposures, where the recovery outlook is low, decreased as a proportion of the total as the collections and underwriting processes were improved**. Secured retail and wholesale and corporate exposures, where the recovery outlook is relatively high, increased as a proportion of [Potential Credit Risk Loans]. [...]*[56]
>
> ***The Group maintained its strong liquidity profile throughout and saw some benefit from a flight to quality in financial markets.** Nevertheless, Barclays, like its peers, was affected by the increased volatility and impaired liquidity in financial markets. ... **These liquidity demands were all successfully managed within overall***

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[52] 2008 Annual Report on Form 20-F, p. 46. See also, BARC-ADS-01633806-832 at 827 indicating fair value losses, net of hedging income, of approximately $2.0 billion.

[53] 2007 Annual Report on Form 20-F, p. 17.

[54] 2007 Annual Report on Form 20-F, p. 65.

[55] 2007 Annual Report on Form 20-F, p. 78.

[56] 2007 Annual Report on Form 20-F, p. 83.

> ***funding requirements despite occasional disruption of access to some funding markets****. Although term funding in interbank markets substantially disappeared,* ***liquidity remained good for Barclays****.* ***Barclays diversified portfolio of highly marketable securities enabled the Group to continue accessing the repo market****. Securitisation accounts for a modest proportion of the Group's funding so* ***the disruption to the securitisation market has not significantly impacted the Group's liquidity position****. […]*[57]

2. *Exposures Asserted in Connection with the US Sub-Prime Driven Credit Market Dislocations*

48. In addition to the aforementioned disclosures, Barclays identified net exposures to deteriorating credit market conditions as of December 31, 2007 totaling approximately £29.1 billion (an increase of £1.8 billion from June 30, 2007).[58] These exposures included the following amounts by asset type (Summation and related tick marks added.):[59]

	As at	
	31st December 2007 £m	30th June 2007 £m
ABS CDO Super Senior		
High Grade	4,869	6,151
Mezzanine	1,149	1,629
Exposure before hedging	6,018	7,780
Hedges	(1,347)	(348)
Net ABS CDO Super Senior	⬣ 4,671	7,432
Other US sub-prime		
Whole loans	3,205	2,900
Other direct and indirect exposures	1,832	3,146
Other US sub-prime	⬣ 5,037	6,046
Alt-A	4,916	3,760
Monoline insurers	1,335	140
Commercial mortgages	12,399	8,282
SIV-lite liquidity facilities	152	692
Structured investment vehicles	590	925

Σ ⬣ = £29.1 billion

49. Certain relevant categories of exposure listed above are included below and were described by Barclays as follows:

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[57] 2007 Annual Report on Form 20-F, p. 92.

[58] 2007 Annual Report on Form 20-F, p. 53.

[59] *Id.*

a. *Asset Backed Securities Collateralized Debt Obligations (Super Senior)* – Barclays disclosed that net of write-downs (£1.4 billion) and hedges (£1.3 billion), net exposure related to ABS CDO Super Seniors totaled £4.7 billion.[60] As described, collateral for these CDOs principally comprised of residential mortgage backed securities ("RMBS").[61] While not quantified, the Company acknowledged RMBS collateral included subprime mortgages.[62] In this regard, Barclays noted that "the combination of subordination, hedging and write-downs provide protection against loss levels to 72% on US sub-prime collateral."[63]

b. *Sub-prime Whole Loans and Alt-A Exposure* – As referenced in the table above, Barclays' purported exposure to subprime whole loans and Alt-A related assets totaled approximately £8.1 billion.[64]

c. *Monoline Insurers* – Barclays disclosed that it held assets with credit protection from monoline insurers. It further asserted that the "value of exposure to monoline insurers under these contracts" was £1.3 billion and that there were no claims due under its contracts.[65] Undisclosed until August 2008, these exposures related to underlying assets that totaled £21.6 billion and were valued by Barclays at £20.2 billion as of December 31, 2007.[66]

50. In addition to these exposures, Barclays also disclosed its exposure to certain leveraged loans and related financings. Specifically, the Company noted:

> *At 31st December 2007, drawn leveraged finance positions were £7,368m (30th June 2007: £7,317m). The positions were stated net of fees of £130m and impairment of £58m driven by widening of corporate credit spreads.*[67]

3. Risks Disclosures in Barclays April 2008 Prospectus

51. While observing certain general "risk factors" in connection with Barclays' Series 5 offering of preferred shares (*e.g.*, "If We Do Not Make Payments on Other Securities Issued by Us, We Will Not be Permitted to Pay Dividends on the Preference Shares" and "Dividends on the Preference Shares Are Discretionary and Non-cumulative"), the Company's April 2008 Prospectus directs the reader to risks and other information contained in the 2007 Annual Report as incorporated by reference. Importantly, no substantive risks or related disclosure specific to the severely deteriorating U.S. real estate

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[60] 2007 Annual Report on Form 20-F, p. 53.

[61] *Id.*

[62] *Id.*

[63] *Id.*

[64] 2007 Annual Report on Form 20-F, p. 53 (£3.205 billion sub-prime whole loans plus £4.916 billion Alt-A exposure - £8.121 billion).

[65] *Id.*

[66] Barclays Form 6-K filed on August 7, 2008, p. 35. See also 2008 Annual Report on Form 20-F, pp. 98 (£2.807 billion), 101 (£3.614 billion) and 104 (£15.152 billion).

[67] 2007 Annual Report on Form 20-F, p. 53.

market, dislocations in the credit market, or U.S. sub-prime exposure were discussed or expanded on in the Company's April 2008 Prospectus.

IV. BASIS FOR MY OPINIONS

A. BARCLAYS FAILED TO DISCLOSE MATERIAL LOSSES AND RELATED ASSET IMPAIRMENTS RECOGNIZED AFTER THE REPORTING PERIOD WITHIN ITS 2007 ANNUAL REPORT AND ITS APRIL 2008 PROSPECTUS IN VIOLATION OF SEC RULES AND IFRS.

52. In violation of SEC Rules and related IFRS, Barclays failed to disclose material gross credit losses recognized after December 31, 2007 in its 2007 Annual Report. These credit losses resulted from continued market dislocations driven in significant part by US sub-prime exposures.[68] The material losses affected several asset concentrations reported by Barclays, including but not limited to the Company's Asset Backed Securities ("ABS") Collateralized Debt Obligations ("CDO") Super Senior, sub-prime and Alt-A whole loans, and monoline insurer exposure. This material omission also existed within the Company's April 2008 Prospectus, which incorporated by reference Barclays' 2007 Annual Report.

53. International Accounting Standard No. 10, *Events after the Reporting Period* ("IAS 10"), required that Barclays disclose material conditions or events (*i.e.* "non-adjusting events") arising after the reporting period to the extent such events could influence the economic decisions of financial statement users. Specifically, IAS 10, ¶21 states:

> *If non-adjusting events after the reporting period are material, non-disclosure could influence the economic decisions that users make on the basis of the financial statements. Accordingly, an entity shall disclose the following for each material category of non-adjusting event after the reporting period:*
>
> *(a) the nature of the event; and*
>
> *(b) an estimate of its financial effect, or a statement that such an estimate cannot be made.*[69]

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[68] 2008 Annual Report on Form 20-F, p. 46.

[69] International Accounting Standard No. 10, *Events after the Reporting Period*, ¶21. As noted by the SEC, accounting for subsequent events under IAS 10 is similar to the accounting prescribed under GAAP. Specifically:

> IAS 10, Events after the Reporting Period, and ASC Topic 855, Subsequent Events, **both require consideration of the effects on the financial statements of events that occur after the balance sheet date. Those events that provide evidence of conditions that existed at the balance sheet date require adjustment of the financial statements, whereas other events require disclosure only**. …
>
> **Subsequent events, and the evaluation period thereof, are defined similarly under IFRS and U.S. GAAP.** Under IAS 10, subsequent events are described as events that occur after the end of the reporting period (i.e., the balance sheet date) but before the date when the financial statements are authorized for issue. Under U.S. GAAP, for SEC filers defined therein, subsequent events are events or transactions that occur after the balance sheet date but before the financial statements are issued. [Emphasis added.]

54. IAS 10 further provides the following example which, to the extent material, required disclosure:

> ***An example of a non-adjusting event after the reporting period is a decline in fair value of investments between the end of the reporting period and the date when the financial statements are authorised for issue****. The decline in fair value does not normally relate to the condition of the investments at the end of the reporting period, but reflects circumstances that have arisen subsequently. Therefore, an entity does not adjust the amounts recognised in its financial statements for the investments. Similarly,* ***the entity does not update the amounts disclosed for the investments as at the end of the reporting period, although it may need to give additional disclosure under paragraph 21.***[70] [Emphasis added.]

55. While IFRS requires the reporting of events after the reporting period through the "date when the financial statements are authorized," Barclays' financial statements included in its Form 20-F were subject to audit under PCAOB audit standards ("PCAOB Standards"). In connection with this requirement, AU 560, *Subsequent Events*, recognized subsequent events as events or transactions occurring "subsequent to the balance-sheet date, **but prior to the issuance of the financial statements**, that have a material effect on the financial statements and therefore require adjustment or disclosure in the statements."[71] [Emphasis added.] PCAOB Standards further recognized the requirement of both the auditor and management to evaluate and report subsequent events through the financial statement issuance date.[72]

56. Consistent with this requirement, SEC guidance relevant to preparing Form 20-F, refers to the following reporting requirement:

> *In addition to the information expressly required to be included in a statement or report,* ***there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.***[73] [Emphasis added.]

57. When contemplating subsequent event accounting and disclosure differences between U.S. GAAP and IFRS, the SEC specifically acknowledged this rule noting its assumption that this "overriding obligation" would minimize any reporting differences.

> *The Staff notes that, in practice, the effect of this difference may be minimized because of the overriding obligation for U.S. issuers to follow SEC requirements, such as Rule 12b-20 under the Securities Exchange Act of 1934, which states that*

Work Plan for the Consideration of Incorporating International Financial Reporting Standards into the Financial Reporting System for U.S. Issuers, November 16, 2011, pp. 37-38.

[70] International Accounting Standard No. 10, *Events after the Reporting Period*, ¶11.

[71] AU560.01.

[72] AU560.03.

[73] See for example: Form 20-F Official Text, General Instructions. C; Regulation S-X Rule 4-01.

"in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading. ...[74]

58. Consistent with this understanding, Barclays appears to have made the following representation to its independent public accountants, PricewaterhouseCoopers as of the 2007 Annual Report filing date (*i.e.*, March 26. 2008):

> ***To the best of our knowledge and belief, no events have occurred subsequent to 31st December 2007 and through the date of this letter [March 26, 2008] that would require adjustment to or disclosure in the aforementioned consolidated financial statements*** *or management's reporting on its assessment of the effectiveness of internal control over financial reporting.*[75] [Emphasis added.]

59. In conclusion, disclosure requirements under SEC rules extended through the date of Barclays' 2007 Annual Report filing date (*i.e.*, March 26, 2008).[76] Accordingly, material non-adjusting subsequent events between January 1, 2008 and March 26, 2008 required disclosure.

1. Barclays Management Was Repeatedly Informed of Increasing Credit Losses Prior to the Issuance of the Company's 2007 Annual Report on Form 20-F.

60. Barclays' management was repeatedly informed of increasing expected and actual losses of at least £800 million associated with the Company's ABS and cash portfolios incurred after December 31, 2007, but prior to the March 26, 2008 financial statement issuance date. For example:

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[74] Work Plan for the Consideration of Incorporating International Financial Reporting Standards into the Financial Reporting System for U.S. Issuers, November 16, 2011, p. 38. **Note:** While the date of this document was subsequent to periods at issue in this case, the underlying accounting standards and SEC Rules referenced were substantively consistent with the requirements discussed above.

[75] Draft Management Letter dated March 26, 2008, BARC-ADS-00988470. An April 8, 2008 update to this representation appears to have been obtained by PwC in connection with the April 2008 Prospectus. Therein was the following Barclays representation:

> *To the best of our knowledge and belief, except as disclosed in note 43 to the consolidated financial statements, no events have occurred subsequent to 31 December 2007 and through the date of this letter [April 8, 2008] that would require adjustment to or disclosure in the aforementioned consolidated financial statements or management's report on its assessment of the effectiveness of internal control over financial reporting.*

BARC-ADS-01052334-2362 at 2334.

[76] In addition to guidance noted above, see EITF Topic D-86, *Issuance of Financial Statements*.

a. Materials prepared in connection with a Barclays Capital's February 13, 2008 Finance Committee Meeting noted "actual" write-offs and other income reductions totaling approximately £300 million for January 2008.[77]

b. Internally distributed Barclays Capital "formal"[78] profit and loss reporting as of February 29, 2008 evidenced similar year-to-date losses of $616 million[79] (*i.e.,* approximately £310 million, assuming an exchange rate of one US dollar equating to £0.5032[80]).

c. That same day, members of Barclays Capital's Finance Committee including Bob Diamond, Rich Ricci, Chief Operating Officer of Investment Banking and Investment Management ("IBIM"), and Patrick Clackson, Barclays Capital Finance Director, were informed that "expected" losses during the two months ended February 29, 2008 totaled at least £608 million.[81] Specifically, on February 29, 2008, Mr. Diamond, other members of the Finance Committee, and certain members of the Company's London Finance and Barclays Capital group, including Paul Copson, Finance - Global Head of Product Control, were provided materials demonstrating "expected" year to date "impairment & potential losses" of £608 million.[82] These estimated losses appeared to reflect a "Best £m" case scenario.[83] Detailed support also appeared to reference incomplete assessments of loss exposure labeled "TBC."[84]

d. Schedules included within Barclays Capital Finance Committee Meeting continued to be updated through March 7, 2008. In fact, on March 7, 2008, February's year-to-date losses indicated "Actual £m" losses and write-downs of £924 million.[85] These losses included the following communicated cumulative year-to-date losses (£845 million) and other write-downs (£80 million):[86] [red boxes added for emphasis]

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[77] Finance Committee Agenda, February 13, 2008, BARC-ADS-01025714. Note that the £300 million is equal to the sum of the "Actual" £44 million of write-downs and £256 million of income or provision in Section 5.

[78] Joseph Kaczka, Barclays' Director PCG-Real Estate, testified to his understanding that "formal" reports represented the "final" amounts reported. Deposition of Joseph Kaczka dated September 22, 2015, 251:19-252:23.

[79] Email from Astha Sood dated February 29, 2008, BARC-ADS-00072414-2415.

[80] http://www.oanda.com/currency/historical-rates/ (Exchange rate taken as of February 29, 2008).

[81] Email to Bob Diamond, Rich Ricci and others with attached Finance Committee Agenda, February 29, 2008, BARC-ADS-00927802-7814 at 7807 and 7809.

[82] *Id.*

[83] *Id.* at 7809.

[84] *Id.*

[85] Email dated March 7, 2008 from Rahil Patel to Paul Copson with attached native file, BARC-ADS-01288298-8299 at 8299 (at native tab "Pipeline as at Mar 5").

[86] *Id.*

Exposure	Net Exposure £bn	Business	Best £m	Actual £m	Var £m	Cumulative YTD £m
ABS CDO Super Senior						
Non MTM ABS CDO (Saypoff	4.4	Provisions	(76)	(76)	0	(123)
MTM ABS CDO (King)	0.1	Portfolio Asset I	0	0	0	(52)
Whole Loans / Alt A						
Whole Loans Subprime	3.2	Portfolio Asset I	(33)	(34)	(1)	(33)
Whole Loans Alt A	0.9	Portfolio Asset I	(10)	(8)	2	(10)
ALT A Securities AAA	2.6	Portfolio Asset I	(50)	(340)	(290)	(390)
ALT A Securities Subs	0.2	Portfolio Asset I				
Other Subprime / Alt A	0.8	Various	-	-		-
Residuals	0.3	Portfolio Asset I	(64)	(64)	0	(65)
Sheffield / Surrey Conduit	0.9	Conduit	-	-		-
Monolines						
Monolines	1.3	Portfolio Asset I	19	20	1	(36)
Monolines		Portfolio Asset I	(3)	(3)	(1)	(58)
CMBS						
CMBS - US	6.3	CMBS	-	-		-
CMBS - Europe / Asia Primar	5.1	Primary Bonds	-	-		TBC
CMBS - Secondary Europe	1.0	FI Credit	-	-		
SIV's / SIV Lites						
SIV's	0.6	Sec Derivs	0	0		0
Siv Lite liquidity facilities	0.2	Portfolio Asset I	-	-		
Leveraged Finance						
Leveraged Loans	7.4	Provisions	-	-		(3)
Secondary Lev Loans	0.4	FI Credit / Globa	(6)	(5)	1	(16)
Other						
ABS Europe Portfolio	2.6	FI - Credit	(18)	(18)	(1)	(52)
$ Denominated European ABS		FI - Credit	(7)	(9)	(2)	(7)
Fund Linked Products	TBC	Equities	-	-		-
ABS Backstops	2.9	Principal Credit	0	(20)	(20)	0
Total	**41**		**(248)**	**(558)**	**(310)**	**(845)**

<u>**Expected Writedowns**</u>

Business	Product Group	Region	Best £m	Actual £m	Var £m	Cumulative YTD £m
Portfolio Asset Book	Cash Portfolio	US	(31)	(12)	19	(44)
FI Rates	Management - DCRM	Europe	3	3	0	3
Principal Credit	Portfolio Mgt	Europe	(2)	0	2	(1)
FI Credit	CLO	US	(14)	0	14	(14)
FI Credit	CLO	Europe	(15)	(15)	0	(15)
FI Credit	High Grade / Flow	US	0	0	0	
FI Credit	Structured	Europe	0	0	0	
FI Credit	Structured	Europe	TBC	0		
Prime Services	Corp Repo	US	(21)	(26)	(4)	
Prime Services	Corp Repo	Europe	(14)	(14)	(0)	
Equities	Funds	Europe	0	(8)	(8)	(8)
Total			**(95)**	**(72)**	**22**	**(80)**

e. Confirming the magnitude and recognition of many of these "actual" losses, internal reporting three business days later (*i.e.*, March 12, 2008), evidenced "formal" year to date losses in excess of $1.6 billion (*i.e.* approximately £794 million, assuming an exchange rate of one US dollar equating to £0.4965[87]).[88]

[87] http://www.oanda.com/currency/historical-rates/ (Exchange rate taken as of March 26 2008).

[88] Email from Elida Anderson dated March 12, 2008, BARC-ADS-00091001-1002 at 1002.

f. Minutes from the March 20, 2008 Board of Directors meeting affirmed impairment charges of £641 million and gross credit losses of approximately £800 million recorded for the two months ended February 29, 2008.[89]

g. Confirming losses recorded through March 26, 2008, the date Barclays issued its 2007 Annual Report, "formal" year to date flash reports continued to affirm losses of approximately $1.7 billion (*i.e.* approximately £825 million, assuming an exchange rate of one US dollar equating to £0.4993[90]).[91]

2. *Known Credit Losses and Write-Downs Subsequent to Barclays' 2007 Reporting Period were Material under IFRS*

61. Barclays' undisclosed estimated impairment and credit losses through March 26, 2008 were material to the Company's financial statements as contemplated under IFRS. In this regard, IFRS generally establishes the following understanding:

> ***Omissions or misstatements of items are material if they could, individually or collectively, influence the economic decisions that users make [of users taken] on the basis of the financial statements****. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.* [92]

62. Consistent with this understanding, the Institute of Chartered Accountants in England and Wales ("ICAEW") referenced the following US Supreme Court statement in its Technical Release 3/08, *Guidance on Materiality in Financial Reporting by UK Entities*:

> *… an omitted fact is generally considered to be material if there is a substantial likelihood that a reasonable investor would have viewed its disclosure as significantly altering the 'total mix' of available information.*[93]

63. As noted above and affirmed in IAS 1, the ultimate determination of whether a disclosure omission or misstatement is material depends on its size and nature evaluated in an appropriate context of a reporting entity.[94] Accordingly, an evaluation of both qualitative

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[89] March 20, 2008 Board of Directors Meeting Minutes, BARC-ADS-01601045-1060 at 1054.

[90] http://www.oanda.com/currency/historical-rates/ (Exchange rate taken as of February 29, 2008).

[91] Email from Elida Anderson dated March 26, 2008, BARC-ADS-00089504-505.

[92] International Accounting Standard 1, ¶7 (¶11 superseded 2003 Version). *See also,* 2010 Conceptual Framework for Financial Reporting, ¶QC11. The Conceptual Framework further acknowledges that decisions by users of financial statements are based in part on expected future returns and depend upon an assessment of the amount, timing and uncertainty of an entity's future cash inflows. To make such an assessment the Conceptual Framework recognizes that potential investors, lenders and other creditors need information about the resources of the entity. Conceptual Framework for Financial Reporting, ¶OB3-OB4.

[93] Institute of Chartered Accountants in England and Wales Technical Release, Tech 03/08 Guidance on Materiality in Financial Reporting by UK Entities, p. 6. *See also*, TSC Industries, Inc. v Northway, Inc. 426 US 438 [1976].

[94] International Accounting Standard No. 1, ¶7 (¶11 superseded 2003 Version).

and quantitative factors is required when evaluating materiality.[95]

64. Quantitatively, the repeatedly exposed, now final, International Standards on Auditing No. 320 ("ISA 320") recognizes the practice of applying an initial "benchmark" percentage (*e.g.,* "five percent of profit before tax from continuing operations for a profit oriented entity").[96] This benchmark threshold, including references to five percent, is consistent with materiality guidance defined by the SEC under SEC Staff Accounting Bulletin No. 99, *Materiality* ("SAB 99").[97]

65. Considering this guidance, additional known or knowable credit losses by Barclays Capital subsequent to its 2007 reporting date of not less than £800 million were quantitatively material to the Company's profit before tax. These evident credit losses incurred during the two months ended February 29, 2008 equated to at least 11% of Barclays' reported 2007 Profit before tax (*i.e.,* £800 million / £7,076 million).[98] Ultimately, £800 million would represent greater than 13% of Barclays' 2008 profit before tax (*i.e.,* £800 million / £6,077 million).[99]

66. Additional indicators demonstrating the quantitative materiality of subsequent credit losses known or knowable prior to March 26, 2008 included the following assessments of materiality:

    a. In establishing its scope for testing certain entity level internal controls to comply with the Sarbanes Oxley Act, Barclays asserted that locations considered "material in all respects" would be those that accounted for more than 5% of the Group's total net assets or net profit.[100] Barclays' identified £200 million as the materiality threshold for

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[95] The consideration of both quantitative and qualitative factors in evaluating materiality is consistent with PricewaterhouseCoopers ("PwC") required evaluation of materiality under relevant auditing standards. PCAOB Standard AU312 (under which Barclays was audited by PwC) notes: "In evaluating the effects of misstatements, the auditor should include both qualitative and quantitative considerations …"

[96] ISA 320, *Materiality in Planning and Performing An Audit,* ¶A7*; Proposed International Standard on Auditing 320 (Revised), December 2004,* ¶14*; Proposed International Standard on Auditing 320 (Revised), October 2006,* ¶A8.

[97] ASC250-10-S99 SAB Topic 1.M, Assessing Materiality (SEC Staff Accounting Bulletin No. 99). SAB 99 clarified that the "formulation [of materiality] in the accounting literature is in substance identical to the formulation used by the courts in interpreting the federal securities laws. The Supreme Court has held that a fact is material if there is a substantial likelihood that the … fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available."

[98] 2007 Annual Report on Form 20-F, p. 160.

[99] 2008 Annual Report on Form 20-F, p. 2.

[100] Risk and Control Self Assessment (RCSA) GRCB version, December 2007, BARC-ADS-01173828, Appendix A. See similar assessments in 2007 and 2008, including: 2008 ELC Refresh, Meeting with SOX Controllers - 6 February 2008, PwC015393 wherein locations deemed material "in all respects" currently were deemed to include those location that "have net assets and/or net profit which account for greater that 5% of Group total and will contribute in excess of the £2bn/£100m materiality thresholds on multiple Balance Sheet/P&L lines." As proposed therein, locations considered to be "material in all respects" would include "the Group's Business Units. In scope BUs will contribute > 0.5% of the Group's total assets OR > 5% of the Group's [Profit before Tax]."

See also, 2007 Financial Scoping, BARC-ADS-01037411-7417 at 7412 and 7414 which states in part: "The Group's view on materiality is that all financial statement line items which contribute in excess of £2 billion on the

"P&L lines." Evident credit losses incurred by the Company through March 26, 2008 significantly exceeded these quantitative thresholds internally established by Barclays.

b. PricewaterhouseCoopers established its quantitative planning materiality threshold for purposes of its 2007 and 2008 audits of Barclays at £250 million and £350 million, respectively.[101] Evident credit losses as of March 26, 2008 significantly exceeded these quantitative materiality thresholds;

c. Barclays Capital's subsequent credit losses exceeded the Company's only disclosed non-adjusting subsequent event. Specifically, within its 2007 Annual Report, Barclays disclosed the Company's acquisition of a Russian Bank, Expoback, for consideration totaling £373 million.[102] Such consideration was significantly less than the known or knowable losses internally reported within Barclays as of March 26, 2008.

67. Based on this evidence, Barclays' disclosure omission in violation of SEC rules and IFRS was, from a quantitative assessment, material. Furthermore, consideration of the following qualitative factors further demonstrate the material nature of Barclays' omitted disclosures:

a. Both the ICAEW and the SEC recognize the need to evaluate misstatements and omissions in the context of whether the misstatement or omission affected profitability trends relevant to significant users of a registrant's financial statements.[103] In this regard, Barclays' omissions precluded its financial statements users from ascertaining the severity of evident credit loss trends, including the severity of ongoing sub-prime driven credit dislocations during 2008; and

b. Material credit losses and related credit exposures affected Barclays' risk weighted assets, corresponding capital, equity/capital ratios and related regulatory compliance. As observed below, the import of the Company's compliance with regulatory capital requirement was focused on by both Barclays' and its regulators. For example, on March 8, 2008, the FSA voiced concerns directly to Barclays' Group Chairman of the Board, Marcus Agius, about the Company's "alarming" equity ratio profile:

> ***McCarthy did make a number of Barclays specific comments.*** *... He expressed particular concern that our Tier 1 equity ratio is only 4.6 perc. (as compared with our own figure of 5 percent). [...]*

Balance Sheet and £100 million on the income statement have been deemed as material and need to be in scope in accordance with the Group's SOX methodology. This is unchanged from 2006. All individual processes that contribute a value in excess of £100 million on the Income Statement and £2 billion on the Balance Sheet should automatically be brought into scope against that line. In certain circumstances it may be necessary to lower these values to get adequate coverage."

[101] Finance Committee Agenda, February 20, 2008, BARC-ADS-01025765; See also Finance Committee Agenda, February 13, 2008, BARC-ADS-01025714. See also, PWC New York Inter-Office Reporting to PwC London Audit Strategy Memo, Year End December 31, 2007, PwC003029-3087 at 3055.

[102] 2007 Annual Report on Form 20-F, p. 212.

[103] Institute of Chartered Accountants in England and Wales Technical Release, Tech 03/08 Guidance on Materiality in Financial Reporting by UK Entities, p. 6; ASC250-10-S99 SAB Topic 1.M, Assessing Materiality (SEC Staff Accounting Bulletin No. 99)

> *While it is not surprising the the [sic] FSA is having discussions with bank chairmen in this way, I have to say that McCarthy's tone was sharp. He wanted to know whether I and other [Non-Executive Directors] were "holding the Executive's feet to the fire?"* ***He referred to our equity ratio profile as being "alarming" and said that he needed to know "as a matter of urgency" what our contingency plans were in order to decide "whether we would need to take any action".***[104] [Emphasis added.]

At its March 20, 2008 Board Meeting, minutes reflect these concerns and further indicated that actions were necessary to achieve indicated FSA "wish[es]:"

> *The Group's Capital Management Plan had been shared with the FSA and discussions were continuing as to the appropriate target ratio that the Group should be seeking to achieve. The indications were that the FSA would wish the Group to achieve its own target equity ratio before the end of 2008 ... The achievement of those objectives translate into a target Tier 1 Capital Ratio of 7.25% and an Equity Tier 1 ratio of 5.25% ... At 31 December 2007 the Tier 1 ratio was 7.6% and the Equity Tier 1 Ratio was 5.1%. ...*[105]

Recognizing the material significance of credit losses and related credit exposures, an internal Barclays Capital presentation prepared on or before April 11, 2008 acknowledged that the "difficult market conditions have had negative impact on our [Risk Weighted Assets] and capital position."[106] By way of example, a 1% reduction of Barclays' Tier 1 Capital (Basel II) of 1% would approximate £267 million.[107]

c. Further demonstrative of its material significance, key members of Barclays' executive management and Board of Directors were repeatedly informed of credit loss risks and exposure during the months preceding the Company's 2007 Annual Report filing. The following meetings and corresponding communications to these key individuals indicate the material significance of Barclays credit market related losses, including those pertaining to the Company's sub-prime exposure:

   - Board Risk Committee meeting materials repeatedly discussed financial statement and regulatory risks associated with market dislocations, including risks specific to Barclays' "Asset Backed Securities and Leveraged Credit Markets" during 2007 and 2008;[108]

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[104] Emails between Executives dated March 2008, BARC-ADS-00931095-1098.

[105] March 20, 2008 Board of Directors Meeting Minutes, BARC-ADS-01601045-1060 at 1048 and 1058-59.

[106] Papers for Board Meeting on Thursday April 17, 2008, BARC-ADS-01535031-5066 at 5036.

[107] 2007 Annual Report on Form 20-F, p.44. Qualifying tier 1 capital disclosed under Basel II totaled £26.743 billion. A 1% reduction of Barclays' total net capital resources (Basel II) of 1% would approximate £398 million.

[108] See for example, Update on ABS and Leveraged Credit Markets, 6 December 2007, BARC-ADS-00780738; ABS and Leveraged Credit Markets, 12 March 2008 BARC-ADS-01544425-4437; Update on ABS and Leveraged Credit Markets, 18 March 2009, BARC-ADS-01557306-7329.

- As discussed above, frequent Barclays Capital Finance Committee Meetings attended by Mr. Diamond, regularly included discussions of expected loss exposures relating to ABS CDO Super Senior, sub-prime and ALT A loans and securities, monolines, commercial mortgage backed securities ("CMBS"), Structured Investment Vehicles ("SIV") and SIV Lites, and Leveraged Finance interest.;[109] and
- Board of Director Meetings demonstrate recurring discussions regarding credit losses incurred in connection with market dislocations and the credit environment.[110]

3. Barclays April 2008 Prospectus Included No Additional Disclosure of the Company's Material Credit Losses

68. As discussed above, Barclays incorporated by reference, its 2007 Annual Report in its April 2008 Prospectus. In doing so, Barclays' auditors consented to the reissuance of its audit report as required under SEC Rules.

69. Barclays' incorporation by reference to its 2007 Annual Report was further subject to the overarching SEC rule precluding the filing (or incorporation by reference) from containing material misstatements and/or omissions, including misapplications of relevant accounting standards. In this regard, PCAOB audit standard AU711, *Filings Under Federal Securities Statutes*, states:

> *As in the case of financial statements used for other purposes, management has the responsibility for the financial representations contained in documents filed under the federal securities statutes. ... section 11(a) of the Securities Act of 1933, as amended,* ***imposes responsibility for false or misleading statements in an effective registration statement, or for omissions that render statements made in such a document misleading, on every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, who has with his consent been named as having prepared or certified any part of the registration statement,*** *...*[111]

70. As noted above, PCAOB Standard AU 711 recognizes that a "reasonable investigation" must occur to evaluate whether misstatements or an omission renders the included or incorporated financial statements misleading. While directed towards an auditor, a "reasonable investigation" as described under AU 711 entails, amongst other procedures, a consideration of subsequent events, including the adequacy of disclosure.[112]

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[109] See for example, Finance Committee Agenda, February 20, 2008, BARC-ADS-01025765; See also Finance Committee Agenda, February 13, 2008, BARC-ADS-01025714.

[110] See for example, March 20, 2008 Board of Directors Meeting Minutes, BARC-ADS-01601045-1060 at 1048 and 1054.

[111] AU711.01 and .03.

[112] AU711.10.

71. Subsequent to Barclays' 2007 Annual Report filing on March 26, 2008, through the filing of the April 2008 Prospectus on April 8, 2008, additional evidence demonstrating material losses became evident to the Company's management. This evidence included, among other things, the following:

a. An internal summary of losses through February 29, 2008, prepared as of April 1, 2008, indicated gross credit losses of £1.065 billion;[113]

b. April 1st 2008 email communications between Mr. Diamond and Mr. Ricci, referenced "Best £m" gross losses, write-downs and provisions for March of £699 million, and excluded any March write-down of Alt-A whole loans and securities.[114]

c. Finance Committee Meeting materials dated April 2, 2008, referenced "Best £m" gross losses, write-downs and provisions for March of £749 million, assuming £50 million of additional losses in March related to Alt-A whole loans.[115]

d. An April 3, 2008 email communication to members of Barclays' Finance and Product Control department, including Mr. Clackson and Mr. Copson, reflecting internal price testing results as of February 29, 2008. The results indicated additional necessary write-down of Alt-A whole loans and securities totaling $990.3 million.[116]

e. A "Formal" flash profit and loss statement dated and emailed on April 7, 2008 to various employees evidenced year-to-date related credit losses totaling $1.7 billion (*i.e.,* approximately £856 million, assuming an exchange rate of one US dollar equating to £0.5030[117]).[118]

f. During a non-public due diligence call on April 3, 2008, management acknowledged their understanding of expected losses during Q1'2008. For example, Mr. Lucas observed the following to a limited group of participants:

> *We wrote off 1.6 – or we provided 1.6 up to the 31st of December, and that is net of 658 million of earned credit.* ***We would expect, when you look at the market conditions in January and February and March, that we will be taking further write downs, that will be reflecting market conditions. The numbers I gave you for January and February were after the write downs that we had taken. And I think the evidence will be in March, we will be taking further write downs.***[119]

72. Despite the continued report of material losses through April 8, 2008, Barclays made no

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[113] H1 - Losses, Significant Reserve Releases, Own Credit Summary, Gains on Disposals and Others, January and February Losses Tab in native file, BARC-ADS-01020492.

[114] Email from Rich Ricci to Bob Diamond dated April 1, 2008, BARC-ADS-00931043-1046.

[115] Finance Committee Agenda, April 2, 2008 native file, BARC-ADS-01022272.

[116] Email from Tim Broom dated April 3, 2008, BARC-ADS-00067922-7931.

[117] http://www.oanda.com/currency/historical-rates/ (Exchange rate taken as of February 29, 2008).

[118] Email and attachment dated April 7, 2008, BARC-ADS-00780002-004.

[119] Exhibit 18, Certified Transcript of April 3, 2008, 33:-14-25.

adjustment to its 2007 Annual Report and provided no disclosure of such losses within its April 2008 Prospectus. By doing so, Barclays violated SEC rules and IFRS and perpetuated its omission of material disclosures.

73. Internal documents ultimately demonstrate that Barclays recognized gross related credit losses against its exposed assets of approximately £2.1 billion in Q1'2008.[120] These gross losses were also presented net of £0.7 billion of gains from devaluation of Barclays' issued notes and £0.4 billion of income arising from the impacted assets to arrive at the net loss figure disclosed.[121]

B. BARCLAYS OMITTED KNOWN RISK TRENDS AND LOSS EVENTS THAT WERE EVIDENT TO MANAGEMENT AND MATERIALLY AFFECTED THE COMPANY'S FUTURE RESULTS OF OPERATIONS IN ITS 2007 ANNUAL REPORT AND APRIL 2008 PROSPECTUS IN VIOLATION OF SEC RULES.

74. Barclays was required to include an operating and financial review and prospect disclosure ("OFR") within its 2007 Annual Report on Form 20-F in accordance with SEC Rules.[122] Two of the principle objectives of the OFR are to provide investors with:[123]

   a. A narrative explanation of a company's financial statements that enables investors to see the company through the eyes of management. That is, how does management view its business and what do they believe to be important; and

   b. Information about the quality of, and potential variability of, a company's earnings and cash flow, so that investors can ascertain the likelihood that past performance is indicative of future performance.

75. To achieve the basic objectives of OFR reporting, particularly with respect to important ongoing risks affecting Barclays' business, the SEC imposed the following disclosure requirements under Item 5 of Form 20-F on Barclays and its management:

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[120] PwC Board Audit Committee report, BARC-ADS-01347139-7162 at 7144.

[121] *Id.*

[122] Item 5 of Form 20-F.

[123] SEC Interpretation: Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Release Nos. 33-8350; 34-48960; FR-72, December 29, 2003. Importantly, the SEC expressly acknowledged in FR-72 that:

> *… although the wording of the MD&A requirement in Form 20-F was revised in 1999, the Commission's adopting release noted that we interpret that Item as calling for the same disclosure as Item 303 of Regulation S-K. See Release No. 33-7745 (Sept. 28, 1999) [64 FR 53900 at 59304]. In addition, Instruction 1 to Item 5 in Form 20-F provides that issuers should refer to the Commission's 1989 interpretive release on MD&A disclosure under Item 303 of Regulation S-K (Interpretive Release: Management's Discussion and Analysis of Financial Condition and Results of Operations; Certain Investment Company Disclosures, Release No. 33-6835 (May 18, 1989) [54 FR 22427] (the "1989 Release")) for guidance in preparing the discussion and analysis by management of the company's financial condition and results of operations required in Form 20-F. Therefore, although this release refers primarily to Item 303 of Regulation S-K, it also is intended to apply to MD&A drafted pursuant to Item 5 of Form 20-F.*

The company should identify the most significant recent trends in production, sales and inventory, the state of the order book and costs and selling prices since the latest financial year. The company also should discuss, for at least the current financial year, any known trends, uncertainties, demands, commitments or events that are reasonably likely to have a material effect on the company's net sales or revenues, income from continuing operations, profitability, liquidity or capital resources, or that would cause reported financial information not necessarily to be indicative of future operating results or financial condition.[124] [Emphasis added.]

76. As explained further by the SEC, Barclays was also required to identify and disclose known events that were likely to have a material effect on the Company's financial condition or operating performance:

> *… **companies must identify and disclose known trends, events**, demands, commitments and uncertainties **that are reasonably likely to have a material effect on financial condition or operating performance**.*[125] [Emphasis added.]

77. Consistent with its need to disclose "significant" known trends and their related risk exposure to operations, SEC Reg S-K, Item 503 required the following disclosure within its April 2008 Prospectus, or incorporate such disclosures therein to other filings:

> *Risk Factors. Where appropriate, provide under the caption "Risk Factors" a discussion of the most significant factors that make the offering speculative or risky. This discussion must be concise and organized logically. Do not present risks that could apply to any issuer or any offering. Explain how the risk affects the issuer or the securities being offered. Set forth each risk factor under a subcaption that adequately describes the risk.*[126]

78. Barclays disclosed that the 2008 credit environment and market volatility would contribute to "higher average" risk (*i.e.* DVaR[127]) and "**some deterioration in credit metrics.**"[128] However, Barclays also stated that substantial liquidity market improvements occurred after December 31, 2007, providing the following assurances:

> ***The markets in 2008 have substantially improved with the passing of the year end, and a degree of normality has returned to the term interbank markets.***

[124] Item 5 of Form 20-F.

[125] SEC Interpretation: Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Release Nos. 33-8350; 34-48960; FR-72, December 29, 2003.

[126] SEC Rules, Form F-3, Item 3, Regulation S-K, Item 503.

[127] DVaR [Daily Value at Risk] is defined by Barclays as: "an estimate of the potential loss which might arise from unfavourable market movements, if the current positions were to be held unchanged for one business day, measured to a confidence level of 98%." 2007 Annual Report on Form 20-F, p. 2.

[128] 2007 Annual Report on Form 20-F, p. 65.

However we expect there to continue to be dislocations through 2008, and we remain vigilant to ensure that our liquidity profile remains strong.[129]

79. Despite Barclays assurances of "some" 2008 credit deterioration and "substantially improved" 2008 liquidity markets, the Company's management and Board of Directors were provided information which materially contradicted these positive assurances. In connection with this internal reporting to management, Barclays' 2007 Annual Report and April 2008 Prospectus failed to appropriately disclose material known trends and events affecting its operating results subsequent to December 31, 2007, in violation of the aforementioned SEC Rules. These undisclosed material[130] trends, uncertainties and events included the following and are described further below:

    a. Material undisclosed realized and expected credit loss events known to Barclays prior to the filing of its 2007 Annual Report and April 2008 Prospectus.

    b. The internally communicated severity of credit market risks affecting Barclays, which materially contradicted the Company's disclosed expectation of "some" deterioration in credit metrics and purported substantial market improvements.

    c. Increasing material, undisclosed exposure to monoline insurers associated with £21.5 billion of CDOs, CLOs, U.S. RMBSs and other wrapped assets and risk trends in monoline counterparty credit risk.

1. Material undisclosed realized and expected credit loss events known to Barclays prior to the filing of its 2007 Annual Report and April 2008 Prospectus.

80. As discussed above in paragraph 74, a principle objective of reporting under SEC Rules is to enable investors to see the company through the eyes of management. To achieve this objective Barclays was required to discuss known trends and events that were reasonably likely to have a material effect on its operating results, including those that were considered relevant by management.

81. As discussed above, evidence of material loss events were undisclosed by Barclays within its 2007 Annual Report and April 2008 Prospectus. Furthermore, despite repeated 2008 disclosure to Barclays' management and Board of Directors of expected future losses and related increased risk trends, the Company's 2008 Prospectus failed to provide these disclosures.

82. In addition to the documents referenced above beginning at paragraph 60 evidencing gross credit losses of not less than £800 million, the following information presented to Barclays' management demonstrated increased negative trends in anticipated material losses due to credit dislocations:

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[129] 2007 Annual Report on Form 20-F, p. 92.

[130] My evaluation of materiality in the context of the omissions is based, in part, on the quantitative factors discussed above (e.g.,¶¶61-66). It is further based on qualitative significance of such risk trends and events as evidenced by the repeated disclosure of such risk trends and events to management and members of Barclays' Board of Directors as cited hereafter within this Report.

a. Materials prepared in advance of Barclays Capital's March 25, 2008 ("cob", close of business 19th March, see below) Finance Committee meeting included the following "March Income Flash" report projecting impairments and credit losses of nearly £1.8 billion through the end of March 2008 [red box added for emphasis]:[131]

Q1 Net Income (est for P&L cob 19th Mar)

£m	Jan	Feb	Mar F	Q1 F	Comments
Underlying income	725	788	288	1,801	Underlying income (pre impairment)
Month to go			161	161	Trading, accrual, new deals
Own Credit	225	512	196	933	
Reserve releases	12	35	144	191	
Impairment & potential losses	(285)	(780)	(705)	(1,769)	
Equity / PE Disposals	-	8		8	
Others	-	90		90	
Net Income	**677**	**653**	**85**	**1,415**	

b. Consistent with these estimates for March 2008, the March 20, 2008 Board Meeting Minutes recognized the possibility of up to £850 million in losses during a single month as a result of "a reasonably severe" stress scenario:

> *The [Board Risk] Committee had discussed two different stress scenarios. First, a short term severe stress environment and the potential losses* ***that could be incurred in one month. This could result in a loss of up to £850 million before tax, in a reasonably severe scenario.***[132] [Emphasis added.]

c. Finance Committee meeting materials dated March 20, 2008 also evidenced Barclays Capital's expectation that impairment losses (excluding credit losses recognized through fair value) would materially exceed its 2008 Plan by approximately £865 million or 315%.[133] Specifically, Barclays "original 2008 Plan" assumed impairment losses of £275 million. As forecasted through March 20th, expected 2008 impairment losses totaled £1.140 billion. These expected impairment losses reflected a £294 million or 35% impairment increased over 2007's referenced actual losses of £846 million.[134]

d. Additional communications to Barclays Capital, including Mr. Diamond, demonstrated the expectation of material losses through April 8, 2008. Actual gross losses of £2.1 billion through March 31, 2008 confirmed these expectations as described above in paragraph 73.

e. Consistent with these 2008 losses was the following increasing risk trend affecting Barclays Capital asset impairments, as presented directly to members of Barclays'

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131 Finance Committee Meeting Agenda dated March 25, 2008, BARC-ADS-01022256.

132 March 20, 2008 Board of Directors Meeting Minutes, BARC-ADS-01601045-1060 at 1048.

133 Draft Finance Committee Meeting Agenda dated March 20, 2008, BARC-ADS-01022257, Section 7.

134 *Id.*

Executive Committee and members of the Company's Board Risk Committee during February and March 2008, respectively:[135]

Area	Comments	ExCo Action	Risk Trend
BarCap Impairment and Watch Lists	Corporate credit performance remains steady but the wholesale environment remains challenging. Watch list balances have grown, largely due to CDO and FI counterparties being added.	Active Watchlist	↑

83. Despite internal communications to executive management and members of the Board, Barclays' 2007 Annual Report and April 2008 Prospectus provided no disclosure of these material realized and expected 2008 loss events and related risk trend increases in violation of SEC Rules.

2. The internally communicated severity of credit market risks affecting Barclays, which materially contradicted the Company's disclosed expectation of "some" deterioration in credit metrics and purported substantial market improvements. was undisclosed

84. Internal communications to management and members of the Board regarding Barclays' credit environment exposure demonstrate the severity of increasing risk trends. For example:

a. Included in a March 19, 2008 Group Risk Profile Report presented to members of Barclays' BRC were the following troubling insights and expectations relating to 2008 credit market risk trends:[136] [Emphasis added.]

> *Wholesale credit markets remain challenging and* ***this is expected to continue to impact [Barclays Capital] in particular through 2008.***
>
> *The turbulence arising from disrupted US sub-prime mortgage markets and* ***the associated contagion across the global credit markets means that conditions remain extremely challenging****. […]*
>
> ***The disruption continues to spread into new areas and looks set to continue well into 2008****. […]*
>
> ***The possible economic impact of contraction in credit availability in key sectors and global markets is a growing concern****. […]*
>
> ***Market volatility increased in the three months to end Jan 08 due to sub-prime concerns and worries over the US economy.***[137] *[…]*

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[135] Risk Update: ExCo Discussion February 4, 2008, BARC-ADS-01604441; Risk Update: Forward Risk Trends for Credit and Market Risk – March [12] 2008, BARC-ADS-01593265.

[136] Group Risk Profile Report dated March 19, 2008, BARC-ADS-01544368-4415.

[137] While interbank spreads began to normalize as Barclays disclosed, internal reporting to Barclays' management demonstrated it resulted from the central bank's intervention as opposed to improvement in underlying market conditions.

[Barclays Capital] Watch list: Watchlist balances have grown very fast from c£4.5bn to a high of £22bn at the end of Oct 07, falling back slightly to £20.3bn by year end but ***increasing again in Jan 08****. …* ***[potential credit risk loans] have also moved up significantly as sub-prime CDO structures have been added****. […]*

The market turmoil which impacted BarCap in H2 07 has continued into 2008. ***Watchlist balances have grown substantially as the sub-prime issue has spread to a range of other areas****.*

Total DVaR rose sharply over the three months to end Jan 08 due to increased positions and higher volatility *feeding into the DVaR calculation.*

The disruption in the US Sub-Prime market continued through 2008 with prices of securities referencing sub-prime mortgage pools, including AAA, declining sharply in response to numerous ratings downgrades and a steepening delinquency rate.

The level of Problem and Credit Risk Loans ["PCRL"] also increased sharply due to the addition of exposures to sub-prime structures (e.g. CDOs). *These collateralised exposures have changed the overall characteristics of the PCRL portfolio which can be seen in the much lower BarCap coverage ratio.*

b. A March 2008 presentation to the BRC specifically regarding an "Update on ABS and Leveraged Credit Markets" included the following additional concerns:[138]

Looking forward there are some key risks that could significantly exacerbate the situation:

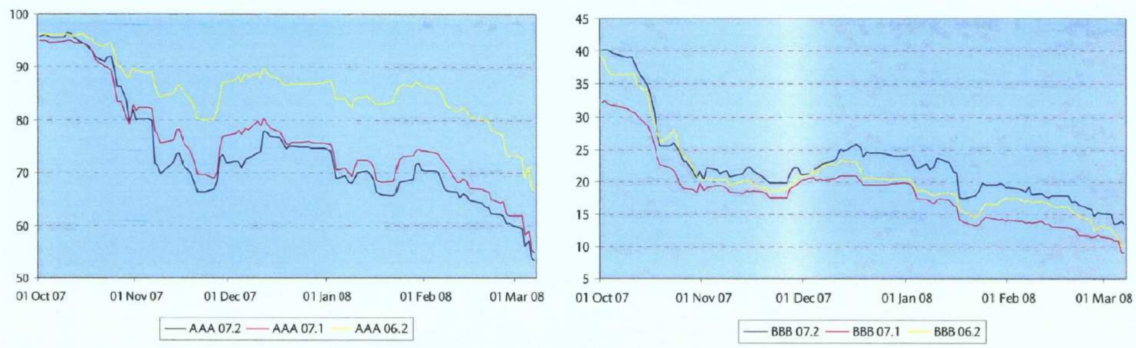
- *Further deterioration in the Alt A and commercial mortgages market*
- *Downgrade or financial stress of one of the AAA monoline insurers*
- *A significant leveraged default*

Supplementing these acknowledged concerns were the communicated deteriorating trends in subprime market indices through early March 2008. In particular, the following charts presented to management demonstrated significant 2008 declines in AAA rated securities and further declines in the already plummeting BBB indices:[139]

[138] Key Risk Issue – Update on ABS and Leveraged Credit Markets, BARC-ADS-01544425-4437 at 4428.

[139] *Id.* at 4430.

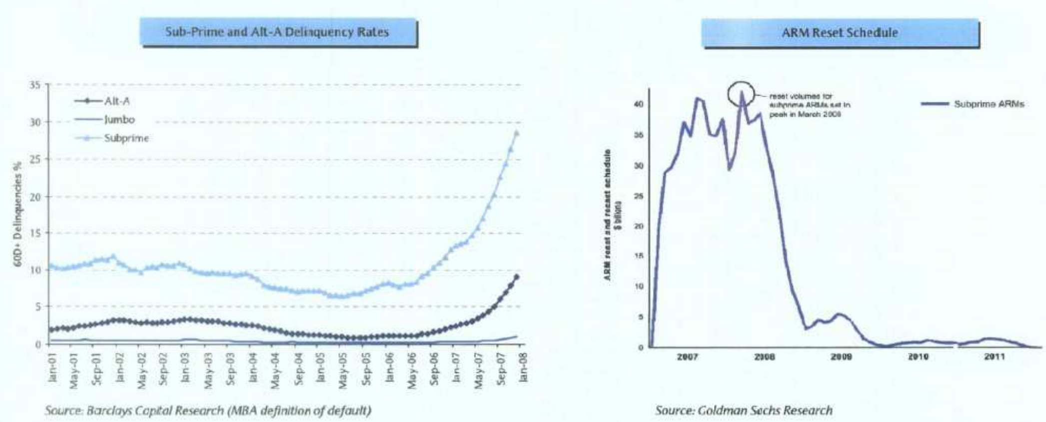
Significant market movements were experienced during October and November, and sub-prime markets have continued to decline



- Falling ABX prices reflect increasing delinquency rates and foreclosures in the U.S. as house prices have been falling on a national level.
- Rating agencies have been downgrading sub-prime securities in recent months which further depressed the indices prices; Moody's has also stated 2006 as the worst year for serious delinquencies since at least 2000. Accelerating delinquencies from 2007 bonds are likely to eclipse 2006.

Also presented was the understanding that subprime delinquencies were increasing to record levels and were expected to increase and remain high during 2008 due to peaking adjustable rate mortgage ("ARM") interest rate resets and ongoing interest rates increases. As noted below, these increases were expected to drive additional loan defaults throughout the "next 18 months:"[140]

Sub-Prime Delinquency Levels reached record levels in mid-2007 and look set to increase further and then remain high through 2008.



- Sub-prime delinquency rates are at record levels as at the end of September 2007. Their turning point has not yet been established.
- Delinquency rates are expected to climb further. Interest rate increases on low-start sub-prime mortgages (ARMs) which are a key driver of delinquency do not peak until March 2008.
- ARM interest rate increases will continue through 2008.
- The model used to assess our ABS CDO writedowns took prevailing delinquency levels on <u>**our**</u> assets (c.19% for 60+ days down) and applied a "roll rate" analysis which forecast that 70-100% of 60 day+ delinquencies, plus 15% of 30 day delinquencies (currently c.10% of sub-prime loans) will default over the next 18 months .

140 *Id.* at 4431.

c. Summarizing the expected increasing risks relating to Barclays Capital, including its subprime assets, the following additional concerns were also communicated to executive management and the BRC in March 2008:[141]

> ***Sub-prime collateral performance will continue to deteriorate in 2008 (ARM resets, tightened underwriting, declining HPA driving rising delinquencies). Further downside may develop from a potential US recession and limited liquidity as investors remain on the sidelines …*** [Emphasis added.]

d. During a non-public due diligence call on April 3, 2008, management acknowledged the "serious economic downturn."[142] Mr. Lucas also discussed the "very tough conditions" that existed in March of 2008:

> *In terms of March [2008], as you can imagine, March has been a very tough month. … In terms of H-1, 2008, it's quite difficult because there is – the consensus numbers I gave you, 7 billion pounds, have not been refined by the investment community into a first half, second half. We had planned, if I go back to the plans, a better second half than first. I think it's fair to say that the conditions we have seen in March specifically, will have dented our first half numbers. …*[143]

85. This internally communicated evidence of expected severe 2008 credit market deterioration, including sub-prime markets, contrasted with Barclays' disclosed expectation of "some" deterioration in credit metrics and asserted "substantially improved" markets. In this regard, Barclays failed to disclose the adverse impact of these risks and trends on Barclays' future operating results in violation of the aforementioned SEC Rules.

3. Increasing material, undisclosed exposure to monoline insurers associated with £21.5 billion of CDOs, CLOs, U.S. RMBSs and other wrapped assets and risk trends in monoline counterparty credit risk.

86. Within its 2007 Annual Report, Barclays disclosed the following exposure to monoline insurers:

> *Barclays Capital held assets with insurance protection or other credit enhancement from monoline insurers.* ***The value of exposure to monoline insurers under these contracts was £1,335m. There were no claims due under these contracts as none of the underlying assets were in default.*** *…*[144]

87. Internal documents show that Barclays' management and members of its Board were informed of exposures that materially exceeded the £1.3 billion relating to risk exposed

[141] Risk Update: ExCo Discussion February 4, 2008, BARC-ADS-01604441; Risk Update: Forward Risk Trends for Credit and Market Risk – March [12] 2008, BARC-ADS-01593265.

[142] Exhibit 18, Certified Transcript of April 3, 2008, 11:17-19.

[143] *Id.* at 10:4-12.

[144] 2007 Annual Report on Form 20-F, p. 53.

CDOs, CLOs, U.S. RMBSs and other wrapped assets held at December 31, 2007.[145] In addition, significant undisclosed negative credit risk trends affecting Barclays' monoline insurer counterparties, as seen below in paragraph 88, which exposed the Company to heightened risk of loss, were presented to Barclays' management. Barclays' failure to properly disclose its increasing risk and exposure to monoline insurers was a material omission and violation of SEC Rules.

88. The following evidence presented to management prior to the issuance of its 2007 Annual Report and April 2008 Prospectus demonstrated the existence of increasing risk trends affecting Barclays' exposure to monoline insurers during early 2008:

a. Materials prepared in connection with Barclays Capital's January 22, 2008 Finance Committee meeting, which included Mr. Diamond, highlighted the following significant concerns affecting the Company's monoline exposures and industry in general:

> ***The magnitude of the monoline losses has called into question the adequacy of their current capital positions****;*
>
> ***Frequent changes in reported exposures raise significant questions regarding the ultimate expected losses in their CDO and other mortgage related exposures and has resulted in a "No Confidence" vote from the market****;*
>
> ***Their ability to raise capital in the public market is no longer a viable economical option and debt are traded at distressed prices****;*
>
> *Barring an equity injection or an outright purchase from a private investor,* ***downgrades will continue with AMBAC already downgraded to AA (Fitch) and XL/SCA, FQIC and MBIA expected to follow. XL/SCA and FQIC have potential for double downgrade to single A****;*
>
> ***Repercussions are many and may be extreme beginning with the monolines no longer having a viable franchise*** *and ending with money market and pension funds being forced sellers of municipal bonds because of investment rating limitations.*[146] [Emphasis added.]

b. Consistent with these concerns was the following acknowledged increasing risk trend affecting Barclays' monoline insurance exposure, as presented directly to members of Barclays' Executive Committee and members of the Company's Board Risk Committee during February and March 2008, respectively:[147]

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[145] See for example, Key Risk Issue – Update on ABS and Leveraged Credit Markets, BARC-ADS-01544425-4437 at 4433 and Finance Committee Agenda, April 2, 2008 native file, BARC-ADS-01022272.

[146] Exhibit 474, Finance Committee Meeting Agenda dated January 22, 2008, BARC-ADS-00930358-380 at 373.

[147] Risk Update: ExCo Discussion February 4, 2008, BARC-ADS-01604441; Risk Update: Forward Risk Trends for Credit and Market Risk – March [12] 2008, BARC-ADS-01593265.

Area	Comments	ExCo Action	Risk Trend
Monolines	Barclays has exposure mainly via guarantees provided for securities that we hold ("negative basis" trades). Losses would require failure (not simply downgrade) of the monoline guarantors.	For noting	

c. Thereunder, Barclays' management observed the following corresponding risk concerns, including the potential outright failure of the monoline business model:

> ***We have exposure in the form of monoline guarantees for ABS held in BarCap ("negative basis" trades)*** *as well as wrapped bonds and ABCP in BGI cash funds*. ***Monolines face risk from a potential downgrade that threatens their business model.***
>
> *The AAA ratings of the monoline bond insurers are under pressure because of uncertainty over their exposure to sub-prime losses.* ***Insurance of sub-prime assets comprises about 25% of the monolines' portfolio exposure of $2tn. Their credit spreads have widened;***
>
> ***An acceleration of downgrades would threaten the monolines' business franchise.*** *In an extreme situation, the insurance policies sold on municipal bonds could be negated by downgrades, forcing pension funds to sell municipal debt because of investment rating restrictions,*[148] [Emphasis added.]

d. In a March 2008 email addressed to Barclays' Executives, including Mr. Varley, Marcus Agius, Barclays' Group Chairman of the Board, a draft noted to the Company's Board of Directors explicitly referenced comments made to Mr. Agius by Callum McCarthy, the Chairman of the Financial Services Authority. Specifically, Mr. Agius observed the following related to Barclays significant exposure to monoline insurers:

> ***McCarthy did make a number of Barclays specific comments. He told me that Barclays exposure (admittedly at the notional level) to monoline insurers is the largest in the (UK) market*** *and he observed that our investment backing business forms a relatively large part of our business as compared to our competitors.* ***He expressed particular concern that our Tier 1 equity ratio is only 4.6 perc.*** *(as compared with our own figure of 5 percent). […]*
>
> *While it is not surprising the the [sic] FSA is having discussions with bank chairmen in this way,* ***I have to say that McCarthy's tone was sharp. He wanted to know whether I and other [Non-Executive Directors] were "holding the Executive's feet to the fire?" He referred to our equity ratio profile as being "alarming"*** *and said that he needed to know "as a matter of ugency" what our contingency plans were in order to decide "whether we would need to take any action"*.[149] [Emphasis added.]

89. These concerns presented to management demonstrated the increased risk trend affecting

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[148] *Id.*

[149] Emails between Executives dated March 2008, BARC-ADS-00931095-1098.

the ultimate collection of Barclays' monoline insured assets and thus, its future operating results. The Company's failure to sufficiently disclose this increasing risk trend was exacerbated by the Company's failure to disclose the full extent of its exposure to monoline insurers, including the corresponding risk and nature of the underlying assets insured.

90. As noted above, Barclays' exposure to monoline insurers was purportedly limited to £1.3 billion as of December 31, 2007. However, this disclosed exposure represented only the amounts that would become due from monoline insurers resulting from recognized declines in the fair value of the underlying insured assets at December 31, 2007. It did not represent the full exposure to monoline insurers assuming a continued devaluation of such assets as disclosed in documents presented to management and members of the Board in Q1'2008.

91. While Barclays could have separately identified and disclosed the fair value of its underlying assets insured by monolines, it did not. This significant omission is contrasted by repeated reporting to Barclays' management, which evidenced notional values of underlying insured assets totaling $42.3 billion.[150] For example, on March 12, 2008 the following table was presented to Barclays' management and members of its Board prior to the issuance of the Company's 2007 Annual Report, under the heading "Other Areas of Concern – Exposure to Monoline Insurers:"[151]

Negative Basis Book Notionals		
Counterparty name used	CFRM Category	Current notional (£m)
MBIA	CRE Loans	219
	European CLO	678
	European Mezz ABS	1,361
	US CLO	1,386
	US CMBS	4,541
	US High-Grade ABS	1,870
	US Mezzanine ABS	1,026
MBIA Total		11,080
AMBAC	CDO^2 (ABS)	79
	European CLO	2,436
	Infrastructure	868
	US CLO	4,503
	US High-Grade ABS	949
AMBAC Total		8,835
FSA	Bank & Insurance TRUPs	95
	European CLO	216
	US CLO	5,915
FSA Total		6,227
ASSURED	Bank & Insurance TRUPs	95
	CRE Loans	100
	Euro REIT Trust Preferred and CMBS	1,398
	European CLO	2,178
	REIT Trust Preferred	221
	US CLO	2,028
ASSURED Total		6,020
FGIC	European CLO	802
	US CLO	3,004
	US Mezzanine ABS	155
FGIC Total		3,962
CIFG	Bank & Insurance TRUPs	147
	European CLO	2,247
	US CLO	770
CIFG Total		3,164
XLCA	Emerging Markets Gov and Corp	192
	European CLO	1,433
	US CLO	606
	US CMBS	620
	CDO^2	107
XLCA Total		2,958
TOTAL		42,245

[150] Key Risk Issue – Update on ABS and Leveraged Credit Markets, BARC-ADS-01544425-4437 at 4433.

[151] *Id.*

Similar disclosures of notional value were regularly reported to Barclays Capital Finance Committees evidencing its underlying significance and relevance to understanding the Company's actual exposure to monolines.[152] Consistent with the table above, the notional amounts of insured assets were presented by individual monoline insurer and included additional information regarding credit rating downgrades of the monolines.[153]

92. As noted in the table above in paragraph 91, communications to management also specifically identified the type of underlying assets that were insured. Many of these assets related to exposed CDOs, CLOs, CMBSs, and other real estate backed assets whose values were sharply declining at this time. Such declines in value would, in turn, cause Barclays to claim greater amounts from the monoline insurers. This circumstance would put even more financial pressure on the already strapped monolines' ability to fund such losses.

93. Importantly, the full notional values of these assets were excluded from the Company's disclosed assets exposed to credit market dislocations identified above in paragraph 48. Ultimately, the value of Barclays' wrapped assets declined in connection with the known trends affected by the 2008 credit markets. Accordingly, amounts due from monoline insurers to Barclays increased. By December 31, 2008, net amounts due from monolines had increased to greater than £8.4 billion.[154] In connection with these increased amounts, Barclays recorded credit valuation losses of £1.7 billion.[155]

94. As evident in the following table, Barclays would also disclose in August 2008 that many of the underlying assets insured were subject to significant credit market risks, were materially affected by the market dislocations and included previously unidentified CDO, CLOs, RMBSs and CMBSs:[156]

	Rating of Monoline Insurer As at 30.06.08			
	AAA/AA £m	A/BBB £m	Non-investment grade £m	Total £m
Notional Assets Wrapped by Monoline Insurers				
2005 and earlier	112	—	—	112
2006	359	562	—	921
2007 and 2008	—	374	—	374
High Grade	**471**	**936**	**—**	**1,407**
Mezzanine - 2005 and earlier	—	508	63	571
CDO² - 2005 and earlier	38	—	—	38
US RMBS	**509**	**1,444**	**63**	**2,016**
CMBS	50	2,392	311	2,753
CLOs	8,801	1,050	4,556	14,407
Other	1,378	706	222	2,306
Total	**10,738**	**5,592**	**5,152**	**21,482**

95. In conclusion, Barclays' limited disclosure regarding its monoline insurance exposures failed to include material increasing risk trends communicated to management and its Board of Directors. Furthermore, Barclays' omitted material potential credit loss

[152] See for example, Finance Committee Agenda, April 2, 2008 native file, BARC-ADS-01022272.

[153] *Id.*

[154] Barclays 2008 Annual Report on Form 20-F, pp. 98, 101, and 104.

[155] *Id.*

[156] Barclays Form 6-K dated August 7, 2008, p.35.

exposures by failing to: (1) separately identify the £21.6 billion of notional valued assets insured at December 31, 2007 (see paragraph 49), and (2) disclose the underlying nature of the assets exposed to known credit risks (*e.g.*, CDO, CLO, RMBS). These omissions within Barclays' 2007 Annual Report and April 2008 Prospectus violated the SEC Rules as discussed above in paragraph 75.

96. These omissions also raises significant doubts as to whether Barclays complied with the disclosure requirements stipulated under IFRS 7. Specifically, IFRS 7 required Barclays to disclose the following:

> *... (b)* ***the nature and extent of risks arising from financial instruments to which the entity is exposed*** *during the period and at the end of the reporting period, and how the entity manages those risks. [...]*[157] [Emphasis added.]
>
> *For each type of risk arising from financial instruments,* ***an entity shall disclose****:*
>
> ***summary quantitative data about its exposure to that risk at the end of the reporting period. This disclosure shall be based on the information provided internally to key management personnel of the entity (as defined in IAS 24 Related Party Disclosures), for example the entity's board of directors or chief executive officer.***[158] [Emphasis added.]

97. Barclays' failed to disclose material potential credit loss exposures presented to key management personnel by failing to: (1) separately identify £21.6 billion of notional valued assets insured at December 31, 2007, and (2) disclose the underlying nature of those same assets exposed to known credit risk (*e.g.*, CDO, CLO, RMBS).[159]

4. Managements' Subsequent Acknowledgement of the Need for More Disclosure Regarding the Effects of Market Dislocations in its 2007 Annual Report

98. Subsequent to the issuance of Barclays 2007 Annual Report and April 2008 Prospectus, inquiries were made by the Financial Reporting Review Panel ("FRRP") to the Company as to the sufficiency and appropriateness of its 2007 Annual Report risk disclosures. In connection with these inquiries, Barclays expressly acknowledged that its financial statement users required "more detailed information regarding the effects of market dislocation." Specifically, Barclays disclosed the following to the FRRP on September 30, 2008:

> *Following on from the Annual Report,* ***as it became clear that users needed more detailed information on the effects of the market dislocation, we expanded on the disclosures provided at the year end in our Q1 Interim management statement***

[157] IFRS 7, ¶1.

[158] IFRS 7, ¶34.

[159] See additional references to the underlying type of exposed assets at BARC-ADS-01351409.

and our 2008 Interim results announcement and we will endeavour to continue to meet the highest standards of disclosure.[160] [Emphasis added.]

99. Examples of relevant expanded disclosures included in the Company's interim management statement on Form 6-K and 2008 Annual Report on Form 20-F, which were not provided in the 2007 Annual Report and April 2008 Prospectus, are contained in pages 32-40[161] and pages 95-105,[162] respectively.[163]

D. Paul Regan, CPA/CFF, CFE

December 15, 2015

[160] Response to FRC, Financial Reporting Review Panel dated September 30, 2008, BARC-ADS-01619739-764 at 764. Note: As described above beginning at paragraph 79, it would appear that the basis for Barclays' statement that, "it became clear that users needed more detailed information on the effects of the market dislocation" was considered relevant by Barclays' management by the time its 2007 20-F and its April 2008 Prospectus were filed.

[161] Barclays Form 6-K dated August 7, 2008, pp. 32-40.

[162] Barclays 2008 Annual Report on Form 20-F, pp. 95-105.

[163] When considering certain disclosure "recommendations," Barclays identified several instances where "no" or "partial" disclosures were provided in its 2007 Annual Report. See for example, BARC-ADS-00940844 and BARC-ADS-01004943.

Exhibit 1
Impact of the Credit Crises - January 1, 2007 Through April, 1 2008
Bear Stearns and other Mortgage Originators and Banks

Date	Event	Source
1/2/2007	Ownit Mortgage Solutions Inc. files for Chapter 11; it owed Merrill Lynch around $93 million.	(1)
1/29/2007	American Freedom Mortgage, Inc. files for Chapter 7 protection.	(2)
Feb-March 2007	Subprime industry collapse; several subprime lenders declaring bankruptcy, announcing significant losses, or putting themselves up for sale. These include Accredited Home Lenders Holding, New Century Financial, DR Horton and Countrywide Financial.	(3)
2/5/2007	Mortgage Lenders Network USA Inc., the country's 15th largest subprime lender with $3.3 billion in loans funded in third quarter 2006, files for Chapter 11.	(4)
2/8/2007	HSBC warns that bad debt provisions for 2006 would be 20% higher than expected to roughly $10.5bn (£5bn).	(5)
2/22/2007	HSBC fires head of its US mortgage lending business as losses reach $10.5bn.	(6)
3/12/2007	Shares in New Century Financial, one of the biggest sub-prime lenders in the US, were suspended amid fears it might be heading for bankruptcy.	(6)
3/16/2007	US-based sub-prime firm Accredited Home Lenders Holding said it would sell $2.7bn of its sub-prime loan book - at a heavy discount - in order to generate some cash for its business.	(6)
4/2/2007	New Century Financial filed for Chapter 11 bankruptcy protection after it was forced by its backers to repurchase billions of dollars worth of bad loans. The company said it would have to cut 3,200 jobs, more than half of its workforce, as a result of the move.	(6), (7)
5/3/2007	UBS closes its US sub-prime lending arm, Dillon Read Capital Management.	(6)
5/30/2007	UK sub-prime lender Kensington agrees to takeover	(6)
6/7/2007	Bear Stearns & Co informs investors in two of its CDO hedge funds, the High-Grade Structured Credit Strategies Enhanced Leverage Fund and the High-Grade Structured Credit Fund that it was halting redemptions.	(8)
6/20/2007	Merrill Lynch has seized about $800 million in assets from Bear Stearns' hedge funds.	(9)
6/22/2007	Bear Stearns revealed it had spent $3.2bn (£1.5bn) bailing out two of its funds exposed to the sub-prime market. The bailout of the fund was the largest by a bank in almost a decade.	(6)
7/18/2007	Bear Stearns told investors that they will get little, if any, money back from the two hedge funds that the lender was forced to rescue.	(6)
7/24/2007	Rising defaults on sub-prime loans hit profits at Countrywide, largest mortgage lender.	(6)
7/26/2007	Bear Stearns seized assets from one of its problem-hit hedge funds as it tried to stem losses. Shares fell 4.2% in five sessions, its worst weekly decline in almost five years.	(6)
7/31/2007	Bear Stearns stopped clients from withdrawing cash from a third fund, saying it has been overwhelmed by redemption requests. The lender also filed for bankruptcy protection for the two funds it had to bail out earlier.	(6)
8/6/2007	American Home Mortgage, one of the largest US independent home loan providers, filed for bankruptcy after laying off the majority of its staff. The company said it was a victim of the slump in the US housing market that had caught out many sub-prime borrowers and lenders.	(6)
8/6/2007	American Home Mortgage Investment Corporation (AHMI) files Chapter 11 bankruptcy. The company expects to see up to a $60 million loss for the second quarter 2007.	(10)
8/8/2007	Mortgage Guaranty Insurance Corporation (MGIC, Milwaukee, Wisconsin) announces it will discontinue its purchase of Radian Group after suffering a billion-dollar loss of its investment in Credit-Based Asset Servicing and Securitization (C-BASS, New York).	(11)
8/9/2007	French investment bank BNP Paribas suspends three investment funds that invested in subprime mortgage debt, due to a "complete evaporation of liquidity" in the market. The bank's announcement is the first of many credit-loss and write-down announcements by banks, mortgage lenders and other institutional investors, as subprime assets went bad, due to defaults by subprime mortgage payers.	(12)
8/14/2007	Sentinel Management Group suspends redemptions for investors and sells off $312 million worth of assets; three days later Sentinel files for Chapter 11 bankruptcy protection. US and European stock indices continue to fall.	(13)
8/15/2007	The stock of Countrywide Financial, which is the largest mortgage lender in the United States, falls around 13% on the New York Stock Exchange after Countrywide says foreclosures and mortgage delinquencies have risen to their highest levels since early 2002.	(14)
8/16/2007	Countrywide Financial Corporation, the biggest U.S. mortgage lender, takes out an emergency loan of $11 billion from a group of banks. Australian mortgage lender Rams also admits liquidity problems.	(6),(15)
8/17/2007	BNP Paribas says sub-prime losses in hedge funds will not impact on quarterly profits.	(6)
8/20/2007	Countrywide cuts jobs as sub-prime crisis hits.	(6)
8/21/2007	Capital One cuts jobs as sub-prime crisis bites.	(6)

Exhibit 1
Impact of the Credit Crises - January 1, 2007 Through April, 1 2008
Bear Stearns and other Mortgage Originators and Banks

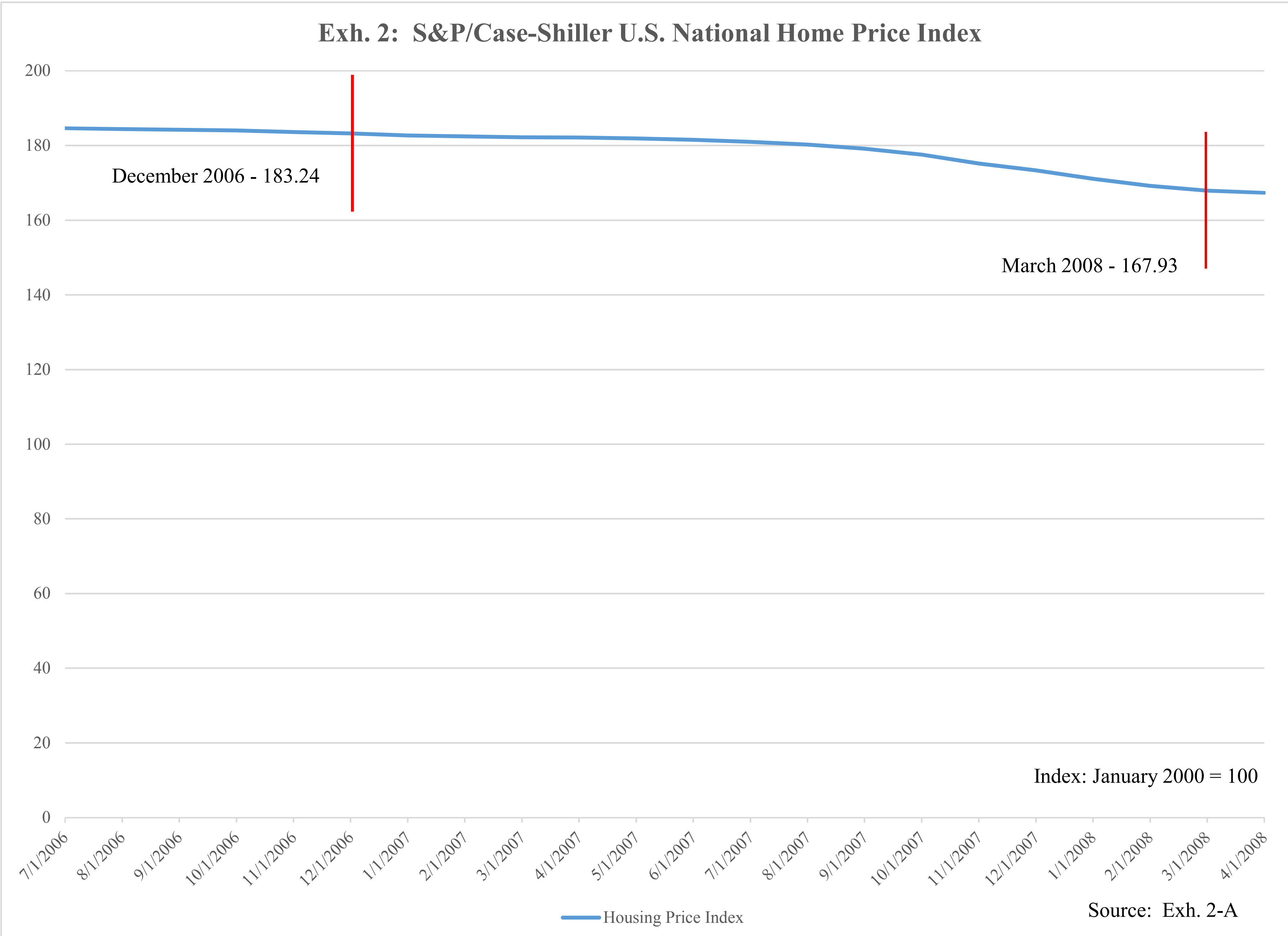
Date	Event	Source
8/28/2007	The German regional bank Sachsen Landesbank is rapidly sold to Germany's biggest regional bank, Landesbank Baden-Wuerttemberg. It came close to collapsing under its exposure to sub-prime debt. It received a 17bn euro lifeline.	(6)
9/3/2007	German regional lender IKB recorded a $1bn loss as a result of exposure to the US sub-prime market.	(6)
9/12/2007	Citibank borrows $3.375 billion from the Fed discount window, prompting then-President of the Federal Reserve Bank of NY Timothy Geithner to call the CFO of Citibank. Over four days in late August and early September, foreign banks borrowed almost $1.7 billion through the discount window.	(16)
9/13/2007	The BBC reveals that Northern Rock had asked for and been granted emergency financial support from the Bank of England, in the latter's role as lender of last resort.	(6)
9/15/2007	Thousands of depositors queue outside Northern Rock branches to try and get their money out.	(6)
9/30/2007	Internet banking pioneer NetBank goes bankrupt, and the Swiss bank UBS announces that it lost US$690 million in the third quarter.	(18)
10/1/2007	Swiss bank UBS revealed losses of $3.4bn in its fixed income and rates division, and in its mortgage-backed securities business, while Citigroup admits $.31bn in losses.	(6)
10/5/2007	Investment bank Merrill Lynch reveals $5.6bn sub-prime loss	(6)
10/5/2007	Merrill Lynch announces a US$5.5 billion loss, revised to $8.4 billion on October 24, a sum that credit rating firm Standard & Poor's called "startling".	(18)
10/15/2007	Citigroup writes down additional $5.9bn on exposure to the US sub-prime market.	(6)
10/15/2007	Japanese bank Nomura announced the closure of its US mortgage-backed securities business and takes a $621m (£299m) hit.	(6)
10/30/2007	Merrill Lynch takes a $7.9bn hit following exposure to bad debt. Its chief executive, Stan O'Neal, resigns.	(6)
11/5/2007	Banking giant Citigroup announces losses of between $8bn and $11bn because of exposure to the US sub-prime market. Chief executive and chairman Charles Prince resigns.	(6)
11/8/2007	Morgan Stanley unveiled a $3.7bn loss from its US sub-prime mortgage exposure.	(6)
11/8/2007	BNP Paribas (after temporarily freezing hedge funds with $2.1bn in assets under management in August) revealed it had written down 301m euro ($439m, £214m) because of credit problems, including $197m related to US sub-prime and home builder lending.	(6)
11/14/2007	Mizuho, Japan's second largest banking group, saw a 17% drop in first-half net profits and cut its full-year operating profit forecast by 13%, largely as a result of sub-prime-related losses at its securities arm.	(6)
11/15/2007	Barclays says it had written down £1.3bn ($2.6bn) in sub-prime losses.	(6)
11/20/2007	UK buy-to-let mortgage lender Paragon sees its shares fall nearly 40% after revealing funding difficulties.	(6)
11/27/2007	Citigroup agrees to sell shares worth $7.5bn to an investment fund owned by Abu Dhabi.	(6)
12/4/2007	US mortgage giant Fannie Mae is to issue $7bn of shares to cover losses linked to the housing market.	(6)
12/6/2007	Royal Bank of Scotland warns it will write off about £1.25bn because of exposure to the US sub-prime market.	(6)
12/10/2007	Swiss bank UBS reports a further $10bn write-down caused by bad debts in the US housing market.	(6)
12/14/2007	Citigroup takes $49bn worth of sub-prime debts back on its balance sheets, effectively closing seven structured investment vehicles (SIVs) which had relied on money market funding.	(6)
12/19/2007	Morgan Stanley writes off $9.4bn in sub-prime losses and sells a 9.9% stake in the company to the Chinese state investment company CIC for $5bn to rebuild its capital.	(6)

Exhibit 1
Impact of the Credit Crises - January 1, 2007 Through April, 1 2008
Bear Stearns and other Mortgage Originators and Banks

Date	Event	Source
1/11/2008	The largest mortgage lender in the US, Countrywide, which pioneered sub-prime mortgages, is bought by Bank of America for $4bn after its shares plunge 48%. The deal, which was subject to approval from the Federal Reserve, was completed in June 2009.	(6), (19)
1/15/2008	Citigroup, the largest bank in the US, reports a $9.8bn loss for the fourth quarter and writes down $18bn in sub-prime losses. It also announces further investments in the group by Kuwait and Saudi Arabia.	(6)
1/17/2008	Merrill Lynch unveils a $14.1bn write-down of investments linked to sub-prime mortgages and posts a net loss of $7.8bn in 2007.	(6)
1/17/2008	Investment bank Lehman Brothers cuts 1,300 jobs as it scales back its US mortgage lending business.	(6)
2/13/2008	Japan's financial watchdog says Japanese banks suffered losses of $5.6bn by the end of 2007. These have more than doubled in the last three months of the year.	(6)
2/14/2008	Commerzbank, Germany's second-biggest bank, cuts $1.1bn off the value of investments linked to the sub-prime mortgage crisis and warns its losses could worsen.	(6)
2/14/2008	Swiss investment bank UBS confirms it has made a loss of $4bn in 2007 after cutting the value of investments by $18.4bn.	(6)
3/3/2008	HSBC announced a $17.2bn (£8.7bn) loss after the decline in the US housing market hit the value of its loans.	(6)
3/14/2008	Bear Stearns receives emergency funding, after its exposure to mortgage-backed investments undermined confidence in the bank.	(20)
3/14/2008	Investment fund Carlyle Capital fails as the credit crisis spreads from sub-prime related products to other mortgage-backed investments.	(6)
3/17/2008	Wall Street investment bank Bear Stearns is acquired by JPMorgan Chase for $240m, a fraction of its share price, in deal backed by $30bn in Fed loans.	(21)
3/18/2008	Wall Street investment banks Goldman Sachs and Lehman Brothers reveal that their first quarter profits have been halved by the credit crunch.	(6)
3/20/2008	Credit Suisse reveal valuation reductions of $2.65 billion in certain ABS positions, "reflecting adverse market developments in the first quarter of 2008."	(22)
4/1/2008	Swiss bank UBS reveals a further $19bn of asset write-downs. This came on top of the $18.4bn which it announced for 2007.	(6)
4/1/2008	Germany's Deutsche Bank warns of credit losses of $3.9bn in the first three months of 2008.	(6)

<u>Notes</u>

(1) Doss, Kristina, The Wall Street Journal, *Ownit Mortgage Files For Bankruptcy Protection* , January 1, 2007.
(2) Atlanta Business Chronicle, *Ad Bill Forces Mortgage Lender out of Business* , February 15, 2007.
(3) BBC News, *Wall Street Hit by Home Payment Fears* , March 13, 2007.
(4) Reuters, *Mortgage Lenders Network Files for Chapter 11* , February 5, 2007.
(5) BBC News, *US Housing Slowdown Knocks HSBC* , February 8, 2007.
(6) BBC News, *Timeline: Sub-prime Losses* , May 19, 2008.
(7) CNN Money, *New Century Files for Chapter 11 Bankruptcy* , April 3, 2007.
(8) Reuters, *Bear Stearns Halts Redemptions in Third Hedge Fund* , August 1, 2007.
(9) Federal Deposit Insurance Corporation, *Remarks by Sheila Bair Chairman, U.S. Federal Deposit Insurance Corporation; 2007 Risk Management and Allocation Conference* , June 25, 2007.
(10) Wilchins, Dan, Reuters, *Accredited Home Sees Up to $60 MLN Loss for Quarter* , August 10, 2007.
(11) The Wall Street Journal, *Credit Notebook: Novastar Cuts,* September 5, 2007.
(12) Boyd, Sebastian, Bloomberg, *BNP Paribas Freezes Funds as Loan Losses Roil Markets (Update5)* , August 9, 2007.
(13) Yerak, Manor, Chicago Tribune, *Sentinel Makes Chapter 11 Filing* , August 18, 2007.
(14) Stempel, Jonathan, Reuters, *Countrywide Plunges on Downgrade, Bankruptcy Fear* , August 15, 2007.
(15) Keoun, Bradley, Bloomberg, *Countrywide Taps $11.5 Billion Credit Line From Banks* , August 16, 2007.
(16) Morgenseon, Gretchen, The New York Times, *The Bank Run We Knew So Little About* , April 2, 2011.
(17) Rochelle, Bill, Bloomberg, *NetBank Files for Bankruptcy After Regulators Take Over Unit* , September 30, 2007.
(18) Keoun, Bradley, Bloomberg, *"Startling" $8 billion loss for Merrill Lynch* , October 25, 2007.
(19) National Public Radio, *Bank of America to Buy Countrywide* , January 11, 2008.
(20) Onaran, Yalman, Bloomberg, *Bear Stearns Gets Emergency Funds from JPMorgan, FED (Update 6)* , March 14, 2008.
(21) Sorkin, Andrew R., *JP Morgan Pays $2 a Share for Bear Stearns* , March 17, 2008.
(22) Credit Suisse AG Form 20-F for the period ended December 31, 2007, p. 51.


Exh. 2: S&P/Case-Shiller U.S. National Home Price Index
December 2006 - 183.24
March 2008 - 167.93
Index: January 2000 = 100
Housing Price Index
Source: Exh. 2-A
200
180
160
140
120
100
80
60
40
20
0
7/1/2006
8/1/2006
9/1/2006
10/1/2006
11/1/2006
12/1/2006
1/1/2007
2/1/2007
3/1/2007
4/1/2007
5/1/2007
6/1/2007
7/1/2007
8/1/2007
9/1/2007
10/1/2007
11/1/2007
12/1/2007
1/1/2008
2/1/2008
3/1/2008
4/1/2008

Exh. 2-A
S&P/Case-Shiller U.S. National Home Price Index

Index Jan 2000 = 100

Date	Housing Price Index
7/1/2006	184.62
8/1/2006	184.42
9/1/2006	184.21
10/1/2006	184.07
11/1/2006	183.64
12/1/2006	183.24
1/1/2007	182.73
2/1/2007	182.49
3/1/2007	182.21
4/1/2007	182.15
5/1/2007	181.90
6/1/2007	181.56
7/1/2007	181.01
8/1/2007	180.25
9/1/2007	179.14
10/1/2007	177.56
11/1/2007	175.19
12/1/2007	173.37
1/1/2008	171.11
2/1/2008	169.22
3/1/2008	167.93
4/1/2008	167.35

Source
S&P Dow Jones Indices LLC, *S&P/Case-Shiller U.S. National Home Price Index©*
[CSUSHPINSA], retrieved from FRED, Federal Reserve Bank of St. Louis

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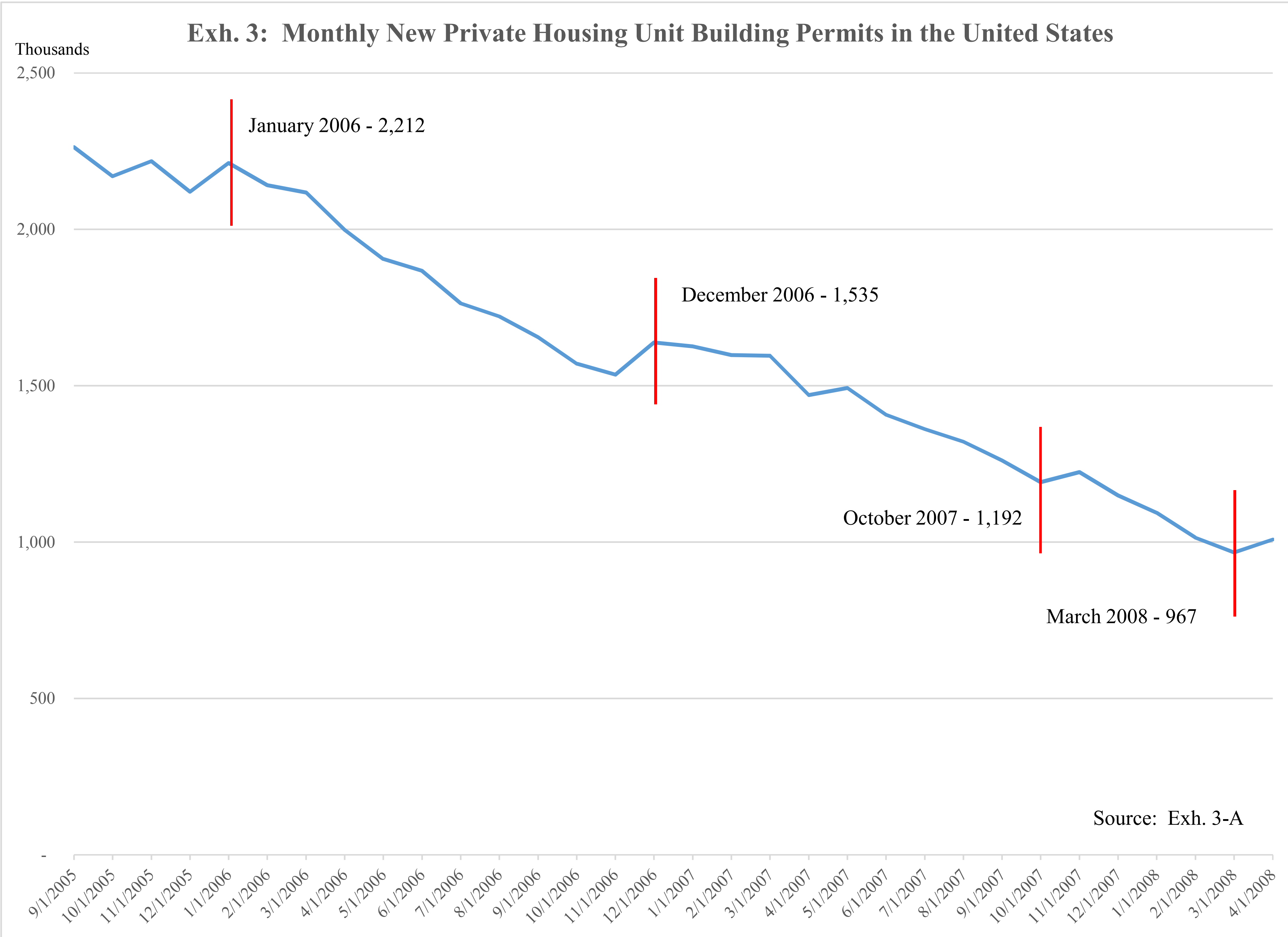

Exh. 3: Monthly New Private Housing Unit Building Permits in the United States
Thousands
2,500
2,000
1,500
1,000
500
-
January 2006 - 2,212
December 2006 - 1,535
October 2007 - 1,192
March 2008 - 967
Source: Exh. 3-A
9/1/2005
10/1/2005
11/1/2005
12/1/2005
1/1/2006
2/1/2006
3/1/2006
4/1/2006
5/1/2006
6/1/2006
7/1/2006
8/1/2006
9/1/2006
10/1/2006
11/1/2006
12/1/2006
1/1/2007
2/1/2007
3/1/2007
4/1/2007
5/1/2007
6/1/2007
7/1/2007
8/1/2007
9/1/2007
10/1/2007
11/1/2007
12/1/2007
1/1/2008
2/1/2008
3/1/2008
4/1/2008

Exh. 3-A
Monthly New Private Housing Units Authorized by Building Permits in the United States

Period	Permits (Thousands)
9/1/2005	2,263
10/1/2005	2,170
11/1/2005	2,218
12/1/2005	2,120
1/1/2006	2,212
2/1/2006	2,141
3/1/2006	2,118
4/1/2006	1,998
5/1/2006	1,905
6/1/2006	1,867
7/1/2006	1,763
8/1/2006	1,722
9/1/2006	1,655
10/1/2006	1,570
11/1/2006	1,535
12/1/2006	1,638
1/1/2007	1,626
2/1/2007	1,598
3/1/2007	1,596
4/1/2007	1,470
5/1/2007	1,493
6/1/2007	1,407
7/1/2007	1,361
8/1/2007	1,321
9/1/2007	1,261
10/1/2007	1,192
11/1/2007	1,224
12/1/2007	1,149
1/1/2008	1,094
2/1/2008	1,014
3/1/2008	967
4/1/2008	1,008

Source
US. Bureau of the Census, New Private Housing Units Authorized by Building Permits [PERMIT], retrieved from FRED, Federal Reserve Bank of St. Louis https://research.stlouisfed.org/fred2/series/PERMIT/, December 2, 2015.

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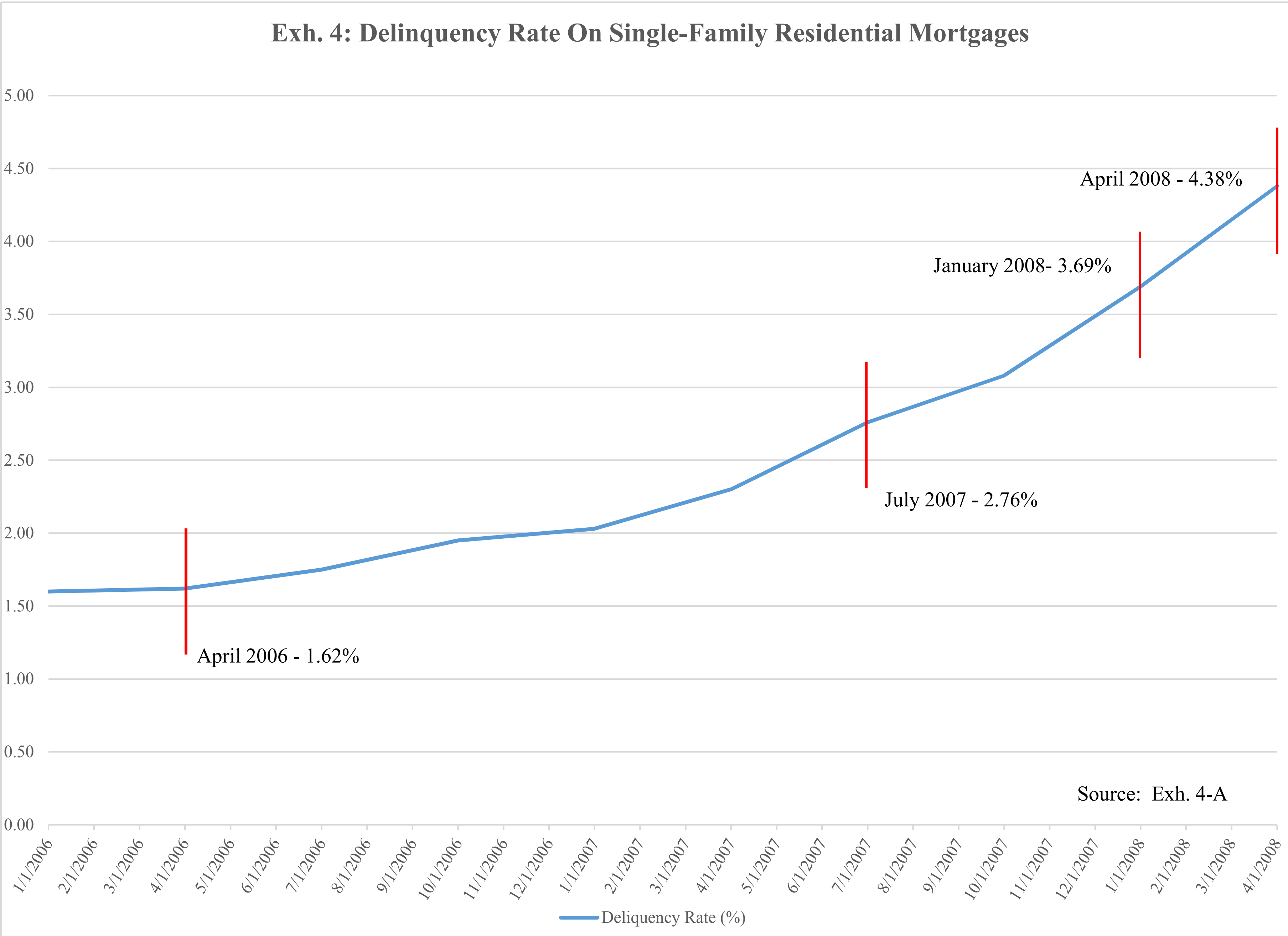
Exh. 4: Delinquency Rate On Single-Family Residential Mortgages
5.00
4.50
4.00
3.50
3.00
2.50
2.00
1.50
1.00
0.50
0.00
April 2008 - 4.38%
January 2008- 3.69%
July 2007 - 2.76%
April 2006 - 1.62%
Source: Exh. 4-A
1/1/2006
2/1/2006
3/1/2006
4/1/2006
5/1/2006
6/1/2006
7/1/2006
8/1/2006
9/1/2006
10/1/2006
11/1/2006
12/1/2006
1/1/2007
2/1/2007
3/1/2007
4/1/2007
5/1/2007
6/1/2007
7/1/2007
8/1/2007
9/1/2007
10/1/2007
11/1/2007
12/1/2007
1/1/2008
2/1/2008
3/1/2008
4/1/2008
Deliquency Rate (%)

Exh. 4-A
Delinquency Rate On Single-Family Residential Mortgages

Date	Deliquency Rate (%)
1/1/2006	1.60
4/1/2006	1.62
7/1/2006	1.75
10/1/2006	1.95
1/1/2007	2.03
4/1/2007	2.30
7/1/2007	2.76
10/1/2007	3.08
1/1/2008	3.69
4/1/2008	4.38

Source
Board of Governors of the Federal Reserve System (US), *Delinquency Rate On Single-Family Residential Mortgages, Booked In Domestic Offices, All Commercial Banks* [DRSFRMACBS], retrieved from FRED, Federal Reserve Bank of St. Louis

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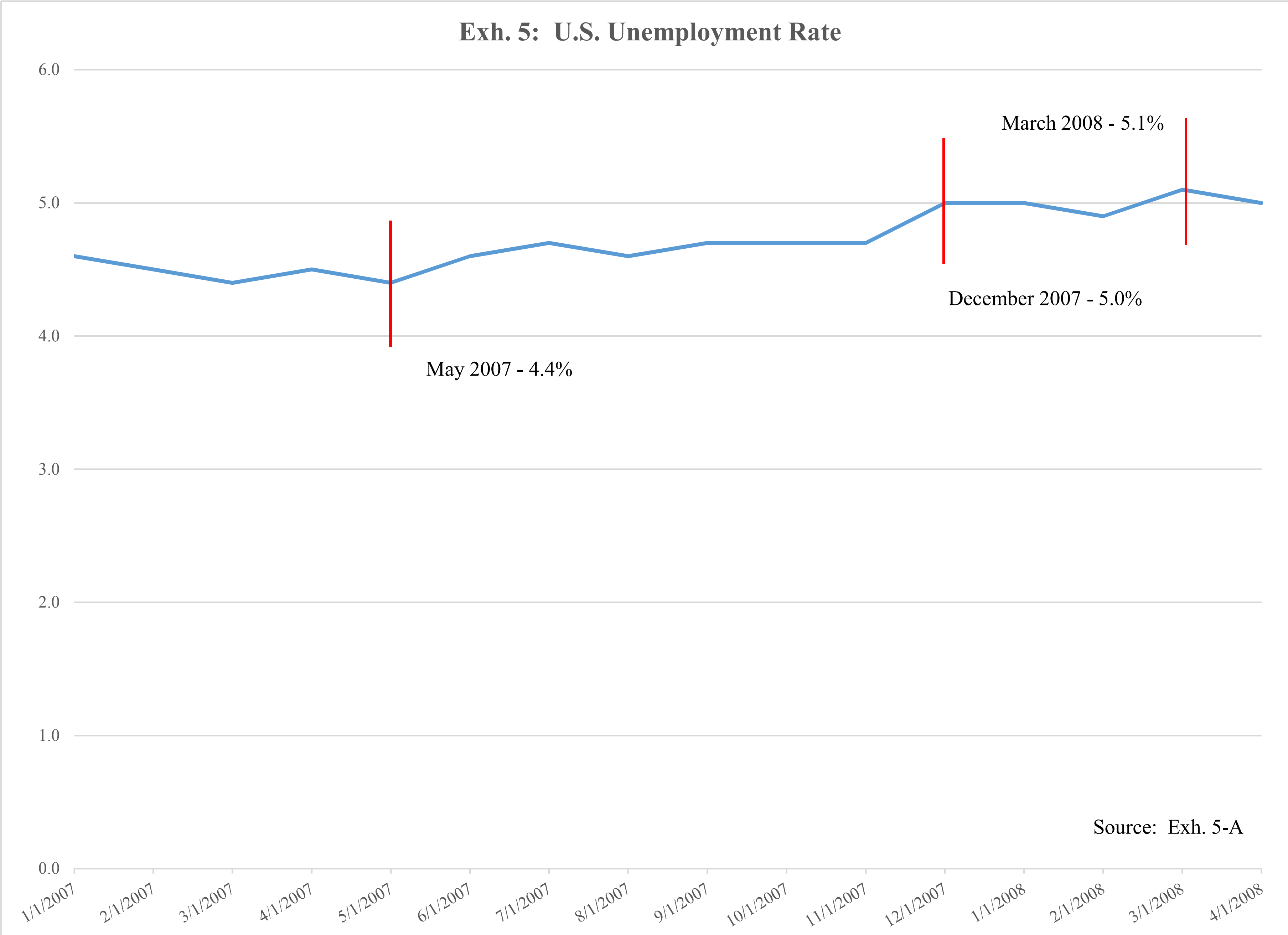
Exh. 5: U.S. Unemployment Rate
6.0
5.0
4.0
3.0
2.0
1.0
0.0
March 2008 - 5.1%
December 2007 - 5.0%
May 2007 - 4.4%
Source: Exh. 5-A
1/1/2007
2/1/2007
3/1/2007
4/1/2007
5/1/2007
6/1/2007
7/1/2007
8/1/2007
9/1/2007
10/1/2007
11/1/2007
12/1/2007
1/1/2008
2/1/2008
3/1/2008
4/1/2008

Exh. 5-A
Civilian Unemployment Rate, Percent, Monthly, Seasonally Adjusted

Period	Unemployment Rate (%)
7/1/2006	4.7
8/1/2006	4.7
9/1/2006	4.5
10/1/2006	4.4
11/1/2006	4.5
12/1/2006	4.4
1/1/2007	4.6
2/1/2007	4.5
3/1/2007	4.4
4/1/2007	4.5
5/1/2007	4.4
6/1/2007	4.6
7/1/2007	4.7
8/1/2007	4.6
9/1/2007	4.7
10/1/2007	4.7
11/1/2007	4.7
12/1/2007	5.0
1/1/2008	5.0
2/1/2008	4.9
3/1/2008	5.1
4/1/2008	5.0

<u>Source</u>
US. Bureau of Labor Statistics, *Civilian Unemployment Rate* [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis https://research.stlouisfed.org/fred2/series/UNRATE/, December 2, 2015.

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Economic Research Division
Federal Reserve Bank of St. Louis

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CERTIFIED PUBLIC ACCOUNTANTS
AND FORENSIC CONSULTANTS

EXHIBIT A
EXECUTIVE SUMMARY OF
CURRICULUM VITAE

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D. Paul Regan, CPA/CFF, CFE

Employment & Education see page 1 of C.V.

- **Chairperson**
  Hemming Morse, LLP
  Certified Public Accountants
  and Forensic Consultants
- **B.S. Accounting (Accounting Specialist), M.S. Accounting, CPA/CFF, CFE**

Professional & Service Affiliations see page 1 of C.V.

- **Certified Public Accountant, State of California, since 1970**
- **American Institute of Certified Public Accountants, since 1970**
  Certified in Financial Forensics, since 2008

  AICPA Council Member, 2003-2011

  Member, Forensic & Valuation Services Executive Committee, 2008-2011

  Litigation and Dispute Resolution Services Subcommittee, 1998-2001

  Chair of National Economic Damages Committee, 1999-2001
- **Association of Certified Fraud Examiners, since 1996**
- **California Society of Certified Public Accountants**
  Distinguished Service Award, 2009

  – Board of Directors, 2001-2006
  – Council, since 2001
  – Chair, 2004-2005

  Litigation Consulting and Dispute Resolution Services Common Interest Member
  – Steering Committee, since 1990
  – Chair, 2002-2004

  State Economic Damages Section
  – Chair, 1996-1998
  – Member, since 1995
- **Town of Hillsborough**
  – Council Member, 1998-2010
  – Mayor, 2002-2004
  – Commissioner of Finance, 1998-2002; 2004-2010
  – Financial Advisory Committee, since 2011
- **Hillsborough City School District Board of Trustees**
  – Trustee, 1985-1995
  – President, 1986-87; 1993-94
- **Audit Committees**
  – Golden Gate University, Chair, 2005-2008
  – Jesuit School of Theology, Chair, 2004-2011
  – International Display Works, Inc., 2005-2006
  – Solar Power, Inc., Chair, 2006-2010
  – Catholic Charities CYO of the Archdiocese of San Francisco, since 2009

Courses Written and Presented see page 3 of C.V.

Publications see page 5 of C.V.

Trials, Depositions & Arbitrations see page 6 of C.V.

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D. Paul Regan, CPA/CFF, CFE

Employment & Education

2012 – Present	**Hemming Morse, LLP** ***Certified Public Accountants and Forensic Consultants*** Chairperson
1975 – 2011	**Hemming Morse, Inc.** ***Certified Public Accountants Litigation and Forensic Consultants*** Chairman of the Board, 2001-2011 President, 2001-2009 Director-in-charge of the firm's Litigation and Forensic Consulting Practice, 1975-2006
1973 – 1975	**Regan & Skelton, CPAs** Partner
1968 – 1973	**Peat, Marwick, Mitchell & Co., CPAs**
1979	**Golden Gate University, San Francisco** M.S. Accounting
1968	**University of San Francisco** B.S. Accounting (Accounting Specialist)

Professional & Service Affiliations

- **Certified Public Accountant, State of California, since 1970**
- **American Institute of Certified Public Accountants, since 1970**

  Certified in Financial Forensics, since 2008

  AICPA Council Member, 2003-2011

  Member, Forensic & Valuation Services Executive Committee, 2008-2011

  Member, Litigation and Dispute Resolution Services Subcommittee, 1998-2001
  – Chair of National Economic Damages Committee, 1999-2001

  National Computer Audit Subcommittee of the Auditing Standards Board, past member
- **Association of Certified Fraud Examiners, since 1996**

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Professional & Service Affiliations continued

- **California Society of Certified Public Accountants**
  Distinguished Service Award, 2009

  California CPA Education Foundation,
  Board of Trustees, 1997-2003
  – President, 2001-2002
  – First Vice President, 2000-2001
  – Treasurer, 1999-2000

  California Society of Certified Public Accountants,
  Board of Directors, 2001-2006
  – Council, since 2001
  – Chair, 2004-2005
  – First Vice President, 2003-2004

  Litigation Consulting and Dispute Resolution Services
  Common Interest Member
  – Steering Committee, since 1990
  – Chair, 2002-2004
  – Vice President, 2000-2002

  State Economic Damages Section
  – Chair, 1996-1998
  – Member, since 1995

  EDP Committee, past member

  Quality Control Committee, past member

  Litigation Services Conference Chair, 1990

  Advanced Litigation Forum Planning Committee,
  1991-1993; 1995 and 1997
  – Chair in 1993 and 1997

  Computer Show and Conference Chair, 1985

  Economic Damages Conference Planning Committee,
  2000

- **American Arbitration Association's National Panel of Arbitrators, 1983-1996**

- **Western Association of Accounting Firms**
  Audit and Accounting Committee, Chairman,
  1980-1982
  Audit and Accounting Manuals, Editor, 1979-1982

- **CPA Computer Report, Editorial Board, 1984-1987**

- **Board of Trustees, Golden Gate University, 2002-2013**
  Audit Committee member, since 2005
  Audit Committee Chair, 2005-2008

- **Board of Trustees, Jesuit School of Theology at Berkeley, 2002-present**
  Audit Committee member and Chair, 2004-2011

- **International Display Works, Inc.**
  Board of Directors, 2004-2006
  Audit Committee member, 2005-2006

- **Solar Power, Inc.**
  Board of Directors, 2006-2010
  Audit Committee Chair, 2006-2010

- **Catholic Charities CYO of the Archdiocese of San Francisco**
  Board of Directors, 2009-present
  Audit Committee Chair, since 2009

- **Town of Hillsborough**
  Council Member, 1998-2010
  Mayor, 2002-2004
  Vice Mayor, 2000-2002
  Commissioner of Finance, 1998-2002; 2004-2010
  Financial Advisory Committee, since 2011

- **Hillsborough City School District Board of Trustees**
  Trustee, 1985-1995
  President, 1986-87; 1993-94

- **Hillsborough Recreation Commission, 1989-1993; 1998-2010**
  President, 1990-1993

- **Citizen of the Year, 1995**
  Town of Hillsborough, California

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Courses Written and Presented

AICPA & California Society of CPAs:

- *"Economic Damages: Common Frameworks By Industry & Claim Type"*
  AICPA National Forensic Accounting Conference, Boston, MA, 2010
- *"Fraud Prevention and Detection"*
  California Society of CPAs, Business and Industry Conference, Los Angeles and San Francisco, CA, 2004
- *"Trigon Insurance Co. v. United States"*
  California Society of CPAs, Economic Damages Litigation Section, San Francisco, CA, 2003
- *"Issues Re: Revenue Recognition"*
  California Society of CPAs, Litigation Sections Steering Committee, Burlingame, CA, 2003
- *"Trashing Drafts - A Standard Practice or a Dangerous Proposition?"*
  California Society of CPAs, Advanced Business Litigation Institute, Palm Springs, CA, 2003
- *"Aggressive Accounting & The Games People Play"*
  AICPA Webcast, co-author, NJ, 2003
- *"Mistakes Made in the Work Product"*
  California Society of CPAs, Litigation Services Conference, Irvine, CA, 2002
- *"Complex Litigation/Accounting Malpractice"*
  AICPA National Fraud Conference, Las Vegas, NV, 2002
- *"Enron and Beyond"*
  California Society of CPAs, Financial Statements and Tax Fraud Conference, Los Angeles and San Francisco, CA, 2002
- *"Ethics, Taxes and Financial Reporting"*
  California Society of CPAs, San Francisco, CA, 2002
- *"Expert Disqualifications"*
  California Society of CPAs, Advanced Economic Damages and Business Valuation Conference, Palm Springs, CA, 2001
- *"Financial Statement Fraud"*
  California Society of CPAs, Fraud Conference, San Francisco and Los Angeles, CA, 2000
- *"Quantifying Losses"*
  AICPA National Fraud Conference, Las Vegas, NV, 2000
- *"Electronic Work Product-Discovery Issues"*
  California Society of CPAs, Economic Damages Conference for Business Trial Lawyers & Experts, Los Angeles, CA, 1999
- *"The CPA's Role in Construction Damages"*
  AICPA National Advanced Litigation Conference, Atlanta, GA, 1999
- *"Significant Frauds of our Time"*
  AICPA National Fraud Conference, Las Vegas, NV, 1998
- *"Daubert and the CPA Expert"*
  California Society of CPAs, Advanced Economic Damage Conference, San Francisco, CA, 1998
- *"The Accountant in Fraud Investigations"*
  California Society of CPAs, Fraud Conference, San Francisco and Los Angeles, CA, 1997
- *"Rule 26 Reports," "The Auditor and Fraud," and "Challenging Questions"*
  California Society of CPAs, Advanced Litigation Forum, Palm Springs, CA, 1996

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D. Paul Regan, CPA/CFF, CFE

Courses Written and Presented continued

- *"Distinguishing Between Litigation and Attest Engagements"*
  California Society of CPAs, Advanced Litigation Forum, San Diego, CA, 1995
- *"Miniscribe Trial Binder"*
  California Society of CPAs, Advanced Litigation Forum, Monterey, CA, 1993; Litigation Consulting Services Committee, Puerto Vallarta, MX, 1993; Litigation Consulting Services Committee, San Francisco, CA, 1994
- *"Lost Profits"*
  California Society of CPAs, Litigation Services Conference, San Francisco and Los Angeles, CA, 1991
- *"Opportunities Update: "A Discussion of Disruption Claims"*
  California Society of CPAs, Litigation Consulting Conference, Los Angeles, CA, 1990
- *"Construction Damages"*
  AICPA, Second Annual Conference on CPA's Role in Litigation Services, Dallas, TX and Washington, DC, 1990

Selected Others

- *"The Fraud Triangle - Where Were the Gatekeepers"*
  United States District Court, Northern District Historical Society, San Francisco, CA, 2012
- *"Introduction of Financial Forensic Accounting"*
  Golden Gate University, Adjunct Professor, 2009-present
- *"Reporting in Litigation Engagements"*
  "Wage & Hour Litigation"
  Golden Gate University, 2009
- *"Intellectual Property Damages"*
  Federal Bureau of Investigation, Quantico, VA, 2001
- *"Alternative Dispute Resolution Techniques and Strategies for the Small and Emerging Contractor"*
  American Bar Association, Fourth Annual Construction Institute, 1995
- *"Fundamentals of Forensic Accounting"*
  Georgetown University, Washington, DC, 1994
- *"Proving and Pricing Delay and Disruption Claims"*
  Andrews Conference - Fourth Annual Construction Litigation Superconference, San Francisco, CA, 1989
- *"The Auditor in Court"*
  State of California, Government Auditors, 1989
- *"Pricing Construction Claims"*
  Thelen, Marrin, Johnson & Bridges, 1988
- *"Dollars and Sense: Building Your Damages Case & Surviving a Daubert Challenge"*
  San Francisco Trial Lawyers Association, Litigation Practice, San Francisco, CA, 2007
- *"Winning Strategies for the Financial Side of Your Damages Case"*
  Construction Infrastructure Summit, Phoeniz, AZ, 2007

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Publications

- *"Our Roots Run Deep"*
  California CPA Magazine, August 2004
- *"Expert Witnesses: Do They Have to Keep Draft Reports?"*
  California CPA Magazine, May 2004
- *"Revenue Recognition: Now, Later or Never?"*
  California CPA Magazine, September 2003
- AICPA Litigation Services and Applicable Professional Standards Consulting Services Special Report 03-1 (Contributing author)
- Litigation Services Handbook, *"The Role of the Accountant as Expert Witness*," published by John Wiley & Sons, Chapter 16, "Litigation Consulting: Construction Claims"
- Litigation Support Report Writing, published by John Wiley & Sons, Chapter 15, "Construction Claims"
- Member of the Editorial Board and author of various articles for the California Society of CPAs' Litigation and Dispute Resolution Services Section's quarterly publication (since summer 1996)
- Outlook Magazine, Winter 1985 - Computer Show and Conference Survey
- *"California CPA Computer Show and Conference,"* CPA Computer Report, September 1985
- *"Direct and Cross Examination of Experts,"* co-author of case study presented by University of California Hastings Litigation Advocacy Program

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Testimony (presented in the last four years)

Trial

- **Honora Keller, et al. v. The Board of Trustees of California State University (2015)**
  Superior Court of California, San Francisco County
  Case No. CGC-09-490977
- **Duryea v. Froshman Billings & Lewandowski (2014)**
  Superior Court of California, Santa Clara County
  Case No. 1-12-CV-222828
- **Paciocco & Anor v. Australia and New Zealand Banking Group Limited ("ANZ") (2013)**
  Federal Court of Australia No. VID196 of 2013
- **United States of America v. Joseph M. Elles and Joseph Pacifico (2013)**
  U.S. District Court, Northern District of Georgia
  Atlanta Division, Case No. 1:11-CR-445-JEC
- **Livent Inc. Through Its Special Receiver and Manager, Roman Doroniuk and Deloitte & Touche and Deloitte & Touche LLP (2013)**
  Ontario Superior Court of Justice, Canada
  Court File No. 02-CV-225823 CM2
- **John Garamendi, as Insurance Commissioner of the State of California and as Conservator, Rehabilitator, and Liquidator of the Estate of Executive Life Insurance Company v. Altus Finance S.A., et al. (2012)**
  U.S. District Court, Central District of California
  Case No. CV-99-02829 AHM (CWx)
- **Continuous Computing Corporation v. teleSys Software, Inc. (2012)**
  American Arbitration Association
  Case No. 72 117 00006 11 NOLG
- **Marin Healthcare District v. Sutter Health (2012)**
  JAMS, San Francisco, CA, Reference No. 1100065277
- **Plaintiffs v. Carey Limousine LA, Inc., et al. (2012)**
  JAMS, Case No. 1100059356

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Testimony continued

Deposition

- **Federal Home Loan Mortgage Corporation v. Deloitte & Touche LLP (2015)**
  U.S. District Court, Southern District of Florida
  Miami Division, Case No. 1:14-23713-CIV-UNGARO
- **Karen Schuh, et al. v. HCA Holdings, et al. (2015)**
  U.S. District Court, Middle District of Tennessee
  Nashville Division, Case No. 3:11-cv-01033
- **The Regents of the University of California v. Devcon Construction, Inc., et al. (2015)**
  Superior Court of California, Santa Cruz County
  Case No. CV174499
- **Honora Keller, et al. v. The Board of Trustees of California State University (2015)**
  Superior Court of California, San Francisco County
  Case No. CGC-09-490977
- **Marlene Hopkins, et al. v. Plant Insulation Company, et al. (2014)**
  Superior Court of California, San Francisco County
  Case No. CGC06450944
- **Brian Behaein, et al. v. Pizza Hut, Inc. (2014)**
  Superior Court of California, Los Angeles County
  Case No. BC384563
- **Mary K. Jones v. Pfizer Inc., et al. (2014)**
  U.S. District Court, Southern District of New York
  Case No. 10-cv-03864-AKH
- **Duryea v. Froshman Billings & Lewandowski (2014)**
  Superior Court of California, Santa Clara County
  Case No. 1-12-CV-222828
- **In the Matter of LFG Liquidation Trust vs Ernst & Young LLP (2014)**
- **In Re: Lehman Brothers Securities and ERISA Litigation (2014)**
  U.S. District Court, Southern District of New York
  Case No. 09-md-02017-LAK
- **GSI Technology, Inc. v. Cypress Semiconductor Corporation (2014)**
  U.S. District Court, Northern District of California
  San Jose Division, Case No. 5:11-cv-03613-EJD
- **Crescent Resources Litigation Trust v. Duke Energy Corporation, et al. (2013)**
  U.S. District Court, Western District of Texas
  Austin Division, Case No. A-12-CA-009-SS
- **Robert P. Mosier as Receiver for Private Equity Management Group, Inc., et al. v. Stonefield Josephson, Inc., CPAs, et al. (2013)**
  U.S. District Court, Central District of California
  Case No. 2:11-cv-02666 PSG (Ex)
- **Gigoptix, Inc. v. Optomai, Inc., et al. (2013)**
  Superior Court of California, Santa Clara County
  Case No. 1-11-CV-199643
- **United States of America v. Joseph M. Elles and Joseph Pacifico (2013)**
  U.S. District Court, Northern District of Georgia
  Atlanta Division, Case No. 1:11-CR-445-JEC
- **Michael Karas v. George S. Karas (2013)**
  American Arbitration Association

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D. Paul Regan, CPA/CFF, CFE

Testimony continued

Deposition continued

- **Sarkissian Mason, Inc. and Automatic, LLC v. Enterprise Holdings, Inc. (2013)**
  U.S. District Court, Southern District of New York
  Case No. 11-CV-09472-PAC
- **In re: Heller Ehrman LLP (2012)**
  U. S. Bankruptcy Court, Northern District of California
  Case No. 08-32514 DM
- **In re: CityCenter Construction and Lien Master Litigation (2012)**
  District Court, Clark County, Nevada
  Case No. A605103
- **Life Technologies Corporation and Applied Biosystems, LLC v. Biosearch Technologies, Inc. (2012)**
  U.S. District Court, Eastern Division of Texas
  Marshall Division, Case No. 3:12-CV-00852-WHA
- **Ramon Gomez v. Pizza Hut of Southeast Kansas, Inc. (2012)**
  Superior Court of California, San Bernardino County
  Case No. CIVVS900679
- **Securities and Exchange Commission v. Peter R. Morales, Betsy D. Scolnik, and Adriana J. Kampfner (2012)**
  U.S. District Court, Southern District of New York
  Case No. 06 CIV 2435 (RJH)
- **Ron Block, et al. v. Daniel Helix, et al. (2012)**
  Superior Court of California, Contra Costa County
  Case No. CIV MSC 05-01725
- **Chinatown Community Development Center v. Tower Hotel Partners, Ltd, et al. (2012)**
  Superior Court of California, City & County of
  San Francisco, Case No. CGC-10-501798

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D. Paul Regan, CPA/CFF, CFE

Testimony continued

Arbitration

- **Jaret P. Christopher v. Ellie Mae, Inc. (2015)**
  American Arbitration Association
  Case No. 01-14-0001-9086
- **In the Matter of LFG Liquidation Trust v. Ernst & Young LLP (2014)**
- **Eastham Capital Appreciation Fund LP, et al. v. KPMG LLP et al. (2013)**
  Confidential Pursuant to CPR Arbitration Rule 18
- **In the matter of SB Liquidation Trust v. Ernst & Young LLP (2012)**

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Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.	
Seq.	**Document**
	Bates Stamped Documents
1	BARC-ADS-00038832
2	BARC-ADS-00038833 - 8834
3	BARC-ADS-00038835 - 8836
4	BARC-ADS-00038837 - 8838
5	BARC-ADS-00054875
6	BARC-ADS-00058997 - 8999
7	BARC-ADS-00061541
8	BARC-ADS-00061569
9	BARC-ADS-00061570 - 1571
10	BARC-ADS-00061585 - 1586
11	BARC-ADS-00061587 - 1588
12	BARC-ADS-00062115
13	BARC-ADS-00062741
14	BARC-ADS-00063968
15	BARC-ADS-00063969
16	BARC-ADS-00064253 - 4254
17	BARC-ADS-00065288
18	BARC-ADS-00065738
19	BARC-ADS-00067778
20	BARC-ADS-00067779
21	BARC-ADS-00068434 - 8435
22	BARC-ADS-00069365
23	BARC-ADS-00069366 - 9367
24	BARC-ADS-00069418
25	BARC-ADS-00070919 - 0922
26	BARC-ADS-00072414 - 2415
27	BARC-ADS-00081171 - 1174
28	BARC-ADS-00081175
29	BARC-ADS-00085773
30	BARC-ADS-00085774 - 5785
31	BARC-ADS-00088104 - 8105
32	BARC-ADS-00089161 - 9162
33	BARC-ADS-00089504 - 9505
34	BARC-ADS-00089540 - 9541
35	BARC-ADS-00090067 - 0070
36	BARC-ADS-00090242
37	BARC-ADS-00091001 - 1002
38	BARC-ADS-00091664 - 1665
39	BARC-ADS-00116979 - 6984
40	BARC-ADS-00117005 - 7008
41	BARC-ADS-00117371 - 7376
42	BARC-ADS-00118884
43	BARC-ADS-00123654
44	BARC-ADS-00131460 - 1468
45	BARC-ADS-00131469 - 1478
46	BARC-ADS-00133160
47	BARC-ADS-00133161
48	BARC-ADS-00138432
49	BARC-ADS-00138434
50	BARC-ADS-00146094 - 6096
51	BARC-ADS-00146160 - 6161
52	BARC-ADS-00146808 - 6810
53	BARC-ADS-00149518 - 9520
54	BARC-ADS-00197427 - 7428
55	BARC-ADS-00221663 - 1664
56	BARC-ADS-00229032 - 9034
57	BARC-ADS-00233894 - 3895

Exhibit B
Documents Considered

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Seq.	**Document**
58	BARC-ADS-00275796 - 5799
59	BARC-ADS-00276025
60	BARC-ADS-00283276 - 3693
61	BARC-ADS-00289126
62	BARC-ADS-00300780 - 0781
63	BARC-ADS-00300782
64	BARC-ADS-00322643
65	BARC-ADS-00402706 - 2710
66	BARC-ADS-00403726 - 3727
67	BARC-ADS-00408007 - 8008
68	BARC-ADS-00408078 - 8080
69	BARC-ADS-00411086 - 1087
70	BARC-ADS-00411768 - 1771
71	BARC-ADS-00460413 - 0415
72	BARC-ADS-00465410
73	BARC-ADS-00465411 - 5417
74	BARC-ADS-00482610
75	BARC-ADS-00581952 - 1954
76	BARC-ADS-00586172 - 6173
77	BARC-ADS-00605689 - 5703
78	BARC-ADS-00768152
79	BARC-ADS-00775361
80	BARC-ADS-00775362
81	BARC-ADS-00777513 - 7515
82	BARC-ADS-00778654
83	BARC-ADS-00779782 - 9784
84	BARC-ADS-00780002 - 8004
85	BARC-ADS-00780745 - 0746
86	BARC-ADS-00781291 - 1293
87	BARC-ADS-00781571 - 1580
88	BARC-ADS-00829637 - 9640
89	BARC-ADS-00833226 - 3239
90	BARC-ADS-00833231 - 3232
91	BARC-ADS-00833238
92	BARC-ADS-00833240 - 3241
93	BARC-ADS-00833241
94	BARC-ADS-00833242
95	BARC-ADS-00836632 - 6634
96	BARC-ADS-00841585
97	BARC-ADS-00841821
98	BARC-ADS-00841934 - 1936
99	BARC-ADS-00842945 - 2946
100	BARC-ADS-00843168 - 3169
101	BARC-ADS-00843170
102	BARC-ADS-00843446 - 3448
103	BARC-ADS-00845871 - 5888
104	BARC-ADS-00846376 - 6377
105	BARC-ADS-00846716
106	BARC-ADS-00847322
107	BARC-ADS-00847323 - 7327
108	BARC-ADS-00848117 - 8119
109	BARC-ADS-00848430 - 8431
110	BARC-ADS-00852985 - 2986
111	BARC-ADS-00853766 - 3768
112	BARC-ADS-00859553
113	BARC-ADS-00860689
114	BARC-ADS-00862310
115	BARC-ADS-00874613 - 4615
116	BARC-ADS-00874855

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.	
Seq.	**Document**
117	BARC-ADS-00874856
118	BARC-ADS-00881284
119	BARC-ADS-00881285
120	BARC-ADS-00898275 - 8276
121	BARC-ADS-00898277
122	BARC-ADS-00926169
123	BARC-ADS-00927802
124	BARC-ADS-00927803 - 7814
125	BARC-ADS-00928336 - 8337
126	BARC-ADS-00928992 - 8993
127	BARC-ADS-00930358 - 0380
128	BARC-ADS-00930638 - 0641
129	BARC-ADS-00930642 - 0643
130	BARC-ADS-00931035 - 1036
131	BARC-ADS-00931037
132	BARC-ADS-00931095 - 1098
133	BARC-ADS-00931865 - 1866
134	BARC-ADS-00932038 - 2041
135	BARC-ADS-00933319
136	BARC-ADS-00933320
137	BARC-ADS-00933937 - 3938
138	BARC-ADS-00934898
139	BARC-ADS-00934900
140	BARC-ADS-00935812 - 5814
141	BARC-ADS-00935843 - 5844
142	BARC-ADS-00936992 - 6996
143	BARC-ADS-00937657
144	BARC-ADS-00937791 - 7793
145	BARC-ADS-00938044 - 8047
146	BARC-ADS-00984447 - 4603
147	BARC-ADS-00988470
148	BARC-ADS-01004943
149	BARC-ADS-01018745
150	BARC-ADS-01020323 - 0324
151	BARC-ADS-01020326 - 0336
152	BARC-ADS-01020492
153	BARC-ADS-01020499
154	BARC-ADS-01022200
155	BARC-ADS-01022256
156	BARC-ADS-01022257
157	BARC-ADS-01022272
158	BARC-ADS-01024010 - 4027
159	BARC-ADS-01025714
160	BARC-ADS-01026425
161	BARC-ADS-01037411 - 7416
162	BARC-ADS-01139415 - 9417
163	BARC-ADS-01140090 - 0091
164	BARC-ADS-01173828
165	BARC-ADS-01174181
166	BARC-ADS-01174182 - 4183
167	BARC-ADS-01283532
168	BARC-ADS-01283774
169	BARC-ADS-01284360
170	BARC-ADS-01284957
171	BARC-ADS-01284958
172	BARC-ADS-01288299
173	BARC-ADS-01288383 - 8386
174	BARC-ADS-01288410
175	BARC-ADS-01288543 - 8544

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.	
Seq.	**Document**
176	BARC-ADS-01290807 - 0820
177	BARC-ADS-01297047 - 7051
178	BARC-ADS-01297052
179	BARC-ADS-01297053 - 7054
180	BARC-ADS-01297057 - 7067
181	BARC-ADS-01298275 - 8277
182	BARC-ADS-01306320 - 6323
183	BARC-ADS-01347139 - 7162
184	BARC-ADS-01347945 - 7947
185	BARC-ADS-01351409
186	BARC-ADS-01405021 - 5024
187	BARC-ADS-01497623 - 7635
188	BARC-ADS-01498798
189	BARC-ADS-01512615 - 2616
190	BARC-ADS-01529271 - 9294
191	BARC-ADS-01529366 - 9379
192	BARC-ADS-01529826 - 9834
193	BARC-ADS-01529835 - 9847
194	BARC-ADS-01529848 - 9877
195	BARC-ADS-01530926 - 0965
196	BARC-ADS-01533178 - 3205
197	BARC-ADS-01533288 - 3318
198	BARC-ADS-01534408 - 4435
199	BARC-ADS-01534484 - 4493
200	BARC-ADS-01534494 - 4501
201	BARC-ADS-01534745 - 4746
202	BARC-ADS-01534967 - 4969
203	BARC-ADS-01535034 - 5066
204	BARC-ADS-01535318 - 5320
205	BARC-ADS-01535491 - 5492
206	BARC-ADS-01535703 - 5706
207	BARC-ADS-01537523 - 7528
208	BARC-ADS-01537705 - 7707
209	BARC-ADS-01537964 - 7975
210	BARC-ADS-01539156 - 9160
211	BARC-ADS-01543170 - 3173
212	BARC-ADS-01543183 - 3186
213	BARC-ADS-01543397 - 3400
214	BARC-ADS-01543414 - 3455
215	BARC-ADS-01543550 - 3553
216	BARC-ADS-01543558 - 3564
217	BARC-ADS-01544000 - 4002
218	BARC-ADS-01544368 - 4415
219	BARC-ADS-01544551 - 4553
220	BARC-ADS-01544573 - 4592
221	BARC-ADS-01548520 - 8531
222	BARC-ADS-01548999 - 9001
223	BARC-ADS-01549037 - 9041
224	BARC-ADS-01549186 - 9198
225	BARC-ADS-01549626 - 9641
226	BARC-ADS-01549760 - 9780
227	BARC-ADS-01550779 - 0782
228	BARC-ADS-01551025 - 1027
229	BARC-ADS-01551695 - 1697
230	BARC-ADS-01551744 - 1745
231	BARC-ADS-01551751 - 1752
232	BARC-ADS-01552646 - 2647
233	BARC-ADS-01553132 - 3133
234	BARC-ADS-01555928 - 5936

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.

Seq.	Document
235	BARC-ADS-01557306 - 7329
236	BARC-ADS-01560223 - 0224
237	BARC-ADS-01560226
238	BARC-ADS-01561130 - 1170
239	BARC-ADS-01573604 - 3659
240	BARC-ADS-01584610 - 4614
241	BARC-ADS-01589337 - 9338
242	BARC-ADS-01589339 - 9346
243	BARC-ADS-01593265
244	BARC-ADS-01599107 - 9157
245	BARC-ADS-01601045 - 1060
246	BARC-ADS-01601160 - 1177
247	BARC-ADS-01601500 - 1514
248	BARC-ADS-01601815 - 1833
249	BARC-ADS-01602140 - 2157
250	BARC-ADS-01602256 - 2266
251	BARC-ADS-01602289 - 2300
252	BARC-ADS-01602356 - 2370
253	BARC-ADS-01602356 - 2370
254	BARC-ADS-01602544 - 2547
255	BARC-ADS-01602604 - 2620
256	BARC-ADS-01602807 - 2821
257	BARC-ADS-01602907 - 2958
258	BARC-ADS-01603006 - 3040
259	BARC-ADS-01603105 - 3120
260	BARC-ADS-01604285 - 4288
261	BARC-ADS-01604441
262	BARC-ADS-01617748 - 7758
263	BARC-ADS-01619728 - 9779
264	BARC-ADS-01619739 - 9764
265	BARC-ADS-01633806 - 3832
266	BARC-ADS-01644463
267	BARC-ADS-01648331 - 8380
268	PwC000117
269	PwC000118
270	PwC000198
271	PwC000216 - 0220
272	PwC000221 - 0228
273	PwC000229 - 0244
274	PwC000245 - 0249
275	PwC000250 - 0257
276	PwC000258 - 0273
277	PwC000278 - 0283
278	PwC000284 - 0306
279	PwC000307 - 0334
280	PwC000335 - 0338
281	PwC000339 - 0344
282	PwC000345 - 0367
283	PwC000368 - 0397
284	PwC000396 - 0399
285	PwC000406
286	PwC000407
287	PwC000414 - 0415
288	PwC000416 - 0418
289	PwC000419 - 0423
290	PwC000424
291	PwC000425
292	PwC000426
293	PwC000427

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.	
Seq.	**Document**
294	PwC000428
295	PwC000429
296	PwC000430
297	PwC000431
298	PwC000432
299	PwC000433
300	PwC000434
301	PwC000435
302	PwC000436
303	PwC000437
304	PwC000438 - 0441
305	PwC000442
306	PwC000446
307	PwC000474 - 0481
308	PwC000482 - 0483
309	PwC000484
310	PwC000485 - 0486
311	PwC000488 - 0497
312	PwC000498 - 0500
313	PwC000502
314	PwC000509 - 0512
315	PwC000513 - 0534
316	PwC000535
317	PwC000536
318	PwC000538 - 0586
319	PwC000587
320	PwC000588
321	PwC000589 - 0590
322	PwC000591 - 0596
323	PwC000597 - 0607
324	PwC000608 - 0612
325	PwC000613 - 0621
326	PwC000622 - 0624
327	PwC000625 - 0629
328	PwC000630 - 0632
329	PwC000633 - 0638
330	PwC000639 - 0643
331	PwC002890 - 2892
332	PwC003029 - 3087
333	PwC003029 - 3087
334	PwC004584
335	PwC005782 - 5784
336	PwC005785
337	PwC005786
338	PwC005787
339	PwC005791 - 5794
340	PwC005795 - 5801
341	PwC005802
342	PwC005803
343	PwC005804
344	PwC005805
345	PwC005875 - 5876
346	PwC005877 - 9877
347	PwC005902 - 5903
348	PwC005904 - 5909
349	PwC006021
350	PwC006134 - 6139
351	PwC006327 - 6330
352	PwC007195 - 7240

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.	
Seq.	**Document**
353	PwC007506
354	PwC007564
355	PwC007565
356	PwC007629
357	PwC007631
358	PwC007640
359	PwC007695
360	PwC007711
361	PwC007714
362	PwC007721
363	PwC007722
364	PwC009286
365	PwC009613
366	PwC009615
367	PwC009619
368	PwC009621
369	PwC009763
370	PwC009795
371	PwC009797
372	PwC010357
373	PwC011532
374	PwC011567
375	PwC013524 - 3635
376	PwC014475 - 4497
377	PwC014581
378	PwC014583
379	PwC014585 - 4589
380	PwC014590
381	PwC014591
382	PwC014592
383	PwC014593
384	PwC014598 - 4614
385	PwC014646 - 4647
386	PwC014651 - 4653
387	PwC014654 - 4655
388	PwC015247 - 5735
389	PwC015393
390	PwC015393
391	PwC015774 - 5785
392	PwC015789 - 5823
393	PwC016568 - 6583
394	PwC016587 - 6587
395	PwC016618 - 6633
396	PwC016741
397	PwC016760 - 6763
398	PwC016771
399	PwC016772
400	PwC016780
401	PwC016794
402	PwC016923
403	PwC016943
404	PwC016977
405	PwC017162
406	PwC017165
407	PwC017166
408	PwC017498 - 7503
409	PwC018866
410	PwC020579 - 0581
411	PwC020879 - 0882

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.

Seq.	Document
412	PwC020978 - 1021
	Depositions and Exhibits
413	Deposition of John Varley and Related Exhibits, October 29, 2015
414	Deposition of Joseph C Kacska and Related Exhibits, September 22, 2015
415	Deposition of Paul Menefee and Related Exhibits, July 11, 2015
416	Deposition of Richard E Landerman and Related Exhibits, October 22, 2015
417	Deposition of Robert E Diamond and Related Exhibits, November 13, 2015
418	Deposition of Sean Teague and Related Exhibits, September 29, 2015
419	Deposition of Sir Richard Broadbent and Related Exhibits, October 30, 2015
420	Exhibit 18 - Filed Under Seal - Px 023, August 13, 2015
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	Public Filings and Related
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423	Barclays PLC Form 20-F for the period ended December 31, 2007
424	Barclays PLC Form 20-F for the period ended December 31, 2008
425	Barclays PLC Form 20-F for the period ended December 31, 2009
426	Barclays PLC Form 20-F for the period ended December 31, 2010
427	Barclays PLC Form 20-F for the period ended December 31, 2011
428	Barclays PLC Forms 6-K, filed November 16, 2007, February 19, 2008, April 24, 2008, May 15, 2005, and August 7, 2008
429	Citigroup Inc Forms 10-K for the periods ended December 31, 2006 through December 31, 2009
430	Credit Suisse Group AG Forms 20-F for the periods ended December 31, 2007 through December 31, 2008
431	Deutsche Bank Aktiengesellschaft Forms 20-F for the periods ended December 31, 2006 through December 31, 2008
432	Goldman Sachs Group Inc Forms 10-K for the periods ended December 31, 2006 through December 31, 2009
433	JPMorgan Chase & Co Forms 10-K for the periods ended December 31, 2006 through December 31, 2009
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448	IAS 39 - Financial Instruments: Recognition and Measurement
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450	International Accounting Standard 1, Presentation of Financial Statements
451	International Accounting Standard 10, Events after the Reporting Period
452	International Accounting Standard 8, Accounting Policies, Changes in Accounting Estimates and Errors
453	International Financial Reporting Standard 7, Financial Instruments: Disclosures
454	International Financial Reporting Standards, Preface to International Financial Reporting Standards
455	International Standards on Auditing No. 320
456	Letter from SEC Chief Accountant Addressing Recently Issued Guidance on Securitized Subprime Adjustable Rate Mortgage Loans from the American Securitization Forum, January 2008
457	PCAOB Standard AU 312
458	PCAOB Standard AU 560
459	PCAOB Standard AU 711
460	SEC Accounting Research Manager Item 5 Operating and Financial Review and Prospects - Item 5

Exhibit B
Documents Considered

Seq.	Document
	As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.
461	SEC Form 20-F Official Text, General Instructions. C; Regulation S-X Rule 4-01
462	SEC Industry Guide Chapter 3 - Statistical Disclosure by Bank Holding Companies
463	SEC Interpretation: Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Release Nos. 33-8350; 34-48960; FR-72, December 29, 2003
464	SEC Item 303 of Regulation S-K, Release No. 33-7745, September 28, 1999
465	SEC Rules, Form F-3, Item 3, Regulation S-K, Item 503
466	SEC SAB No. 88 – Disclosures Required of Companies Complying with Item 17 of Form 20-F
467	SEC SAB No. 99, Materiality
468	SEC, Acceptance From Foreign Private Issuers Of Financial Statements Prepared In Accordance With International Financial Reporting Standards Without Reconciliation To U.S. GAAP, March 4, 2008
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	Pleadings and Other
471	Lead Plaintiffs' Objections And Responses To The Barclays Defendants' First Set Of Interrogatories, In re Barclays bank PLC Securities Litigation
472	Second Consolidated Amended Complaint For Violation Of The Federal Securities Laws, In re Barclays bank PLC Securities Litigation
	Press and Other Information
473	"What We Do" section of SEC home website at www.sec.gov
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476	Alistair Barr, MarketWatch, Big Liquidation Triggers Hedge-Fund Turmoil, August 19, 2007.
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483	Aversa, Jeannine, Associated Press, Payrolls Drop for First Time in 4 Years, September 7, 2007
484	Bajaj, Vikas, The New York Times, Dow Industrials Close Above 14,000, July 20, 2007
485	Bank of America, Bank of America Agrees to Purchase Countrywide Financial Corp, January 11, 2008
486	Bank of America, Bank of America Completes Countrywide Financial Purchase, July 1, 2008
487	Barclays PLC, Resolution passed at Annual General Meeting, April 27, 2012
488	BBC News, Timeline: Northern Rock Bank Crisis, August 5, 2008.
489	BBC News, Timeline: Sub-prime Losses, May 19, 2008
490	BBC News, Timeline: Sub-prime Losses, May 19, 2008
491	BBC News, US Housing Slowdown Knocks HSBC, February 8, 2007
492	BBC News, Wall Street Hit by Home Payment Fears, March 13, 2007
493	Bill Rochelle, Bloomberg, NetBank Files for Bankruptcy After Regulators Take Over Unit, September 30, 2007
494	Bloomberg , Subprime Collapse to Global Financial Meltdown: Timeline
495	Bloomberg, Bear Stearns' Subprime Bath" Bloomberg, June 12, 2007
496	BNP Paribas, BNP Paribas Investment Partners temporarily suspends the calculation of the Net Asset Value of the following funds : Parvest Dynamic ABS, BNP Paribas ABS EURIBOR and BNP Paribas ABS EONIA, August 9, 2007
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503	Dan Wilchins, Reuters, Accredited Home Sees Up to $60 MLN Loss for Quarter, August 10, 2007.
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510	Federal Reserve Bank of San Francisco, Why Did the FED Inject Liquidity into the Financial System, August 2007.

Exhibit B
Documents Considered

As part of my assignment, I was given access to electronic databases containing relevant information including documents produced by defendants and third-parties, as well as deposition transcripts (including exhibits) for the depositions taken in that action. I have relied on all of the documents cited in my report, including the text and footnotes therein. I have listed below other documents that I considered in preparing my report.

Seq.	Document
511	Federal Reserve Bank of St. Louis - Timeline
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528	Manor Yerak, Chicago Tribune, Sentinel Makes Chapter 11 Filing, August 18, 2007
529	Martin Crutsinger, The Washington Post, Fed Approves Cut in Loan Discount Rate, August 17, 2007
530	Martin Z. Braun, Bloomberg, Auction-Bond Failures Roil Munis, Pushing Rates Up (Update 5), February 13, 2008.
531	MBA Research Data Notes, Characteristics of Outstanding Residential Mortgage Debt: 2006, January 2007
532	Michael Grynbaum, The New York Times, Home Prices Fell in '07 for First Time in Decades, January 24, 2008.
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534	New York Times, Barclays Write-Down Is Below Expectations, November 16, 2007
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536	Nocera McLean, All the Devils are Here, 2010
537	Oanda.com historical exchange rates
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539	Official Journal of the European Union, Annex International Accounting Standards, November 3, 2008
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545	Sebastian Boyd, Bloomberg, BNP Paribas Freezes Funds as Loan Losses Roil Markets (Update5), August 9, 2007
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547	Solomon, Deborah, The Wall Street Journal, Bush Moves to Aid Homeowners, August 31, 2007
548	Sorkin, Andrew R., JP Morgan Pays $2 a Share for Bear Stearns, March 17, 2008
549	Stempel, Jonathan, Reuters, Countrywide Plunges on Downgrade, Bankruptcy Fear, August 15, 2007
550	Stempel, Jonathan, The Washington Post, Ameriquest Closes, Citigroup Buys Mortgage Assets, August 31, 2007
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<u>EXHIBIT 229</u>

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1:09-cv-01989-PAC

DECLARATION OF DR. JOSEPH R. MASON

December 15, 2015

I. Introduction and Summary of Opinions

1. I am the Hermann Moyse, Jr./Louisiana Bankers Association Endowed Chair of Banking at Louisiana State University's E. J. Ourso College of Business.[1] I have been retained by Plaintiffs' counsel to provide an opinion regarding the change in the capital position of Barclays Bank PLC ("Barclays") between December 31, 2007 and the date of the issuance of the Series 5 preferred shares (the "Securities") pursuant to the prospectus supplement dated April 8, 2008.

2. In summary, I am of the opinion that the change in Barclays' capital position between December 31, 2007 and April 2008, when the Securities were issued to investors, coupled with the FSA's requirement that Barclays raise its Tier 1 equity ratio to 5.25% by year-end 2008, presented a significant risk that Barclays would have to raise additional capital and/or sell assets in unfavorable market conditions.

3. My qualifications are described generally in Section II of this report. In Sections III and IV, I provide brief overviews of capital generally and preferred stock specifically. Section V is an overview of the Basel regulatory framework. Finally, in Section IV I discuss the developments in the market generally and Barclays specifically in the first quarter of 2008 and the significance of those developments.

II. Qualifications

4. I am Professor of Finance and the Hermann Moyse, Jr./Louisiana Bankers Association Endowed Chair of Banking at the Ourso School of Business, Louisiana State University, and Senior Fellow at the Wharton School at the University of Pennsylvania. I teach undergraduate, Masters, and Ph.D. courses in Financial Institutions, Risk Management, and Investments.

5. I am also an Academic Affiliate at Economists Inc. My consulting practice specializes in applying financial, economic, valuation, and statistical analyses to complex commercial litigation and corporate strategic decision-making. I have provided expert consulting services and testimony in a broad range of banking and financial services industry matters.

6. I am a recognized expert in structured finance and financial crises. I have testified on topics related to financial markets before numerous House and Senate committees, the European Parliament, and the Federal Reserve Board and have advised the U.S. Congress Joint Economic Committee, the U.S. Government Accountability Office, the Congressional Research Service, the

[1] A full statement of my qualifications can be found at the end of this report.

Federal Reserve Bank of Richmond, the Public Company Accounting Oversight Board, and the Financial Crisis Inquiry Commission on issues related to structured finance.

7. I also have experience advising corporations, government agencies, financial institutions, and research institutions on risk management issues; reviewing risk management systems and internal models; and advising on myriad issues related to contemporary finance. I was previously a senior financial economist at the Office of the Comptroller of the Currency and a visiting scholar at the Federal Reserve Banks of Atlanta and Philadelphia, the Federal Deposit Insurance Corporation, and the International Monetary Fund.

8. My research and economic commentary has been cited on numerous occasions by media throughout the world, including the Wall Street Journal, the New York Times, the Washington Post, the Financial Times, the Economist, Barrons, Business Week, die Zeit, Neue Zürcher Zeitung, Forbes, Fortune, Bloomberg Magazine, and the American Banker, and on press syndicates such as the Associated Press, Reuters, Bloomberg, KnightRidder, and MarketWatch-Dow Jones Newswire. I have been a frequent guest on CNBC, Bloomberg Television, and Fox Business News and have appeared on NBC News, CNN Headline News, CNBC Asia, National Public Radio, BBC Radio, Bloomberg Radio, and NBC Radio.

9. I hold a Ph.D. and a M.S. in Economics from the University of Illinois at Urbana-Champaign. A list of all cases in which I have testified at trial or deposition in the last four years appears in Appendix A. A list of all publications that I have authored in the last ten years also appears in Appendix A.

10. Economists Inc. is being compensated for my work in this matter at my standard hourly rate of $850 per hour. Other Economists Inc. professionals who, at my direction, performed supporting work and analyses in connection with my preparation of this report will be compensated for their work at their customary hourly rates. Neither my nor Economists Inc.'s compensation is contingent in any way upon the outcome of this matter or the opinion expressed. The opinions expressed in this report are my own.

III. Capital

11. Financial capital is defined as "borrowed sums or equity with which the firm's assets are acquired and its operations are funded."[2] Capital can also act as a buffer to adverse financial events. For instance, if a firm has to pay out an unexpected sum, the money would come from cash

[2] BusinessDictionary.com

on the asset side and capital on the liabilities and equity side of the balance sheet. Similarly, if a bank has to write off bad assets – again, on the asset side of the balance sheet – capital will be eroded.

12. Once the capital buffer is eroded, the firm is insolvent, and will most likely not be able to survive, *i.e.*, pay amounts due to all of its creditors in liquidation. In this way, a firm's capitalization is an important measure of its financial health.

13. A firm that has a strongly-capitalized balance sheet is better able to withstand fluctuations in market conditions. Conversely, a firm that is less well-capitalized may be forced to raise capital at times when it is difficult to do so and therefore quite costly (or, otherwise, fail). An example of this is the various government bailouts both in the United States and Europe during the financial crisis that saved firms from collapsing, but often with significant losses for existing stakeholders.

14. Understanding and analyzing a firm's current and future capital position is therefore a critical component of the analysis of securities by existing and potential investors. The firm's capital position and expectations as to how it might change in the future directly affect the risk/return profile of the securities issued by that firm. While the magnitude of the risk is different for different securities in the firm's capital structure, all stakeholders bear some risk.[3] Equity investors are the most at risk.

IV. Preferred Stock

15. Preferred stock shares represent an equity (or ownership) interest in the firm. Preferred stock pays a dividend like some common stock but the dividend is fixed and the stock is callable by the issuer. There is limited upside to the price of preferred shares because, unlike common stock, they have no claim on the additional excess earnings of the issuer.[4]

16. Consistent with their hybrid nature, preferred shares fit between debt and common equity in the issuer's capital structure – senior to common stock but subordinated to other debt issuances. In the event of a company's liquidation, preferred stockholders enjoy priority distribution

[3] The capital structure refers to the levels of seniority/subordination of the various securities that make up the firm's capitalization. Common equity is typically the most subordinated form of capital, which means that it takes the first losses in bankruptcy, whereas debt-holders only take losses once equity-holders are wiped out. There is also often subordination within a company's debt, with some (senior) bonds above and other (subordinated or junior) bonds below.

[4] Similar to a bond, preferred shares can trade above par due to favorable interest rate or credit risk developments.

of the company's assets over the common shareholders, but behind the debt holders.[5] As such, the price movements for preferred stock are on the one hand typically less volatile than those of common stock, but on the other hand, more sensitive to solvency concerns than secured or otherwise senior debt of the issuer. Accordingly, information regarding any risk that may impact the solvency of the issuer is important in valuing preferred shares.

17. Just like common stock, the value of preferred shares issued by a bank can be affected by any concentrated risk exposures in the bank. The results of stress tests on that asset portfolio along with other similar metrics are important – the reason being that the risk that future dividends and/or the principal amount invested will be threatened by potential insolvency of the bank is important to preferred share valuation.

18. Similarly, borrowing additional debt, especially in a situation of potential insolvency, may push the preferred stock (and common stock) investor further down the capital structure, putting the investment principal at further risk.[6]

19. The credit risk of the bank's assets is a primary determinant of the overall risk of the bank, and therefore the risk borne by the investors in that bank's preferred stock.

V. The Basel Accords

A. Background

20. The Basel Committee on Banking Supervision (then called the Committee on Banking Regulation and Supervisory Practices) was formed in 1974 by the G10 countries in response to disruptions in international financial markets. The goal of the committee was to enable the member countries to better coordinate their supervision and regulation of banks.[7]

21. One way in which that was accomplished was to move toward standardizing bank supervision. The Basel Committee initially moved to standardize developed-country supervisory approaches by developing a metric focused on each bank's capitalization by viewing capital as a ratio of bank assets.

22. In order to provide several measures of capital, various categories or "tiers" of capital were defined to be used in ratios of capital to assets that would help identify the strength of a

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[5] Frank K. Reilly and Keith C. Brown, *Investment Analysis and Portfolio Management*, The Dryden Press, Sixth Edition, 2000, p. 82; Richard A. Brealey, Stewart C. Myers, and Franklin Allen, *Principles of Corporate Finance*, McGraw-Hill, 2011, Tenth Edition, p. 350

[6] For example, bailouts by the government can adversely affect the standing of all investors – equity and debt.

[7] See http://www.bis.org/bcbs/history.pdf.

bank's balance sheet and its ability to withstand various adverse events. For example, Equity capital is simply the bank's stockholders' equity. Tier 1 capital was defined to include the bank's retained earnings, common stock and qualifying perpetual preferred stock (as well as goodwill and minority interests in subsidiaries) but excludes debt issued by the bank. Tier 2 capital includes all forms of preferred stock and certain subordinated debt.[8] Each of those successive measures is a broader definition of capital, inclusive of a wider array of financial instruments that stand last in line to receive funds in the event of insolvency and liquidation.

23. Bank supervisors also sought various measures of bank assets. In 1988, the Basel I Accords introduced the notion of calculating capital ratios by weighting the assets according to their risk – specifically, at least initially, credit risk. Risk-weighted assets ("RWAs") are a measure of the assets held by a bank weighted by the risk of those assets. The safest assets are given a weight of 0% (which means that they are effectively not included in RWAs), while the riskier assets are weighted more heavily – in some cases over 100% – depending on the level of risk.

24. The risk weights are determined by asset class and in certain cases by the credit rating or other metric of a given security within an asset class. For example, in the U.K., for residential mortgages, the risk weight for the first 80% of the value of the mortgaged property can be assigned a risk-weight of 35%, while the remainder can, if it meets other requirements, be weighted at 75%.[9]

25. There are a number of rules regarding how to classify and weight assets in the determination of total RWAs, but the overall objective is simple – assets that are deemed to have greater risk (credit risk, market risk, operational risk) are to be weighted more heavily than those assets that are deemed to have relatively less risk. Therefore, a given asset's contribution to a bank's RWAs is determined by two things – the amount of the asset held by the bank and its level of risk.

26. RWAs can change over time based on the acquisition or disposition of assets and/or any change in the level of risk associated with held assets that changes their weighting in the RWA calculation. In other words, there doesn't have to be a change in the quantity of a bank's Tier 1 Capital or its assets for its RWAs, and therefore its capital ratios, to change.

27. RWAs are used as the denominator in calculating several key capital ratios. For example, the Tier 1 capital ratio is calculated as its Tier 1 Capital (defined above) divided by its

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8 Anthony Saunders and Marcia Cornett, *Financial Markets and Institutions*, Business and Economics, Fifth Edition, 2012, at p. 426-427.

9 https://www.handbook.fca.org.uk/handbook/BIPRU/3/4.html.

RWAs. Similarly, a company's equity ratio has equity as the numerator and RWAs as the denominator.

28. Since a bank's capital position, in particular its capital ratios, are important indicators of the health of the bank, these measures of capital and RWAs are tracked closely by regulators.

29. In the U.S., the FDIC has had prompt corrective action regulations in place since 1991 that specified clear regulatory actions that would be taken if a bank's capital ratios fell below certain thresholds.[10] However, in the U.K., there were no such pre-specified triggers during the relevant time period that required clear action on the part of regulators, making the relationships with regulators and the specific content of the discussions in some ways more significant.[11]

B. Managing Capital Ratios

30. As discussed above, a bank's capital ratios are typically calculated as one of the measures of capital (numerator) divided by RWAs (denominator). Thus, in order to improve its capital ratios, there are two options available to a bank: (1) increase capital; or (2) decrease RWAs.

31. When a company loses money (or expects to lose money) or otherwise suffers losses on its assets, those losses and writedowns translate into a reduction in capital and assets. Thus, a bank's capital ratios can be negatively impacted by writedowns of its assets.

32. Additionally, if market conditions are such that a bank's assets become exposed to more risk *(e.g.*, credit risk), the risk weights that are assigned to those assets increase and therefore RWAs increase. Increasing RWAs decreases capital ratios, *ceteris paribus*.

33. Therefore, in an environment in which asset prices are falling and risk is increasing, capital ratios face downward pressure from both the numerator (capital) and denominator (RWAs). As a result, how a company is managing capital ratios in times of economic stress and financial turmoil is particularly important.

34. Indeed, bank capital ratios take on increasing significance to investors and regulators in times of market stress because it is in times of market stress that the solvency of a bank can become threatened (hence the concept of "stress-testing" a balance sheet). A declining capital ratio may indicate to the market that a bank will need to either (1) raise capital (to increase the numerator

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[10] https://www.fdic.gov/regulations/laws/rules/2000-4500.html. For example, if a bank is determined to be "critically undercapitalized" (has tangible equity to total assets of 2.0 percent or less), it is prevented from taking certain actions without FDIC approval, including extending credit for any highly leveraged transaction, making a material change in accounting methods, and making any principal or interest payment on subordinated debt beginning 60 days after becoming critically undercapitalized.

[11] http://www.publications.parliament.uk/pa/cm200708/cmselect/cmtreasy/56/5608.htm.

of its capital ratios), or (2) sell assets in order to shed RWAs (to reduce the denominator of its capital ratio). As testified to by former Barclays CEO (at the time, CEO of Barclays Capital) Bob Diamond, "One possibility, rarely the leading one, is to raise more capital. Another possibility is to manage RWAs and equity in different ways than we had been."[12]

35. Both options can negatively affect the future profitability of a bank. Raising capital has a cost, whether through periodic interest payments that must be made to debt-holders or future dividends payable to equity-holders. Assets are revenue-generating (generally generating more revenue if they are exposed to more risk) and therefore selling assets to reduce RWAs can reduce a bank's future profitability.

VI. 2007 and the First Quarter of 2008

36. Beginning in early 2007, among other market developments, New Century Financial Corporation – a subprime mortgage lender –filed for bankruptcy, the rating agencies placed hundreds or mortgage-backed securities on credit watch, Bear Stearns liquidated two of its RMBS-focused hedge funds, and American Home Mortgage Investment Corporation – another subprime mortgage lender – filed for bankruptcy. In August of 2007, a crisis erupted in asset backed commercial paper ("ABCP") and structured investment vehicle ("SIV") markets and the Federal Reserve declared that the "downside risks to growth have increased appreciably."[13] By the end of 2007, while the financial crisis had yet to hit its peak, it was well underway.

37. The problems of 2007 were not limited to the US. In February of 2008, the British government nationalized Northern Rock – a bank that was heavily exposed to the mortgage securitization market – after a run on the bank.[14] The next month, the Federal Reserve facilitated the sale of Bear Stearns to J.P. Morgan by assuming the risk of $29 billion of Bear Stearns' less-liquid assets[15], as liquidity for securitized assets, especially those assets backed by residential mortgages, was quickly drying up.

38. In this context, Barclays, in its 2007 annual report, reported that its "Equity Tier 1 ratio was 5.0% under Basel I… and 5.1% under Basel II."[16] Barclays was contacted in early March 2008 by the British Financial Services Authority (FSA) regarding "particular concern" that Barclays'

[12] Diamond November 13, 2015 deposition transcript at 246:21-25.
[13] https://www.stlouisfed.org/financial-crisis/full-timeline.
[14] https://www.nao.org.uk/report/hm-treasury-the-nationalisation-of-northern-rock/.
[15] http://www.nytimes.com/2008/03/17/business/17bear.html?pagewanted=all.
[16] Barclays Form 20-F – 2007 Annual Report at p. 5.

"equity ratio is only 4.6%,"characterizing that equity ratio as "alarming," and inquiring "as a matter of urgency" as to Barclays' "contingency plans for raising new equity capital should there be a further precipitate fall in asset values."[17] In a meeting with Barclays' Chairman of the Board, the FSA directed Barclays to raise its Tier 1 Equity Ratio to an "interal target" of 5.25% by year-end 2008.[18] In response, Barclays contemplated on March 20, 2008 "com[ing] back to the fsa [sic] after the april board meeting with proposals as to our capital plan that are directed at addressing your concerns."[19]

39. During this time, record ratings downgrades and declines in mortgage values arising from historically unprecedented delinquencies and foreclosures across the mortgage and RMBS sector were causing Barclays' RWAs to grow at a rapid pace (increasing RWAs lead to decreasing capital ratios, *ceteris paribus)* and resulted in the firm reevaluating its capital plan. Barclays management was asking by March 7, 2008, "Is the current level of capital adequate and should we consider de-gearing the balance sheet and raising capital," and "are the targets for capital still appropriate in the current environment?"[20] At a Barclays board meeting on March 20, 2008, "accelerated growth of RWAs, both planned and as a result of market conditions" was noted, and as a result "the revised capital plan shows the equity ratio at 4.5% in June 2008…"[21] The forecasted equity ratio was well below the target of 5.25% communicated earlier in the month to the FSA.[22] Earlier in March, in a presentation titled "2008 Capital Plan Update", it was noted that in order to get to an equity ratio of 5.0% for June 2008 after already-proposed capital raises, including the Series 5 offering, either RWAs would need to be reduced by GBP 23B or equity would need to be increased by GBP 1.2B.[23] By the March 20 board meeting, those figures had increased to GBP 38B and GBP 1.9B, respectively.[24] By April 8, in preparation for the April board meeting, it was acknowledged that RWAs had increased by GBP 42B "as a result of market conditions."[25] Again, an increase in RWAs leads to a decrease in capital ratios, *ceteris paribus*.

40. Reducing RWAs in an already illiquid and deteriorating environment, such as the one that existed at that time, for RMBS and related securities was quite difficult. Selling assets into an

[17] BARC-ADS-00931097 (Diamond exhibit 485).
[18] BARC-ADS-01288544 (Diamond exhibit 486) "… they will be expecting us to be moving toward our target of 5.25. (Please remember that Callum [FSA] also added that they are reserving judgment on whether they might ask for more.)"; See also BARC-ADS-01601045 (Varley exhibit 389)
[19] BARC-ADS-01288544 (Diamond exhibit 486).
[20] BARC-ADS-00819845 (Broadbent exhibit 411).
[21] BARC-ADS-01601059 (Diamond exhibit 487).
[22] BARC-ADS-00931097 (Diamond exhibit 485).
[23] BARC-ADS-01551745 at p. 8.
[24] BARC-ADS-01601059 (Diamond exhibit 487).
[25] BARC-ADS 00928337 at p. 4.

illiquid market in which prices were already depressed would mean taking significant losses.[26] At a February 14, 2008 Board meeting, it was noted that "The credit crunch and subsequent liquidity crisis had hit BarCap in a number of different areas."[27] An April 2008 Board presentation titled "Barclays Capital – Update" noted the "continued liquidity crunch" and "continued closure of US mortgage securitization markets".[28] Indeed, as noted by Bob Diamond in his deposition, in describing that time, "it would be wonderful to sell positions, but the liquidity in the markets was less."[29]

41. By early 2008, Barclays was therefore in a situation in which: (i) it knew its capital ratios were deteriorating and likely to deteriorate further, (ii) it was facing increased regulatory scrutiny from the FSA, which was specifically inquiring about its equity ratio, (iii) its RWAs were increasing more rapidly than had previously been projected, and (iv) the market into which they could sell such assets was highly illiquid.

42. It is in this context that the Series 5 preferred shares were issued by Barclays. I understand that none of the known issues identified above relating to developments within Barclays in the first quarter of 2008 were specifically disclosed to investors.

43. It is my opinion that these developments – the declining capital ratios, the FSA's requirement that Barclays raise its Tier 1 equity ratio to 5.25% by year-end 2008, and Barclays' growing RWAs – reflected a significant capital constraint on Barclays that was not present at year-end 2007 and increased the risk that Barclays would need to sell assets at distressed prices and/or raise expensive capital from additional investors.

Signed by me on this day, December 15, 2015,

Joseph R. Mason

[26] Even if those assets were held, they would need to be marked to market, and their price declines (less any liquidity discount) realized.
[27] BARC-ADS-01602612 (Broadbent exhibit 409).
[28] BARC-ADS-00928337 at p. 24.
[29] Diamond November 13, 2015 deposition transcript at 194:17-25. "… And that Barclays continued to manage their exposures quite tightly and appropriately. Q. And when you say 'manage their exposures,' what do you mean? Were they trying to get rid of exposures? A. In all senses. But I think – again, I don't mean to be pejorative. But it would be wonderful to sell positions, but the liquidity in the markets was less."

Appendix A

DR. JOSEPH R. MASON
PUBLICATIONS IN PAST TEN YEARS AND
TESTIMONY IN PAST FOUR YEARS

EXPERT WITNESS TESTIMONY:

Federal Home Loan Mortgage Corporation v. Deloitte & Touche LLP, United States District Court, Southern District of Florida, Miami Division, Case No. 1:14-CV-23713-CIV-UNGARO. (Deposed November 2015.)

Deutsche Bank National Trust Company, as Trustee For Morgan Stanley ABS Capital I Inc. Trust 2007-HE6 v. Decision One Mortgage Company, LLC. In The Circuit Court of Cook County, Illinois, County Department—Law Division, Civil Action No: 2013 L 005823. (Deposed May 2015.)

NECA-IBEW Health & Welfare Fund v. Goldman, Sachs & Co. United States District Court, Southern District of New York. Civil Action No. 1:08-cv-10783-MGC. (Deposed May 2015.)

Lavastone Capital LLC v. Coventry First LLC et al., United States District Court, Southern District of New York. 14 Civ. 7139 (JSR). (Deposed May 2015.)

Public Employees Retirement Association of New Mexico, v. Clearlend Securities F/K/A Wachovia Global Securities Lending F/K/A Metropolitan West Securities, L.L.C.; Wachovia Bank, N.A.; Wells Fargo Bank, N.A. State of New Mexico, County of Santa Fe, First Judicial District. Case No.: D-101-CV-2010-03651 (Deposed March 2015.)

In Re: Crude Oil Commodity Futures Litigation, United States District Court for the Southern District of New York, Master File No. 11-cv-03600 (WHP) ECF CASE (Pertains to C.A. 11-cv-03769 (WHP)). (Deposed October 2014; Hearing February 2015.)

Bank of America, N.A. as successor in interest to LaSalle Bank National Association v. Lasalle Commercial Mortgage Securities, Inc., Series 2006-MF4 Trust, acting by and through its Master and Special Servicer, Midland Loan Services, a division of PNC Bank, National Association, and whose Trustee is Wells Fargo Bank N.A., United States District Court for the Northern District of Illinois, Case No. 12 cv 09612 and Lasalle Commercial Mortgage Securities, Inc., Series 2006-MF4 Trust, acting by and through its Master and Special Servicer, Midland Loan Services, a division of PNC Bank, National Association, and whose Trustee is Wells Fargo Bank N.A. v. Bank of America, N.A. as successor in interest to LaSalle Bank National Association, United States District Court for the Northern District of Illinois, Case No. 13 cv 05605. (Deposed September 2014.)

Financial Guaranty Insurance Company v. Countrywide Home Loans, Inc., Countrywide Financial Corp., Securities Financial Corp., Countrywide Bank, F.S.B., and Bank of America Corp., Supreme Court of The State of New York, County of New York, Index No. 650736/2009 IAS Part 3, Hon. E. Bransten. (Deposed December 2013.)

Fort Worth Employees' Retirement Fund v J.P. Morgan Chase & Co., et al., United States District Court Southern District of New York, Civil Action No. 1:09-cv-03701-JGK. (Deposed November 2013.)

California Earthquake Authority v Metropolitan West Securities, LLC et al. United States District Court for the Eastern District of California, No. 2:10-CV-00291-MCE-CMK. (Deposed November 2013.)

United States of America v. Countrywide Financial Corporation, Countrywide Home Loans, Inc., Countrywide Bank, FSB, Bank Of America Corporation, Bank of America, N.A., United States District Court, Southern District of New York, 12 Civ. 1422 (JSR). (Deposed June 2013.)

Dodona I, LLC et al. v. Goldman Sachs & Co., et al., United States District Court, Southern District of New York, 10 Civ. 7497 (VM) (DCF). (Deposed April 2013; January 2014.)

Dexia SA/NV, et al. v. Bear Stearns, et al., United States District Court, Southern District of New York, Index No. 650180/2012. (Deposed March 2013.)

MBIA Insurance Corporation v. Patriarch Partners VIII, LLC and LD Investments, LLC., United States District Court Southern District of New York, Case No. 09 Civ. 3255 (RWS). (Deposed November 2010; Testified at Trial October 2012.)

Assured Guaranty Municipal Corp. f/k/a Financial Security Assurance Inc., v. Flagstar Bank, FSB, Flagstar Capital Markets Corp., and Flagstar ABS, LLC, United States District Court, Southern District of New York, Case No. 11 Civ. 2375 (JSR). (Deposed January-February 2012; Testified at Trial October 2012.)

MBIA Insurance Corporation v. Countrywide Home Loans, Inc., Countrywide Securities Corp., Countrywide Financial Corp., Countrywide Home Loans Servicing, L.P., and Bank of America Corp., Supreme Court of the State Of New York, County of New York, No. 08/602825, IAS Part 3 (Bransten, J.) (Deposed September 2012.)

Chechele v Ward and Sandridge Energy, Inc., United States District Court, Western District of Oklahoma, ECF Case No. CIV 10-1286-M, Chief Judge Vicki Miles-LaGrange. (Deposed September 2012.)

Genesee County Employees' Retirement System v. Thornburg Mortgage Inc. et al., United States District Court, District of New Mexico, Case No. 09 Civ 300 (JB)(KBM)(D.N.M.) (Deposed August 2012.)

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Public Employees' Retirement System of Mississippi, et al. v. Goldman Sachs Group, Inc., Civil Action No. 09-cv-1110-HB, United States District Court, Southern District of New York (Deposed September 2011.)

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City of Ann Arbor Employees' Retirement System, et al. v. Citigroup Mortgage Loan Trust Inc., et al., Civil Action No. 08-CV-01418, United States District Court, Eastern District of New York (Deposed July 2011.)

Public Employees' Retirement System of Mississippi et al. v. Merrill Lynch & Co., Inc., Civil Action No. 08 CIV. 10841 (JSR), United States District Court, Southern District of New York (Deposed April 2011.)

General Retirement System of the City of Detroit et al., v. Wells Fargo Mortgage-Backed Certificates Litigation, Civil Action No. 09-cv-01376-LHK, United States District Court, Northern District of California (Deposed April 2011.)

The Charlotte-Mecklenburg Hospital Authority v. Wachovia Global Securities Lending and Metropolitan West Securities LLC., North Carolina General Court of Justice, Superior Court Division, 08 CVS 2779. (Deposed June 2010.)

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"Overview and Structure of Financial Supervision and Regulation in the U.S.," Prepared for the European Parliament's Committee on Economic and Monetary Affairs, Directorate General for Internal Policies, Policy Department A: Economic and Scientific Policy, IP/A/ECON/2012-16, PE 492.470 (September 2015).

Testimony before the U.S. Senate Committee on Environment and Public Works, Clean Air and Nuclear Safety Subcommittee, "Climate Change: The Need to Act Now," (June 18, 2014).

Brief of Dr. Brian C. Becker, Dr. Sara Fisher Ellison, and Dr. Joseph R. Mason as Amici Curiae in Support of Petitioners, *on Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit,* Sergeants Benevolent Association Health and Welfare Fund, on Behalf of Themselves and Others Similarly Situated, et al., Petitioners, v. Eli Lilly and Company, Respondent. April 25, 2011.

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Testimony before the House of Representatives, Committee on Energy and Commerce, Subcommittee on Energy and Power, "The American Energy Initiative," (March 17, 2011).

Testimony before the House of Representatives Committee on the Judiciary, "Foreclosed Justice: Causes and Effects of the Foreclosure Crisis," (December 2, 2010).

Robert Litan and Joseph Mason as Amici Curiae Supporting Petitioners, *on Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit, in the Supreme Court of the United States*, Matrixx Initiatives, Inc. et al., Petitioners, v. James Siracusano and NECS-IBEW Pension Fund, Respondent. November 12, 2010.

Testimony before the Senate Committee on Small Business and Entrepreneurship, "The Deepwater Drilling Moratorium: A Second Economic Disaster for Small Businesses," (July 27, 2010).

Testimony before the House Financial Services Committee, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, "Credit Default Swaps on Government Debt: Potential Implications of the Greek Debt Crisis," (April 29, 2010).

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Testimony before the United States Senate Committee on Banking, Housing, and Urban Affairs, "Turmoil in U.S. Credit Markets: Examining the Securities Underwriting Practices at Investment Banks" (June 10, 2008).

Testimony before the United States Senate Judiciary Committee on the Judiciary, "The Looming Foreclosure Crisis: How to Help Families Save Their Homes," (December 5, 2007).

Testimony before the United States House of Representatives Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, "Hearing on the Role of Credit Rating Agencies in the Structured Finance Market," (September 27, 2007).

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"Real Options Approach to Life Settlements Valuation," (with Hal Singer) in *Life Markets: Trading Mortality and Longevity Risk with Life Settlements and Linked Securities*, Vishaal Bhuyan, ed. Wiley Finance, 2009, pp. 135-152.

"Structuring for Leverage: CPDOs, SIVs, and ARSs," in *Prudent Lending Restored: Securitization after the 2007 Mortgage Securities Meltdown,* part of the Brookings-Wharton Series on Financial Intermediaries, Robert Litan, Richard Herring, and Yasuyuki Fuchita, eds. Washington, DC: Brookings Institution Press, 2009.

"The Evolution of the Reconstruction Finance Corporation as a Lender of Last Resort in the Great Depression," in *Bailouts and Government Rescues*, Robert E. Wright, ed. New York: SSRC/Columbia University Press, 2009.

"Regulating for Financial System Development, Financial Institutions Stability, and Financial Innovation," in *Financial Market Regulation after Financial Crises: The Historical Experience*, Gianni Toniolo and Eugene White, eds. 2009, Rome: Banca d'Italia.

"Cliff Risk and the Credit Crisis," in *The First Credit Market Turmoil of the 21st Century: Implications for Public Policy,* Douglas Evanoff and George Kaufman, eds. World Scientific Studies in International Economics – Vol. 10. London: World Scientific Publishers Co. Pte. Ltd., 2009, pp. 141-160.

"Fundamentals, Panics and Bank Distress during the Depression," (with Charles Calomiris). *Financial Crises: The International Library of Critical Writings in Economics*. Franklin Allen, ed. London: Edward Elgar Publishers 2008.

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"Bank Asset Liquidation and the Propagation of the Great Depression," (with Ali Anari and James Kolari). *Journal of Money, Credit, and Banking*, August 2005 (37:4), pp. 753-773.

"Credit Card Securitization and Regulatory Arbitrage," (with Charles Calomiris). *Journal of Financial Services Research*, August 2004 (26:1), pp. 5-27 (lead article).

"What is the Value of Recourse to Asset Backed Securities? A Study of Credit Card Bank ABS Rescues," (with Eric Higgins). *Journal of Banking and Finance*, April 2004 (28:4), pp. 875-899.

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"A Real Options Approach to Valuing Life Settlements Transactions." *Journal of Financial Transformation*, September 2008.

"Why ABS and CDO Ratings Substantially Differ from Corporate Bond Ratings." *Bank Structure and Competition Conference Proceedings*. Chicago: Federal Reserve Bank of Chicago, May 2008.

"The (Continuing) Information Problems in Structured Finance." *Journal of Structured Finance*. Spring 2008, v. 14 no. 1, pp. 1-11 (lead article).

"Credit Card Securitization, Recourse, and Regulatory Arbitrage," (with Eric Higgins and Charles Calomiris). *Bank Structure and Competition Conference Proceedings*. Chicago: Federal Reserve Bank of Chicago, May 2003, pp. 471-492.

"A Real Options Approach to Bankruptcy Costs: Evidence from Failed Commercial Banks during the 1990s." *Bank Structure and Competition Conference Proceedings*. Chicago: Federal Reserve Bank of Chicago, May 2002, pp. 108-128

"Causes of U.S. Bank Distress during the Great Depression," (with Charles Calomiris). *Bank Structure and Competition Conference Proceedings*. Chicago: Federal Reserve Bank of Chicago, May 2001, pp. 530-554.

Appendix B – Materials Relied Upon

Case Record

Diamond November 13, 2015 deposition transcript
BARC-ADS-00819845 (Broadbent exhibit 411)
BARC-ADS 00928337
BARC-ADS-00931097 (Diamond exhibit 485)
BARC-ADS-01288544 (Diamond exhibit 486)
BARC-ADS-01551745
BARC-ADS-01601045 (Varley exhibit 389)
BARC-ADS-01601059 (Diamond exhibit 487)
BARC-ADS-01602612 (Broadbent exhibit 409)

Other

Barclays Form 20-F – 2007 Annual Report

Anthony Saunders and Marcia Cornett, *Financial Markets and Institutions*, Business and Economics, Fifth Edition, 2012
Frank K. Reilly and Keith C. Brown, *Investment Analysis and Portfolio Management*, The Dryden Press, Sixth Edition, 2000
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http://www.nytimes.com/2008/03/17/business/17bear.html?pagewanted=all
http://www.publications.parliament.uk/pa/cm200708/cmselect/cmtreasy/56/5608.htm
https://www.stlouisfed.org/financial-crisis/full-timeline

EXHIBIT 230

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	: Master File No. 1:09-cv-01989 (PAC)
This Document Relates To:	:
ALL ACTIONS	:

SURREBUTTAL EXPERT REPORT OF ALLAN W. KLEIDON, Ph.D., IN RESPONSE TO FEBRUARY 2, 2016 REPORT OF CHAD COFFMAN, CFA

March 18, 2016

Table of Contents

I. Qualifications and Assignment

1. My qualifications and compensation are detailed in my initial expert report in this matter, dated December 15, 2015 ("Kleidon Initial Report" or "Initial Report"). My curriculum vitae and a list of prior testimony over the past four years is attached as Exhibit 1. I have been asked by counsel for Barclays to respond to the analysis and opinions in the Expert Rebuttal Report of Chad Coffman, CFA, dated February 2, 2016 ("Coffman Rebuttal Report"). The list of documents that I considered in forming the opinions in my Initial Report was attached thereto as Exhibit 2. I have not considered any additional documents in forming the opinions set forth in this report other than documents I considered in connection with my Initial Report, documents cited in the Coffman Rebuttal Report, and documents cited in this report.

II. Summary of Opinions

2. Below is a brief summary of my findings and opinions regarding the issues raised in the Coffman Rebuttal Report. The bases for my findings and opinions are detailed in the sections that follow. My work in this matter is ongoing, and I reserve the right to supplement my analysis if additional information becomes available.

- None of the issues raised in the Coffman Rebuttal Report causes me to change any of the conclusions reached in my Initial Report.
- Mr. Coffman's analysis suffers from the following fallacies:
    - Mr. Coffman incorrectly argues that it is necessary to determine an affirmative cause for every residual price decline during the Analysis Period.[1] It is sufficient

[1] As stated in my Initial Report (¶3), the Analysis Period is April 8, 2008 through March 24, 2009. Throughout this report I use capitalized terms that were defined in my Initial Report.

to establish that the price decline was not caused by the alleged misrepresentations,[2] which is what I established in my Initial Report.

    - Mr. Coffman incorrectly conflates any information that is purportedly "related to" Plaintiff's allegations, including information that could not possibly have been disclosed in the Series 5 Offering Documents, with information that is corrective of the specific misrepresentations alleged by Plaintiff.

    - Mr. Coffman improperly generalizes a technical point about the limits of mathematical certainty of statistical tests to conclude that such tests, if the result is statistically indistinguishable from zero, cannot provide evidence in a context, such as this action, where the quantum of proof required is significantly less than absolute certainty.

- Mr. Coffman's criticisms of my Initial Report's regression model are invalid:

    - Mr. Coffman's claim that the event study in my Initial Report "systematically mis-measures the volatility" in the price movements is not supported by any statistical analysis or the event study literature and is demonstrably incorrect.

    - Mr. Coffman's claim that the Preferred Stock Index used in the event study in my Initial Report is inappropriate is not supported by the event study literature and is demonstrably incorrect.

- Mr. Coffman's analysis of the eight days discussed in Section V of his Rebuttal Report, none of which was mentioned in Plaintiff's Complaint, suffers from at least the following errors:

    - None of the events identified by Mr. Coffman occurs on days on which the observed residual price changes are distinguishable from "simple random movement."

    - None of the information cited by Mr. Coffman released on the eight days corrects any alleged misrepresentation.

- None of the events identified in Mr. Coffman's analysis of the five days discussed in Section VI of his Rebuttal Report corrects any of the alleged misrepresentations.

III. Overview

3. My Initial Report found that (1) there were no statistically significant price

[2] As in my Initial Report, the term "misrepresentations" is used in this report to cover both affirmative misstatements and omissions.

declines in the Series 5 ADS on any days when allegedly corrective information cited in the Complaint was disclosed to the market or any allegedly undisclosed risk cited in the Complaint materialized, and (2) all statistically significant declines in the Series 5 ADS occurred on days when no allegedly corrective information cited in the Complaint was disclosed to the market and no allegedly undisclosed risk cited in the Complaint materialized. Given these findings, I concluded (Initial Report, ¶5) that "the price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations."

4. I have reviewed the Coffman Rebuttal Report, and nothing in it causes me to change my findings and opinions. In particular, the statistical model and analysis in my Initial Report concerning when information relevant to the analysis was disclosed to the market are valid, and the conclusion that no price declines during the Analysis Period are attributable in whole or in part to any of the alleged misrepresentations is fully supported by the analysis. In my opinion, the Coffman Rebuttal Report is based on a number of flawed arguments.

IV. Mr. Coffman's Report Is Replete with Logical and Statistical Errors

A. Mr. Coffman's Fallacy That There Must Be an "Affirmative Proof" of the Cause of Every Price Decline

5. Mr. Coffman's summary objection to my Initial Report's analysis is his claim that it "fails, as a matter of scientific and statistical principles, to affirmatively prove that events unrelated to the misstatements or omissions at issue in this litigation caused observed price declines" (Coffman Rebuttal Report, ¶6). As documented in more detail below, Mr. Coffman apparently believes that, as a matter of "scientific and statistical principles," the only possible

way to prove that any price decline in the Series 5 ADS was *not* caused by the alleged misrepresentations is to "affirmatively prove" what *did* cause that price decline. This is the first fallacy that underlies his criticisms. For example, following his logic, the only way one could conclude that a child's pet in a shoe box was not an elephant would be to "affirmatively prove" exactly what that pet was.

6. Contrary to Mr. Coffman's assertions, however, my Initial Report's analysis and conclusions are supported by "scientific and statistical principles," just as it is consistent with such principles to rule out that the pet in the shoe box is an elephant, even if one cannot specifically identify the pet inside.

7. Mr. Coffman spends much time in his Rebuttal Report pointing out that my Initial Report has not affirmatively proven what caused every single price decline in the Series 5 ADS during the Analysis Period, no matter how statistically insignificant that price decline might have been (the equivalent of saying that I have not identified exactly what kind of pet is in the shoe box). That was not the objective,[3] nor was such an analysis necessary to conclude that, whatever the causes of price declines during the Analysis Period, the declines did *not* result from the alleged misrepresentations in the Complaint (the equivalent of proving that the child's pet was not an elephant).

8. Section 11(e) of the Securities Act states that "if the defendant proves that any

[3] However, as discussed in my Initial Report, it is relevant that the price declines (and subsequent price recovery) for the Series 5 shares at issue in this matter reflected the overall market conditions during this period of extraordinary financial crisis and the subsequent macroeconomic recovery—see, for example, Kleidon Initial Report, Exhibit 5.

portion or all of such damages represents other than the depreciation in value of such security resulting from [the alleged misrepresentations], such portion of or all such damages shall not be recoverable." It is my understanding that this section means that a plaintiff cannot recover damages for any price decline that the defendant proves resulted from something other than the alleged misrepresentations. The statute does not state that the defendant must prove what did cause the price decline, but rather that the price decline represents something other than a decline caused by the alleged misrepresentations; that is, it was *not* caused by the alleged misrepresentations. The required burden, by analogy, is to prove that the pet is something other than an elephant.

9. Thus, my Initial Report looked at price changes on days on which allegedly corrective information entered the market as alleged in the Complaint,[4] and conducted valid statistical analysis, fully consistent with the well-accepted standards of the financial economics discipline in which such "event study" analysis was developed, to test whether any price decline in the Series 5 ADS on such days could be attributed to that allegedly corrective information. There are standard and well-accepted statistical procedures for conducting such tests, and my Initial Report followed them. In particular, if a price change is so small as to be statistically indistinguishable from zero (i.e., a statistically insignificant decline), it is not possible, consistent with the standards of statistics or financial economics, to attribute that price decline to any particular cause (such as, in this matter, any particular information that entered the market on

[4] As in my Initial Report, in this report, the phrase "corrective information" includes both (i) allegedly corrective information that was disclosed to the market, and (ii) the materialization of any allegedly undisclosed risk. The use of the phrase "corrective information" is based solely on the allegations of the Complaint; it does not reflect any conclusion that any "corrective information" was disclosed to the market, or that any allegedly undisclosed risk materialized, on any given day.

that day).

10. Indeed, Mr. Coffman himself acknowledges as much, when he states that the standard event study analysis involves "testing whether the deviation from expected price movements is sufficiently large that simple random movement can be rejected as the cause" (Coffman Rebuttal Report, ¶16). This is correct—some price changes are sufficiently small that, given the normal variation in price changes, "simple random movement" cannot be rejected as the cause. In such circumstances, there is no scientific or statistical basis to attribute that price movement to *any* specific cause because "simple random movement" cannot be rejected as the cause.

11. My Initial Report documented that there were no price declines in the Series 5 ADS that were statistically significantly different from zero on any days on which allegedly corrective information entered the market. Consequently, given that "simple random movement" could not be rejected as the cause of any price declines in the Series 5 ADS on such days, the analysis correctly concluded that none of those price changes could be attributed to allegedly corrective information entering the market (or, indeed, to any particular information).

12. The analysis also demonstrated that, on all days with a price decline that was statistically significant—that is, on all days on which "simple random movement" could be rejected as the cause—no allegedly corrective information entered the market. In short, for days when there was something to be explained other than by "simple random movement," the cause was *not* allegedly corrective information, and hence the price decline did not result from the alleged misrepresentations. By analogy, the pet was not an elephant.

B. Mr. Coffman's Fallacy That Section 11 Addresses Price Declines Caused by Information "Related to" the Alleged Misrepresentations, Rather than Declines Caused by the Misrepresentations

13. In addition to Mr. Coffman's flawed reasoning that it is impossible to show that the alleged misrepresentations did not cause price declines unless one provides "affirmative proof" of what caused every single price decline, even if statistically insignificant, his summary criticism in ¶6 of his Rebuttal Report (cited in ¶5 above) reveals a second major fallacy that pervades his report. Specifically, Mr. Coffman erroneously claims that defendants cannot prove that a price decline did not result from the alleged misrepresentations if the price decline was caused by information that is in some way "related to" the alleged misrepresentations.

14. However, Section 11(e) does not address price declines resulting from information that is in some way "related to" the alleged misrepresentations, but rather addresses price declines "resulting from" from the specific alleged misrepresentations themselves. In particular, Section 11(e) discusses "the depreciation in value of such security resulting from such part of the registration statement, with respect to which his liability is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statements therein not misleading." Mr. Coffman vastly and incorrectly broadens the scope of Section 11(e) by treating as supposedly "corrective" any information that is purportedly "related to" the issues raised in the Complaint, including information that could not possibly have been disclosed in the Series 5 Offering Documents.

15. This second fallacy underlies much of Mr. Coffman's analysis, as is documented in detail in Sections VI and VII below. As an illustration of the issue, he states (Coffman

Rebuttal Report, ¶88):

> On January 21, 2009, there was substantial coverage of the potential that Barclays would take further write-downs and might face nationalization by the U.K. government as a result of its exposure to the subprime assets and deteriorating capital positions, which conditions the Complaint allege were misrepresented in and omitted from the 2007 20-F and Prospectus.

Mr. Coffman's footnote 87 states: "Dr. Kleidon acknowledges news regarding fear of nationalization entered the market this day, *see* Kleidon Initial Report ¶91."

16. It is true that there were fears of nationalization on January 21, 2009, but Plaintiff does not (and could not) allege that the possible nationalization should have (or could have) been disclosed in the Offering Documents. The conditions in January 2009 were vastly different from those at the time of the Offering in April 2008 as detailed in Section VI of my Initial Report. In particular, between the Series 5 Offering and January 2009, Lehman Brothers had filed for bankruptcy, the Royal Bank of Scotland ("RBS") was effectively nationalized by the British government, the stock market had plummeted, and a full-scale global financial crisis had erupted. The U.S. government had intervened in the market in an unprecedented fashion to support other investment and commercial banks, and the U.K. government was also contemplating extraordinary measures. None of this information, including the potential nationalization of the British banking sector, could conceivably have been disclosed in the Series 5 Offering Documents in April 2008. Accordingly, even if there were a price decline caused by fear of nationalization in January 2009, that price decline was not caused by the alleged misrepresentations in April 2008.

17. Mr. Coffman falsely asserts (Coffman Rebuttal Report, ¶92) that "Dr. Kleidon opines that this news is unrelated to Plaintiff's claims because Barclays was never actually nationalized" (citing ¶91 in the Kleidon Initial Report). A review of paragraph 91 of my Initial Report shows that it did not state that this news was unrelated to Plaintiff's claims because Barclays was not nationalized, although it did note that the speculation proved to be false and Barclays was not nationalized. Moreover, it did not state that the news was "unrelated to Plaintiff's claims." In fact, the words "unrelated to" Plaintiff's claims or allegations do not appear anywhere in my Initial Report (notwithstanding Mr. Coffman's numerous assertions to the contrary), because the relevant issue is not whether some information is "related to" Plaintiff's claims, whatever that might mean. What my Initial Report (¶91) did state—and what I stand by—is that "I do not find any evidence that any of the Barclays-specific information that entered the market at this time corrected any misrepresentations alleged in the Complaint."

18. Mr. Coffman's rationale for his claim that a price decline caused by speculation about nationalization of Barclays in January 2009 would amount to a price decline resulting from, or caused by, the alleged misrepresentations in April 2008 is implausible and follows a tortuous route, full of intervening causes. His argument is that "the threat of nationalization [in January 2009] was driven by fears that Barclays' capital position [as of January 2009] was not sufficient to withstand further losses [after January 2009] on its subprime positions" (Coffman Rebuttal Report, ¶92, emphasis omitted). Mr. Coffman claims (Coffman Rebuttal Report, ¶92) that "[s]uch fears [of nationalization] were driven by Barclays' depleted capital positon and exposure to subprime assets, which the Complaint alleges were misrepresented in and omitted

from the 2007 20-F and the Prospectus." Apparently Mr. Coffman believes that if there was concern about whether Barclays' capital position in January 2009 could "withstand further losses" on its subprime positions, that establishes that those January 2009 events are "related to" the alleged misrepresentations in April 2008 because the alleged misrepresentations in 2008 concerned Barclays' capital position and credit market exposures. However, as discussed in detail in my Initial Report, information fully correcting the alleged misrepresentations concerning Barclays' capital position and subprime exposure *as of April 2008* was known to the market no later than August 2008.[5] The events concerning nationalization and possible future losses on subprime assets in January 2009 could not have been disclosed in April 2008, and the information that allegedly should have been disclosed in April 2008 was in fact disclosed, at the latest, in August 2008, months before January 2009.

19. In short, Mr. Coffman rewrites the language of Section 11 that addresses price declines that result from, or are caused by, the alleged misrepresentations, to mean price declines that are caused by something that is only "related to" those misrepresentations, where "related to" means only that the same general subject matter (i.e., capital position or subprime assets) is involved. He then falsely states that my Initial Report used the same "related to" standard as he postulates, and concludes that "[Dr. Kleidon] has not established that this price decline was caused by factors unrelated to Plaintiff's claims" (Coffman Rebuttal Report, ¶93).

Mr. Coffman's fallacious claims based on his unsupported "related to" standard permeate much

[5] My Initial Report (¶¶94–97) also discusses Barclays' disclosures of total fair value losses and total gross losses for the years 2007 and 2008 made on February 9, 2009. However, these disclosures do not address Barclays' capital position and credit market exposure.

of his Rebuttal Report, as discussed in more detail below.

C. Mr. Coffman's Fallacy That, Statistically, It Is Impossible to Provide Evidence That a Price Decline Was Not Caused by the Alleged Misrepresentations If the Price Decline Is Insignificantly Different from Zero

20. Mr. Coffman's third fallacy states that, statistically, it is not possible to provide evidence that a price decline was caused by something other than the alleged misrepresentations if there was a statistically insignificant price change when the alleged misrepresentation was corrected (Coffman Rebuttal Report, ¶¶7, 15−27).

21. Mr. Coffman states (Coffman Rebuttal Report, ¶7, emphasis in original):

> …Dr. Kleidon erroneously concludes that his event study analysis provides evidence that the release of information related to Plaintiff's claims could not have caused any observed stock price decline that is not statistically significant at the 95% confidence level. By its nature, an event study that finds a statistically significant change in price is capable of providing evidence (within a certain degree of error) of an affirmative causal linkage between an event and a price movement. An event study cannot, however, based on a ***lack*** of statistical significance, establish a lack of causation for any abnormal return not explained by the control variables.

22. Leaving aside Mr. Coffman's broadening of Section 11(e) to encompass matters "related to Plaintiff's claims," his argument implies that any statistical test that finds a result that is statistically indistinguishable from zero at standard levels of significance does not "provide[] evidence" that some specific event did not cause the result. This is an extreme viewpoint that, if true, would gut the application of statistical study in virtually any application in which there is some random variation in outcomes.

23. For example, suppose that someone claimed that a particular coin was biased in

favor of heads. In 20 tosses of the coin, it landed on heads 11 times. Eleven heads out of 20 tosses is not so statistically extreme as to allow one to reject simple randomness as the cause. In statistical terms, because the difference between the observed result (11 heads) and the "expected" result (10 heads) is statistically indistinguishable from zero, one cannot attribute the result to a biased coin. Consequently, the test and the result "provide[] evidence" that the coin is not biased.

24. Mr. Coffman, however, asserts that such a test would not "provide[] evidence" that the coin is unbiased. He notes that "[t]o retain a hypothesis does not prove it true but merely indicates that it is not inconsistent with the observed data of a sample" (Coffman Rebuttal Report, p. 8, fn. 11, citing Walker and Lev, emphasis omitted). In the coin toss example, Mr. Coffman is saying that it remains possible that the coin is biased, and a biased coin might have been the cause of the 11 heads in 20 tosses. That is true—the inherent randomness in the types of phenomena investigated by statistical methods, including stock price changes, does not allow one to know with certainty the underlying metaphysical truth. Indeed, even if there were 500 heads in 1,000 tosses, that would not "prove" with mathematical certainty that the coin is not biased, "but merely indicates that [unbiasedness] is not inconsistent with the observed data of a sample."[6] However, that does not mean, as Mr. Coffman asserts, that such a test does not "provide[] evidence" as to whether the coin is or is not biased. Indeed, such a test provides precisely the kind of evidence that statistical testing is designed to provide, and which

[6] Although Mr. Coffman appears to believe that the rejection of a null hypothesis provides sufficient proof that the hypothesis is false, this also is not "proof" with mathematical certainty—indeed, Mr. Coffman himself states that such a rejection provides evidence "within a certain degree of error" (Coffman Rebuttal Report, ¶7). Such is the nature of statistical testing.

economists routinely employ to test whether or not some information caused a price decline.

25. The statistics textbooks that Mr. Coffman cites (Coffman Rebuttal Report, p. 8, fn. 11) discuss "proof" of the null hypothesis, that is, whether one can be certain that the null hypothesis is "actually true" if the hypothesis is not rejected in a test. They do not discuss "evidence." Mr. Coffman takes this technical discussion and leaps to an extreme conclusion: "Thus, an event study provides no basis to assert that the lack of a statistically significant stock price return constitutes economic or statistical evidence that proves there was no price impact from any news" (Coffman Rebuttal Report, ¶19, emphasis and internal footnote omitted). Although statistical results do not provide "proof" in the sense of mathematical certainty, they provide relevant evidence in a lawsuit such as this action, where I understand that defendants must prove only by a preponderance of the evidence—that is, more likely than not (rather than metaphysical certainty)—that the stock price decline resulted from a cause other than the alleged misrepresentations.

26. In short, Mr. Coffman improperly generalizes a technical point about the limits of mathematical certainty of statistical tests to conclude that such tests, if the result is statistically indistinguishable from zero, cannot provide evidence in a context, such as this action, where the quantum of proof required is significantly less than absolute certainty.

27. In the present matter, Mr. Coffman correctly notes that, if a price decline is sufficiently small that it is statistically insignificantly different from zero, then "simple random movement" cannot be rejected as the cause (Coffman Rebuttal Report, ¶16). In such a situation, statistically speaking, there is no significant price change to be attributed to *any* specific cause,

since the results are consistent with "simple random movement." Specifically, if information that corrects an alleged misrepresentation causes no price change that can be distinguished from "simple random noise," then that finding provides evidence that the information did not cause a significant change in the total mix of information available to the market, and provides evidence that the statistically insignificant price change cannot be attributed to the information correcting the alleged misrepresentation.

28. Mr. Coffman further claims (Coffman Rebuttal Report, ¶20, internal footnote omitted):

> Dr. Kleidon has not analyzed these non-statistically significant residual price declines, nor does he discuss what caused the abnormal returns he observed on those dates. Yet, Dr. Kleidon inexplicably concludes that "[t]he price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations."

29. A price decline that is "non-statistically significant"—that is, statistically indistinguishable from zero—is consistent with "simple random movement," as Mr. Coffman himself acknowledges. It is no violation of well-accepted statistical principles for my Initial Report to not discuss the cause of price movements that are consistent with "simple random movement," just as the investigator in the coin toss example would not be required under those principles to explain exactly why there were 11 heads in 20 tosses. The fact that the results are consistent with "simple random movement" as Mr. Coffman acknowledges is sufficient. Moreover, statistically speaking, it is correct to conclude that a price change is not attributable to any specific information, in particular the information that allegedly corrected the alleged

misrepresentations, if the price change is so small as to be statistically indistinguishable from zero and hence indistinguishable from the effects of "simple random movement."

V. Mr. Coffman's Criticisms of the Kleidon Initial Report's Regression Model Are Invalid

A. Mr. Coffman Provides No Basis to Conclude That Volatility Is Not Measured Properly

30. Mr. Coffman claims (Coffman Rebuttal Report, ¶106) that the event study in my Initial Report "systematically mis-measures the volatility, or degree of randomness in the price movements of the Series 5 Shares during the Analysis Period." As discussed in my Initial Report (¶47), I estimated different regressions before and after the bankruptcy of Lehman Brothers on September 15, 2008, because the volatility, estimated as squared residual returns (the remaining price movement once market and industry effects are controlled for), increased after this watershed event. The increase in volatility was confirmed by a statistical test (Kleidon Initial Report, ¶47 and Exhibit 7). Mr. Coffman does not dispute this conclusion.

31. To support his claim, Mr. Coffman plots a 30-day rolling standard deviation of residual ("abnormal") returns and concludes that "there is not one discrete jump in volatility over Dr. Kleidon's analysis period…. There are increases and decreases in volatility around a generally increasing trend" (Coffman Rebuttal Report, ¶113). Mr. Coffman does not offer any other evidence to support his conclusion that volatility is not measured correctly in my Initial Report. As detailed below, his argument inappropriately attempts to apply analysis that was developed for the pricing of derivatives, such as options, to my regression analysis in the context

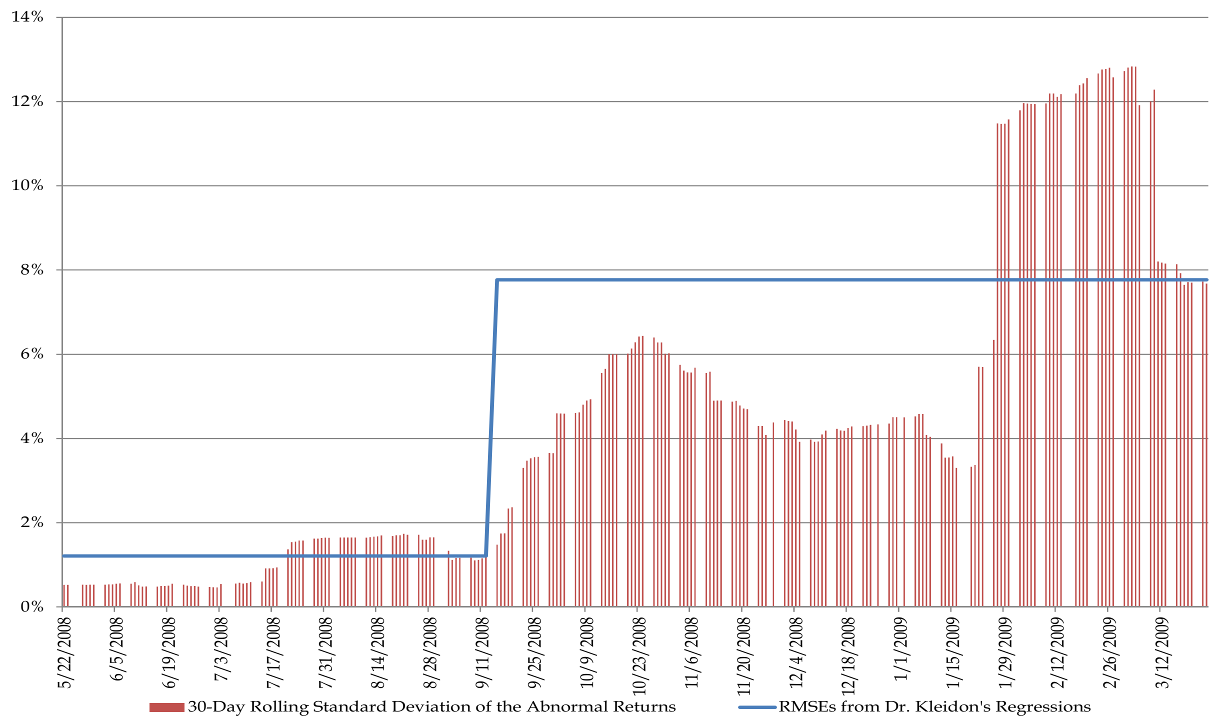
of event studies, and is demonstrably incorrect.

32. First, Mr. Coffman does not cite any academic literature to support his assertion that his 30-day rolling estimate is a standard or appropriate procedure for estimating volatility in a regression analysis, especially when that analysis spans very different periods such as, in this case, before and after the Lehman bankruptcy. The literature cited by Mr. Coffman (Coffman Rebuttal Report, p. 48, fn. 105) discusses a very different context—namely, estimating future volatility, for the purpose of pricing derivatives such as options, by calculating the historical average volatility of stock price changes. That context is unrelated to the event study and regression model in my Initial Report that Mr. Coffman is attempting to address. Unlike Mr. Coffman's approach, which attempts to apply to event study regression analysis some 30-day rolling procedure developed for option pricing, the methodology in my Initial Report is well-accepted in the context of regressions and event studies, and is based on and supported by the academic literature on statistics in general and event studies specifically.[7]

33. Second, in any case, Mr. Coffman's interpretation of his chart (Coffman Rebuttal Report, ¶112), which is reproduced below as Figure 1, is demonstrably incorrect.

[7] See, for example, John Y. Campbell, Andrew W. Lo, and A. Craig MacKinlay, *The Econometrics of Financial Markets* (Princeton, NJ: Princeton University Press, 1997), Chapter 4.

Figure 1
Mr. Coffman's Rebuttal Report Chart
Standard Deviation of Abnormal Returns
30-Day Trailing Standard Deviation



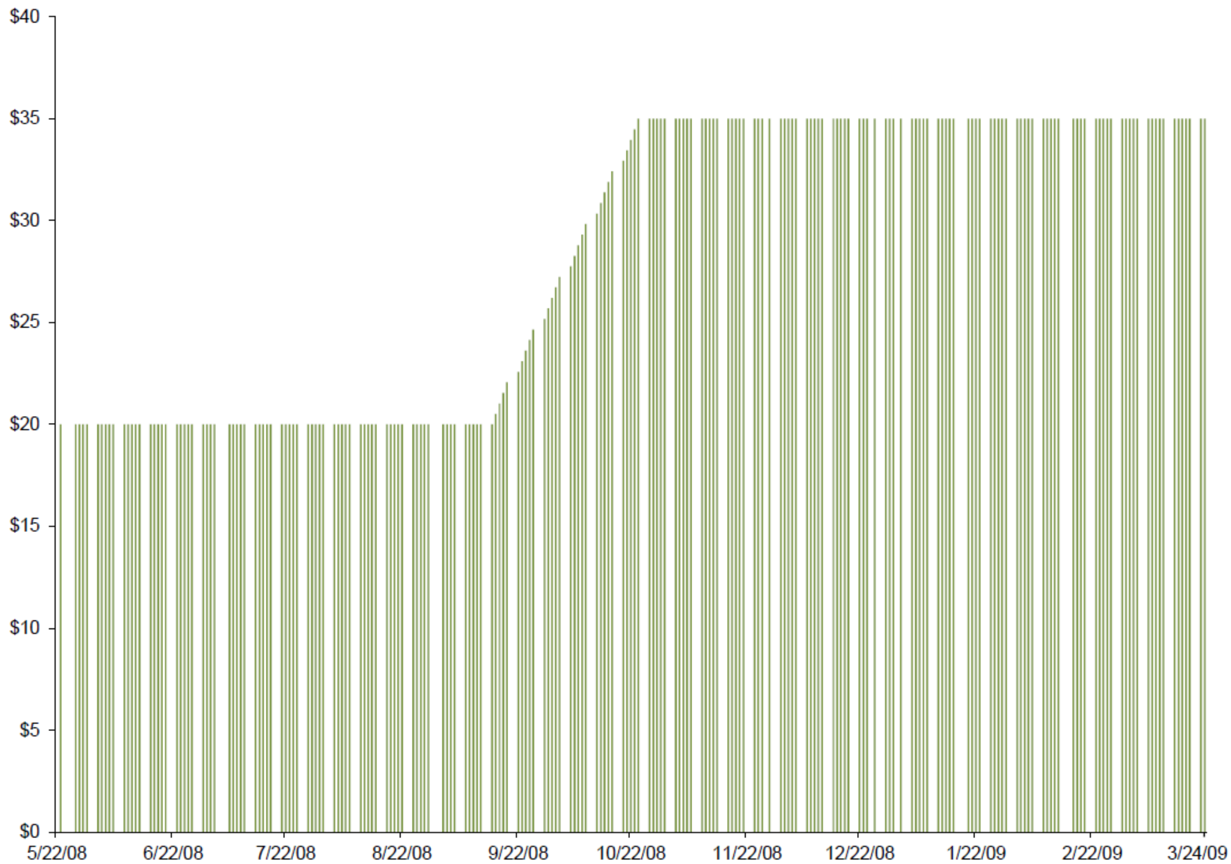
Source: Kleidon Backup Materials.

34. Mr. Coffman's argument is that, because his calculated 30-day rolling standard deviation of abnormal returns purportedly shows "increases and decreases in volatility around a generally increasing trend," "there is not one discrete jump in volatility" over the Analysis Period (Coffman Rebuttal Report, ¶113).

35. Mr. Coffman's argument is invalid. Although he claims otherwise, Mr. Coffman's chart is consistent with a discrete change in volatility, as can be illustrated with a simple example. Suppose an employee earns $20 per hour for a few months, after which she receives a raise and her salary increases to $35 per hour, effective the next day. Figure 2 below plots a 30-day trailing average of her hourly wage, using calculations like those Mr. Coffman

used to construct his chart. The 30-day trailing average appears to show that the employee's wage increased gradually when, in reality, her wage increased discretely—that is, in a single raise from $20 per hour to $35 per hour and then remained constant at $35 per hour.

Figure 2
Hourly Wage
5/22/08 – 3/24/09



36. The same logic holds for more complex situations. Suppose that the daily residual return (i.e., after controlling for market and industry effects) of a stock alternates between positive 5% and negative 5% from April 11, 2008 through September 12, 2008. In other words, the residual return is 5% on April 11, -5% on April 12, 5% on April 13, and so on through September 12. On September 15, 2008, the daily residual return begins alternating

between positive 10% and negative 10%, except on January 26, 2009, which has a residual return of positive 50%. This is a clear example of a discrete increase in the volatility of residual returns on September 15, 2008. Volatility within each of the two periods is constant except for the one outlier residual return on January 26, 2009. Figure 3A below shows the hypothetical residual returns for this stock and Figure 3B shows the squared residual returns.

Figure 3A
Residual Returns
5/22/08 – 3/24/09

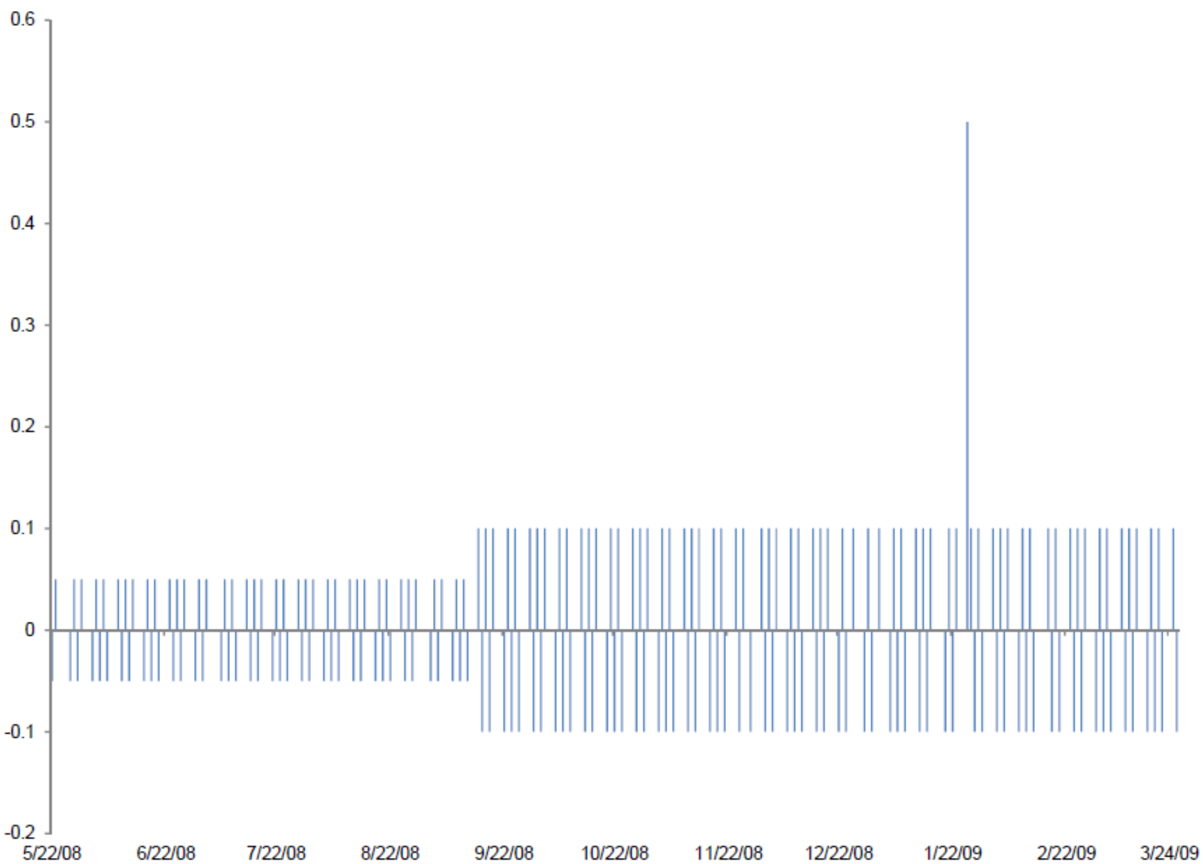
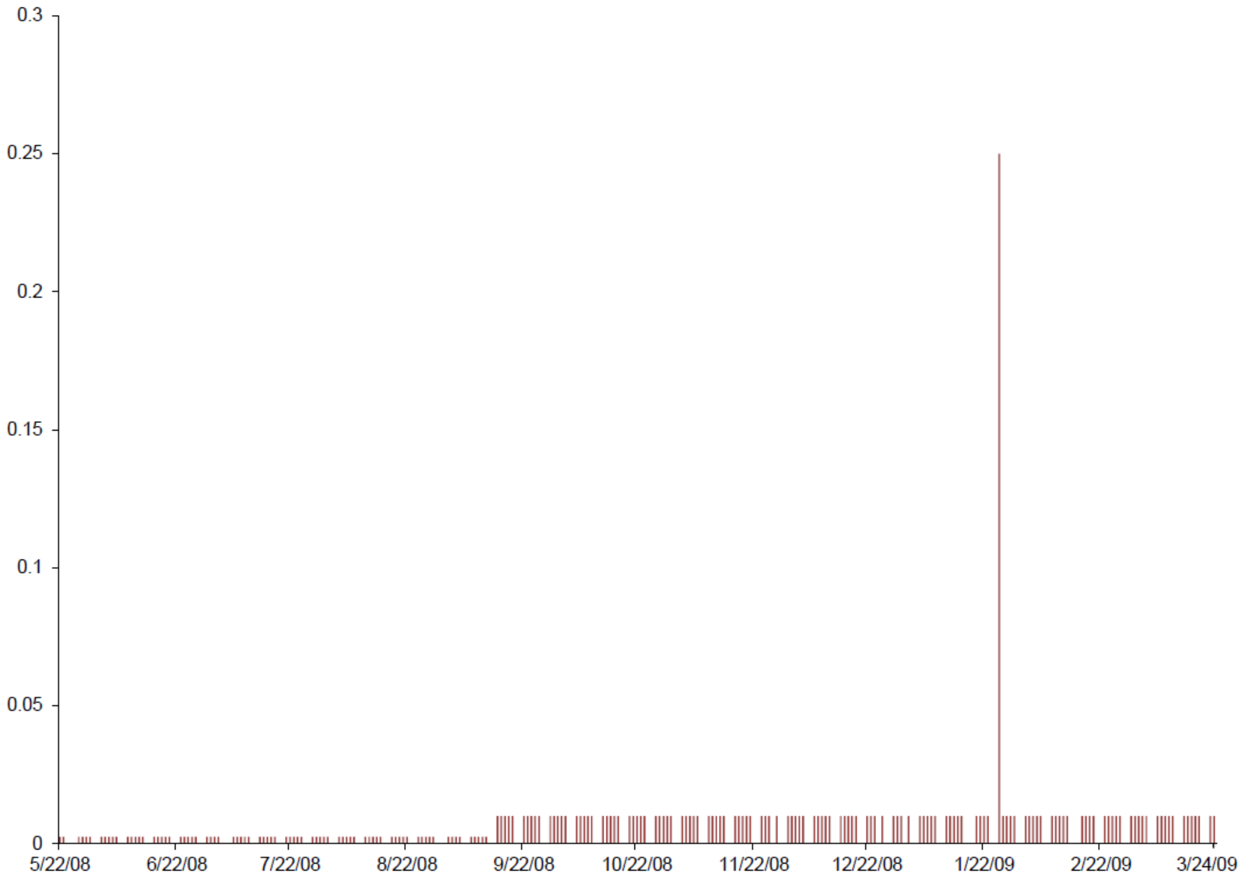
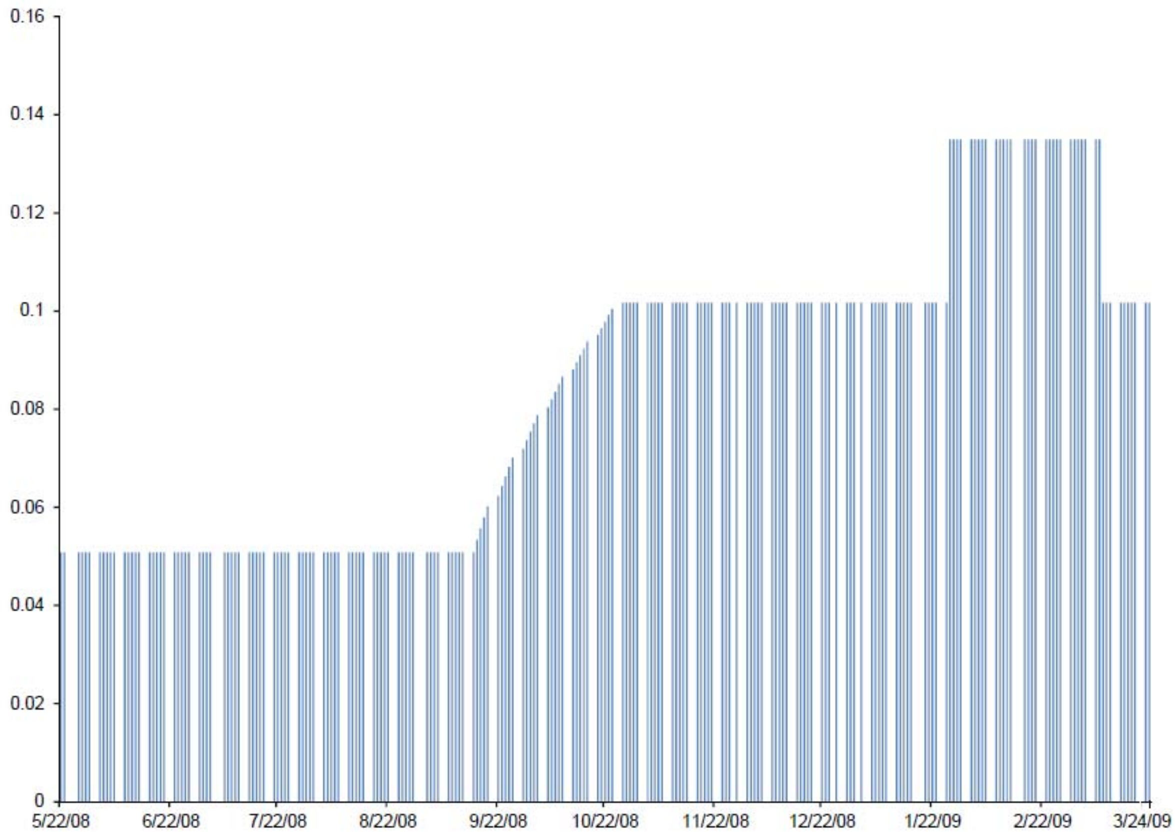


Figure 3B
Squared Residual Returns
5/22/08 – 3/24/09



37. Figure 4 below shows the 30-day trailing standard deviation of residual returns for the hypothetical stock described above.

Figure 4
30-Day Trailing Standard Deviation
5/22/08 – 3/24/09



38. The plot of the 30-day standard deviation of residual returns appears to show a gradual increase, when, in reality, the residual returns changed from +/- 5% to +/- 10% in a single, discrete increase on September 15, 2008 and remained constant at +/- 10% with the exception of a single day (January 26, 2009).

39. The hypothetical Figure 4 illustrates the misleading nature of the chart created by Mr. Coffman (Figure 1 above). A chart such as Mr. Coffman's will have the effect of smoothing (and thereby obscuring) any discrete changes in the underlying variable. Indeed, the example in Figure 4 above highlights the artificial feature that Mr. Coffman points to around Lehman's

bankruptcy, namely, that his trailing 30-day volatility measure shows a gradual increase after the Lehman bankruptcy rather than the actual discrete increase in volatility that resulted from the bankruptcy. Further, a single outlier on January 26, 2009 in the hypothetical example causes his 30-day construct to be elevated for about 30 days, rather than in fact occurring on a single day.

40. Other than his chart, Mr. Coffman offers no additional evidence or citation to any event study literature to support his argument that volatility is not measured correctly in my Initial Report.

41. As discussed in my Initial Report (¶93), January 26, 2009 was the date on which Barclays issued an open letter to shareholders and reported that it would be profitable for 2008. The Series 5 ADS closing price increased to $12.60 from $8.02. Unlike Mr. Coffman's, the analysis in my Initial Report is consistent with the accepted methodology to determine whether the conclusions were driven by the inclusion of January 26, 2009. The conclusions were not driven by that single outlier, as explained in footnote 53 of my Initial Report:

> As a sensitivity analysis, I estimated another regression model over Period 2 in which I included an indicator variable for January 26, 2009. This model resulted in five additional significant days (September 30, 2008, October 10, 2008, January 30, 2009, February 9, 2009, and March 10, 2009). Four of these five days were not cited in the Complaint, and I did not find any evidence that the Barclays-specific news that entered the market on any of these days corrected any misrepresentations asserted in the Complaint. The fifth day, February 9, 2009, became statistically significant, but positive, under this alternative regression model.

42. Although Mr. Coffman's methodology is not supported by the relevant academic literature and his criticisms of the regression model in my Initial Report lack a scientific basis, it

is also noteworthy that applying his improper standard for statistical significance does not change the overall conclusion of my analysis. In particular, in order to identify any additional days that Mr. Coffman contends would be considered to be significant based on his improper statistical analysis, I reviewed his backup materials and noted any additional negative significant days shown in his calculations. This identified seven additional ostensibly significant negative days: April 29, 2008, July 2, 2008, September 19, 2008, September 30, 2008, October 10, 2008, November 24, 2008, and November 26, 2008. None of these days, except for November 24, 2008, is mentioned in the Complaint.

43. With respect to November 24, 2008, as discussed in ¶¶83–86 of my Initial Report, Barclays' ordinary shareholders approved the Abu Dhabi Offering. The Complaint (¶221) states that Barclays' shareholders "railed against the Individual Defendants' stewardship of the Company," and quotes a November 24 *Reuters* article discussing the shareholder vote. While the results of a shareholder vote and criticism of management may have been new information, that information is not corrective of any of the specific misrepresentations alleged in the Complaint. The existence of the Abu Dhabi Offering was known by October 31, 2008 (Kleidon Initial Report, ¶75) and thus did not constitute new information that entered the market on November 24. Moreover, any shareholder criticism of Barclays did not convey information to the market that is corrective of any of the specific misrepresentations alleged in the Complaint. Indeed, I note that Mr. Coffman does not discuss November 24 in his report or opine that any corrective information entered the market on that day.

44. In summary, none of Mr. Coffman's criticisms of the specification of my

regression model are valid, nor do they change the overall conclusions reached in my Initial Report.

B. Mr. Coffman Provides No Basis to Conclude That the Kleidon Initial Report's Preferred Stock Index Is Inappropriate

45. Mr. Coffman also argues that the choice of industry index in my Initial Report is inappropriate. Mr. Coffman (Coffman Rebuttal Report, ¶124) claims that "[i]nformation that reveals the impact of Barclays' subprime and monoline exposure, and is therefore related to Plaintiff's claims, could also affect other preferred stocks, including those in Dr. Kleidon's Preferred Stock Index."

46. Mr. Coffman goes so far as to object to my inclusion of any preferred stocks of banks in an industry index when the security being examined is the preferred stock of a bank. His reasoning is that "securities of these institutions would also negatively react to information (like the failure of IndyMac) that informed Series 5 Shareholders of the severity of losses being suffered by firms with exposure to subprime assets," and that "when a 'control' variable is not independent of the effect to be measured, it is no longer a proper control" (Coffman Rebuttal Report, ¶¶126, 127).

47. Mr. Coffman does not cite any literature supporting his objection to my industry index. This is not surprising. The purpose of any industry index is to separate industry-wide price changes from allegation-related issues. As one article explains, "[i]n selecting an appropriate industry index, it is important to pay particular attention to which firms are truly 'comparable' in terms of their line of business and hence *should be included in the industry*

index."[8]

48. In addition, Mr. Coffman does not explain what misrepresentations asserted by Plaintiff in the Series 5 Offering Documents were corrected by events affecting financial institutions other than Barclays, such as the failure of IndyMac. He offers no rationale as to how Barclays could have disclosed information about another bank's future performance in the Series 5 Offering Documents. He also fails to explain how an announcement made by another bank could correct the specific misrepresentations alleged by Plaintiff in the Series 5 Offering Documents. The misrepresentations alleged by Plaintiff are all Barclays-specific and therefore could not be corrected by events specific to third parties.

49. Mr. Coffman's argument suffers from the "related to" fallacy discussed in ¶¶13–19 above. He claims that the failure of IndyMac was "related to" the allegations, but he does not discuss what information was disclosed to the market regarding any of Plaintiff's specific allegations concerning Barclays. There was none, as can be seen from an examination of the information contained in news of IndyMac's failure (Coffman Rebuttal Report, ¶¶83–84). After the announcement of IndyMac's failure on July 14, 2008, the market did not have any additional new information regarding the alleged misrepresentations in the Series 5 Offering Documents. At most the announcement of IndyMac's failure was informative of the *risk* faced by financial institutions holding credit market exposure. However, the misrepresentations alleged by Plaintiff address Barclays' specific credit market exposures; the announcement

[8] Allen Ferrell and Atanu Saha, "The Loss Causation Requirement for Rule 10b-5 Causes of Action: The Implications of *Dura Pharmaceuticals, Inc. v. Broudo*," *Business Lawyer* 63, no. 1 (2007), p. 167 (emphasis added).

provides no such information. Barclays certainly could not have known about or disclosed IndyMac's impending failure at the time of the Series 5 Offering Documents. The same logic applies for announcements made by any banks in my industry index (which does not include any securities issued by Barclays).

50. Mr. Coffman is incorrect to conclude that my choice of industry index is not independent of the effect that it is trying to measure. The effect that it is seeking to measure is the effect of the alleged misrepresentations on the Series 5 ADS price, and that effect is independent of any industry-wide events. In seeking to measure the effect of the alleged misrepresentations that concern Barclays, industry-wide events cannot reveal Barclays-specific information.

VI. Analysis of Mr. Coffman's Rebuttal Report Section V

51. In Section V of his Rebuttal Report, Mr. Coffman discusses eight dates (August 14, 2008, September 3, 2008, October 8, 2008, October 10, 2008, December 19, 2008, December 22, 2008, January 20, 2009, and February 2, 2009) that he contends are examples of days on which stock price declines occurred as a result of information "relate[d] to" Plaintiff's claims (Coffman Rebuttal Report, ¶¶42–76). His arguments on each of the eight dates suffer from the following errors.

52. First, the Complaint did not identify any of the eight dates as a date on which allegedly corrective information entered the market.

53. Second, there is no statistically significant decline in the price for any of the eight

dates identified by Mr. Coffman, and hence the observed residual price change is not distinguishable from "simple random movement." Indeed, I note that his analysis with respect to many of these eight days acknowledges that the residual return of the Series 5 ADS on those days is statistically insignificant (Coffman Rebuttal Report, ¶¶47, 51, 58). Despite this, by nevertheless urging that the price change in the Series 5 ADS on these days should be recoverable in this action, Mr. Coffman is in essence asserting that causation should be found at less than the standard 95% confidence interval (which corresponds to a t-statistic of 1.96 or greater in absolute value). Indeed, he explicitly advocates for this nonstandard approach, claiming (Coffman Rebuttal Report, ¶51) that "the 90% confidence level…is still a widely accepted measure of statistical significance in financial and economic literature." Moreover, many of the days that he cites in this section are not significant even at well below the 90% confidence interval.

54. Mr. Coffman's attempt to lower the required confidence interval to well below the standard 95% should be rejected. As noted in my Initial Report (p. 18, fn. 45), the *Reference Manual on Scientific Evidence*[9]—a guide published by the Federal Judicial Center for use by federal judges—states (pp. 251–252, internal footnote omitted, emphasis added):

> In practice, statistical analysts typically use levels of 5% and 1%. The 5% level is the most common in social science, and an analyst who speaks of significant results without specifying the threshold probably is using this figure. An unexplained reference to highly significant results probably means that *p* is less than 1%. *These levels of 5% and 1% have become icons of science and the legal process.*

[9] David H. Kaye and David A. Freedman, "Reference Guide on Statistics," in *Reference Manual on Scientific Evidence*, 3rd ed., Federal Judicial Center (Washington, DC: The National Academies Press, 2011).

55. Third, the information cited by Mr. Coffman for each of the eight dates does not correct any alleged misrepresentation. Regarding the commentary contained in the analyst reports, credit rating agency reports, and press reports that Mr. Coffman cites, he does not explain what specific alleged misrepresentations in the Series 5 Offering Documents these reports corrected. Third-party predictions and commentary do not correct the alleged misrepresentations.

56. After-the-fact characterizations of already disclosed facts, even if negative, cannot be corrective of any alleged misrepresentations in the Series 5 Offering Documents because the alleged misrepresentations are already corrected if the underlying facts are public. As explained in my Initial Report (¶¶52, 65), on May 15 and August 7, 2008, Barclays released its financial results for the first quarter and first half of 2008, respectively. Those results both included details of Barclays' credit market exposures and reported write-downs of various credit market assets. For many of the days discussed in Section V of the Coffman Rebuttal Report, Mr. Coffman does not consider whether the commentary contained in the reports resulted from information disclosed with Barclays' first quarter or first half 2008 results or from the continued overall decline in the economy (and especially the credit markets) during 2008 and early 2009 as detailed in my Initial Report (¶¶22−39). Further, Mr. Coffman does not acknowledge that Barclays could neither have been aware of, nor disclosed in its Offering Documents, any information regarding the opinions third parties may hold, based entirely on publicly available information, months after the Series 5 Offering.

57. Similarly, regarding the U.K. government announcements on banking policy and

Barclays' public response to the announcements (referenced by Mr. Coffman in his analysis of October 8, 2008 and October 10, 2008), Mr. Coffman does not explain what specific alleged misrepresentations in the Series 5 Offering Documents these announcements corrected. He also does not explain how the announcement of a U.K. government capital injection into the U.K. banking industry as a whole indicates anything about the credit market exposures reported in the Series 5 Offering Documents.

58. The government initiatives were a response to the financial crisis that included events such as (i) Fannie Mae and Freddie Mac being placed into conservatorship by the U.S. government, (ii) Lehman Brothers filing for bankruptcy, (iii) Bank of America purchasing Merrill Lynch, (iv) AIG being bailed out by the U.S. government, and (v) Washington Mutual being placed into FDIC receivership and its assets being sold to J.P Morgan. Mr. Coffman does not consider whether the U.K. government's policy change resulted from the continued decline in the economy (and especially the credit markets), and he does not explain how analysts' predictions of a U.K. government capital injection (referenced by Mr. Coffman in his analysis of January 20, 2009 and February 2, 2009) corrects any alleged misrepresentation in the Series 5 Offering Documents. Further, he does not acknowledge that Barclays could neither have been aware of, nor disclosed in its Offering Documents, any information regarding U.K. government policy announcements, or its reaction to government policy, made months after the Series 5 Offering.

59. The eight dates addressed by Mr. Coffman are discussed in chronological order below.

A. August 14, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

60. According to Mr. Coffman, on August 14, 2008 (before market opening) Goldman Sachs issued a research note speculating that Barclays would need to incur additional write-downs over the next 18 months (Coffman Rebuttal Report, ¶44). He also identifies multiple press articles (by *AFX Asia*, the *Guardian Unlimited*, and *Press Association*) that were also published on August 14, 2008 that discussed Goldman Sachs' analysis of Barclays' capital positon and credit market exposures (Coffman Rebuttal Report, ¶¶44−46).

61. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶47) that "news of additional expected write-downs is related to Plaintiff's claims, as it reflects the market learning about the financial impact of the exposure to subprime assets," he does not explain how Goldman Sachs' prediction of additional *future* write-downs corrects any alleged misrepresentations in the Series 5 Offering Documents. In addition, as discussed in ¶56 above, Mr. Coffman does not consider whether Goldman Sachs' predictions resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued decline in the economy.

62. The closing price of the Series 5 ADS on August 14 was $24.02, a decrease of $0.42 from the closing price of $24.44 on the previous trading day (August 13). The residual return is not statistically significant (t = -1.55).

63. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the

observed residual price change is not distinguishable from "simple random movement."

B. September 3, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

64. According to Mr. Coffman, on September 3, 2008 (before market opening) RBS issued a research note that downgraded Barclays from hold to sell based in part on a benchmarking analysis of Barclays' capital ratios and write-downs against those of its industry peers (Coffman Rebuttal Report, ¶48). He also claims that two press articles (by *MarketWatch* and *Reuters*) were published on September 3 about the RBS downgrade (Coffman Rebuttal Report, ¶¶49−50).

65. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶52) that the RBS note is "related to Plaintiff's claims as it reflects the market learning about the financial impact of the exposure to subprime assets," he does not explain how RBS' prediction of additional future write-downs and a capital shortfall corrects any alleged misrepresentations in the Series 5 Offering Documents. In addition, as discussed in ¶56 above, he does not consider whether RBS' predictions resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued decline in the economy.

66. The closing price of the Series 5 ADS on September 3 was $24.50, a decrease of $0.27 from the closing price of $24.77 on the previous trading day (September 2). The residual return is not statistically significant (t = -1.69).

67. Based on my analysis, the information cited by Mr. Coffman does not correct any

alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

C. October 8, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

68. According to Mr. Coffman, on October 8, 2008 (before market opening) the U.K. government announced that it was planning to inject approximately £50 billion into the U.K. banking system (Coffman Rebuttal Report, ¶53). As he notes in his Rebuttal Report (¶55), following the U.K. government's announcement, Barclays' CEO announced that the Company had not requested capital from the U.K. government and had no reason to do so.

69. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶56) that "news that Barclays may need government assistance is related to Plaintiff's claims, as it revealed information concerning the severity of losses stemming from Barclays' subprime losses and stressed capital position," he does not explain how a potential industry-wide government capital plan—proposed for all U.K. banks—corrects any alleged misrepresentations in the Series 5 Offering Documents. In addition, as discussed in ¶57 above, he does not consider whether the U.K. government's announcement resulted from the continued decline in the economy (and especially the credit markets).

70. The closing price of the Series 5 ADS on October 8 was $12.59, a decrease of $0.91 from the closing price of $13.50 on the previous trading day (October 7). The residual return is not statistically significant (t = -0.80).

71. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

D. October 10, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

72. According to Mr. Coffman, on October 10, 2008 (before market opening) Barclays issued a press release announcing that the Company was considering various options to increase its Tier 1 capital before having to use the U.K. government funds (Coffman Rebuttal Report, ¶57). He further notes in his Rebuttal Report (¶57) that Credit Suisse speculated that Barclays would need to raise £5 billion to strengthen its capital position.

73. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶58) that "this news is related to Plaintiff's claims that Barclays did not adequately disclose…the potential impact of its subprime exposure on its capital position," Barclays' reaction to the government policy change could not have been disclosed in the Series 5 Offering Documents. Regarding the Credit Suisse report, as discussed in ¶56 above, he does not consider whether Credit Suisse's predictions resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued decline in the economy.

74. The closing price of the Series 5 ADS on October 10 was $9.10, a decrease of $2.45 from the closing price of $11.55 on the previous trading day (October 9). The residual return is not statistically significant (t = -1.91).

75. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

E. December 19, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

76. According to Mr. Coffman, on December 19, 2008, Standard & Poor's ("S&P"), a credit rating agency, downgraded credit ratings across all of Barclays' entities (Coffman Rebuttal Report, ¶59). He notes in his Rebuttal Report (¶¶59−60) that two press articles (by *MarketWatch* and *Market News Publishing*) reported on the reasons behind S&P's decision to issue a downgrade on Barclays, which included S&P's concerns over the Company's capital and liquidity position.

77. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶62) that the note "reflects the market learning of the increased risk associated with Barclays' assets," he does not cite any specific facts as to S&P's December 19 note that shed any additional light on Barclays' credit market assets as of the time of the Series 5 Offering in April 2008. In addition, as discussed in ¶56 above, he does not consider whether the S&P downgrade resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued decline in the economy. Indeed, regarding the economy, he notes in his Rebuttal Report (¶¶59, 60, emphasis omitted) that the S&P rating downgrade was motivated by a "deepening global economic slowdown" affecting "major financial institutions," "driven by a significant slowdown

in capital markets and sharply rising impairment charges across the board."

78. The closing price of the Series 5 ADS on December 19 was $14.64, a decrease of $0.71 from the closing price of $15.35 on the previous trading day (December 18). The residual return is not statistically significant (t = -0.66).

79. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

F. December 22, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

80. According to Mr. Coffman, on December 21, 2008 (a Sunday), various press articles (by *Press Association,* the *Mail on Sunday*, and the *Sunday Telegraph*) were published speculating that Barclays was planning to sell part of its investment banking division, Barclays Capital, to strengthen its capital position (Coffman Rebuttal Report, ¶¶63−65).

81. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶66) that reports of the sale are "related to Plaintiff's claims because [they reflect] the Company acknowledging the need to sell assets as a result of their capital position and the riskiness of its portfolio," he does not cite any specific facts related to the rumored sale that shed any additional light on Barclays' credit market assets as of the time of the Series 5 Offering in April 2008. In addition, as discussed in ¶56 above, he does not consider whether the speculation about a potential sale of assets resulted from information disclosed in Barclays' first quarter or first half 2008 results or

from the continued decline in the economy. Indeed, with respect to the economy, he acknowledges (Coffman Rebuttal Report, ¶¶63, 64) that the potential sale was motivated by "industry-wide concerns about cash raising" and the Financial Services Authority "keeping up the pressure on the banks to maintain their balance sheet strength."

82. The closing price of the Series 5 ADS on December 22 was $14.38, a decrease of $0.26 from the closing price of $14.64 on the previous trading day (December 19). The residual return is not statistically significant (t = -0.22).

83. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

G. January 20, 2009
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

84. According to Mr. Coffman, on the evening of January 19, 2009, the *Evening Standard* published an article commenting on analyst speculation[10] that Barclays would need to accept U.K. government rescue funds (Coffman Rebuttal Report, ¶67). He also notes in his Rebuttal Report (¶69) that MF Global issued an analyst report on January 20, 2009 suggesting that Barclays would need to take further write-downs.

85. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶70) that the "fear of a government bailout [was] due to exposure to toxic assets," he does not explain how analysts'

[10] The *Evening Standard* article refers to a research report by Dresdner Kleinwort that was released on the morning of January 19, 2009.

prediction of a government bailout corrects any alleged misrepresentations in the Series 5 Offering Documents. In addition, as discussed in ¶56 above, he does not consider whether the predictions resulted from information disclosed in Barclays' first quarter or first half 2008 results. Moreover, as discussed in ¶57 above, he does not consider whether the speculation about the need to accept U.K. government assistance resulted from the continued decline in the economy.

86. The closing price of the Series 5 ADS on January 20 was $13.23, a decrease of $2.78 from the closing price of $16.01 on the previous trading day (January 16). The residual return is not statistically significant ($t = -0.29$).

87. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

H. February 2, 2009
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? No

88. According to Mr. Coffman, on February 1, 2009 (a Sunday), Moody's, a credit rating agency, issued a credit downgrade on speculation that Barclays would need to take further write-downs and require U.K. government assistance (Coffman Rebuttal Report, ¶¶72−73). As he notes in his Rebuttal Report (¶¶74−75), press articles (by *Reuters* and the *Guardian*) were also published on February 2, 2009 about Moody's downgrade of Barclays.

89. Although Mr. Coffman asserts (Coffman Rebuttal Report, ¶76) that the note

"reflects the market learning more about the financial impact and risk of its exposure to subprime assets," he does not cite any specific facts as to Moody's note that shed any additional light on Barclays' disclosure of its credit market assets as of the time of the Series 5 Offering in April 2008. In addition, as discussed in ¶56 above, he does not consider whether the Moody's downgrade resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued decline in the economy.

90. The closing price of the Series 5 ADS on February 2 was $12.00, a decrease of $2.00 from the closing price of $14.00 on the previous trading day (January 30). The residual return is not statistically significant ($t = -1.45$).

91. Based on my analysis, the information cited by Mr. Coffman does not correct any alleged misrepresentation and there is no statistically significant decline in the price. Hence, the observed residual price change is not distinguishable from "simple random movement."

VII. Analysis of Mr. Coffman's Rebuttal Report Section VI

92. In Section VI of his Rebuttal Report, Mr. Coffman addresses five days (July 14, 2008, July 18, 2008, January 21, 2009, January 23, 2009, and March 9, 2009) that have negative statistically significant abnormal returns based on the regression model outlined in my Initial Report (Coffman Rebuttal Report, ¶¶77−104). For each of the five days, he identifies information supposedly "related to" Plaintiff's claims that he argues was not "properly addressed" in my Initial Report (Coffman Rebuttal Report, ¶77). His arguments on each of the five dates suffer from the following errors.

93. First, the Complaint did not identify any of the five dates as a date on which allegedly corrective information entered the market.

94. Second, the information cited by Mr. Coffman for each of the five dates does not correct any alleged misrepresentation. Regarding analyst and press commentary cited by Mr. Coffman, he does not explain what specific alleged misrepresentations in the Series 5 Offering Documents these reports corrected. Third-party predictions and commentary do not correct the alleged misrepresentations.

95. After-the-fact characterizations of already disclosed facts, even if negative, cannot be corrective of any alleged misrepresentations in the Series 5 Offering Documents because the alleged misrepresentations are already corrected if the underlying facts are public. For many of the days discussed in Section VI of the Coffman Rebuttal Report, Mr. Coffman does not consider whether the commentary contained in the reports resulted from information disclosed with Barclays' first quarter or first half 2008 results or from the continued overall decline in the economy (and especially the credit markets) during 2008 and early 2009 as detailed in my Initial Report (¶¶22−39). Further, he does not acknowledge that Barclays could neither have been aware of, nor disclosed in the Series 5 Offering Documents, the opinions third parties may hold, based entirely on publicly available information, months after the Series 5 Offering.

96. Similarly, regarding those days that involve Barclays' public response to U.K. government assistance and analyst speculation over Barclays' need for such assistance (referenced by Mr. Coffman in his analysis of January 21, 2009, January 23, 2009, and March 9, 2009), he does not explain what specific alleged misrepresentations in the Series 5 Offering

Documents these announcements corrected. In addition, the government initiatives were a response to the financial crisis. Indeed, he does not consider whether the U.K. government's policy change resulted from the continued decline in the economy (and especially the credit markets). Further, Mr. Coffman does not acknowledge that Barclays could neither have been aware of, nor disclosed in the Series 5 Offering Documents, any information regarding U.K. government policy announcements, or its reaction to government policy, made months after the Series 5 Offering.

97. The five dates addressed by Mr. Coffman are discussed in chronological order below.

A. July 14, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? Yes (negative)

98. Mr. Coffman points to press articles (by *Citywire,* the *Economist,* and the *Observer*) released between Friday, July 11, 2008 (after market close) and through the weekend preceding Monday, July 14, 2008 that commented on Barclays' capital position and speculated that the Company could require additional capital (Coffman Rebuttal Report, ¶¶78−80). In addition, as noted in my Initial Report (¶25), the FDIC announced on July 12, 2008 that IndyMac Bank had been closed by the Office of Thrift Supervision and placed into conservatorship of the FDIC.

99. Mr. Coffman claims (Coffman Rebuttal Report, ¶82) that the commentary is "related to" Plaintiff's claims because "it reflects the market learning about how exposure to

subprime assets…[was] causing the market to reassess whether Barclays had adequate capital." However, Mr. Coffman does not claim that the market learned anything corrective of the alleged misrepresentations in the Series 5 Offering Documents. In particular, he does not claim that the market learned any information about the extent of Barclays' exposure as of April 2008 to credit market assets, or anything new about Barclays' capital position as of April 2008. Instead, the commentary in July 2008 to which Mr. Coffman points suggested that Barclays might raise additional capital *given* Barclays' exposure to credit market assets and its current capital position, and given some capital raisings by Barclays' peers in July 2008. In addition, as discussed in ¶95 above, Mr. Coffman does not consider whether the commentary resulted from information disclosed in Barclays' first quarter 2008 results or from the continued overall decline in the economy.

100. With respect to IndyMac being placed into FDIC conservatorship, Mr. Coffman asserts (Coffman Rebuttal Report, ¶83) that this event is "related to" Plaintiff's claims because it conveys "relevant information to Barclays' investors about the risks associated with the Company's exposure to subprime assets, which Plaintiff alleges had been misrepresented" in the Offering Documents. He does not, however, explain how the failure of IndyMac revealed to the market any details about *Barclays*' credit market exposures disclosed in the Series 5 Offering Documents. The Complaint does not allege that Barclays should have (or could have) disclosed in the April 2008 Series 5 Offering Documents that IndyMac would be placed into FDIC conservatorship in July 2008, and the Complaint does not allege that the July 14, 2008 disclosures corrected any alleged misrepresentations.

B. July 18, 2008
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? Yes (negative)

101. Mr. Coffman points to a Barclays' press release issued before the market opened on July 18, 2008 announcing that 19% of existing shareholders were participating in the share offering (that closed the previous day) (Coffman Rebuttal Report, ¶86). He also notes in his Rebuttal Report (¶86) that press articles addressing the press release (by *AFX Asia, Dow Jones, Investors Chronicle,* and the *Evening Standard*) were published on July 18, 2008.

102. Mr. Coffman claims (Coffman Rebuttal Report, ¶87) that the announcement, and commentary on the announcement, is "related to" Plaintiff's claims because "it reflects the market learning about the financial impact of and the risks associated with, Barclays' exposure to subprime assets…and how Barclays' exposure to subprime assets and monoline insurers was impacting the Company's capital positon and its ability to raise new capital." However, he does not claim that the market learned anything corrective of the alleged misrepresentations in the Series 5 Offering Documents. In particular, he does not claim that the market learned any information that corrected alleged misrepresentations about Barclays' exposure as of April 2008 to credit market assets, or anything new about Barclays' capital position as of April 2008.

103. Instead of showing that the July 18 information corrected some alleged misrepresentation, Mr. Coffman notes (Coffman Rebuttal Report, ¶87) that it is "new" information and, "in any event, related to Plaintiff's claims." He appears to view the discussion of capital raising as sufficient to claim that the July 18, 2008 information is "related to" the allegations, which as discussed above is not the relevant criterion for whether information

corrects the alleged misrepresentations. Mr. Coffman points to commentary suggesting that Barclays might need to resort to more expensive capital sources *given* Barclays' exposure to credit market assets and monoline insurers and given the proportion of existing shareholders that chose to participate in a particular capital raising. In addition, as discussed in ¶95 above, he does not consider whether the commentary resulted from information disclosed in Barclays' first quarter 2008 results or from the continued overall decline in the economy.

104. Indeed, Mr. Coffman states that "while the offering itself was not new information, Barclays' inability to raise capital from a large fraction of existing shareholders was new and, in any event, related to Plaintiff's claims" (Coffman Rebuttal Report, ¶87). In effect, he is asserting that Barclays should have disclosed in the Series 5 Offering Documents, in April 2008, the proportion of existing shareholders in July 2008 who would participate in a July 2008 offering. There is, of course, no allegation to this effect (nor could there reasonably be such an allegation), and the Complaint does not point to the July 18, 2008 information as corrective of the alleged misrepresentations.

C. January 21, 2009
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? Yes (negative)

105. Mr. Coffman points to press articles (by *Dow Jones,* the *Irish Examiner,* and the *Irish Times*) released on January 21, 2009 speculating that Barclays would need to take additional write-downs and may be nationalized by the U.K. government (Coffman Rebuttal Report, ¶¶88−90). This date is discussed in some detail in Section IV.B above, ¶¶15–18.

106. Mr. Coffman claims (Coffman Rebuttal Report, ¶91, emphasis omitted) that this commentary is "related to" Plaintiff's claims because it reflects "the market learning about the financial impact of Barclays' exposure to subprime assets…and how Barclays' exposure to subprime assets and monoline insurers was negatively impacting its capital position." However, he does not claim that the market learned anything corrective of the alleged misrepresentations in the Series 5 Offering Documents. In particular, he does not claim that the market learned any specific information about Barclays' exposure as of April 2008 to credit market assets, or anything new about Barclays' capital position as of April 2008. Instead, Mr. Coffman points to commentary suggesting that Barclays might be nationalized *given* Barclays' exposure in January 2009 to credit market assets and monoline insurers. In addition, as discussed in ¶95 above, he does not consider whether the commentary resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued overall decline in the economy.

107. Mr. Coffman falsely asserts (Coffman Rebuttal Report, ¶92) that "Dr. Kleidon opines that this news is unrelated to Plaintiff's claims because Barclays was never actually nationalized." As discussed in ¶17 above, my Initial Report did not state that the news was "unrelated to Plaintiff's claims" because Barclays was not nationalized, although it did note that the speculation proved to be incorrect. Moreover, the relevant issue is whether there is any evidence that any of the Barclays-specific information that entered the market on January 21, 2009 corrected any misrepresentation alleged in the Complaint. My Initial Report did not find any such evidence, and Mr. Coffman does not provide any evidence to the contrary. There is no allegation in the Complaint that Barclays should have disclosed, in April 2008, the possibility of

nationalization in January 2009 after the intervening events of the financial crisis, and the Complaint does not identify January 21, 2009 as a corrective disclosure day.

D. January 23, 2009
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? Yes (negative)

108. Mr. Coffman points to several news stories (by *Reuters,* the *Evening Standard,* and the *Guardian*) released on January 23, 2009 speculating that Barclays could require additional capital or be nationalized by the U.K. government (Coffman Rebuttal Report, ¶¶94−96). Much of the discussion in Section IV.B above and in the previous section dealing with January 21, 2009 also applies to January 23, 2009. In particular, Mr. Coffman is, in effect, asserting that Barclays should have disclosed, in April 2008, the events regarding possible nationalization in January 2009, without regard to the intervening events of the financial crisis. The Complaint does not make such an allegation, and it does not identify January 23, 2009 as a corrective disclosure date.

109. Mr. Coffman claims (Coffman Rebuttal Report, ¶98) that this commentary is "related to" Plaintiff's claims because "it reflects the financial impact of the exposure to subprime assets…and how Barclays' exposure to sub-prime assets and monoline insurers was impacting the company's capital." However, he does not claim that the market learned anything corrective of the alleged misrepresentations in the Series 5 Offering Documents. In particular, he does not claim that the market learned any specific information about Barclays' exposure as of April 2008 to credit market assets, or anything new about Barclays' capital position as of April

2008. Instead, Mr. Coffman points to commentary suggesting that Barclays might need additional capital or be nationalized *given* Barclays' exposure to credit market assets and monoline insurers in January 2009. In addition, as discussed in ¶95 above, he does not consider whether those predictions resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued overall decline in the economy.

110. Mr. Coffman falsely asserts (Coffman Rebuttal Report, ¶99) that "Dr. Kleidon relies upon the fact that nationalization did not occur (which is irrelevant) and ignores the general discussion about inadequate capital which was required." Just as for January 21, 2009, as discussed in ¶17 above, my Initial Report did not state that the news was "unrelated" to Plaintiff's claims because Barclays was not nationalized, although it did note that the speculation proved to be incorrect. Moreover, the relevant issue is whether there is any evidence that any of the Barclays-specific information that entered the market on January 23, 2009 corrected any misrepresentation alleged in the Complaint. My Initial Report did not find any such evidence, and Mr. Coffman does not provide any evidence to the contrary.

E. March 9, 2009
Complaint Alleges As Corrective Information? No
Statistically Significant Price Movement? Yes (negative)

111. Mr. Coffman points to a series of *Dow Jones* press articles on March 9, 2009 that reported on a Lloyds Banking Group announcement that it had received increased assistance from the U.K. government, and that the stocks of other U.K. banks, including Barclays, had declined on the news (Coffman Rebuttal Report, ¶100).

112. Mr. Coffman claims (Coffman Rebuttal Report, ¶104) that this commentary is "related to" Plaintiff's claims because fears over government intervention "were driven by Barclays' depleted capital position and its exposure to subprime assets, which Plaintiff alleges were misrepresented" in its Offering Documents. However, he does not claim that the market learned anything corrective of the alleged misrepresentations in the Series 5 Offering Documents. In particular, he does not claim that the market learned any specific information about Barclays' exposure as of April 2008 to credit market assets, or anything new about Barclays' capital position as of April 2008. Instead, he points to commentary suggesting that Barclays might need U.K. government assistance *given* Barclays' March 2009 exposure to credit market assets, and given a deal reached on March 9, 2009 between the U.K. and one of Barclays' peers. In addition, as discussed in ¶95 above, Mr. Coffman does not consider whether the commentary resulted from information disclosed in Barclays' first quarter or first half 2008 results or from the continued overall decline in the economy.

113. Mr. Coffman falsely asserts (Coffman Rebuttal Report, ¶103) that "Dr. Kleidon states that news on this day is not related to Plaintiff's claims because 'this speculation proved to be wrong, as Barclays did not accept any UK government insurance for any of its assets.'" Just as for January 21, 2009, as discussed in ¶17 above, my Initial Report did not state that the news was "not related to Plaintiff's claims" because Barclays did not accept U.K. government assistance—indeed, the words "not related to Plaintiff's claims" do not appear anywhere in my Initial Report, including the paragraph that Mr. Coffman misquotes. Moreover, the relevant issue is whether there is any evidence that any of the Barclays-specific information that entered

the market on March 9, 2009 corrected any misrepresentation alleged in the Complaint. My Initial Report did not find any such evidence, and Mr. Coffman presents no evidence to the contrary.

114. In effect, Mr. Coffman is asserting that Barclays should have disclosed in the April 2008 Series 5 Offering Documents that, following the financial crisis that unfolded after April 2008, the market would be concerned about potential government ownership of Barclays in March 2009. The Complaint contains no such allegation, nor does the Complaint allege that the March 9, 2009 disclosures were corrective of any alleged misrepresentation.

Executed this 18th day of March, 2016, in Menlo Park.

Allan W. Kleidon

Allan W. Kleidon, Ph.D.

Exhibit 1

ALLAN WILLIAM KLEIDON

Cornerstone Research
1000 El Camino Real, Suite 250 • Menlo Park, CA 94025
650.470.7112 • akleidon@cornerstone.com

CURRENT POSITIONS

Cornerstone Research
Senior Vice President

University of Queensland, School of Business, Australia
Honorary Professor

EDUCATION

University of Queensland, Australia
Bachelor of Commerce, 1973
Bachelor of Commerce (First Class Honours), 1976
Bachelor of Laws (Honours), 1978

Graduate School of Business, University of Chicago
Master of Business Administration, 1981
PhD, 1983
Finance examination, 1979
Economics examination, 1980

ACADEMIC EXPERIENCE

School of Law, Stanford University
Consulting Professor of Law (in Finance), 1994 – 2000
Lecturer in Law (in Finance), 2001 – 2003

Graduate School of Business, Stanford University
Lecturer in Finance, 1993 – 1994; 1997 – 1999; 2005 – 2006
Associate Professor of Finance, 1986 – 1992
Assistant Professor of Finance, 1982 – 1986

Doctoral	Econometrics Empirical Research in Finance Doctoral Seminar in Finance
Masters	Corporate Finance Management of Financial Institutions Derivatives
Executive	International Investment Management Program Financial Management Program

University of California, Berkeley
Visiting Associate Professor of Finance, 1992
Lecturer (Finance), 2003

University of Chicago
Part-time teaching and tutoring, 1978 – 1982:
Corporate Finance, Investments
Personal tutoring in finance, statistics, accounting, economics, and mathematics.

University of Queensland, Australia
Honorary Professor, School of Business, 2008 – present
Full-time faculty, 1974 – 1978:
Finance (undergraduate, postgraduate), Business Economics (Honours), Scientific Method (Honours), Research Methods (M.B.A. level), Financial Accounting, Managerial Accounting

HONORS

Professional
Business School Trust Faculty Fellow, 1990 – 1991
Batterymarch Fellowship, 1989 – 1990

Graduate
Dean's List all eligible quarters
1979 Finance Prize
1980 Center for Research in Security Prices Research Grant
1980 Beta Gamma Sigma

Undergraduate
1974 Institute of Chartered Accountants in Australia Prize in Finance
1976 Thomas Brown and Sons, Ltd. Prize in Commerce Honours

RESEARCH

Publications

"Just How Much Damage Did Those Misrepresentations Actually Cause And To Whom?: Damages Measurement in 'Fraud on the Market' Securities Class Actions," joint with D. Lefler, *Securities Litigation & Enforcement Institute 2005,* 2005, pp. 285–325.

"The Stock Market Crashes of 1987 and 1989," joint with R. Mehra, *Business Cycles, Panics and Depressions,* D. Glassner, ed., Garland Press, New York, 1997.

"U.K. and U.S. Trading of British Cross-Listed Stocks: An Intraday Analysis of Market Integration," joint with I. Werner, *The Review of Financial Studies*, Vol. 9 (2), 1996, pp. 619–664.

"Bid-Ask Spreads in Foreign Exchange Markets: Implications for Models of Asymmetric Information," joint with D. A. Hsieh, in *Microstructure of Foreign Exchange Markets,* J. Frankel, G. Galli and A. Giovannini, eds., National Bureau of Economic Research, University of Chicago Press, 1996, pp. 41–65.

"Stock Market Crashes," in *Finance Handbook,* K. Jarrow, V. Maksimovic and W.T. Ziemba, eds., Elsevier Science B.V., North Holland, *Handbooks in OR & MS*, Vol. 9, 1995, pp. 465–495.

Exhibit 1

"Price Volatility and Volume Spillovers between the Tokyo and New York Stock Markets: Comment," *The Internationalization of Equity Markets,* J. Frankel, ed., National Bureau of Economic Research, University of Chicago Press, 1994, pp. 333–338.

"Market Maker Activity on Nasdaq: Implications for Trading Volume," joint with J. Gould, *Stanford Journal of Law, Business and Finance,* Vol. 1 (1), 1994, pp. 11–27.

"'Windfall' Gains in Mutual-to-Stock Conversion of Thrift Institutions?," joint with J. Barth and R. D. Brumbaugh, *Challenge: The Magazine of Economic Affairs,* Vol. 37 (4), 1994, pp. 43–49.

"CEO Performance, Board Types and Board Performance: A First Cut," joint with K.E. Scott, in *Institutional Investors and Corporate Governance,* T. Baums, R.M. Buxbaum, and K.J. Hobt, eds., de Gruyter, 1993, pp. 181–199.

"Market 2000," in *Modernizing U.S. Securities Regulation: Economic and Legal Perspectives,* K. Lehn and R.W. Kamphuis, Jr., eds., Business One Irwin, 1992, pp. 363–373.

"Arbitrage, Nontrading, and Stale Prices: October 1987," *Journal of Business,* Vol. 65 (4), 1992, pp. 483–507.

"One Market? Stocks, Futures and Options During October 1987," joint with R. Whaley, *Journal of Finance,* Vol. 47, 1992, pp. 851–877.

"Market and Environmental Uncertainty," *The New Palgrave Dictionary of Money and Finance,* The Macmillan Press, Vol. 2, 1992, pp. 651–653.

"Periodic Market Closure and Trading Volume: A Model of Intraday Bids and Asks," joint with W. A. Brock, *Journal of Economic Dynamics and Control*, Vol. 16, 1992, pp. 451–489.

"Underestimation of Portfolio Insurance and the Crash of October 1987," joint with C.J. Jacklin and P. Pfleiderer, *The Review of Financial Studies,* Vol. 5 (1), 1992, pp. 35–63.

"Are Stock Prices Excessively Sensitive to Current Information? Comment," joint with J. Lynch Koski, *Journal of Economic Behavior and Organization,* Vol. 18, 1992, pp. 127–131.

"Market Volatility: Review," *Journal of Economic Literature*, Vol. 29, December 1991, pp. 1760–1761.

"Tests de acotacion de la varianza Y modelos de valoracion del precio de las acciones," *Cuadernos Economicos De Ice,* Numero 38 (1), 1988, pp. 49–93. (Translation of "Variance Bounds Tests and Stock Price Valuation Models," *Journal of Political Economy,* Vol. 94 (5), 1986, pp. 953–1001.

"The Probability of Gross Violations of a Present Value Variance Inequality: Reply," *Journal of Political Economy,* Vol. 96 (5), 1988, pp. 1093–1096.

"Bubbles, Fads and Stock Price Volatility Tests, A Partial Evaluation: Discussion," *Journal of Finance,* Vol. 43 (3), 1988, pp. 656–660.

“Anomalies in Financial Economics: Blueprint for Change?,” *Journal of Business,* Vol. 59, 1986, S469–S499. Reprinted in *Rational Choice: The Contrast Between Economics and Psychology,* R. G. Hogarth and M. W. Reder, eds., University of Chicago Press, 1987.

“Empirical Assessment of Present Value Relations: Comment,” *Econometric Reviews,* Vol. 5 (2), 1986, pp. 261–265.

“Variance Bounds Tests and Stock Price Valuation Models,” *Journal of Political Economy,* Vol. 94, 1986, pp. 953–1001. (Reprinted in *The International Library of Financial Econometrics*, Andrew W. Lo, ed., Cheltenham: Edward Elgar, 2007, pp. 953–1001.)

“Bias in Small Sample Tests of Stock Price Rationality,” *Journal of Business,* Vol. 59, 1986, pp. 237–261.

“New Evidence on the Nature of Size Related Anomalies in Stock Prices,” joint with P. Brown and T. A. Marsh, *Journal of Financial Economics,* Vol. 12, 1983, pp. 33–56.

“Stock Return Seasonalities and the ‘Tax-loss Selling’ Hypothesis: Analysis of the Arguments and Australian Evidence,” joint with P. Brown, D. B. Keim, and T. A. Marsh, *Journal of Financial Economics,* Vol. 12, 1983, pp. 105–127. (Reprinted in *Share Markets and Portfolio Theory: Readings and Australian Evidence,* 2nd ed., R. Ball, P. Brown, F. Finn, and R. Officer, eds., University of Queensland Press, 1987.)

“International Arbitrage Pricing Theory: Discussion,” joint with P. Pfleiderer, *Journal of Finance,* Vol. 38 (2), 1983, pp. 470–472.

“Stock Prices as Rational Forecasters of Future Cash Flows,” Proceedings, *Seminar on the Analysis of Security Prices,* Vol. 27 (1), 1982, pp. 157–189.

“Mergers and the Trade Practices Act, 1974,” joint with L. E. Bracker, Proceedings, *Tenth Students Congress of the Institute of Chartered Accountants in Australia* (Queensland Branch), April 1977.

“Some Problems Associated with the Prices Justification Tribunal,” *The Chartered Secretary,* April–June 1975, pp. 67–74.

Work in Progress

“Why Nasdaq Market Makers Use Even-Eighths Quotes: A Model of Quote Clustering in Dealer Markets,” joint with P. Pfleiderer.

Conferences

Practising Law Institute, Securities Litigation & Enforcement Institute 2005, San Francisco, September 2005: Panelist, “Just How Much Did Those Misrepresentations Actually Cause and to Whom: Damages Measurement in ‘Fraud on the Market’ Securities Class Actions.”

Practising Law Institute, Securities Litigation 2001, San Francisco, November 2001: Panelist, “Damages: Illusion or Reality?”

Exhibit 1

Professional Liability Underwriting Society, 2001 PLUS D&O Liability and Insurance Issues Symposium, New York, February 2001: Panelist, “Causation & Damages Analysis in Volatile Securities Markets.”

Market Microstructure Program Meeting, December 1998, NBER: Discussant, “The Effects of Market Reform on the Trading Costs and Depths of Nasdaq Stocks.”

Symposium on Electronic Call Market Trading, New York University Salomon Center, April 1995: Session Chair, “Panel II: The Demand for Immediacy.”

Conference on Financial Markets' Reform, Financial Markets Research Center, Vanderbilt University, April 1995: “Why do Christie and Schultz Infer Collusion From Their Data?”

American Finance Association, Annual Conference, January 1995: Discussant, “Market Making and the Competition for Order Flow,” and Discussant, “Speculative Trading and Stock Market Volatility.”

The Microstructure of Foreign Exchange Markets, Perugia, Italy, July 1994, NBER: “Bid-Ask Spreads in Foreign Exchange Markets: Implications for Models of Asymmetric Information.”

Western Finance Association, Annual Conference, June 1994: Chair of Session on *Empirical Market Microstructure.*

Global Competition in the Market for Markets, The Fuqua School of Business/NYSE, Conference on Market Microstructure, November 1993: “Stock Market Crashes.”

The Internationalization of Equity Markets, October 1993, NBER: “Price Volatility and Volume Spillovers between the Tokyo and New York Stock Markets: Comment.”

Western Finance Association, Annual Conference, June 1993: “Round-the-Clock Trading: Evidence from Cross-Listed Securities.”

American Finance Association, Annual Conference, January 1992: “One Market? Stocks, Futures and Options During October 1987.”

Western Finance Association, Annual Conference, June 1989: “Exogenous Demand Shocks and Trading Volume: A Model of Intraday Bids and Asks.”

Joint *American Economic Association-American Finance Association*, Annual Meetings, December 1987: “The Volatility Debate.”

Institute for Mathematical Studies in the Social Sciences, Stanford University, July 1986: “Variance Bounds Tests and Stock Price Valuation Models.”

Conference on the Behavioral Foundations of Economic Theory, University of Chicago, October 1985: “Anomalies in Financial Economics: Blueprint for Change?”

Western Finance Association, Annual Conference, June 1983: “Stock Return Seasonalities and the ‘Tax-loss Selling’ Hypothesis: Analysis of the Arguments and Australian Evidence.”

American Finance Association, Annual Conference, December 1982: “Stock Prices as Rational Forecasters of Future Cash Flows.”

Center for Research in Security Prices, Seminar on The Analysis of Security Prices, May 1982.

Accounting Association of Australia and New Zealand, Annual Conference, August 1976: “Accounting Theories and Practice: Arbitrary? Incorrigible? or Useful?”

Accounting Association of Australia and New Zealand, Annual Conference, August 1977: "The Paradigm of Accounting?"

Institute of Chartered Accountants in Australia, Student Congress (Queensland Branch), April 1977: "Mergers and the Trade Practices Act, 1974.

Paper prepared for the Japan Advisory Committee of the New York Stock Exchange

"Liberalization in the Japanese Financial Markets," with Kenneth J. Singleton, *Research Paper Series, Stanford University,* September 1989, Research Paper No. 1069, pp. 1–22.

Papers requested by and sent to Trade Practices Commission, Australian Government, Canberra

"The Structure of the Queensland Liquor Industry: Brewer-Hotel Ties of Trade, and the Trade Practices Act 1974."

"Theories of Government Regulation and the Queensland Liquor Industry."

"The Trade Practices Act 1974 and Queensland Brewer-Hotel Ties of Trade."

SOCIETY MEMBERSHIP

American Finance Association

Western Finance Association

Australian Society of Accountants (Senior Associate)

The Econometric Society

Securities Institute of Australia

OTHER PROFESSIONAL ACTIVITIES

Associate Editor, *Journal of Finance*

Associate Editor, *Journal of Financial Economics*

Referee for: *National Science Foundation, Econometrica, Journal of Political Economy, American Economic Review, Journal of Monetary Economics, Journal of Money, Credit and Banking, Quarterly Journal of Economics, Journal of Financial Economics, Journal of Business, Journal of Finance, Journal of Financial and Quantitative Analysis, Journal of Accounting Research, Science, Australian Journal of Management, and Journal of Economic Behavior and Organization.*

Research consultant

PERSONAL

Raised in Toowoomba, Queensland, Australia. Graduated from Harristown State High School, 1969. Active in school sports (Sporting House Captain); Army Cadets (Cadet Commanding Officer, Head Cadet Under Officer); drama (President of Drama Club); debating (team captain); school prefect, and Vice School Captain. Recent interests include sports, music, drama, food and wine, and family. Birth date: 1/23/53.

Exhbit 1

ALLAN WILLIAM KLEIDON

Previous Expert Testimony
Past Four Years

TRIAL AND ARBITRATION TESTIMONY

Confidential Arbitration Testimony
March 9, 2016

Confidential Arbitration Testimony
October 7 and 8, 2014

DEPOSITIONS

Tutor Perini Corp. v. Banc of America Securities LLC
April 29, 2015

In re St. Jude Medical Inc. Securities Litigation
July 15, 2014

Confidential Arbitration
July 10, 2014

In re Gatekeeper Pharmaceuticals Inc. Securities Litigation
June 6, 2013

Cunha v. Hansen Natural Corporation et al.
March 14, 2013

Dow Corning Corp. and Hemlock Semiconductor Corp. v. BB&T Corp. and Scott & Stringfellow, LLC
April 25, 2012

In re New Jersey Carpenters Health Fund v. DLJ Mortgage Capital Inc. et al.
February 16, 2011 and January 14, 2015

DECLARATIONS AND REPORTS

Robert Englehart, et al. v. Charles M. Brown, et al.
February 16, 2016 and March 14, 2016

Abu Dhabi Investment Authority v. Citigroup Inc.
January 29, 2016

Barclays Bank PLC Securities Litigation
December 15, 2015 and February 2, 2016

In the Matter of Dendreon Corporation Shareholder Litigations Derivative
August 26, 2015 and September 25, 2015

In the Matter of Tutor Perini Corp. v. Banc of America Securities LLC
March 19, 2015 and April 16, 2015

In the Matter of AirTouch Communications, Inc., Hideyuki Kanakubo and Jerome Kaiser, CPA
December 16, 2014

In re Green Mountain Coffee Roasters, Inc., HO-11484
October 3, 2014

Confidential Arbitration
May 19, 2014 (revised on July 9, 2014)

Exhbit 1

ALLAN WILLIAM KLEIDON
Previous Expert Testimony
Past Four Years

DECLARATIONS AND REPORTS (CONT'D.)

In re St. Jude Medical Inc. Securities Litigation
October 14, 2013, February 3, 2014, and June 2, 2014

BNP Paribas v. The Bank of New York Trust Company, N.A.
June 3, 2013

Marie Gaudin v. Saxon Mortgage Services, Inc.
May 30, 2013

In re Gatekeeper Pharmaceuticals Inc. Litigation
May 3, 2013

In re Diamond Foods Inc. Securities Litigation
April 11, 2013

Cunha v. Hansen Natural Corporation et al.
February 19, 2013 and May 30, 2013

In re STEC Inc. Securities Litigation
July 10, 2012 and July 24, 2012

Dow Corning Corp. and Hemlock Semiconductor Corp. v. BB&T Corp. and Scott & Stringfellow, LLC
March 2, 2012 and April 2, 2012

Class v. Towers, Perrin, Forster & Crosby Inc. et al.
January 31, 2012

United Food and Commercial Workers Union v. Chesapeake Energy Corporation et al.
December 14, 2011 and August 20, 2012

In re New Jersey Carpenters Health Fund v. DLJ Mortgage Capital, Inc., et al.
January 17, 2011, June 13, 2014, September 30, 2014, December 19, 2014, February 26, 2015, April 28, 2015, June 29, 2015, and July 28, 2015

<u>EXHIBIT 231</u>

FILED UNDER SEAL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1: 09-cv-01989-PAC Honorable Paul A. Crotty

EXPERT REPLY REPORT OF CHAD COFFMAN, CFA

CONFIDENTIAL

Table of Contents

I. INTRODUCTION

1. On December 15, 2015, I submitted an expert report in this matter (the "Damages Report") in which I described the method by which statutory damages under Section 11 of the Securities Act of 1933 ("Securities Act") would be calculated for Class Members in connection with their purchases of Barclays Non-Cumulative Callable Dollar Preference Shares, Series 5 in the form of American Depositary Shares (the "Series 5 Shares", "Series 5 ADS", or "Shares"). On February 2, 2016, I submitted an expert rebuttal report in this matter (the "Rebuttal Report")[1] in which I reviewed, evaluated, and responded to the opinions and analysis expressed in the Expert Report of Dr. Allan W. Kleidon (the "Kleidon Report"), dated December 15, 2015.

2. Counsel for Lead Plaintiff has provided me with the Rebuttal Expert Report of Dr. Kleidon (the "Kleidon Rebuttal Report") of February 2, 2016. In the Kleidon Rebuttal Report, Dr. Kleidon states that he was asked "to respond to conclusions reached" in, among other expert reports, my Damages Report.[2] I have been asked by Counsel for Plaintiff in this matter to review, evaluate, and respond to Dr. Kleidon's opinions and analysis that are related to causation and damages. My responses to the Kleidon Rebuttal Report are set forth in this document (the "Reply Report").

3. In formulating my opinions set forth in this Reply Report, I have relied upon the analysis already described in the Rebuttal Report and the Damages Report as well as knowledge, experience, and formal training in economics, finance, and statistics, in addition to the allegations, evidence, and facts set forth in this lawsuit. All of the additional materials that I

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[1] Unless otherwise defined here, all capitalized terms shall have the meanings given to them in the Damages Report and the Rebuttal Report. Additionally, unless otherwise noted herein, all emphasis is added.

[2] Kleidon Rebuttal Report ¶2.

relied upon and considered in reaching my opinions in this Reply Report, beyond those listed in the Rebuttal Report and Damages Report, are identified in the attached **Appendix A**.

II. SUMMARY OF OPINIONS

4. In reviewing Dr. Kleidon's Rebuttal Report, I have reached the following conclusions that I expand upon below:

- The Kleidon Rebuttal Report does not dispute the accuracy of the methodology described in my Damages Report for calculating statutory damages under Section 11 for purchasers of the Series 5 Shares.
- Neither the Kleidon Report nor the Kleidon Rebuttal Report presents any alternative methodology to calculate damages for purchasers of Series 5 Shares.
- The Kleidon Rebuttal Report repeats the erroneous assertion that Kleidon has established that "none of the declines in the price of the Series 5 ADS were attributable in whole or in part to any of the alleged misrepresentations cited in the Complaint in this case."[3] As described in detail in my Rebuttal Report (incorporated herein as **Appendix B**), the Kleidon Report did ***not*** demonstrate that all of the abnormal price declines in the Series 5 Shares were caused by information unrelated to the misstatements and omissions at issue in this matter.
- Had Defendants put forth any methodology to quantify the degree of negative causation (which they did not), I was, and continue to be, prepared to respond to any such methodology and calculations. In particular, any such methodology must address the degree to which observed price declines in the Series 5 ADS from the time of the Offering to the date the initial complaint was filed have not been shown by Defendants to have been caused by information unrelated to the misstatements and omissions at issue in the matter.
- With respect to prejudgment interest, the suggestion by Dr. Kleidon that a risk-free rate "could" be applied is not based upon any actual economic analysis. A risk-free rate would understate the time value of money for purchasers of the Series 5 Shares.

5. The bases for these opinions are described further herein.

[3] Kleidon Rebuttal Report ¶9.

III. THE KLEIDON REBUTTAL REPORT DOES NOT DISPUTE MY ARTICULATION OF HOW DAMAGES UNDER THE STATUTE ARE TO BE CALCULATED

6. In my Damages Report, I wrote, in part, that Section 11(e) of the Securities Act "prescribes the methodology that will be used to calculate damages"[4] in this case. I then expanded on the application of the statutory framework and provided examples of damage calculations for hypothetical investors. As further explained in the Damages Report, for each eligible security purchased and subsequently sold on or prior to the date of suit, damages are calculated as the difference between the amount paid for the security (not to exceed the price at which the security was offered to the public) and the price at which the security was sold.[5] I also addressed how damages under the statute should be computed for an investor that sold subsequent to date of suit or for an investor that continues to hold their Series 5 Shares through any eventual judgment obtained in this matter.[6]

7. The Kleidon Rebuttal Report does not challenge the statutory damage methodology articulated in my Damages Report. Specifically, Dr. Kleidon recognizes that my methodology for computing damages is based on the "the statutory formulae for calculating damages on Section 11(e) of the Securities Act of 1933" and that my Damages Report "provides example arithmetic calculations using those formulae."[7] Kleidon's Rebuttal Report does not challenge the accuracy or credibility of my methodology based on the statutory formulae. Dr. Kleidon also does not challenge the accuracy or credibility of my application of the methodology

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[4] Damages Report ¶12. *See also* Rebuttal Report ¶12.

[5] Damages Report ¶13-14.

[6] Damages Report ¶15-19.

[7] Kleidon Rebuttal Report ¶9.

as reflected in the hypothetical calculations set forth in the Damages Report or that proof of negative causation is required to deviate from the statutory formulae.

IV. NEITHER THE KLEIDON REPORT NOR THE KLEIDON REBUTTAL REPORT SETS FORTH AN ALTERNATIVE METHOD FOR COMPUTING DAMAGES

8. Dr. Kleidon does not set forth an alternative methodology for computing damages. Rather, the Kleidon Rebuttal Report states, "I reserve the right to respond to any calculations of alleged actual damages performed by Mr. Coffman based on actual transactions during a certified class period (if any)."[8]

9. Dr. Kleidon does not explain how or through what alternative methodology he would "respond to any calculations of alleged actual damages,"[9] except that "if there is a finding of liability I am prepared to calculate […] damages, if any, based on actual transaction data in accordance with the statutory formulae and any other relevant information […]"[10] Dr. Kleidon does not specify what "other relevant information" he would consider in calculating damages.[11]

10. As described further below, it is my opinion that there is no other evidence in the record necessitating or describing how the actual calculation of damages would deviate from the formula set forth in the statute. Additionally, because the methodology for computing damages under Section 11, as conceded by Dr. Kleidon, is formulaic, I'm not aware of any alternative method Dr. Kleidon intends to or could use to "respond to any calculation of alleged actual damages."[12]

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[8] Kleidon Rebuttal Report ¶9.

[9] Kleidon Rebuttal Report ¶9.

[10] Kleidon Rebuttal Report ¶12.

[11] Kleidon Rebuttal Report ¶12.

[12] Kleidon Rebuttal Report ¶9.

V. THE KLEIDON REPORT DID NOT PROVE ALTERNATIVE CAUSES UNRELATED TO PLAINTIFF'S ALLEGED MISSTATEMENTS AND/OR OMISSIONS FOR ALL OF THE OBSERVED PRICE DECLINES IN THE SERIES 5 SHARES

11. Dr. Kleidon states, "as set forth in my Initial Report, I performed an event study and concluded that ***none of the declines*** in the price of the Series 5 ADS were attributable in whole or in part to any of the alleged misrepresentations cited in the Complaint in this case."[13] As I discussed in great detail in my Rebuttal Report, the Kleidon Report does not provide reliable economic evidence that all of the abnormal price declines in the Series 5 ADS were unrelated to the misstatements and omissions at issue in this case.[14]

12. Indeed, I explained that (1) Dr. Kleidon has not demonstrated that all of the statistically significant negative abnormal returns were caused by factors unrelated to the alleged misstatements and omissions;[15] (2) Dr. Kleidon erroneously ignores the negative abnormal returns he acknowledges exist on days when there is information allegedly related to the misstatements and omissions;[16] and (3) Dr. Kleidon's event study is flawed because it misstates the significance of certain negative abnormal returns and incorrectly asserts that certain Series 5 price declines were caused by market factors.[17] I have incorporated my Rebuttal Report as **Appendix B** for easy reference.

[13] Kleidon Rebuttal Report ¶9.

[14] Rebuttal Report Section IV.

[15] Rebuttal Report Section VI.

[16] Rebuttal Report Section V.

[17] Rebuttal Report Section VII.

VI. HAD DEFENDANTS PUT FORTH A METHODOLOGY FOR QUANTIFYING NEGATIVE CAUSATION, I WAS PREPARED TO RESPOND. ANY SUCH METHODOLOGY MUST CONSIDER THE DEGREE TO WHICH THERE REMAIN STATUTORY DAMAGES FOR WHICH DEFENDANTS HAVE NOT ESTABLISHED CAUSES UNRELATED TO THE MISSTATEMENTS AND/OR OMISSIONS

13. Dr. Kleidon provided neither any specific quantum of negative causation nor a mechanism to account for negative causation in calculating damages under the statutory formulae. Had Defendants provided such calculations or methodology, I was prepared to respond to any such methodology or calculations, and, should the Court allow for Defendants to provide such calculations or methodology at a later juncture, I reserve the right to respond to any such methodology or calculations.

14. The Kleidon Report acknowledges that there are declines in the price of Series 5 shares from the time of the Offering until the first complaint was filed. As I explain in my Rebuttal Report, the Kleidon Report fails to prove that all or part of the damages resulting from these price declines were unrelated to the alleged misstatements and omissions at issue in this litigation.

15. Dr. Kleidon's failure to prove negative causation is illustrated by the following example. Under the statutory damages formula, any investor that sold his Series 5 Shares between the time of the Offering until any point before the initial complaint was filed, and experienced a loss, would be entitled to statutory damages measured by the purchase price (not to exceed the Offering price) minus his sales price, unless Defendants can prove that all or some portion of those damages were caused by factors unrelated to the misstatements and omissions at issue in this case. At the outset, the Kleidon Report only attempts to explain portions of the decline in the Series 5 shares on each day caused by market factors through the use of a regression that controls for a peer index, but fails to undertake any systematic analysis of the

resulting “abnormal” negative returns, *i.e.*, those negative returns that Dr. Kleidon concedes, under his own analysis, are not due to market events. Indeed, the Kleidon Report identified a total of 122 days where there was a decline in the Series 5 Shares. Dr. Kleidon’s event study suggests there was a negative abnormal return (i.e. after controlling for market forces) on 84 of these days. However, the Kleidon Report only addresses 12 of these abnormal price declines directly and I describe in my Rebuttal Report why Dr. Kleidon’s analysis does not establish alternative causes for even these 12 abnormal price declines.[18] Furthermore, even for these 12 days for which the Kleidon Report attempts to explain the observed abnormal negative returns, Dr, Kleidon still does not present any analysis of how such price declines should be accounted for against any statutory damages.

16. In the event Dr. Kleidon provides additional opinions regarding how Defendants would quantify negative causation, I reserve the right to review, evaluate and respond to those opinions.

VII. DR. KLEIDON INAPPROPRIATELY PRESENTS THE RISK-FREE RATE AS A SUITABLE MEASURE FOR PREJUDGMENT INTEREST

17. As outlined in my Rebuttal Report, should prejudgment interest be awarded, it should be calculated from the date of suit to the date of judgment.[19] Post-judgment interest should be calculated from the date of judgment.[20] Dr. Kleidon does not dispute the application of these time periods for calculating prejudgment and post-judgment interest.

[18] See Kleidon Report Section VII.C; Rebuttal Report Section IV.

[19] Damages Report ¶20.

[20] Damages Report ¶20.

18. The Kleidon Rebuttal Report notes that the risk-free rate is substantially lower than the New York state statutory 9% non-compoundable annual interest rate presented in my Damages Report. Dr. Kleidon advocates for applying a risk-free rate to any damage amount rather than the New York statutory rate.[21] However, Dr. Kleidon provides no ***economic*** basis for adoption the risk-free rate. His only support for using the risk-free rate is "that courts in the Southern District of New York have applied a risk-free rate, such as the average one-year constant maturity Treasury yield for the year preceding the date the judgment was entered, as the relevant prejudgment interest rate."[22]

19. The economic logic underlying the application of prejudgment interest is to compensate an investor for the time value of money lost as a result of delay in receipt of damages.[23] The best available evidence regarding the time value of money for an investor in the Series 5 Shares is the investment yield on the Series 5 Shares themselves. In other words, a purchaser of the Series 5 Shares in the Offering was willing to risk $25 per share on the purchase date in exchange for a stream of future payments that implied a certain time value of money – the dividend yield of 8.25%.

20. For investors who purchased in the secondary market when the price was lower than the Offering price, the implied yield was even higher. To understand why, consider a security with a redemption value of $10 and a 10% dividend yield. In other words, the dividend is $1 per year. If an investor is able to purchase this security in the secondary market for $5

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[21] Kleidon Rebuttal Report ¶11 and Exhibit 1.

[22] Kleidon Rebuttal Report ¶10.

[23] See Richard A. Brealey, Stewart C. Myers, and Franklin Allen, *Principles of Corporate Finance*, McGraw Hill, 8th Ed., 2006, pp. 17, 88 ("The first basic principle of finance is that a *dollar today is worth more than a dollar tomorrow*, because the dollar today can be invested to start earning interest immediately. Financial managers refer to this as the time value of money. […] Any investment rule which does not recognize the time value of money cannot be sensible.") (emphasis in the original).

instead of $10, then the dividend payment of $1 represents a yield of 20% ($1 dividend divided by initial investment of $5) instead of a yield of 10%. Likewise, a purchaser of the Series 5 Shares in the secondary market that paid less than the offering price of $25 per share was seeking an even greater than 8.25% yield.

21. In sum, by virtue of their investment in Series 5 Shares, Class Members demonstrated a willingness to assume the risk/rewards associated with a security that had a yield of 8.25% (or higher when purchased in the secondary market below the offering price of $25). Thus, as a matter of economics, the 9% statutory rate represents a far more reasonable rate to reflect the time value of money for investors in the Series 5 Shares than the risk free rate, which would assume that the time value of money for Class Members was closer to 1%, even though Class Members demonstrated a desire to hold securities with a far greater yield.

22. Additionally, I understand that the 9% New York State statutory interest rate has also been applied by courts in this district.[24] The application of the risk-free rate in this instance would inappropriately deny investors the time value of money their investment decision implies..

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

RESPECTFULLY SUBMITTED AND EXECUTED THIS 18th DAY OF MARCH 2016.

Chad Coffman

[24] See N.Y. C.P.L.R. §§ 5001-5004; *Donoghue v. MIRACOR Diagnostics, Inc*., No. 00-CV-6696, 2002 U.S. Dist. LEXIS 2461, 2002 WL 233188, at *4 (S.D.N.Y. Feb. 11, 2002) ("A district court sitting in New York may use the rate of interest used to calculate prejudgment interest under New York law in calculating prejudgment interest in federal securities law cases.").

Appendix A
Documents Considered

Court Documents

- Rebuttal Expert Report of Allan W. Kleidon, Ph. D., dated February 2, 2016.

Court Decisions and Securities Law

- N.Y. C.P.L.R. §§ 5001-5004; *Donoghue v. MIRACOR Diagnostics, Inc*., No. 00-CV-6696, 2002 U.S. Dist. LEXIS 2461, 2002 WL 233188.

Academic Articles/Texts

- Richard A. Brealey, Stewart C. Myers, and Franklin Allen, Principles of Corporate Finance, McGraw Hill, 8th Ed., 2006.

Appendix B

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1: 09-cv-01989-PAC Honorable Paul A. Crotty

EXPERT REBUTTAL REPORT OF CHAD COFFMAN, CFA

CONFIDENTIAL

Table of Contents

I. INTRODUCTION

1. On December 15, 2015, I submitted an expert report in this matter (the "Damages Report," or "Report")[1] in which I opined on the method by which statutory damages under Section 11 of the Securities Act of 1933 ("Securities Act") are to be calculated for Class Members in connection with their purchases of Barclays Non-Cumulative Callable Dollar Preference Shares, Series 5 in the form of American Depositary Shares (the "Series 5 Shares", "Series 5 ADS", or "Shares").

2. On December 15, 2015, counsel for Lead Plaintiff provided me with the Expert Report of Dr. Allan W. Kleidon (the "Kleidon Report"). In his report, Dr. Kleidon states that he was asked "to analyze whether any declines in the price of the Series 5 ADS during the period April 8, 2008 (the "Offering Date") to March 24, 2009 (the filing date of Barclays' Form 20-F for the year ended December 31, 2008 ("2008 Form 20-F")) (the "Analysis Period") were attributable, in whole or in part, to any of the alleged misrepresentations cited in the Complaint."[2] Dr. Kleidon offers the following opinions:

- There were no statistically significant price declines in the Series 5 ADS in the Analysis Period on any days when (i) any allegedly corrective information cited in the Complaint was disclosed to the market, or (ii) any allegedly undisclosed risk cited in the Complaint materialized.
- All statistically significant price declines in the Series 5 ADS in the Analysis Period occurred on days when (i) there was no allegedly corrective information cited in the Complaint disclosed to the market, and (ii) no allegedly undisclosed risk cited in the Complaint materialized.

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[1] Unless otherwise defined here, all capitalized terms shall have the meanings given to them in the Damages Report. The "Company" is in reference to Barclays. Additionally, unless otherwise noted herein, all emphasis is added.

[2] Kleidon Report ¶3. As discussed, Dr. Kleidon offers no opinion regarding price declines from March 25, 2009 through April 8, 2009 (the "date of suit"), which period is relevant to any analysis of causation and damages in this matter.

- The price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations.[3]

3. I have been asked by Counsel for Plaintiff in this matter to review, evaluate, and respond to Dr. Kleidon's opinions and analysis. My responses to the Kleidon Report are set forth in this document (the "Rebuttal Report").

4. In formulating my opinions set forth in this Rebuttal Report, I have relied upon the analysis already described in the Damages Report as well as knowledge, experience, and formal training in economics, finance, and statistics, in addition to the allegations, evidence, and facts set forth in this lawsuit. All of the additional materials that I relied upon and considered in reaching my opinions in this Rebuttal Report, beyond those listed in the Damages Report, are identified in the attached **Appendix A**. Global Economics Group is being compensated at $575 per hour for my work on this matter, and at standard hourly rates for work performed by members of my staff acting under my supervision and direction. Neither my compensation, nor the compensation of my firm, is in any way contingent upon the outcome of this case or upon the opinions I express. My qualifications and curriculum vitae were included in the Damages Report, and my updated curriculum vitae is attached in **Appendix B**.

II. SUMMARY OF OPINIONS

5. In reviewing Dr. Kleidon's Report, I have reached the following conclusions that I expand upon below:

[3] Kleidon Report ¶5.

6. The Kleidon Report fails, as a matter of scientific and statistical principles, to affirmatively prove that events unrelated to the misstatements or omissions at issue in this litigation caused observed price declines in the Series 5 Shares during the relevant time period.

7. First, Dr. Kleidon erroneously concludes that his event study analysis provides evidence that the release of information related to Plaintiff's claims could not have caused any observed stock price decline that is not statistically significant at the 95% confidence level. By its nature, an event study that finds a statistically significant change in price is capable of providing evidence (within a certain degree of error) of an affirmative causal linkage between an event and a price movement. An event study cannot, however, based on a ***lack*** of statistical significance, establish a lack of causation for any abnormal return not explained by the control variables. As I demonstrate in this Rebuttal Report, there are numerous examples of days that Dr. Kleidon ignores where (i) news was disseminated related to the alleged misstatements and omissions; and (ii) Dr. Kleidon's event study observed abnormal price declines in the price of the Series 5 Shares. Furthermore, Dr. Kleidon's methodology for identifying news relevant to Plaintiff's claims is inadequate.

8. Second, to the extent that Dr. Kleidon has limited his analysis of causation to only those dates with statistically significant abnormal returns, his causation analysis for these dates is also flawed as he incorrectly concludes that news disseminated on those dates did not relate to Plaintiff's claims. More specifically, Dr. Kleidon identifies seven negative and statistically significant dates on which he opines there is no information related to Plaintiff's claims. For five of these seven dates, I identify news related to Plaintiff's claims that Dr. Kleidon does not properly address. As a result, Dr. Kleidon has not established that even these statistically significant abnormal price declines were unrelated to Plaintiff's claims.

9. Finally, it is my opinion that the regression analysis underlying Dr. Kleidon's event study is fundamentally flawed and does not provide a reliable basis for measuring the abnormal price declines or evaluating the statistical significance of price movements for two distinct reasons. First, Dr. Kleidon's approach mis-measures the volatility of the Series 5 Shares during his Analysis Period and therefore draws erroneous conclusions about which price declines are statistically significant. Second, downward movements in Dr. Kleidon's control index itself during the relevant period reflect, among other things, the market learning how exposure to subprime assets and monoline insurers was affecting the market value of preferred stocks. As a result, movements in Dr. Kleidon's "control" index do not represent an appropriate independent "control" for purposes of isolating price declines in the Series 5 Shares that are independent of Plaintiff's claims.

10. Given these flaws in Dr. Kleidon's approach, it is my opinion that he has not reliably established that information unrelated to Plaintiff's claims caused the price declines observed in the Series 5 Shares.

11. My report is structured as follows: In Section III, I describe how the statute calls for Defendants to prove that events unrelated to the misstatements and omissions at issue in this litigation caused the Series 5 Share price declines during the relevant time period. In Section IV, I show that Dr. Kleidon's methodology and conclusions do not offer reliable economic or statistical evidence to establish alternative causes of observed price declines. In Section V, I describe how Dr. Kleidon does not offer any evidence regarding alternative causes of observed price declines on the vast majority of dates. In Section VI, I show that even on dates where Dr. Kleidon purports to have evidence of alternative causes, he ignores information related to Plaintiff's claims. Finally, in Section VII, I demonstrate how Dr. Kleidon's event study

methodology is unreliable for evaluating which price declines are statistically significant and, at least on certain days, is inappropriate for quantifying the degree to which price declines can be explained by independent market forces.

III. THE STATUTE CALLS UPON DEFENDANTS TO PROVE ALTERNATIVE CAUSES FOR OBSERVED PRICE DECLINES

12. As I stated in the Damages Report, Section 11(e) of the Securities Act establishes the statutory formula by which damages for Section 11 claims are calculated.[4] Specifically, Section 11(e) states the following:

> The suit authorized under subsection (a) of this section may be to recover such damages as shall represent the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and (1) the value thereof as of the time such suit was brought, or (2) the price at which such security shall have been disposed of in the market before suit, or (3) the price at which such security shall have been disposed of after suit but before judgment if such damages shall be less than the damages representing the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and the value thereof as of the time such suit was brought.[5]

13. However, Section 11 allows Defendants to avoid or limit damages if they can prove that financial losses under the statutory formula did not result from the misstatements and/or omissions. Section 11 provides:

> That if the ***defendant proves*** that any portion or all of such damages represents ***other than*** the depreciation in value of such security resulting from such part of the registration statement, with respect to which his liability is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statements therein not misleading, such portion of or all such damages shall not be recoverable.[6]

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[4] Damages Report ¶11.

[5] 15 U.S.C. § 77k(e).

[6] 15 U.S.C. § 77k(e).

14. My understanding is that this element of the statute creates a burden for Defendants to affirmatively prove that the Series 5 ADS price declines were caused by events other than the misstatements and omissions at issue in this litigation, and that Plaintiff is entitled to statutory damages for any portion of the price decline that Defendants have not otherwise proven was the result of something unrelated to Plaintiff's claims. In other words, if Defendants can prove a causal relationship between the security price declining and some event unrelated to the misstatements or omissions at issue in this litigation, then Defendants have met their burden for proving negative causation for that particular price decline.

IV. DR. KLEIDON DOES NOT PROVE ALTERNATIVE CAUSES FOR OBSERVED PRICE DECLINES

15. Dr. Kleidon broadly opines: "The price declines during the Analysis Period are not attributable, in whole or in part, to any of the alleged misrepresentations."[7] However, Dr. Kleidon's approach is only capable of providing economic and statistical evidence for two categories of price declines in the Series 5 Shares: (1) portions of Series 5 price declines that are explained by his market model, which controls for an index of other preferred stocks, and (2) statistically significant price declines that are purportedly unrelated to Plaintiff's claims. (In a later section, I describe why Dr. Kleidon's contention that certain statistically significant price declines are unrelated to Plaintiff's claims is incorrect and unreliable.)

16. A tool that financial economists typically use to provide affirmative economic evidence of a cause and effect relationship between an event and an observed price movement is

[7] Kleidon Report ¶¶5, 107.

the "event study."[8] An event study is conducted by specifying a model of expected price movements conditioned on independent market factors and then testing whether the deviation from expected price movements is sufficiently large that simple random movement can be rejected as the cause.

17. An event study can provide economic and statistical evidence of what caused a price decline in two ways. First, based on historical correlation between one or more control variables (such as a market or industry index) and the subject security, the event study regression is able to identify "expected returns" based on contemporaneous movements in the control variables. So long as the control variables are properly selected and the regression implies a meaningful economic relationship between the control variables and the security price movements, this "expected return" provides economic and statistical evidence of what price movement is explained by the control variables.[9] The difference between the observed return and the "expected return" is known as the "residual return" or "abnormal return." By definition, there is ***no*** economic or statistical evidence that the residual return is caused by movements in the control variables.

18. Second, on days where the residual return is statistically significant ***and*** there is contemporaneous information, the event study method is capable of providing economic and statistical evidence of a causal connection between the information and the residual return. In other words, when a residual return is statistically significant, one can reliably rule out

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[8] A. Craig MacKinlay, "Event Studies in Economics and Finance," *Journal of Economics Literature*, Vol. 35, No. 1, March 1997, pp. 13-39; and John Binder, "The Event Study Methodology Since 1969," *Review of Quantitative Finance and Accounting*, Vol. 11, 1998, pp. 111-137.

[9] This is only valid if movements in the control variables are completely independent of, and unrelated to the alleged misstatements and omissions. As discussed below, *see* Section VII(B), there are days during the relevant time period when the Preferred Stock Index is an inappropriate control because news related to Plaintiff's claims likely impacted Dr. Kleidon's control index.

randomness as the cause of the price change and infer that the information caused the price movement. This is the approach Dr. Kleidon uses in his analysis: "[f]or days with statistically significant price movements, one can analyze the company-specific information that entered the market that may explain the price movements."[10]

19. The event study approach has important limitations. A regression analysis (like the event study methodology employed by Dr. Kleidon) is ***not*** capable of proving an ***absence*** of causation with respect to non-statistically significant abnormal returns. Specifically, the event study is like any other scientific experiment where there is a null hypothesis (H_0) and an alternative hypothesis (H_1). The null hypothesis in this context is that the news on a given day will cause zero (0) price reaction. The alternative hypothesis is that the news caused a price reaction different from zero. If the observed residual price change is large enough to be statistically significant, the event study provides a reliable basis to reject the null hypothesis and attribute the price reaction to the news. However, if the observed price change is not statistically significant, the event study does not prove that the null hypothesis of zero price reaction is actually true.[11] ***Thus, an event study provides no basis to assert that the lack of a statistically***

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[10] Kleidon Report ¶45.

[11] Damodar N. Gujarati, *Basic Econometrics* (3d ed. 1995), p.129. This textbook is one of the most widely used graduate level statistical textbooks used in the field of economics ("What a Million Syllabuses Can Teach Us," *The New York Times*, January 22, 2016). *See also* Sir Ronald A. Fisher, *The Design of Experiments*, (New York: Hafner Press, 1971), pp. 16, 22. Sheldon G. Levy, Inferential Statistics in the Behavioral Sciences (1968), p. 83. Helen M. Walker & Joseph Lev, *Elementary Statistical Methods* (3rd ed. 1969), p. 166 (providing a "word of caution" that "***[t]o retain a hypothesis does not prove it true but merely indicates that it is not inconsistent with the observed data of a sample.")***.

significant stock price return constitutes economic or statistical evidence that proves there was no price impact from any news.[12]

20. Dr. Kleidon has not analyzed these non-statistically significant residual price declines, nor does he discuss what caused the abnormal returns he observed on those dates. Yet, Dr. Kleidon inexplicably concludes that "[t]he price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations."[13]

21. Just as an example, on February 17, 2009, Barclays Series 5 Share price declined by 16.32% (from $11.95 per share the previous trading day to $10.00 per share). Based on his underlying regression analysis that controls for a Preferred Stock Index,[14] Dr. Kleidon finds an "expected return" of -9.77% or -$1.17 per share. Under the assumption that his regression properly identified the Preferred Stock Index as an appropriate control (which I dispute in Section VII(B)), this implies a residual return, or ***unexplained*** return, of -6.55% (the total return of -16.32% ***minus*** the expected return of -9.77%).

22. Dr. Kleidon further acknowledges that there was information allegedly related to Plaintiff's claims released to the market on February 17, 2009. At 11:28 AM EST, *Dow Jones*

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[12] While, under these circumstances, the event study may not reliably prove with a measure of statistical certainty that the claim-related news was the cause of a decline, it likewise does not prove that the claim-related news was not the cause of the decline. Event studies do not have this type of explanatory power.

[13] Kleidon Report ¶¶5, 107.

[14] The Preferred Stock Index is a market capitalization weighted index comprised of the 54 financial securities in the S&P U.S. Fixed Rate Preferred Stock Index as of December 31, 2008, Barclays securities excluded. Dr. Kleidon performs two separate regressions for the periods before and after the Lehman bankruptcy on September 15, 2008 (Period 1: April 11, 2008 to September 14, 2008; Period 2: September 15, 2008 to March 24, 2009). Kleidon Report ¶¶46-47. Dr. Kleidon incorporates dummy variables in his regression for events that he suggests have information related to Plaintiff's claims because they were mentioned in the Complaint. A dummy variable is coded as "1" on the relevant date and "0" on all other dates. The purpose of incorporating dummy variables for these dates is to prevent the events of interest from influencing measurement of the relationship between the subject security (in this case the Series 5 Shares) and the control index. In total, Dr. Kleidon uses dummy variables for 11 dates.

reported that Barclays would be closing its U.S. residential mortgage origination business, EquiFirst, "due to market conditions."[15] This is information related to Plaintiff's claims.[16]

23. Dr. Kleidon performs a statistical test to determine if this unexplained decline of 6.55% is statistically significant, and he concludes that it is not.[17] Dr. Kleidon then uses the lack of statistical significance as a basis to improperly conclude that "the allegedly corrective information that entered the market on February 17, 2009 did not cause a decline in the price of the Series 5 ADS."[18] Dr. Kleidon's model, however, is ***incapable of explaining*** what caused the remaining -6.55% or -$0.78 per share residual price decline on February 17, 2009.

24. Indeed, contrary to Dr. Kleidon's conclusion, his statistical analysis only suggests that one cannot infer, with 95% confidence, what caused the abnormal return. It does ***not*** provide economic or statistical evidence of the ***absence*** of a causal link between the information revealed on February 17, 2009 and the abnormal return in the Series 5 ADS on the same day. The regression methodology is not capable of providing that economic or statistical evidence. In other words, Dr. Kleidon has not provided any reliable economic or statistical evidence establishing that the residual price decline of 6.55% (or -$0.78 per share) on February 17, 2009 was not caused by the information relating to Plaintiff's claims.

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[15] "BarCap to Close US Residential Mortgage Unit EquiFirst," *Dow Jones*, February 17, 2009, 11:28 AM EST.

[16] *See e.g.,* Complaint ¶223. The Complaint refers to February 18, 2009 as the market date for this information; however, the news entered the market on February 17, 2009, which Dr. Kleidon also pointed out in his report (Kleidon Report ¶100). As I understand it, Plaintiff maintains that Defendants' omissions and disclosures concerning the high quality of Equifirst's loan portfolio in the Offering Documents were materially misleading in so far as these disclosures failed to disclose the deteriorating performance of Equifirst's loan portfolio in the first three months of 2008. *See* Lead Plaintiffs' Responses and Objections to the Barclays' Defendants First Set of Interrogatories, November 16, 2015, at 10.

[17] Kleidon Report ¶100 and Kleidon Report Exhibit 9.

[18] Kleidon Report ¶101.

25. Dr. Kleidon is making the error of interpreting the lack of statistical significance as proof of a lack of causation, which is a practice that has been widely rejected.[19] Critically therefore, when Dr. Kleidon provides his overall conclusion that "Based on my analysis, the price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations," he is overstating what his methodology is capable of proving and incorrectly claims that he has established that the negative price movement in the Series 5 Shares was not caused by news related to Plaintiff's claims. That is wrong as a matter of statistical principles.

26. In fact, Dr. Kleidon finds a lack of statistical significance on 230 out of 240 days during his Analysis Period. Thus, for ***96%*** of the days he analyzes, he has offered no statistical evidence to support what caused the unexpected portion of the movement in the Series 5 Shares, and thus concludes that these price movements were caused by news unrelated to Plaintiff's claims. As a result, on days where there are unexpected negative returns that do not rise to the level of statistical significance, there is no economic or statistical evidence in the Kleidon Report proving that those price declines were caused by events unrelated to Plaintiff's claims.

27. Moreover, the Kleidon Report addresses eight days where the Complaint alleged that information related to Plaintiff's claims was released and Dr. Kleidon determined there were no statistically significant price declines.[20] Even accepting the reliability of Dr. Kleidon's

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[19] *See, e.g.,* Sir Ronald A. Fisher, *The Design of Experiments*, (New York: Hafner Press, 1971), p. 16 ("it should be noted that **the null hypothesis [of zero price movement] is never proved or established**, but is possibly disproved, in the course of experimentation"); Sheldon G. Levy, *Inferential Statistics in the Behavioral Sciences* (1968), p. 83. *See also* Helen M. Walker & Joseph Lev, *Elementary Statistical Methods* (3rd ed. 1969), p. 166 (providing a "word of caution" that "**[t]o retain a hypothesis does not prove it true but merely indicates that it is not inconsistent with the observed data of a sample.")**

[20] As noted below, these eight days are only a small fraction of the days where Dr. Kleidon's regression identifies abnormal returns.

regression approach (which I do not, as described in a later section), his results still show negative abnormal price movements on these eight days that are not explained by his control index and, thus, cannot be ruled out as being related to Plaintiff's claims and contributing to Plaintiff's damages under Section 11.

V. DR. KLEIDON'S METHODOLOGY IGNORES MOST RESIDUAL PRICE DECLINES AND FAILS TO IDENTIFY NEWS RELATED TO PLAINTIFF'S CLAIMS

28. Dr. Kleidon's methodology does not seek to establish the cause for the vast majority of negative abnormal returns that his event study regression identifies. Dr. Kleidon relies on the Complaint to identify days on which information related to Plaintiff's claims was released. He opines that none of these events are associated with negative statistically significant abnormal returns, and then concludes that he has proven an absence of causation on these days. As described in the prior section, this conclusion is inappropriate as a matter of statistics.

29. Contrary to Dr. Kleidon's conclusions, there are numerous examples of stock price declines associated with news related to Plaintiff's claims that Dr. Kleidon does not address because either his event study did not find the abnormal price returns to be statistically significant or such dates were not identified in the Complaint. As explained above, Dr. Kleidon's method does not support a conclusion that the negative abnormal returns on those days were not caused by news related to Plaintiff's claims.

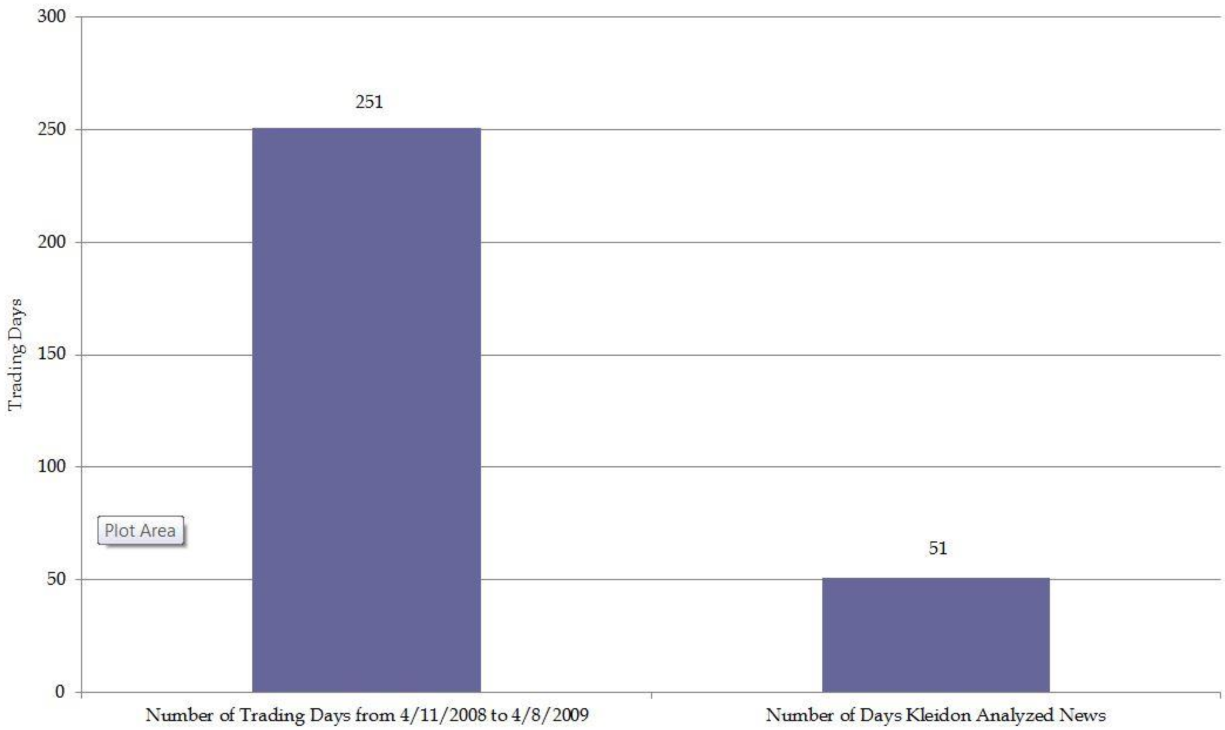
30. Dr. Kleidon specifically states that he limited his analysis of news to the day of, the day after, and the day before a statistically significant return (at the 95% confidence level based on his event study), and dates mentioned in the Complaint:

> As described in footnote 56 of the Report, in preparing the Report, searches were conducted of (A) the Factiva database for articles containing the search

> term "Barclays" in the headline or lead paragraph and (B) Barclays' press releases. These searches were conducted for the following days, as well as for one trading day immediately preceding and following each day: (i) days during the Analysis Period (as defined in the Report) on which there was a statistically significant movement in the price of the Series 5 ADS, *i.e.*, July 14, 2008, July 18, 2008, July 21, 2008, September 11, 2008, September 12, 2008, October 13, 2008, January 21, 2009, January 23, 2009, January 26, 2009 and March 9, 2009; and (ii) additional days during the Analysis Period on which there was a statistically significant movement in the price of the Series 5 ADS under the alternative regression model discussed in footnote 53 of the Report, *i.e.*, September 30, 2008, October 10, 2008, January 30, 2009, February 9, 2009 and March 10, 2009.[21]

31. As a result, Dr. Kleidon cannot have an opinion, nor does he express one, as to what moved the Series 5 Share price outside of the dates for which he actually collected news. Additionally, he cannot and has not proven that there was an alternative cause not related to Plaintiff's claims for the residual declines he observed on those dates. In fact, Dr. Kleidon failed to review news on ***80%*** of trading days from the issuance of the Series 5 Shares until the date of suit, as shown in the bar chart below:

[21] Kleidon Report Exhibit 2.



Source: Kleidon Report and Exhibit 2.

32. Even on days he did analyze, Dr. Kleidon failed to review the vast majority of news stories. According to the Kleidon Report, news was identified by a Factiva database search for the term "Barclays" in the headline or lead paragraph of "major business publications."[22] When I replicate the search on Factiva described by Dr. Kleidon, and include the additional articles he specified in his Exhibit 2, Dr. Kleidon analyzed 146 unique news articles for 51 days total.[23] However, applying Dr. Kleidon's search criteria on Factiva to all days from the date of issuance through the date of suit returns 790 unique articles.

33. Furthermore, by limiting his search criteria to "major business publications," Dr. Kleidon eliminated thousands of potentially relevant news articles because Factiva does not

[22] Kleidon Report n.56.

[23] There are several articles in Dr. Kleidon's Exhibit 2 that do not appear in his Factiva search. The numbers reported here include the additional articles that Dr. Kleidon provides in Exhibit 2 to the Kleidon Report.

count sources such as *Reuters* or *The Associated Press* as major business publications. The total number of sources included in the "Major Business Sources" category is 94, while the entire Factiva database draws from thousands of different sources included in the "All Sources" option. Meanwhile, a full search of ***all*** sources with a "Barclays" text search yields over 20,000 unique news articles during Dr. Kleidon's "Analysis Period" and the 11 trading days after, leading up to the date of suit on April 8, 2009. There is no indication in the Kleidon Report that he considered all of this news and, therefore, Dr. Kleidon cannot claim to have proven lack of causation for negative abnormal price declines that accompany the thousands of articles he did not even consider.

34. As an example of how Dr. Kleidon's search criteria missed important news, *Reuters* reported on Sunday, February 1, 2009 that Moody's downgraded the long-term ratings on Barclays from Aa1 to Aa3, and the Bank Financial Strength Rating from B to C with a negative outlook.[24] A Factiva search according to Dr. Kleidon's criteria returns no articles on February 1, 2009. Additionally, there was no mention of the Moody's downgrade in the three articles under major business publications for Barclays on Monday, February 2, 2009 (the trading day on which the Moody's downgrade information entered the market). Thus, Dr. Kleidon failed to consider this information as a potential cause for the abnormal stock price decline of -11.25% he observed on February 2, 2009.

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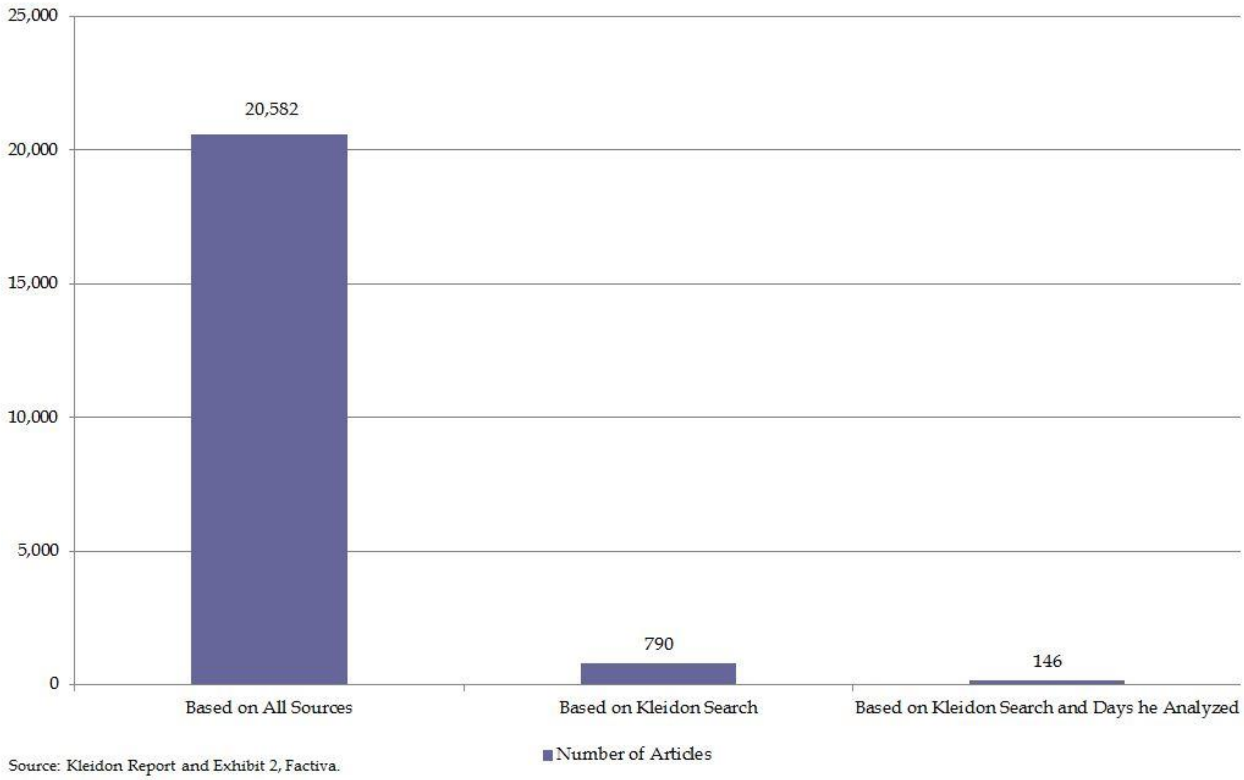
[24] "TEXT-Moody's Downgrades Barclays to Aa3," *Reuters,* February 1, 2009, 7:29 PM EST.

35. As demonstrated in the bar chart below**,** Dr. Kleidon missed at least 80% of news stories about Barclays during the period from the issuance of the Series 5 Shares through the date of suit based on his own limited search criteria.[25]



Source: Kleidon Report and Exhibit 2, Factiva.

36. Additionally, Dr. Kleidon does not offer any analysis or opinion regarding price movements that occur between March 24, 2009 (the last day of his Analysis Period) and the date of the first Section 11 lawsuit related to the offering of Series 5 Shares, April 8, 2009.[26]

[25] There are several articles in Dr. Kleidon's Exhibit 2 that do not appear in his Factiva search. The numbers shown in this chart include the additional articles that Dr. Kleidon provides in Exhibit 2 to the Kleidon Report.

[26] Dr. Kleidon does, however, refer to the increase in the price of the Series 5 Shares after the complaint is filed (Kleidon Report at ¶8). This information is entirely irrelevant to a causation analysis and Dr. Kleidon does not provide any explanation for how or why he considered such information as part of his analysis, yet he ignores price movements before the date of suit which are critical to any causation analysis.

37. Moreover, there is no discussion in the Kleidon Report as to what constitutes information "attributable" to the claims in this case other than the following passage:

> The Complaint contains a section titled "Post-Offering Events," in which it cites many specific events that occurred after the Series 5 ADS offering. For the purposes of analysis, all of the events cited in that section of the Complaint that occurred within the Analysis Period (Complaint PP211-223), along with the March 24, 2009 filing of Barclays' 2008 Form 20-F (Complaint, P195), have been considered to be allegedly corrective disclosures.[27]

38. In his summary of opinions, Dr. Kleidon also defines the relevant information to include:

> (i) any allegedly corrective information cited in the Complaint was disclosed to the market, or (ii) any allegedly undisclosed risk cited in the complaint materialized.[28]

39. Subpart (i) incorrectly assumes without economic basis that Plaintiff identified all of the potentially claim-related information in the Complaint, and subpart (ii) is not addressed or evaluated anywhere in the Kleidon Report. Limited to this definition, Dr. Kleidon's view of what is "attributable" to Plaintiff's claims is too narrow.

40. This is especially true here because, as Dr. Kleidon concedes, Plaintiff broadly alleges the following with respect to the misstatements and/or omissions in Paragraph 135 of the Complaint:

> The statements…from the April 2008 Prospectus and 2007 20-F were false and misleading for the following reasons:
>
> (a) …Barclays knowingly failed to properly write down its exposure to U.S. subprime and Alt-A mortgages, CDOs, monoline insurers and RMBS in

[27] Kleidon Report, at ¶49.

[28] Kleidon Report ¶5. This definition is also stated in Kleidon Report n.43: "In this report, the phrase 'corrective information' includes both (i) allegedly corrective information that was disclosed to the market, and (ii) the materialization of any allegedly undisclosed risk."

> accordance with applicable accounting standards, and failed to adequately disclose the risks posed by these assets;
>
> (b) …Barclays knowingly failed to adequately disclose the risk to the Company associated with its exposure to monoline insurers, including the fact that the Company had more than £21.5 billion of notional exposure to highly risky mortgage-backed assets, such as £10 billion in A/BBB and non-investment grade CLOs and MBSs, which had only been written down by less than 0.3% at the time of the Series 5 Offering;
>
> (c) Barclays failed to disclose the substantial and material risk that the Company's U.S. subprime and Alt-A exposure had on its stated capital ratio, shareholder's equity and the risk that the same posed to the Company's future capital ratio and liquidity; and
>
> (d) The Company's failure to disclose and comply with items (a)-(c) above was in contravention of Barclays' stated risk management policies and public recommendations.[29]

41. Furthermore, I understand that Plaintiff served responses to the Barclays Defendants and Underwriter Defendants Interrogatories, which support and expand upon the allegations in the Complaint.

42. Based on the allegations and discovery responses, the following types of information would, in my opinion, relate to Plaintiff's claims and represent types of information that might negatively impact the price of the Series 5 Shares:

- Additional write-downs or other events that provide investors additional information about the financial impact of and risk of exposure to credit market and subprime assets (including Alt-A, CDOs, RMBS) and to monoline insurers;
- Events that provide additional information regarding Barclays' capital adequacy.

43. Dr. Kleidon did not evaluate whether there was news of this type on each day during his Analysis Period, and in fact there are many days with such news. These dates include, but are not limited to, the following:

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[29] Kleidon Report ¶10.

A. AUGUST 14, 2008

44. Before market hours on August 14, 2008, Goldman Sachs estimated that Barclays may potentially need to write down an additional £4.6 billion, including £1.5 billion over the subsequent 18 months, claiming that the Barclays would most likely have to cut dividends to absorb more losses.[30] Multiple news stories were published about Goldman Sachs' warning as Barclays common stock in London declined on the news. The *Guardian Unlimited* reported,

> …banks were weaker on continuing writedown fears, and the prospect of more fundraisings…***Barclays fell 4.5p to 347p after house broker Cazenove cut its recommendation from outperform to in-line and Goldman Sachs issued a sell note and warned of further credit crunch related hits.*** Goldman said: "On Barclays's credit market exposures we believe there is the potential for up to £4.6bn further writedowns. These are spread across the whole credit portfolio but some may take longer to crystalise as they sit within the loan book. We forecast £1.5bn further writedowns over the next 18 months as we believe exposures could move closer to other marks in the market.[31]

45. *Press Association* also noted the same when they wrote:

> Barclays was also in the red, after broker Goldman Sachs warned the bank may need to write down another £1.5 billion over the next year and a half. It has already suffered multi-billion pound hits this year, and shares were 5p lower at 346.5p.[32]

46. *AFX Asia* meanwhile said:

> Goldman Sachs also said it remained concerned about the bank's capital position. Barclays' interim results were disappointing as the weak underlying performance, excluding Barclays Capital revenue, were only saved by a strong performance on costs, Goldman Sachs said…Shares of Barclays were trading down 2 percent at 345 pence by 1033 GMT.[33]

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[30] "UPDATE 1-Barclays May Write Down 1.5 Bln Stg More, Says Goldman," *AFX Asia,* August 14, 2008, 6:43 AM EST.

[31] "Oil and Copper Burnish FTSE," *The Guardian,* August 14, 2008, 5:55 AM EST.

[32] "Market Report," *Press Association,* August 14, 2008, 11:15 AM EST.

[33] "UPDATE 1-Barclays May Write Down 1.5 Bln Stg More, says Goldman," *AFX Asia,* August 14, 2008, 6:43 AM EST.

47. Barclays Series 5 Shares fell 1.72% on August 14, 2008. Dr. Kleidon observed an abnormal return of -1.89% with a t-statistic of -1.55. According to his event study there was not a statistically significant abnormal price decline on this day.[34] Dr. Kleidon provides no analysis to determine the cause of the abnormal price decline on this date in his report. The news of additional expected write-downs is related to Plaintiff's claims, as it reflects the market learning about the financial impact of the exposure to subprime assets (including Alt-A, CDOs, RMBS) and how Barclays' exposure to subprime assets and monoline insurers was impacting the Company's capital. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

B. SEPTEMBER 3, 2008

48. Before market hours on September 3, 2008, Royal Bank of Scotland downgraded Barclays from hold to sell.[35] citing capital ratios and the need for additional write downs as the reason for the downgrade:

> Barclays offers a clear, well-executed, long-term strategy. But benchmarking capital ratios and writedowns vs peers implies a £4.9bn-7.5bn capital shortfall at a time when credit quality and coverage ratios are weakening and core deposit momentum is disappointing. Downgrade to Sell.[36]

49. Moreover, a *Reuters* article cited the RBS downgrade as the reason for the price decline in Barclays' common stock in London:

> Shares in Barclays are down 2.7 percent after RBS downgrades to 'sell' from 'hold', with a reduced target price of 300 pence, cut from 475. RBS says while Barclays offers a clear, well-executed, long-term strategy, benchmarking capital ratios and writedowns versus its peers implies a

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[34] Kleidon Report Exhibit 9.

[35] "UK Summary: FTSE To Shed 75 Points On Econ Slowdown Fears," *Dow Jones,* September 3, 2008, 3:00 AM EST.

[36] "Some of the Parts," *RBS*, September 3, 2008.

> 4.9-7.5 billion pounds capital shortfall for the bank at a time when credit quality and coverage ratios are weakening and its core deposit momentum is disappointing.[37]

50. Finally, a *MarketWatch* article reported similarly: "Shares in Barclays…fell 3.7%. The lender was downgraded to sell from hold by the Royal Bank of Scotland, which said Barclays has substantial near-term balance sheet concerns to overcome. By benchmarking capital ratios and write-downs to peers, it estimates Barclays has a capital shortfall of 4.9 billion pounds to 7.5 billion pounds."[38]

51. Barclays Series 5 Shares price declined by 1.09% on September 3, 2008. According to Dr. Kleidon's event study, this price decline represented an abnormal return of -2.05% with a t-statistic of -1.69.[39] Although not statistically significant at the 95% confidence level, this price decline is significant at the 90% confidence level, which is still a widely accepted measure of statistical significance in financial and economic literature.[40]

52. RBS's downgrade of Barclays on September 3, 2008 is related to Plaintiff's claims as it reflects the market learning about the financial impact of the exposure to subprime assets (including Alt-A, CDOs, RMBS) and how Barclays' exposure to subprime assets and monoline insurers was impacting the Company's capital. Dr. Kleidon does not analyze the abnormal price decline on September 3, 2008 in his report. Accordingly, Dr. Kleidon provides no

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[37] "STOCKS NEWS EUROPE-ROK higher as Landsbanki initiates as buy," *Reuters,* September 3, 2008, 4:14 AM EST.

[38] "London Shares Fall as Miners, Banks Weigh; Punch Taverns Drops After Scrapping Dividend Payout," *MarketWatch,* September 3, 2008, 12:12 PM EST.

[39] Kleidon Report Exhibit 9.

[40] To be considered statistically significant at the 90% confidence level, a price movement must have a t-statistic of at least 1.645. *See* David I. Tabak and Frederick C. Dunbar, "Materiality and Magnitude: Event Studies in the Courtroom," Ch. 19, *Litigation Services Handbook, The Role of the Financial Expert* (3d ed. 2001).

economic or statistical evidence that precludes this event from having caused some or all of the price decline.

C. OCTOBER 8, 2008

53. Prior to market open on October 8, 2008, the U.K. government announced that it would be injecting about £50 billion into the U.K. banking system to prevent its collapse.[41] *BBC News* outlined the basics of the government plan:

> Banks will have to increase their capital by at least £25bn and can borrow from the government to do so.
>
> An additional £25bn in extra capital will be available in exchange for preference shares.
>
> £100bn will be available in short-term loans from the Bank of England, on top of an existing loan facility worth £100bn.
>
> Up to £250bn in loan guarantees will be available at commercial rates to encourage banks to lend to each other.
>
> To participate in the scheme banks will have to sign up to an FSA agreement on executive pay and dividends.[42]

54. The London market immediately reacted negatively to this news:

> There was little immediate relief for FTSE 100 stocks this morning after the government unveiled a £50bn rescue package for the UK banking system… In response the FTSE 100 fell 7% in early trading. Of the leading banks, HBOS shares rose 15%, but Barclays fell 16% and RBS dropped 11%.[43]

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[41] "U.K. to Inject about $87 Billion in Country's Banks (Update1)," *Bloomberg*, October 8, 2008, 2:48 AM EST.

[42] "Rescue Plan for UK Banks Unveiled," *BBC News,* October 8, 2008, 11:58 AM EST.

[43] "Government Bailout Provides Little Relief for Stock Market," *Estates Gazette Interactive,* October 8, 2008.

55. In response to the government announcement, Barclays' CEO, Defendant Varley, said: "Barclays has not requested capital from the Government and has no reason to do so."[44] However, this did not calm investors' fears. The *Wall Street Journal,* for instance, cited the U.K. government's plan as the reason for the stock decline:

> U.K. stocks fell amid concerns that the government's ambitious £400 billion ($699 billion) bank rescue effort wouldn't solve the country's problems, but the plan was nonetheless gaining support as a model for other countries…Bank shares gyrated wildly on Wednesday, as investors guessed which institutions would be most likely to sell stakes to the government. Such moves would dilute the stakes of existing shareholders. Royal Bank of Scotland Group PLC and Barclays PLC said they would participate in at least some of the measures, but declined to provide details….While the shares of some banks shot up on news of the plan Wednesday, RBS shares rose and then fell back, to close up 1% at 90.70 pence, and Barclays shares closed down 2% at 278.25 pence, signaling that investors see both as likely to require a capital injection. HBOS jumped 24% to 117 pence. The broad FTSE 100 index slid 5.2%.[45]
>
> Traders said investors were grappling with the implications of the U.K. government's plan to prop up the country's banks and inject further liquidity into money markets. "Banking shares were mixed in London. HBOS climbed 24% and Royal Bank of Scotland Group rose .8%. Barclays fell 2.4%...[46]

56. The price of the Series 5 Shares fell by 6.74% on October 8, 2008. The abnormal return was -6.21% with a t-statistic of -0.80, according to Dr. Kleidon's event study.[47] Dr. Kleidon mentions the relevant news of the government bailout on October 8, but he does not

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[44] "Bank Shares Rocked as Nationalisation Rumours Rampage Through Markets," *The Times,* October 8, 2008.

[45] "U.K. Stocks Fall Despite New Bank-Rescue Effort; Government Says It Will Buy Stakes in Banks and Guarantee Debts; Other Countries May Look to British Model," *The Wall Street Journal,* October 9, 2008.

[46] "U.S. Stocks Linger in the Red," *The Wall Street Journal,* October 9, 2008, 12:01 AM EST.

[47] Kleidon Report Exhibit 9.

attribute the price decline to this or any other news.[48] The news that Barclays may need government assistance is related to Plaintiff's claims, as it revealed information concerning the severity of losses stemming from Barclays' subprime losses and stressed capital position. Therefore, the news on October 8 reflects the market learning about the financial impact of Barclays' exposure to subprime assets (including Alt-A, CDOs, RMBS) and how Barclays' exposure to subprime assets and monoline insurers was impacting the Company's capital. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

D. OCTOBER 10, 2008

57. As noted above, on October 8, 2008, the U.K. government announced that it would be injecting approximately £50 billion into the U.K. banking system to prevent its collapse.[49] At 5:07 AM EST on the morning of October 10, 2008, Barclays officially commented on the U.K.'s announcement in a press release stating that the bank was considering a variety of options to increase its Tier 1 Capital before resorting to the use of government rescue funds.[50] Barclays confirmed it was considering looking to investors for more capital to improve its finances.[51] Analysts at Credit Suisse commented that "Barclays may need to raise £5 billion to sufficiently bolster its balance sheet."[52] The *Sun* claimed that on this news, Barclays' common

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[48] *See* Kleidon Report ¶36 ("In the U.K., on October 8, 2008, Prime Minister Gordon Brown announced a bailout for the financial industry, and on the same day, the U.K. government introduced higher capital requirements as part of the government's attempt to stabilize the financial system.")

[49] "U.K. to Inject About $87 Billion in Country's Banks (Update1)," *Bloomberg*, October 8, 2008, 2:48 AM EST.

[50] "Barclays PLC Further Comment on UK Government Announcement," *Regulatory News Service,* October 10, 2008, 5:07 AM EST.

[51] "Barclays Looking at Options to Boost Finances," *Press Association*, October 10, 2008, 5:29 AM EST.

[52] "Barclays Looking at Options to Boost Finances," *Press Association*, October 10, 2008, 5:29 AM EST.

stock in London "led blue-chip fallers amid speculation of possible capital-raising and further write-downs."[53]

58. The price of the Series 5 Shares declined by 21.21% on October 10, 2008. According to Dr. Kleidon's event study, there was an abnormal return of -14.80% (a -$1.71 abnormal dollar decline).[54] While Dr. Kleidon did not find this decline to be statistically significant, this news is related to Plaintiff's claims that Barclays did not adequately disclose, among other things, the potential impact of its subprime exposure on its capital position. Dr. Kleidon offers no analysis for the price decline on this day, and therefore he has not proven that it was caused by factors unrelated to Plaintiff's claims. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

E. DECEMBER 19, 2008

59. On the morning of December 19, 2008, the credit rating agency Standard & Poor's ("S&P") issued a credit downgrade across all entities of Barclays. Specifically, S&P lowered Barclays' long-term credit ratings from 'AA' to 'AA-' for all entities. The agency stated, "The downgrades and revised outlooks reflect our view of the significant pressure on large complex financial institutions' future performance due to increasing bank industry risk and the deepening global economic slowdown."[55] As stated in the S&P announcement, the reasoning for the ratings downgrade stemmed from an expectation that asset quality (including subprime assets) would continue to weaken more than previously expected:

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[53] "Market Report," *The Sun*, October 10, 2008.

[54] Kleidon Report Exhibit 9. As will be described in a later section, this -14.8% abnormal return is actually statistically significant once an error in Dr. Kleidon's approach is addressed (*see* Section VII).

[55] "Sector Surrenders Early Gains, S&P Cuts Hit," *MarketWatch*, December 19, 2008, 10:36 AM EST.

> …the ratings actions on Barclays reflect changes in our view of the level of risk associated with the range of activities pursued by major financial institutions. Moreover, we view the current downturn as being potentially longer and deeper than we had previously considered. **Therefore, for Barclays and most of its peers, we view asset quality as likely to weaken materially more than we had previously believed**.[56]

60. The announcement articulates several reasons why Barclays was specifically chosen among the major banks for the ratings downgrade:

> …we believe Barclays is eligible for capital support from the U.K. government if it were required. **About ₤4 billion of Barclays' new capital has been absorbed by cumulative credit market losses**, while the recent sharp declines in equity markets may, in our view, affect our opinion of capital due to the weighing of equity in the substantial post-retirement benefit schemes.
>
> …
>
> "The current ratings factor in a significant reduction in profits in 2009, excluding write-downs, fair-value gains on own debt, and other exceptionals. **This is driven by** a significant slowdown in capital markets, and **sharply rising impairment charges across the board**," added Mr. Hill…A negative rating action would be triggered by the prospect of profitability falling below that expected, either due to more markdowns on credit market assets, higher impairment charges, or a greater income slowdown. **The outlook could be revised to stable if credit losses fell by less than expected, and capital and liquidity remained stable.**[57]

61. In other words, in addition to the ratings downgrade, Barclays was kept on S&P's "negative outlook" for future downgrades because of capital and liquidity concerns stemming from the exposure to low quality assets.

62. S&P's downgrade of Barclays is related to Plaintiff's claims because it reflects the market learning of the increased risk associated with Barclays' assets. Because of the information

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[56] "S&P: Barclays Bank PLC L-T Rating Lowered To 'AA-'; 'A-1+' S-T Rating Affirmed; Outlook Negative," *Market News Publishing*, December 19, 2008.

[57] "S&P: Barclays Bank PLC L-T Rating Lowered To 'AA-'; 'A-1+' S-T Rating Affirmed; Outlook Negative," *Market News Publishing*, December 19, 2008.

discussed in the market on this day, Dr. Kleidon's event study cannot exclude the possibility that some, or all, of the -5.09% abnormal decline he observed on this date was caused by the revelation of impacts on Barclays resulting from its subprime exposure and capital position that was misstated in and/or omitted from the 2007 20-F and Prospectus. Dr. Kleidon ignores the news on this day as related to Plaintiff's claims, and therefore, his analysis is incomplete. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

F. DECEMBER 22, 2008

63. Over the weekend, on December 21, 2008, news broke that Barclays was planning to sell part of its investment banking division, Barclays Capital, to create 40 percent ownership by Barclays and 60 percent ownership by management.[58] In the same announcement, Barclays proposed to "shrink its private equity holdings dramatically…possibly by divesting whole companies controlled by the various divisions of the Barclays private equity empire."[59] Each of these actions by Barclays' management were attempts at raising cash for the parent firm:

> Banking giant Barclays is planning to sell off its private equity arm to management in a bid to strengthen its finances, it was reported today. The bank could also sell off around half of its private equity investments to raise funds, the Mail on Sunday reports. The potential move comes amid concerns that UK banks may have to bolster their balance sheets with more cash next year as the recession deepens. Barclays shunned a taxpayer bail-out, but has raised more than £7 billion through a fund-raising which leaves almost a third of the bank in the hands of Middle East investors. According to the newspaper, Barclays could spin off its various private equity businesses into a new company 40% owned by the bank and 60% owned by its management. The bank's private equity operations sit within the Barclays Capital investment banking business, which has been a key driver of profits

[58] "Barclays Looks to Sell Private Equity Empire; Billions of Vital Capital Could be Raised in Buyout," *The Mail on Sunday*, December 21, 2008.

[59] "Barclays Looks to Sell Private Equity Empire; Billions of Vital Capital Could be Raised in Buyout," *The Mail on Sunday*, December 21, 2008.

> in recent years. But the capital-intensive nature of the division comes at a time when bad debts are set to rise as the economy turns sour. The Financial Services Authority watchdog is also keeping up the pressure on banks to maintain their balance sheet strength.[60]
>
> The plan is at an early stage and has yet to be approved by Barclays' board, but its aim is to release capital tied up in the division, whose investments include stakes in car parking services group Parkeon, Swarfega maker Deb and mortgage company Jerrold Holdings.[61]

64. Sources also cited industry-wide concerns about cash-raising:

> The potential move comes amid concerns that UK banks may have to bolster their balance sheets with more cash next year as the recession deepens. Barclays shunned a taxpayer bail-out, but has raised more than £7 billion through a fund-raising which leaves almost a third of the bank in the hands of Middle East investors.[62]

65. The *Sunday Telegraph* reported that the bank was concerned with meeting the capital requirements for the Financial Services Authority.

> Barclays provides about 40pc of the capital for its private equity unit, and among the options likely to be on the agenda will be a reduction in that commitment to below 20pc, above which the bank has to set aside a larger capital buffer. Last week's briefing to investors outlined a number of options for BPE's future. A management buyout is unlikely to be on the agenda for at least a year. Barclays would be likely to retain a substantial stake in the division even if it did eventually decide to relinquish control. Capital requirements mean banks need to have reserves set against the amount of risk they face from their debt and equity exposure. Barclays is keen to conserve capital in order to keep within Financial Services Authority requirements…[63]

66. This news about the potential sale of a large portion of Barclays' investment business, one of the most profitable parts of the parent company, is related to Plaintiff's claims

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[60] "Barclays May Sell Private Equity Arm," *Press Association,* December 21, 2008, 7:45 AM EST.

[61] "Barclays Looks to Sell Private Equity Empire; Billions of Vital Capital Could be Raised in Buyout," *The Mail on Sunday*, December 21, 2008.

[62] "Barclays May Sell Private Equity Arm," *Press Association*, December 21, 2008, 7:45 AM EST.

[63] "Barclays to Review Future of Private Equity Arm," *The Sunday Telegraph*, December 21, 2008.

because it reflects the Company acknowledging the need to sell assets as a result of their capital position and the riskiness of its portfolio. Because of the information discussed in the market on this day and the weekend before, Dr. Kleidon's event study cannot exclude the possibility that some, or all, of the -1.73% abnormal decline he observed on this date was caused by this news related to Barclays subprime exposure misrepresented in and omitted from the 2007 20-F and Prospectus, or its capital adequacy. Dr. Kleidon does not analyze the abnormal price decline on December 22, 2008 in his report. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

G. JANUARY 20, 2009

67. On the evening of January 19, 2009, discussions resurfaced about the possibility of Barclays being forced to ask for taxpayer money to address its subprime exposure and capital position:

> Initial euphoria that Barclays had escaped the worst of the banking crisis evaporated today as City analysts queued up to predict the High Street bank will be forced to call for a handout from the British taxpayer. After a share-price collapse on Friday, Barclays today came back fighting, saying profits for 2008 will be higher than most City expectations. But investor fright at the extent of the Government's second banking bailout and fears Barclays does not have enough funding capital on its balance sheet saw initial gains in Barclays shares wiped out, in line with steep falls among rivals Royal Bank of Scotland, Lloyds Banking Group and HSBC.[64]

68. One analyst, Dresdner Kleinwort, stated:

> We are concerned the profit update is insufficient to bring investor concerns down. A possible future shortage of capital following further asset deterioration could eventually push the bank into the arms of the

[64] "Barclays Fightback Fails to Ease Fears of Taxpayer Rescue," *The Evening Standard*, January 19, 2009.

> Government if existing shareholders are unwilling or unable to provide yet further support and share price weakness persists.[65]

69. Meanwhile, an analyst report from MF Global stated:

> The absence of large losses in H2 2008 suggests that Barclays has not written down assets sufficiently far to be able to have attracted a buyer for any substantial part of the portfolio of trouble assets.[66]

70. The news revealed on January 20, 2009 was related to Plaintiff's claims. The fear of a government bailout due to exposure to toxic assets and Barclays' likely need to take additional write downs reflect the market learning more about the financial impact of exposure to and risks of the assets that, according to Plaintiff, were misrepresented in and omitted from the 2007 20-F and Prospectus, and its capital adequacy. The Series 5 Shares declined by 17.4% on January 20, 2009 and, according to Dr. Kleidon's event study the abnormal return was -2.2%. Dr. Kleidon offers no analysis for the price decline on this day, and therefore he has not proven that it was caused by factors unrelated to Plaintiff's claims. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

71. The descriptions of the news on the days above are just examples and by no means an exhaustive list. The point is that Dr. Kleidon did not and cannot claim to have taken into account all of the news related to Plaintiff's claims that accompanied the Series 5 Share declines in rendering his opinions.

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[65] "Barclays Fightback Fails to Ease Fears of Taxpayer Rescue," *The Evening Standard*, January 19, 2009.

[66] "Barclays PLC-A Stay of Execution," *MF Global,* January 20, 2009.

H. FEBRUARY 2, 2009

72. On Sunday evening, February 1, 2009, Moody's cut Barclays' credit rating due to speculation that the bank would need government support in order to stay afloat, in part due to its exposure to subprime assets.

73. The rating agency's press release stated, in part:

> The downgrades reflect Moody's expectation of potentially significant further losses at Barclays as a result of writedowns on credit market exposures as well as an increase in impairments in the UK, which could weaken profitability and capital ratios.
>
> …
>
> Moody's downgrade of the bank's long-term rating to Aa3 reflects the weaker BFSR, but also incorporates the rating agency's view on the long-term credit profile of Barclays - beyond the current government support phase - as one of the leading UK banks with a solid retail, commercial and capital market franchise. Moreover, the current rating also takes account of the very high probability of ongoing support from the Aaa-rated UK government.
>
> …
>
> The downgrade to C with a negative outlook reflects Moody's expectation that Barclays' profitability and capitalisation will continue to be pressured by the ongoing need to implement further writedowns and build larger loan loss reserves. Based on Moody's own stress tests, in a base stress scenario deteriorating values will lead to significant further writedowns on the bank's credit market exposures, particularly for the GBP10.3 billion (as of Q308) commercial mortgages and non-US residential mortgage securitisation exposures and on the GBP23.0 billion notional of monoline-wrapped structured exposures - an area in which the rating agency considers the bank to be exposed to a potentially sharp increase in provisioning requirements.[67]

74. Discussion from reporters and analysts throughout the day reflected the focus on write-downs and capital concerns as the reason for the downgrade:

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[67] "Moody's Downgrades Barclays Bank (Senior to Aa3/Stable, BFSR to C/Negative)," *Moody's Investor Service Press Release,* February 1, 2009.

> Although Barclays has not taken any government capital to date, Moody's considers the systemic importance of the bank and the likelihood of receiving government support in case of need to be high.[68]
>
> The downgrades come after the lender last week said it could absorb a 2008 writedown of 8 billion pounds ($11.58 billion) without seeking capital from private investors or the state. Barclays also stuck to its forecast that its 2008 pretax profit would be "well ahead" of 5.3 billion pounds, even after the expected writedowns.[69]

75. Finally, The *Guardian* attributed price declines in Barclays common stock to the Moody's downgrade:

> The recent recovery in Barclays' share price was snuffed out today after the bank was downgraded by the Moody's ratings agency. Barclays shares fell more than 10% as Moody's warned of "significant further losses" at the bank because of writedowns in the credit market and impairments in the UK.[70]

76. The long-term credit rating downgrade of Barclays by Moody's is specifically related to Plaintiff's claims because it reflects the market learning more about the financial impact and risk of its exposure to subprime assets, which are the assets that Defendants allegedly misrepresented in and omitted from the 2007 20-F and Prospectus, or its capital adequacy. Because Dr. Kleidon does not establish that the -11.25% abnormal return he observed on this date was not caused by this news, he has not established that the decline on this day was due to factors unrelated to Plaintiff's claims. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this news from having caused some or all of the price decline.

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[68] "Bank Bosses Face Grilling by MPs," *The Guardian*, February 2, 2009.

[69] "UPDATE 1-Moody's Cuts Barclays' Ratings on Loss Expectations," *Reuters*, February 1, 2009, 9:15 PM EST.

[70] "Barclays Slips Back on Downgrade," *The Guardian*, February 2, 2009.

VI. EVEN WHERE DR. KLEIDON FINDS STATISTICAL SIGNIFICANCE, HE ERRONEOUSLY CONCLUDES THERE IS NO NEWS RELATED TO PLAINTIFF'S CLAIMS

77. Dr. Kleidon identifies 10 statistically significant abnormal return days, 7 of which are negative. He opines that no information related to Plaintiff's claims was released on these dates and thus concludes the statistically significant declines were caused by events unrelated to Plaintiff's claims.[71] For 5 of these 7 negative days, I identify information related to Plaintiff's claims that is not properly addressed by Dr. Kleidon. As a result, Dr. Kleidon has not established that the statistically significant declines on these dates were caused by news unrelated to Plaintiff's claims, even assuming the reliability of his event study (which I dispute).

A. JULY 14, 2008

78. On Friday, July 11, 2008 after the close of the market and through the weekend leading up to Monday, July 14, 2008, several news articles were published discussing concerns with Barclays' capital position and its need to obtain more capital. For instance, *Citywire* asserted that:

> A number of banks have experienced similar funding issues [to HBOS] Royal Bank of Scotland Group (RBS) completed a mammoth £12 billion rights issue earlier in the month and Barclays PLC (BARC) raised £4 billion from sovereign wealth funds and other overseas investors to shore up its capital ratios. A third of advisers expected Alliance & Leicester PLC (AL.) which has yet to place a rights issue to go to the market for cash. Of the rest, ***20.8% expect Barclays to hold a further rights issue***…[72]

79. The *Economist* reported:

[71] Kleidon Report ¶¶49-106.

[72] "Reader Survey: Banks Could Be Set for Second Round of Rights Issues," *Citywire,* July 11, 2008, 8:00 PM EST.

> Barclays raised £4.5 billion ($9 billion) in June, but is still more thinly capitalized than many of its peers.[73]

80. The *Observer* commented on the issue as well, stating:

> Barclays is seen as having rather too little capital, despite raising £ 4bn in a placing.[74]

81. The market impact of these news stories would first be reflected in the price of the Series 5 Shares on Monday July 14, 2008, which is when Dr. Kleidon finds a statistically significant stock price decline.

82. The news that certain analysts believed Barclays was undercapitalized is related to Plaintiff's claims because, among other things, it reflects the market learning about how exposure to subprime assets that, according to Plaintiff, was not properly disclosed to investors were causing the market to reassess whether Barclays had adequate capital. Dr. Kleidon fails to address this claim-related news, and therefore, his analysis is incomplete. Accordingly, Dr. Kleidon provides no economic or statistical evidence that precludes this event from having caused some or all of the price decline.

83. Dr. Kleidon also identifies other events that would have impacted the market price on July 14, 2008 that he characterizes as "macroeconomic." In particular, he notes that the FDIC announced that IndyMac Bank had been closed by the Office of Thrift Supervision and placed into conservatorship by the FDIC.[75] Dr. Kleidon's dismissal of this news as "macroeconomic" and therefore completely unrelated to Plaintiff's claims is not correct. As stated by Dr. Kleidon himself, this move by the FDIC was "widely interpreted as a sign of more

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[73] "Bank Consolidation; Under the Hammer," *The Economist*, July 12, 2008.

[74] "Don't Bank on a B&B buyer," *The Observer*, July 12, 2008, 7:01 PM EST.

[75] Kleidon Report ¶25 and n.58.

failures to come."[76] So even though this news is not specific to Barclays by name, it does not preclude it from conveying relevant information to Barclays' investors about the risks associated with the Company's exposure to subprime assets, which Plaintiff alleges had been misrepresented in and omitted from the 2007 20-F and Prospectus. In fact, IndyMac's failures have been widely linked to its exposure to high-risk mortgage assets, and its seizure reflected the severity of the impact that exposure to such assets was having on banks generally.[77] Therefore, it is incorrect to dismiss this news as unrelated to Plaintiff's claims.[78]

84. Dr. Kleidon mentions that the market was also responding to a proposal by the U.S. Secretary of the Treasury, Henry Paulson, to provide Fannie Mae and Freddie Mac with unlimited funds to rescue these deteriorating mortgage lenders.[79] As with the IndyMac news, Dr. Kleidon dismisses this news as unrelated to Plaintiff's claims when in fact exposure to subprime mortgages was also causing Fannie and Freddie to experience capital shortages.[80] For the same

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[76] Kleidon Report ¶25.

[77] *See* "IndyMac ReOpens, Halts Foreclosures on Its Loans," *The Wall Street Journal,* July 15, 2008, ("IndyMac was the 10th-largest mortgage lender by loan volume in the country, according to industry newsletter Inside Mortgage Finance. It specialized in so-called Alt-A loans, a category between prime and subprime that frequently included loans in which borrowers didn't fully document their incomes or assets. Such loans, which have become known as "liars' loans" because of the frequency in which borrowers' incomes were overstated, contributed to IndyMac's financial troubles.")

[78] Notably, Dr. Kleidon highlighted the following quote from a Wall Street Journal article stating, "IndyMac is the biggest mortgage lender to go under since a fall in housing prices and surge in defaults began rippling through the economy last year – and it likely won't be the last. Banking regulators are bracing for a slew of failures over the next year as analysts say housing prices have yet to bottom out."

[79] "Rescue Plan for US Mortgage Giants," *Financial Times,* July 14, 2008, 12:34 AM EST. *See also* Kleidon Report ¶26 where Dr. Kleidon also acknowledges the news that the U.S. "stepped in to assist Fannie Mae and Freddie Mac directly" on July 14, 2008.

[80] *See* "The State of the GSEs: Not Great, Not Terrible; Answers to some of the questions facing Fannie and Freddie," *American Banker,* July 14, 2008, ("...honestly no one knows how much capital Fannie and Freddie will ultimately need to get to the other side of the mortgage crisis, because no one knows how far home values have yet to fall, how many borrowers will default, and how big the losses will be.")

reasons described above, Dr. Kleidon's conclusion that the decline in the price of the Series 5 Shares was not caused by news related to Plaintiff's claims is incorrect.[81]

85. In sum, because claim-related information was revealed on July 14, 2008, Dr. Kleidon has not proven that the statistically significant 3.33% decline in the Series 5 Shares was caused by factors unrelated to Plaintiff's claims.

B. JULY 18, 2008

86. Before the market opened on Friday, July 18, 2008, Barclays issued a press release announcing a low acceptance rate of only 19% by existing shareholders of new shares from the share offering that closed the prior day.[82] The fact that the vast majority of existing Barclays shareholders did not want to purchase additional shares at the offering price reflected the difficulty that Barclays would have in raising new capital. The market for Barclays' common stock in London reacted negatively to this news, according to numerous sources.[83] An *Investor's Circle* article also acknowledged that "…Barclays fell 2.8 per cent to 282.6p after it said less than a fifth of its existing shareholders participated in its GBP4.5bn capital-raising issue."[84] The *Evening Standard* expressed concern with the news as well, reporting that "T[wo] of Britain's

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[81] On July 14, 2008, the Series 5 Shares fell by 10.71%. After controlling for the industry index, Dr. Kleidon found a statistically significant abnormal return of -3.33%. As I have described above, there was a mix of Barclays-specific news and other events that would have impacted the price of many companies, but especially those with subprime exposure (like Barclays and other companies in the industry index). If some or all of the decline in Dr. Kleidon's control index reflects information that is related to Plaintiff's claims, then the index itself is not a proper independent "control." As I describe below, there are a number of events, including those on July 14, 2008, where use of the control index overstates the amount of price declines tied to non-claim related news.

[82] "Barclays PLC BARC Result of Placing and Open Offer," *Barclays Press Release,* July 18, 2008, 2:00 AM EST.

[83] For example, *see* "Market Comment: London Stocks Stay Down; Miners Weigh," *Dow Jones,* July 18, 2008, 8:27 AM EST and "Barclays says shareholders take up 19 percent of open offer shares UPDATE," *AFX Asia,* July 18, 2008, 3:18 AM EST.

[84] "FTSE Slips Back, Oil Declines," *Investors Chronicle,* July 18, 2008.

leading banks, HBOS and Barclays, secured a combined £8.5 billion in fresh capital today, ***but there was immediate concern that they may need to seek yet more money if the credit crunch worsens***. Barclays today said investors took up just 19% of new shares in its recent fundraising, meaning the bulk of the money will be provided by overseas funds."[85]

87. Dr. Kleidon concedes that news of the low acceptance rate entered the market on July 18, 2008, but claims that because the offering "had been publicly known no later than June 25," it could not have been related to any misrepresentations alleged by Plaintiff.[86] However, while the offering itself was not new information, Barclays' inability to raise capital from a large fraction of existing shareholders was new and, in any event, related to Plaintiff's claims. The need to resort to more expensive capital sources such as overseas funds reflects the market learning about the financial impact of and the risks associated with, Barclays' exposure to subprime assets (including Alt-A, CDOs, RMBS), and how Barclays' exposure to subprime assets and monoline insurers was impacting the Company's capital position and its ability to raise new capital. Dr. Kleidon cannot and does not prove that these events did not cause, at least in part, the statistically significant 5.14% price decline in the Series 5 Shares on July 18, 2008.

C. JANUARY 21, 2009

88. On January 21, 2009, there was substantial coverage of the potential that Barclays would take further write-downs and might face nationalization by the U.K. government as a result of its exposure to the subprime assets and deteriorating capital positions, which conditions

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[85] "Bank Pair Raise £8bn – But May Need More; BANKING," *The Evening Standard,* July 18, 2008.

[86] Kleidon Report ¶63.

the Complaint allege were misrepresented in and omitted from the 2007 20-F and Prospectus.[87]

For example, *The Irish Examiner* reported:

> Barclays and Lloyds Banking Group suffered more heavy losses today as the bloodbath in the banking sector showed no signs of easing. The pair fell 20% and 11% respectively as fears of nationalisation and further credit write-downs continued to cloud sentiment towards the industry.[88]

89. *Dow Jones* reported:

> Shares of Barclays PLC (BCS) fell heavily in early trade Wednesday, after a newspaper report said that the U.K. bank was under intense pressure to bring forward its full-year results. At 0855 GMT, the stock had fallen 27% to 54 pence, its lowest level for over 20 years. . . .The Independent newspaper said Barclays was under pressure to bring forward its full-year results after a profit forecast last week failed to prevent further big falls in the bank's share price. The report said investors are understood to have contacted the bank and urged it to announce audited results, due Feb. 17, as soon as possible to ease fears about credit market write-downs at the Barclays Capital investment bank.[89]

90. The *Irish Times* stated:

> Doubts over the latest bailout package saw banking shares hammered once again yesterday as fears grew over a wholesale nationalisation of the industry.
>
> …
>
> **Amid the deepening crisis in the sector, the insistence by Barclays that it has no need of government help is becoming increasingly perplexing**. The bank has repeatedly said in recent days that it is on course to exceed consensus forecasts of £5.3 billion for 2008, down from just over £7 billion the previous year, indicating that there are no more toxic shocks to come. It seems extraordinary that Barclays alone should be in much better shape than the rest of the industry, although it had a narrow escape when RBS outbid it in the disastrous auction for ABN

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[87] Dr. Kleidon acknowledges news regarding fear of nationalization entered the market this day, *see* Kleidon Report ¶91.

[88] "Banking Shares Suffer in London," *The Irish Examiner*, January 21, 2009, 6:57 AM EST.

[89] "Barclays, Lloyds Shares Tumble Again on Results Fears," *Dow Jones,* January 21, 2009, 4:01 AM EST.

> Amro. The loans it has on its books must surely be as toxic as those of its peers. Its shares crashed by 25 per cent on Friday, lost another 10 per cent on Monday and ended last night a further 17 per cent down at just 69p – their lowest level in more than 17 years. At this level, the bank is valued at a mere £6 billion. **Some analysts fear that the Barclays board may be in denial after the traumatic events of recent weeks and the bombed-out share price is certainly saying that more writedowns must be on the way.**[90]

91. The release of news stories related to the fear of nationalization and potential additional write-downs reflects the market learning about the financial impact of Barclays' exposure to subprime assets (including Alt-A, CDOs, RMBS) and how Barclays' exposure to subprime assets and monoline insurers was negatively impacting its capital position.

92. Dr. Kleidon opines that this news is unrelated to Plaintiff's claims because Barclays was never actually nationalized.[91] This is a ***post hoc*** explanation that fails. First, Dr. Kleidon does not dispute that the fears of nationalization were at least partially responsible for the price decline. Such fears were driven by Barclays' depleted capital position and exposure to subprime assets, which the Complaint alleges were misrepresented in and omitted from the 2007 20-F and the Prospectus. Put differently, the threat of nationalization was driven by fears that Barclays' ***capital position*** was not sufficient to withstand further losses ***on its subprime positions.*** Investors suffered ***actual losses*** on this day, and Dr. Kleidon has not proved that these losses were not caused by expectations of nationalization on this day, which are related to Plaintiff's claims. The fact that Barclays was ultimately not nationalized is irrelevant to attributing the cause of the price decline on this day.

93. Beyond that, however, Dr. Kleidon ignores the news regarding heightened expectations that Barclays would have to take additional write-downs as a result of its subprime

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[90] "Successful or Not, the Price of Bailout Could Be Too High," *The Irish Times,* January 21, 2009.

[91] Kleidon Report, ¶91.

portfolio ***which did transpire***. Since Dr. Kleidon provides no proof that this event did not cause some or all of the price decline in the Series 5 Shares, he has not established that this price decline was caused by factors unrelated to Plaintiff's claims.

D. JANUARY 23, 2009

94. On January 23, 2009, Barclays fell on widespread reporting of mounting fears that the company would require additional capital or would be forced to nationalize. For example, *Reuters* reported:

> …Barclays remained the focal point of investor unease. Its shares fell 14 percent to 50.6 pence, tumbling for a ninth straight day as concern mounted the bank may require further capital or be nationalized.[92]

95. The *Evening Standard* reported:

> The bank's stock fell for the ninth day running, losing nearly 18%, or 10.4p, at 48.8p. The fall came despite an interview last night with Varley in which he declared his confidence that Monday's government bailout plan would work. However, he said there was nothing he could do to stop the rot in Barclays' shares, which have lost more than two thirds since 12 January amid fears that it would need to tap the government for more cash or possibly even be nationalised.[93]

96. And the *Guardian* wrote:

> Barclays is set for its ninth consecutive day of falls with City traders refusing to believe management's protestations that the bank, which has seen its shares plunge more than 70% since last week, does not need a cash injection or full-scale nationalisation.[94]

97. These declines took place despite Barclays' then CEO, Defendant Varley, attempting to calm investors' fears of additional write-downs and nationalization by announcing

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[92] "WRAPUP 1-Banks on back foot; state help fails to lift gloom," *Reuters*, January 23, 2009.

[93] "Barclays Plunges Amid New Worries Over Bailouts Bill; Economy by Bill Condie," *The Evening Standard*, January 23, 2009.

[94] "Barclays Shares Plunge 15%," *The Guardian,* January 23, 2009.

that the company would report a 2008 profit even after reporting additional write-downs on its toxic credit assets.[95]

98. The news published on this day is related to Plaintiffs' claims because it reflects the financial impact of the exposure to subprime assets (including Alt-A, CDOs, RMBS) and how Barclays' exposure to sub-prime assets and monoline insurers was impacting the company's capital. Dr. Kleidon cannot exclude this information as causing the statistically significant abnormal return in the Series 5 shares on January 23, 2009.

99. As with January 21, 2009, Dr. Kleidon relies upon the fact that nationalization did not occur (which is irrelevant) and ignores the general discussion about inadequate capital which was required. Therefore, for the same reasons discussed above, Dr. Kleidon has not proven that this statistically significant price decline was caused by factors unrelated to Plaintiff's claims.

E. MARCH 9, 2009

100. On March 9, 2009, there was reporting that Barclays might enter into a deal with the U.K. for insurance on its toxic assets. Early in the morning, news broke that Lloyds Banking Group reached a deal with the U.K. that "could lift the government's stake in the bank to 77%."[96] Lloyd's stock decreased with this news, as did stocks of several other U.K. banks. *Dow Jones* reported:

> The announcement also weighted heavily on Barclays, which has reportedly considered seeking government insurance on some assets. Shares in Barclays dropped around 12%.[97]

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[95] "Barclays CEO: Will Make 08 Profit After Write-Downs – Report," *Dow Jones,* January 23, 2009, 2:07 AM EST. *See also* Kleidon Report ¶92.

[96] "Lloyds Banking Shares Drop After Scheme Lifts Govt Stake," *Dow Jones*, March 9, 2009, 4:42 AM EST.

[97] "UPDATE: Lloyds Shares Drop As Government Stake Increases," *Dow Jones*, March 9, 2009, 11:05 AM EST.

101. In addition, a fund manager at Baring Asset Management stated, ''there is still concern out there about the valuation of some of Barclays' assets. Barclays indicated it may participate, but negotiating the terms is very difficult.''[98] Some analysts valued the toxic assets to be insured at £60 billion.[99]

102. There was also other news on this day that predicted increased write-downs of Barclays' assets:

> Sandy Chen, an analyst at Panmure Gordon, had estimated a write-down of £5.8 billion (USD8.174 billion) as a result of Barclays' growing exposure to derivatives due to the fact that the fair value of some collateralized debt obligations plunged after rating agencies downgraded them.[100]

103. Dr. Kleidon states that news on this day is not related to Plaintiff's claims because "this speculation proved to be wrong, as Barclays did not accept any UK government insurance for any of its assets."[101] In other words, Dr. Kleidon does not argue in principle that this news is unrelated to the Plaintiff's claims, just that the expectation did not occur in the future.

104. Dr. Kleidon does not dispute that the fears of government intervention were at least partially responsible for the price decline in the Series 5 Shares. Such fears were driven by Barclays' depleted capital position and its exposure to subprime assets, which Plaintiff alleges were misrepresented in and omitted from the 2007 20-F and the Prospectus. Investors suffered ***actual losses*** on this day, and Dr. Kleidon has not proved that these losses were not caused by

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[98] "Pressure Rises on Banks to Participate in U.K. Bailout," *The International Herald Tribune*, March 7, 2009.

[99] "Morning Market: Malaise in Banking Sector Casts Early Shadow," *Citywire*, March 9, 2009 ("Barclays decline 6p to 59p following weekend reports that it is looking to place toxic assets worth up to £60 billion into a government insurance scheme…"). *See also* "Banks Dive after Lloyds Nationalised," *The Evening Standard*, March 9, 2009 ("Speculation over how much of its toxic assets Barclays could try to have guaranteed range from £50 billion to £80 billion, but some analysts say this would be far too little.")

[100] "Barclays Loses 25% Value on Toxic-Debt Prediction," *Derivatives Week*, March 9, 2009.

[101] Kleidon Report ¶102.

expectations of nationalization on this day, which are related to Plaintiff's claims. The fact that Barclays was ultimately not nationalized is irrelevant to attributing the cause of the price decline on this day. Beyond that, however, Dr. Kleidon completely ignores the news regarding heightened expectations that Barclays would have to take additional write-downs as a result of its subprime portfolio ***which did transpire***. Since Dr. Kleidon provides no proof that this event did not cause some or all of the price decline in the Series 5 Shares, he has not established that this statistically significant price decline on March 9, 2009 was caused by factors unrelated to Plaintiff's claims.

VII. DR. KLEIDON'S EVENT STUDY IS FUNDAMENTALLY FLAWED AND CANNOT BE RELIED UPON

105. All of the analysis above has assumed that Dr. Kleidon's event study is reliable. However, his event study analysis suffers from methodological flaws rendering it unreliable. In particular:

a. Dr. Kleidon's approach mis-measures the volatility of the Series 5 Shares during his Analysis Period and systematically mis-identifies which days have statistically significant returns; and

b. At least on certain days, downward movements in Dr. Kleidon's Preferred Stock Index during the relevant period reflect, among other things, the market learning how exposure to subprime assets was affecting the market value of preferred stocks. As a result, movements in the "control" index on those days cannot be considered a proper "control" to isolate declines in the Series 5 Shares that are independent of Plaintiff's claims.

A. DR. KLEIDON MIS-SPECIFIES THE DEGREE OF RANDOMNESS IN THE SERIES 5 PRICE MOVEMENTS AND AS A RESULT SYSTEMICALLY MIS-IDENTIFIES SIGNIFICANT PRICE MOVEMENTS

106. Even if I were to accept the use of Dr. Kleidon's Preferred Stock Index as an appropriate control factor, Dr. Kleidon's event study systematically mis-measures the volatility, or degree of randomness in the price movements of the Series 5 Shares during the Analysis Period. This problem is observable in both his underlying assumptions and the ultimate results.

107. Exhibit 8 of Dr. Kleidon's report shows his regression results and makes explicit how he models the random component in the Series 5 Shares. In that exhibit, Dr. Kleidon has a row titled the Root Mean Squared Error ("RMSE"). This figure is critically important because it is used as the denominator to calculate the "t-statistic" in his tests for statistical significance (the threshold for statistical significance under Dr. Kleidon's approach is a t-statistic larger than 1.96).[102]

108. The formula for calculating a t-statistic on a given trading day is:

$$\boldsymbol{t-statistic}\,\frac{\text{change in price after controlling for market effects }(i.e.,\boldsymbol{abnormal\ return})}{\text{standard deviation of errors from regression }(i.e.,\boldsymbol{root\ mean\ squared\ error})}$$

109. If the RMSE is too high, Dr. Kleidon is underestimating his t-statistic, and if the RMSE is too low, Dr. Kleidon is overestimating his t-statistic.

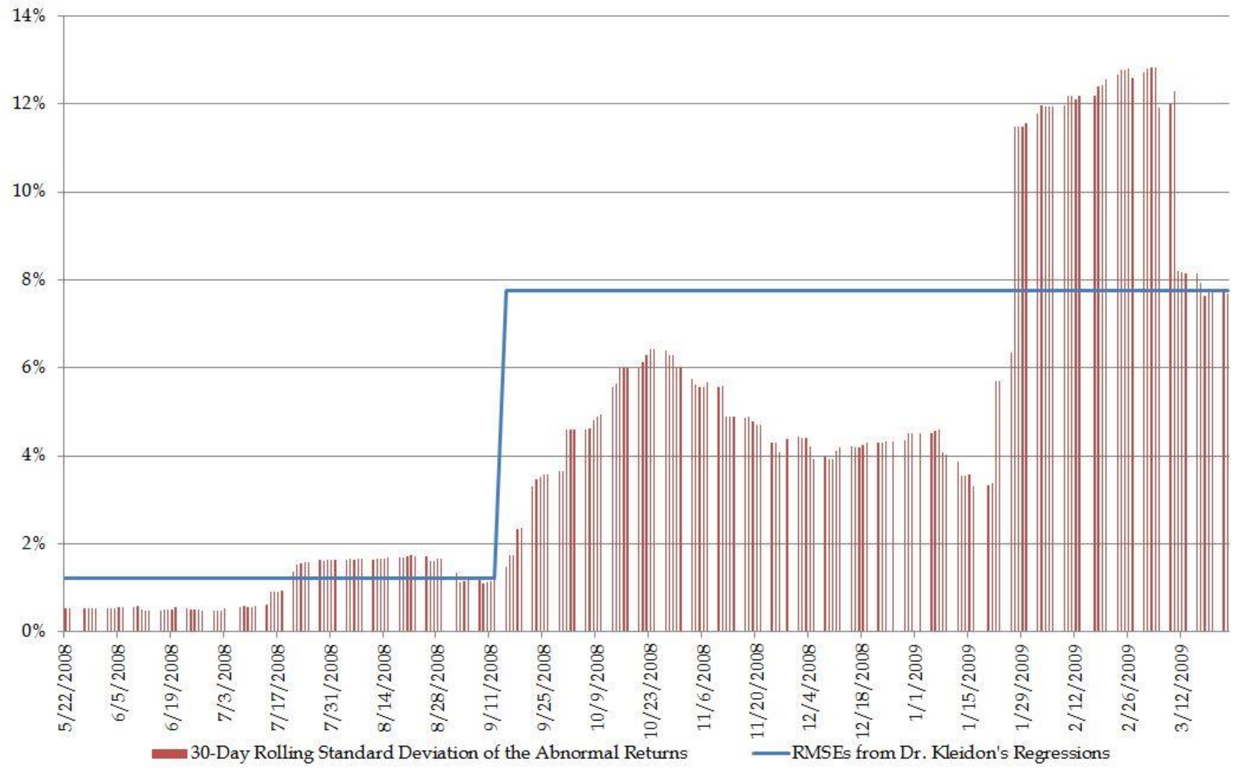
110. Returning to Exhibit 8 of Dr. Kleidon's Report, his methodology implies that the proper RMSE to use on every single day prior to September 15, 2008 is 1.21% of the Series 5

[102] Kleidon Report ¶44 citing *Reference Manual on Scientific Evidence* (David H. Kaye and David A. Freedman, "Reference Guide on Statistics," *Reference Manual on Scientific Evidence*, 3rd ed., Federal Judicial Center (Washington, DC: The National Academies Press, 2011)).

Share price and the proper RMSE to use on September 15, 2008 and after is 7.77% of the Series 5 Share price.

111. To be considered statistically significant at the 95% confidence level, an abnormal return must be 1.96 times as large as the RMSE (because to calculate the t-statistic one divides the abnormal return by the RMSE). Thus, Dr. Kleidon's methodology assumes that the abnormal return required for statistical significance increases substantially from a constant **2.37%** (1.96 times Kleidon's RMSE of 1.21%) in the first period to a constant **15.23%** (1.96 times Kleidon's RMSE of 7.77%) in the second period beginning on September 15, 2008.

112. Such an assumption is inconsistent with how volatility actually evolved over time, and this leads to systematic errors in Dr. Kleidon's assessment of statistical significance. One way to appreciate this is to deconstruct how Dr. Kleidon's own abnormal returns show a pattern over time that he does not capture in his analysis. To see if Dr. Kleidon's assumption of constant RMSE within each of these periods is appropriate, I calculate a moving average of the standard deviation of abnormal returns over the most recent 30 day trading window as shown in the chart below:



Source: Kleidon Backup Materials.

113. The pattern here is telling – there is not one discrete jump in volatility over Dr. Kleidon's analysis period as he suggests. There are increases and decreases in volatility around a generally increasing trend. This critical fact is completely ignored by Dr. Kleidon and not reflected in Dr. Kleidon's calculations. As a result, his RMSE is systematically too high very early in the Analysis Period (the blue horizontal line is consistently and substantially above the red bars). Likewise, in the second half of the first period, there is a sustained period where he understates the volatility (the red bars are consistently above the blue line).

114. This pattern is repeated in the post September 15, 2008 period. For the majority of the second period, Dr. Kleidon overstates the actual volatility (the blue line is substantially and consistently above the red bars). And for the very end of the Analysis Period he understates the volatility (the red bars are higher than the blue line).

115. The charts above rely solely on ***Dr. Kleidon's own abnormal returns that constitute his RMSE***. In other words, I have not altered his model at all; I am just showing that Dr. Kleidon's own abnormal returns belie his assumption of constant volatility within each period.[103]

116. The obviousness and importance of this error are apparent when one observes the proportion of days that he finds statistically significant over these different periods of time. In a properly specified event study, one would expect to observe statistically significant price movements 5% of the time due to randomness alone (this is because by choosing a 95% confidence interval one would expect to make a Type I error 5% of the time).[104] If there are also events that cause the price to move (such as company-related news), one would expect to see even more than 5% of the days statistically significant.

117. The table below shows that in the first portion of Dr. Kleidon's estimation windows (where he systematically overstates volatility) there are far less than the expected number of statistically significant days than would occur by chance (Periods 1a and 2a in the table below). Conversely, when he is understating volatility (in Periods 1b and 2b) the rate at which he observes statistically significant results is over 6 times as high:

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[103] This problem is more technically referred to as having heteroscedastic errors. *See* Damodar N. Gujarati, *Basic Econometrics* (3d ed. 1995), pp. 436-438.

[104] S*ee* Robert D. Mason, Douglas A. Lind and William G. Marchal, "The Normal Probability Distribution," Ch. 7 in *Statistical Techniques in Business and Economics*, Irwin/McGraw-Hill, Tenth Edition, 1999. Also, from David I. Tabak and Frederick C. Dunbar, "Materiality and Magnitude: Event Studies in the Courtroom," Ch. 19, *Litigation Services Handbook, The Role of the Financial Expert*, Third Edition, 2001, p. 9: "…if an event is material at the 5 percent level, this means that there is only a 5 percent likelihood that the abnormal return (or the stock price movement once one controls for market, industry, and other effects) could have been caused by the stock's normal random price fluctuations. Alternatively, we can say that we are 95 percent confident that the abnormal return is greater than what would be expected based on the stock's normal random price fluctuations."

Significant Days throughout the Analysis Period According to Dr. Kleidon's Event Study

	Analysis Period 1		Analysis Period 2	
	Period 1a	Period 1b	Period 2a	Period 2b
	4/11/2008 - 7/17/2008	7/18/2008 - 9/14/2008	9/15/2008 - 1/20/2009	1/21/2009 - 3/24/2009
Number of Statistically Significant Price Movements	1	4	1	4
Total Trading Days in this Period	68	40	88	44
Percentage of Days Significant	1.47%	10.00%	1.14%	9.09%

118. As a result, Dr. Kleidon's identification of which events are statistically significant is unreliable.

119. Dr. Kleidon erroneously assumes that within each of his periods the variance of the abnormal returns is constant and equal to the mean variance. Where, as here, the time series data suggest that the mean of a relevant metric is not constant, one well-accepted technique to address this volatility is to calculate a moving average.[105] Accordingly, a reasonable and simple approach to improving the accuracy of Dr. Kleidon's t-statistics is to calculate the RMSE over 30 day trailing windows rather than relying on an average value over a much longer window that necessarily incorporates the impact of ***future*** events. This allows for the assumed volatility to update ***over time*** according to the data observed over the most recent 30 trading day period, which is more consistent with the volatility that would be expected by the market at any given time. If I replace Dr. Kleidon's volatility with a 30-day moving average estimate of volatility, it results in a more consistent and plausible distribution of significant events:

[105] See Philippe Jorion, Value at Risk, *The New Benchmark for Controlling Derivatives Risk*, McGraw Hill, 1997, p.168 ("A very crude method, but employed widely, is to use a *moving window*, of fixed length, to estimate volatility. For instance, a typical length is 20 trading days (about a calendar month) or 60 trading days (about a calendar quarter. …Each day, the forecast is updated by adding information from the preceding day and dropping information from (M+1) days ago)." (emphasis in the original).

Significant Days throughout the Analysis Period According to Dr. Kleidon's Event Study

	Analysis Period 1		Analysis Period 2	
	Period 1a	Period 1b	Period 2a	Period 2b
	4/11/2008 - 7/17/2008	7/18/2008 - 9/14/2008	9/15/2008 - 1/20/2009	1/21/2009 - 3/24/2009
Number of Statistically Significant Price Movements	7	4	9	3
Total Trading Days in this Period	68	40	88	44
Percent of Days Significant	10.29%	10.00%	10.23%	6.82%

120. The abnormal price movement on October 10, 2008 provides an example of how this is an important improvement and why Dr. Kleidon's event study cannot be relied upon to test for statistical significance.

121. On this day, the Series 5 Shares price dropped by 21.21% with an abnormal return of -14.80% (an abnormal dollar decline of $1.71) according to Dr. Kleidon's model.[106] Nevertheless, Dr. Kleidon did not find this event to be statistically significant because his RMSE was too large (i.e. it overstated the volatility on that day). If the statistical test is performed with the more reasonable estimate of volatility observed over a narrower 30 day window prior to the event as, it is significant with a t-statistic of -3.00 (well above the threshold of 1.96).

122. This difference in finding statistical significance is important because there is news related to Plaintiff's claims on this day. At 5:07 AM EST on the morning of October 10, 2008, Barclays issued a press release stating that the bank was considering a variety of options to increase its Tier 1 Capital before resorting to the use of Government rescue funds recently made available to it.[107] Moreover, Barclays stated it was considering looking to investors for more

[106] Kleidon Report Exhibit 9.

[107] "Barclays PLC Further Comment on UK Government Announcement," *Regulatory News Service,* October 10, 2008.

capital raising to improve its finances.[108] Analysts at Credit Suisse commented that "Barclays may need to raise £5 billion to sufficiently bolster its balance sheet."[109] The *Sun* claimed that on this news, Barclays' common stock in London "led blue-chip fallers amid speculation of possible capital-raising and further write-downs."[110]

123. Dr. Kleidon only chose to analyze news on days with statistically significant returns unless they were mentioned in the Complaint. Therefore, this day provides a perfect example of how Dr. Kleidon's flawed event study methodology: (1) led him to the wrong conclusion about statistical significance, which (2) led him to not look at the news (because he relied on the Complaint), and (3) led him to ignore a day on which there were observed abnormal price declines associated with news related to Plaintiff's allegations. Such a pattern is emblematic of how Dr. Kleidon's blanket opinion that "The price declines during the Analysis Period are not attributable in whole or in part to any of the alleged misrepresentations" is unreliable.[111]

B. DECLINES IN DR. KLEIDON'S PREFERRED STOCK INDEX ARE NOT NECESSARILY INDEPENDENT OF PLAINTIFF'S CLAIMS

124. Information that reveals the impact of Barclays' subprime and monoline exposure, and is therefore related to Plaintiff's claims, could also affect other preferred stocks, including those in Dr. Kleidon's Preferred Stock Index. Recall, the types of events that were related to Plaintiff's claims include:

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[108] "Barclays Looking at Options to Boost Finances," *Press Association*, October 10, 2008.

[109] "Barclays Looking at Options to Boost Finances," *Press Association*, October 10, 2008.

[110] "Market Report," *The Sun*, October 10, 2008.

[111] Kleidon Report, ¶5.

- Additional write-downs or other events that provide investors additional information about the financial impact of and risk of exposure to credit market and subprime assets (including Alt-A, CDOs, RMBS) and to monoline insurers;
- Events that provide additional information regarding Barclays' capital adequacy.

125. For example, the failure of IndyMac Bank as a result of its exposure to toxic subprime assets provided relevant information to Series 5 Shareholders regarding the severity of losses being experienced by institutions with exposure to subprime assets. Therefore, this event can be viewed as revealing the financial impact of Barclays' exposure to subprime assets that was allegedly misrepresented in and omitted from the Prospectus and 2007 20-F. While this information was important to Barclays investors (the Series 5 Shares declined by 10.7% on July 14, 2008 when the event occurred) , it was also important information for investors throughout the banking industry where many other firms also had exposure to subprime assets.

126. Closer inspection of Dr. Kleidon's Preferred Stock Index reveals that Wells Fargo, Citigroup, JP Morgan Chase, Bank of America, Wachovia, Morgan Stanley, HSBC, Deutsche Bank and Royal Bank of Scotland make up 22 of the 54 securities in the Index, including eight out of the top 10 most highly weighted securities.[112] All of these banks, like Barclays, had substantial write downs as a result of exposure to subprime assets during the relevant period.[113] Therefore, securities of these institutions would also negatively react to information (like the failure of IndyMac) that informed Series 5 Shareholders of the severity of losses being suffered by firms with exposure to subprime assets.

127. The problem this creates for Dr. Kleidon's methodology is that when a "control" variable is not independent of the effect to be measured, it is no longer a proper control. The

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[112] Kleidon Report Exhibit 6.

[113] Bloomberg Summary of Writedown Function ("WDCI").

whole purpose of including any explanatory variable (*e.g*. the Preferred Stock Index) in the calculation of the expected return on any given day is to explain the part of the variation in the dependent variable (the return of Barclays Series 5 Shares) ***unrelated*** to the misstatements. In this particular circumstance, where there is information relevant to Plaintiff's claims that is impacting both Barclays and the Preferred Stock Index, Dr. Kleidon's methodology treats the decline in the Preferred Stock Index as an "independent" factor that is considered part of the "expected return" and ***excluded*** from the residual return. As a result, he is biasing his measurement of the effect of the relevant information on the Series 5 Shares.

128. Returning to the IndyMac example, on July 14, 2008, when Barclays fell 10.7%, Dr. Kleidon calculates an "expected" return of -7.4% based on the decline in the Preferred Stock Index and only treats the -3.3% abnormal return as reflecting the impact of the news on the Series 5 Shares. In this particular case, since the information impacting the Preferred Stock Index is not independent of Plaintiff's claims, Dr. Kleidon cannot treat the expected return as economic or statistical proof of an alternative cause for the 7.4% portion of the 10.7% decline in the Series 5 Shares.

129. One additional example of when Dr. Kleidon's use of the Preferred Stock Index as a "control" is inappropriate is on January 20, 2009. I previously addressed this particular day in a prior section because Dr. Kleidon ignored the 2.24% abnormal price decline despite the release of news related to Plaintiff's claims (i.e., commentary suggesting that Barclays may face nationalization by the U.K. government). By controlling for an index of preferred stocks, however, Dr. Kleidon masks a severe 17.36% price decline suffered by investors in Barclays that accompanied news related to Plaintiff's claims. Dr. Kleidon assumes that, because over 15% of

the Series 5 Price decline can be "explained" by the movement in his Preferred Stock Index, this 15% is due to alternative causes unrelated to Plaintiff's claims. Such is not the case.

130. Expectations regarding nationalization that are related to Plaintiff's claims would also impact the preferred stocks of other banks in the index. In particular, there were news stories on this day tying the drop in many bank stocks to the same news related to the decline in the Series 5 Shares. For instance, *MarketWatch* reported that the U.S. financial stocks matched their largest one day drop ever "as investors panicked at the likelihood that there is no end in sight for the sector's need for capital, and no easy way to raise it."[114]

131. *Reuters*, meanwhile, published an article that day that also indicated that the security price declines banks in the U.S. and U.K. were due to capital concerns and a lack of trust regarding whether banks had properly taken marks against their balance sheets. In particular the article stated:

> U.S. bank shares sank Tuesday, with Citigroup Inc and Bank of America Corp hitting their lowest levels since the early 1990s as investors, seeing no quick end to losses from toxic assets, worried that many banks are running short of capital. The KBW Bank Index of leading commercial banks dropped nearly 20 percent to a 14-year low, tumbling almost 43 percent this month alone. Confidence in the banking sector was further rattled after State Street Corp said it could need to raise capital and reported a 71 percent drop in fourth-quarter profit on Tuesday, a day after Royal Bank of Scotland Group Plc posted the biggest loss in U.K. corporate history. The rout was widespread, with shares of regional bank PNC Financial Services Group declining 41 percent and even relative islands of safety like JPMorgan Chase & Co dropping 21 percent. Investors were worried that the U.S. economy was worsening and that banks may not be able to withstand more credit losses without government help, further diluting shareholder interests. 'The market doesn't trust that banks have properly marked their balance sheets and their loan portfolios. The sense is there are further marks to come, that

[114] "Banks Battered as Sector Matches Worst Day Ever," *MarketWatch,* January 20, 2009, 4:21 PM EST.

> tangible book is not as it is stated today,' said Robert Patten, a bank analyst for Morgan Keegan.[115]

132. These are just a few examples of the substantial amount of news reported on this day regarding bank declines which affected members of Dr. Kleidon's Preferred Stock Index. Indeed, several of the firms singled out above were members of his index (*e.g.* Citigroup, Wells Fargo, JP Morgan Chase, Bank of America, and Royal Bank of Scotland).

133. In this particular circumstance, where there is information relevant to Plaintiff's claims that is impacting both Barclays and the Preferred Stock Index, Dr. Kleidon's methodology inappropriately treats the decline in the Preferred Stock Index as an "independent" factor that is considered part of the "expected return" and ***excluded*** from the residual return. As a result, he is biasing his measurement of the effect of the relevant information on the Series 5 Shares.

134. In sum, on events where the Preferred Stock Index cannot be separated from Plaintiff's claims and the index does not represent a proper independent control, Dr. Kleidon has insufficient economic or statistical evidence to establish that the full price decline was caused by something other than information related to Plaintiff's claims.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

RESPECTFULLY SUBMITTED AND EXECUTED THIS 2nd DAY OF FEBRUARY 2016.

Chad Coffman

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[115] "WRAPUP 3-U.S. bank shares sink as investors fear more losses," *Reuters*, January 20, 2009, 9:26 AM EST.

Appendix A
Documents Considered

<u>Court Documents</u>

- Class Action Complaint for Violation of the Federal Securities Laws, *Pellegrini, et al. v. Barclays Bank Plc, et al.*, dated April 8, 2009.
- Second Consolidated Amended Complaint for Violations of the Federal Securities Laws, *In Re Barclays Bank Plc Securities Litigation*, dated September 16, 2013.
- Lead Plaintiffs' Responses and Objections to the Barclays' Defendants First Set of Interrogatories, dated November 16, 2015.
- Expert Report of Chad Coffman, CFA, dated December 15, 2015.
- Expert Report of Allan W. Kleidon, Ph. D., dated December 15, 2015.

<u>Court Decisions and Securities Law</u>

- Securities Act of 1933.
- Securities Exchange Act of 1934.

<u>SEC Filings/Forms</u>

- Barclays Bank PLC Series 5 Prospectus Form 424(b)(5), filed April 9, 2008.
- Barclays 2007 20-F.

<u>Security Data</u>

- Historical data for Barclays 5 Preferred Shares were obtained from Bloomberg.
- Data produced in connection with the Expert Report of Chad Coffman, CFA, dated December 15, 2015.
- Data produced in connection with the Expert Report of Allan W. Kleidon, Ph. D., dated December 15, 2015.

<u>News Articles</u>

Barclays news based on Factiva searches for "All Sources" with the text field "Barclays" as well as news referenced in the Kleidon Report. Articles include, but not limited to, the following:

- "Reader Survey: Banks Could Be Set for Second Round of Rights Issues," *Citywire,* July 11, 2008, 8:00 PM EST.
- "Don't Bank on a B&B buyer," *The Observer*, July 12, 2008, 7:01 PM EST.

- "Bank Consolidation: Under the Hammer," *The Economist*, July 12, 2008.
- "Rescue Plan for US Mortgage Giants," *Financial Times,* July 14, 2008, 12:34 AM EST.
- "The State of the GSEs: Not Great, Not Terrible; Answers to some of the questions facing Fannie and Freddie," *American Banker,* July 14, 2008.
- "IndyMac ReOpens, Halts Foreclosures on Its Loans," *The Wall Street Journal,* July 15, 2008.
- "Barclays PLC BARC Result of Placing and Open Offer," *Barclays Press Release*, July 18, 2008, 2:00 AM EST.
- "Barclays says shareholders take up 19 percent of open offer shares UPDATE," *AFX Asia,* July 18, 2008, 3:18 AM EST.
- "Market Comment: London Stocks Stay Down; Miners Weigh," *Dow Jones,* July 18, 2008, 8:27 AM EST.
- "FTSE Slips Back, Oil Declines," *Investors Chronicle,* July 18, 2008.
- "Bank Pair Raise £8bn – But May Need More; BANKING," *The Evening Standard,* July 18, 2008.
- "Oil and Copper Burnish FTSE," *The Guardian,* August 14, 2008, 5:55 AM EST.
- "UPDATE 1-Barclays May Write Down 1.5 Bln Stg More, says Goldman," *AFX Asia,* August 14, 2008, 6:43 AM EST.
- "Market Report," *Press Association,* August 14, 2008, 1:15 PM EST.
- "UK Summary: FTSE To Shed 75 Points On Econ Slowdown Fears," *Dow Jones,* September 3, 2008, 3:00 AM EST.
- "STOCKS NEWS EUROPE-ROK higher as Landsbanki initiates as buy," *Reuters*, September 3, 2008, 4:14 AM EST.
- "London Shares Fall as Miners, Banks Weigh; Punch Taverns Drops After Scrapping Dividend Payout," *MarketWatch,* September 3, 2008, 12:12 PM EST.
- "U.K. to Inject about $87 Billion in Country's Banks (Update1)," *Bloomberg*, October 8, 2008, 2:48 AM EST.
- "Rescue Plan for UK Banks Unveiled," *BBC News,* October 8, 2008, 11:58 AM EST.
- "Government Bailout Provides Little Relief for Stock Market," *Estates Gazette Interactive,* October 8, 2008.
- "Bank Shares Rocked as Nationalisation Rumours Rampage Through Markets," *The Times,* October 8, 2008.
- "U.K. Stocks Fall Despite New Bank-Rescue Effort; Government Says It Will Buy Stakes in Banks and Guarantee Debts; Other Countries May Look to British Model," *The Wall Street Journal,* October 9, 2008.
- "U.S. Stocks Linger in the Red," *The Wall Street Journal,* October 9, 2008.
- "Barclays PLC Further Comment on UK Government Announcement," *Regulatory News Service,* October 10, 2008 5:07 AM EST.

- "Barclays Looking at Options to Boost Finances," *Press Association*, October 10, 2008, 5:29 AM EST.
- "Market Report," *The Sun*, October 10, 2008.
- "Sector Surrenders Early Gains, S&P Cuts Hit," *MarketWatch*, December 19, 2008, 10:36 AM EST.
- "S&P: Barclays Bank PLC L-T Rating Lowered To 'AA-'; 'A-1+' S-T Rating Affirmed; Outlook Negative," *Market News Publishing*, December 19, 2008.
- "Barclays May Sell Private Equity Arm," *Press Association*, December 21, 2008, 7:45 AM EST.
- "Barclays Looks to Sell Private Equity Empire; Billions of Vital Capital Could be Raised in Buyout," *The Mail on Sunday*, December 21, 2008.
- "Barclays to Review Future of Private Equity Arm," *The Sunday Telegraph*, December 21, 2008.
- "Barclays Fightback Fails to Ease Fears of Taxpayer Rescue," *The Evening Standard*, January 19, 2009.
- "Banks Battered as Sector Matches Worst Day Ever," *MarketWatch*, January 20, 2009, 4:21 PM EST.
- "WRAPUP 3-U.S. bank shares sink as investors fear more losses," *Reuters*, January 20, 2009, 9:26 AM.
- Barclays, Lloyds Shares Tumble Again on Results Fears," *Dow Jones*, January 21, 2009, 4:01 AM EST.
- "Banking Shares Suffer in London," *The Irish Examiner*, January 21, 2009, 6:57 AM EST.
- "Successful or Not, the Price of Bailout Could Be Too High," *The Irish Times,* January 21, 2009.
- "Barclays CEO: Will Make 08 Profit After Write-Downs – Report," *Dow Jones,* January 23, 2009, 2:07 AM EST.
- "WRAPUP 1-Banks on back foot; state help fails to lift gloom," *Reuters*, January 23, 2009.
- "Barclays Plunges Amid New Worries Over Bailouts Bill; Economy by Bill Condie," *The Evening Standard*, January 23, 2009.
- "Barclays Shares Plunge 15%," *The Guardian*, January 23, 2009.
- "TEXT-Moody's Downgrades Barclays to Aa3," *Reuters,* February 1, 2009, 7:29 PM EST.
- "UPDATE 1-Moody's Cuts Barclays' Ratings on Loss Expectations," *Reuters*, February 1, 2009, 9:15 PM EST.
- "Moody's Downgrades Barclays Bank (Senior to Aa3/Stable, BFSR to C/Negative)," *Moody's Investor Service Press Release,* February 1, 2009.
- "Bank Bosses Face Grilling by MPs," *The Guardian*, February 2, 2009.

- “Barclays Slips Back on Downgrade,” *The Guardian*, February 2, 2009.
- “BarCap to Close US Residential Mortgage Unit EquiFirst,” *Dow Jones*, February 17, 2009.
- “Pressure Rises on Banks to Participate in U.K. Bailout,” *The International Herald Tribune*, March 7, 2009.
- “Lloyds Banking Shares Drop After Scheme Lifts Govt Stake,” *Dow Jones*, March 9, 2009, 4:42 AM EST.
- “UPDATE: Lloyds Shares Drop As Government Stake Increases,” *Dow Jones*, March 9, 2009, 11:05 AM EST.
- “Morning Market: Malaise in Banking Sector Casts Early Shadow,” *Citywire*, March 9, 2009.
- “Barclays Loses 25% Value on Toxic-Debt Prediction,” *Derivatives Week*, March 9, 2009.
- What a Million Syllabuses Can Teach Us,” *The New York Times*, January 22, 2016.

Analyst Reports

Analyst reports obtained through Investext for the period January 2008 through December 2009 as well as reports referenced in the Kleidon Report. Analyst reports include, but not limited to, the following:

- “Some of the Parts,” *RBS*, September 3, 2008.
- “Barclays PLC-A Stay of Execution,” *MF Global,* January 20, 2009.

Academic Articles/Texts

- John Binder, “The Event Study Methodology Since 1969,” *Review of Quantitative Finance and Accounting*, Vol. 11, 1998.
- Sir Ronald A. Fisher, *The Design of Experiments*, (New York: Hafner Press, 1971).
- Damodar N. Gujarati, *Basic Econometrics* (3d ed. 1995).
- See Philippe Jorion, Value at Risk, *The New Benchmark for Controlling Derivatives Risk*, McGraw Hill, 1997.
- David H. Kaye and David A. Freedman, “Reference Guide on Statistics,” *Reference Manual on Scientific Evidence*, 3rd ed., Federal Judicial Center (Washington, DC: The National Academies Press, 2011).
- Sheldon G. Levy, *Inferential Statistics in the Behavioral Sciences* (1968).
- A. Craig MacKinlay, “Event Studies in Economics and Finance,” *Journal of Economics Literature*, Vol. 35, No. 1, March 1997.

- Robert D. Mason, Douglas A. Lind and William G. Marchal, "The Normal Probability Distribution," Ch. 7 in *Statistical Techniques in Business and Economics*, Irwin/McGraw-Hill, Tenth Edition, 1999.
- David I. Tabak and Frederick C. Dunbar, "Materiality and Magnitude: Event Studies in the Courtroom," Ch. 19, *Litigation Services Handbook, The Role of the Financial Expert* (3d ed. 2001).
- Helen M. Walker & Joseph Lev, *Elementary Statistical Methods* (3rd ed. 1969).

APPENDIX B

CHAD W. COFFMAN, MPP, CFA

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Chicago, IL 60603
Office: (312) 470-6500
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EMPLOYMENT:

Global Economics Group, LLC
President (2008 - Current)

Global Economics Group specializes in the application of economics, finance, statistics, and valuation principles to questions that arise in a variety of contexts, including litigation and policy matters throughout the world. With offices in Chicago, Boston, and New York, Principals of Global Economics Group have extensive experience in high-profile securities, antitrust, labor, and intellectual property matters.

Market Platform Dynamics, LLC
Chief Financial Officer & Chief Operating Officer (2010 – Current)

Market Platform Dynamics is a management consulting firm that specializes in assisting platform-based companies profit from industry disruption caused by the introduction of new technologies, new business models and/or new competitive threats. MPD's experts include economists, econometricians, product development specialists, strategic marketers and recognized thought leaders who apply cutting-edge research to the practical problems of building and running a profitable business.

Chicago Partners, LLC
Principal (2007 – 2008)
Vice President (2003 – 2007)
Director (2000 – 2003)
Senior Associate (1999 – 2000)
Associate (1997 – 1999)
Research Analyst (1995 – 1997)

EDUCATION:

CFA Chartered Financial Analyst, 2003

M.P.P. University of Chicago, 1997

Masters of Public Policy, with a focus in economics including coursework in Finance, Labor Economics, Econometrics, and Regulation

B.A. Knox College, 1995
Economics, Magna Cum Laude
Graduated with College Honors for Paper entitled "Increasing Efficiency in Water Supply Pricing: Using Galesburg, Illinois as a Case Study"
Dean's List Every Term
Phi Beta Kappa

PROFESSIONAL EXPERIENCE:

Securities, Valuation, and Market Manipulation Cases:

- Testifying Expert in numerous high-profile class action securities matters including, but not limited to:
    - In Re: Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation. Parties settled for $2.4 billion in which I served as Plaintiffs' damages and loss causation expert.
    - In Re: Schering-Plough Corporation/ Enhance Securities Litigation. Parties settled for $473 million in which I served as Plaintiffs' damages and loss causation expert.
    - In Re: REFCO Inc. Securities Litigation. Parties settled for $367 million in which I served as Plaintiffs' damages and loss causation expert.
    - In Re: Computer Sciences Corporation Securities Litigation. Parties settled for $98 million in which I served as Plaintiffs' damages and loss causation expert.
    - Full list of testimonial experience is provided below

- Engaged several dozen times as a neutral expert by prominent mediators to evaluate economic analyses of other experts.

- Expert consultant for the American Stock Exchange (AMEX) where I evaluated issues related to multiple listing of options. Performed econometric analysis of various measures of option spread using tens of millions of trades.

- Performed detailed audit of CDO valuation models employed by a banking institution to satisfy regulators – non-litigation matter.

- Played significant role in highly-publicized internal accounting investigations of two Fortune 500 companies. One led to restatement of previously issued financial statements and both involved SEC investigations.

Testimony:

- Testifying expert in the matter of Kuo, Steven Wu v. Xceedium Inc, Supreme Court of New York, County of New York, Index No. 06-100836. Filed report re: the fair value of Mr. Kuo's shares. Case settled at trial.

- Testifying expert in the matter of Pallas, Dennis H. v. BPRS/Chestnut Venture Limited Partnership and Gerald Nudo, Circuit Court of Cook County, Illinois, County Department, Chancery Division. Filed report re: fair value of Pallas shares. Report: July 9, 2008. Deposition August 6, 2008. Court Testimony February 11, 2009.

- Testifying expert in Washington Mutual Securities Litigation, United States District Court, Western District of Washington, at Seattle, No. 2:08-md-1919 MJP, Lead Case No. C08-387 MJP. Filed declaration August 5, 2008 re: plaintiffs' loss causation theory. Filed expert report April 30, 2010. Filed rebuttal expert report August 4, 2010.

- Testifying expert in DVI Securities Litigation, Case No. 2:03-CV-05336-LDD, United States District Court for the Eastern District of Pennsylvania. Filed expert report October 1, 2008 re: damages. Filed rebuttal expert report December 17, 2008. Deposition January 27, 2009. Filed rebuttal expert report June 24, 2013.

- Testifying expert in Syratech Corporation v. Lifetime Brands, Inc. and Syratech Acquisition Corporation, Supreme Court of the State of New York, Index No. 603568/2007. Filed expert report October 31, 2008.

- Expert declaration in Jacksonville Police and Fire Pension Fund, et al. v. AIG, Inc., et al., No. 08-CV-4772-LTS; James Connolly, et al. v. AIG, Inc., et al., No. 08-CV-5072-LTS; Maine Public Employees Retirement System, et al. v. AIG, Inc., et al., No. 08-CV-5464-LTS; and Ontario Teachers' Pension Plan Board, et al. v. AIG, Inc., et al., No. 08-CV-5560-LTS, United States District Court, Southern District of New York. Filed declaration February 18, 2009.

- Expert declaration in Connetics Securities Litigation, Case No. C 07-02940 SI, United States District Court for the Northern District of California, San Francisco Division. Filed expert report March 16, 2009.

- Testifying expert in Boston Scientific Securities Litigation, Master File No. 1:05-cv-11934 (DPW), United States District Court District of Massachusetts. Filed expert report August 6, 2009. Deposition October 6, 2009.

- Expert declaration in Louisiana Sheriffs' Pension and Relief Fund, et al. v. Merrill Lynch & Co, Inc., et al., Case Number 08-cv-09063, United States District Court, Southern District of New York. Filed declaration re: Plan of Allocation October, 2009.

- Testifying expert in Henry J. Wojtunik v. Joseph P. Kealy, John F. Kealy, Jerry A. Kleven, Richard J. Seminoff, John P. Stephen, C. James Jensen, John P. Morbeck, Terry W. Beiriger, and Anthony T. Baumann. Filed expert report on January 25, 2010.

- Testifying expert in REFCO Inc. Securities Litigation, Case No. 05 Civ. 8626 (GEL), United States District Court for the Southern District of New York. Filed expert report February 2, 2010. Filed rebuttal expert report March 12, 2010. Deposition March 26, 2010.

- Expert declaration in New Century Securities Litigation, Case No. 07-cv-00931-DDP, United States District Court Central District of California. Filed declaration March 11, 2010.

- Testifying expert in Louisiana Municipal Police Employees' Retirement System, et. al. v. Tilman J. Fertitta, Steven L. Scheinthal, Kenneth Brimmer, Michael S. Chadwick, Michael Richmond, Joe Max Taylor, Fertitta Holdings, Inc., Fertitta Acquisition Co., Richard Liem, Fertitta Group, Inc. and Fertitta Merger Co, C.A. No. 4339-VCL, Court of Chancery of the State of Delaware. Filed expert report April 23, 2010.

- Testifying expert in Edward E. Graham and William C. Nordlund, individually and d/b/a Silver King Capital Management v. Eton Park Capital Management, L.P., Eton Park Associates, L.P. and Eton Park Fund, L.P. Case No. 1:07-CV-8375-GBD, Circuit Court of Shelby County, Alabama. Filed rebuttal expert report July 8, 2010. Deposition September 1, 2010. Filed supplemental rebuttal expert report August 22, 2011.

- Testifying expert in Moody's Corporation Securities Litigation. Case No. 1:07-CV-8375-GBD), United States District Court for the Southern District of New York. Filed rebuttal expert report August 23, 2010. Deposition October 7, 2010. Filed rebuttal reply report November 5, 2010. Filed expert report May 25, 2012.

- Testifying expert in Minneapolis Firefighters' Relief Association v. Medtronic, Inc., et al. Civil No. 08-6324 (PAM/AJB), United States District Court, District of Minnesota. Filed expert report January 14, 2011.

- Testifying expert in Schering-Plough Corporation/ENHANCE Securities Litigation Case No.2:08-cv-00397 (DMC) (JAD), United States District Court, District of New Jersey. Filed declaration February 7, 2011. Filed expert report September 15, 2011. Filed rebuttal expert report October 28, 2011. Filed declaration January 30, 2012. Deposition November 15, 2011 and November 29, 2011.

- Testifying expert in Fannie Mae 2008 Securities Litigation, Master File No. 08 Civ. 7831 (PAC), United States District Court for the Southern District of New York. Filed expert report July 18, 2011.

- Testifying expert in Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation, Master File No. 09 MDL 2058 (PKC), United States District Court for the Southern District of New York. Filed expert report August 29, 2011. Filed rebuttal expert report September 26, 2011. Filed expert report March 16, 2012. Filed rebuttal expert report April 9, 2012. Filed rebuttal expert report April 29, 2012. Deposition October 14, 2011 and May 24, 2012.

- Testifying expert in Toyota Motor Corporation Securities Litigation, Case No. 10-922 DSF (AJWx), United States District Court, Central District of California. Filed expert report February 17, 2012. Deposition March 28, 2012. Filed rebuttal expert report August 2, 2012. Filed declaration re: Plan of Allocation January 28, 2013.

- Testifying expert in The West Virginia Investment Management Board and the West Virginia Consolidated Public Retirement Board v. The Variable Annuity Life Insurance Company, Civil No. 09-C-2104, Circuit Court of Kanawha County, West Virginia. Filed expert report June 1, 2012. Depositions June 19, 2013 and December 11, 2015.

- Testifying expert in Aracruz Celulose S.A. Securities Litigation, Case No. 08-23317-CIV-LENARD, United States District Court, Southern District of Florida. Filed expert report July 20,

2012. Deposition September 14, 2012. Filed rebuttal expert report October 29, 2012. Filed declaration re: Plan of Allocation May 20, 2013.

- Testifying expert in In Re Computer Sciences Corporation Securities Litigation, CIV. A. No. 1:11-cv-610-TSE-IDD, United States District Court, Eastern District of Virginia, Alexandria Division. Filed expert report November 9, 2012. Filed supplemental report February 18, 2013. Filed rebuttal expert report March 25, 2013. Deposition March 27, 2013. Filed declaration re: Plan of Allocation August 7, 2013.

- Testifying expert in In Re Weatherford International Securities Litigation, Case 1:11-cv-01646-LAK, United States District Court for the Southern District of New York. Filed expert report April 1, 2013. Deposition April 26, 2013.

- Testifying expert in In Re: Regions Morgan Keegan Closed-End Fund Litigation, Case 2:07-cv-02830-SHM-dkv, United States District Court for the Western District of Tennessee Western Division. Court testimony April 12, 2013.

- Testifying expert in City of Roseville Employees' Retirement System and Southeastern Pennsylvania Transportation Authority, derivatively on behalf of Oracle Corporation, Plaintiff, v. Lawrence J. Ellison, Jeffrey S. Berg, H. Raymond Bingham, Michael J. Boskin, Safra A. Catz, Bruce R. Chizen, George H. Conrades, Hector Garcia-Molina, Donald L. Lucas, and Naomi O. Seligman, Defendants, and Oracle Corporation, Nominal Defendant, C.A. No. 6900-CS, Court of Chancery of the State of Delaware. Filed expert report May 13, 2013. Filed rebuttal expert report June 21, 2013. Deposition July 17, 2013.

- Testifying expert in In Re BP plc Securities Litigation, No. 4:10-md-02185, Honorable Keith P. Ellison, United States District Court for the Southern District of Texas, Houston Division. Filed expert report June 14, 2013. Deposition July 25, 2013. Filed rebuttal expert report October 7, 2013. Filed declaration re: Plaintiff accounting losses November 17, 2013. Filed expert report January 6, 2014. Deposition January 22, 2014. Filed rebuttal expert report March 12, 2014. Filed expert report March 17, 2014. Hearing testimony April 21, 2014. Deposition June 3, 2014. Filed declaration re: damages June 3, 2014.

- Testifying expert in In Re Celestica Inc. Securities Litigation, Civil Action No. 07-CV-00312-GBD, United States District Court for the Southern District of New York. Filed expert report June 14, 2013. Filed rebuttal expert report September 10, 2013. Deposition September 24, 2013.

- Testifying expert in In Re Dendreon Corporation Class Action Litigation, Master Docket No. C11-01291JLR, United States District Court for the Western District of Washington at Seattle. Filed declaration re: Plan of Allocation June 14, 2013.

- Testifying expert in In Re Hill v. State Street Corporation, Master Docket No. 09-cv12146-GAO, United States District Court for the District of Massachusetts. Filed expert report October 28, 2013.

- Testifying expert in In Re BNP Paribas Mortgage Corporation and BNP Paribas v. Bank of America, N.A., Master Docket No. 09-cv-9783-RWS, United States District Court for the Southern District of New York. Filed expert report November 25, 2013. Deposition June 26-27, 2014.

- Testifying expert in Stan Better and YRC Investors Group v. YRC Worldwide Inc., William D. Zollars, Michael Smid, Timothy A. Wicks and Stephen L. Bruffet, Civil Action No. 11-2072-KHV, United States District Court for the District of Kansas. Filed declaration re: Plan of Allocation February 5, 2014. Filed expert report May 29, 2015.

- Testifying expert in The Archdiocese of Milwaukee Supporting Fund v. Halliburton Company, et al., Civil Action No. 3:02-CV-1152-M, United States District Court for the Northern District of Texas, Dallas Division. Filed expert report October 30, 2014. Deposition November 11, 2014. Hearing testimony December 1, 2014.

- Testifying expert in In Re HP Securities Litigation, Master File No. 3:12-cv-05980-CRB, United States District Court for the Northern District of California, San Francisco Division. Filed expert report November 4, 2014. Deposition December 3, 2014. Filed rebuttal expert report January 26, 2015.

- Testifying expert in In Re MGM Mirage Securities, No. 2:09-cv-01558-GMN-VCF, United States District Court for the District of Nevada. Filed expert report November 12, 2014. Deposition January 6, 2015. Filed rebuttal expert report April 2, 2015.

- Testifying expert in Adam S. Levy v. Thomas Gutierrez, Richard J. Gaynor, Raja Bal, J. Michal Conaway, Kathleen A. Cote, Ernest L. Godshalk, Matthew E. Massengill, Mary Petrovich, Robert E. Switz, Noel G. Watson, Thomas Wroe, Jr., Morgan Stanley & Co. LLC, Goldman, Sachs & Co., and Canaccord Genuity Inc., No. 1:14-cv-00443-JL, United States District Court for the District of New Hampshire. Filed declaration January 7, 2015.

- Testifying expert in In Re Nu Skin Enterprises, Inc., Securities Litigation, Master File No. 2:14-cv-00033-DB, United States District Court for the District of Utah, Central Division. Filed expert report June 26, 2015. Deposition August 17, 2015.

- Testifying expert in In Re Intuitive Surgical Securities Litigation, Master File No. 5:13-cv-01920-EJD, United States District Court for the Northern District of California. Filed expert report September 1, 2015. Filed expert rebuttal report November 16, 2015.

- Testifying expert in Babak Hatamian, et al., v. Advanced Micro Devices, Inc., et al., No. 4:14-cv-00226-YGR, United States District Court for the Northern District of California, San Francisco Division. Filed expert report September 4, 2015. Filed rebuttal expert report December 7, 2015.

- Testifying expert in In Re NII Holdings, Inc. Securities Litigation, No. 1:14-cv-00227-LMB-JFA, United States District Court for the Eastern District of Virginia, Alexandria Division. Filed expert report September 11, 2015. Deposition September 17, 2015. Filed rebuttal expert report October 28, 2015. Filed expert report January 8, 2016.

- Testifying expert in In Re Barrick Gold Securities Litigation, No. 1:13-cv-03851-SAS, United States District Court for the Southern District of New York. Filed expert report September 15, 2015.

- Expert declaration in In Re Tower Group International, Ltd. Securities Litigation, Master Docket No. 1:13-cv-5852-AT, United States District Court, Southern District of New York. Filed declaration re: Plan of Allocation October 6, 2015.

- Testifying expert in Beaver County Employees' Retirement Fund et al. v. Tile Shop Holdings Inc. et al., No. 0:14-cv-00786-ADM-TNL, United States District Court for the District of Minnesota. Filed expert report December 1, 2015.
- Testifying expert in In Re Barclays Bank PLC Securities Litigation, Civil Action No. 1:09-cv-01989-PAC, United States District Court for the Southern District of New York. Filed expert report December 15, 2015.

Experience in Labor Economics and Discrimination-Related Cases:

- Expert consultant for Cargill in class action race discrimination matter in which class certification was defeated.

- Expert consultant for 3M in class action age discrimination matter.

- Expert consultant for Wal-Mart in class action race discrimination matter.

- Expert consultant on various other significant confidential labor economics matters in which there were class action allegations related to race, age and gender.

- Expert consultant for large insurance company related to litigation and potential regulation resulting from the use of credit scores in the insurance underwriting process.

Testimony:

- Testifying expert in Shirley Cohens v. William Henderson, Postmaster General, C.A 1:00CV-1834 (TFH) United States Postal Service. United States District Court for the District of Columbia.– Filed report re: lost wages and benefits.

- Testifying expert in Richard Akins v. NCR Corporation. Before the American Arbitration Association – Filed report re: lost wages.

- Testifying expert in Maureen Moriarty v. Dyson, Inc., Case No. 09 CV 2777, United States District Court for the Northern District of Illinois, Eastern Division. Filed expert report October 12, 2011. Deposition November 10, 2011.

Selected Experience in Antitrust, General Damages, and Other Matters:

- Expert consultant in high-profile antitrust matters in the computer and credit card industries.

- Expert consultant for plaintiffs in re: Brand Name Drugs Litigation. Responsible for managing, maintaining and analyzing data totaling over one billion records in one of the largest antitrust cases ever filed in the Federal Courts.

- Served as neutral expert for mediator (Judge Daniel Weinstein) in allocating a settlement in an antitrust matter.

- Expert consultant in Seminole County and Martin County absentee ballot litigation during disputed presidential election of 2000.

- Expert consultant for sub-prime lending institution to determine effect of alternative loan amortization and late fee policies on over 20,000 customers of a sub-prime lending institution. Case settled favorably at trial immediately after the testifying expert presented an analysis I developed showing fundamental flaws in opposing experts calculations.

TEACHING EXPERIENCE:

KNOX COLLEGE, Teaching Assistant - Statistics, (1995)
KNOX COLLEGE, Tutor in Mathematics, (1992 - 1993)

PUBLICATIONS:

Coffman, Chad and Mary Gregson, "Railroad Construction and Land Value." *Journal of Real Estate and Finance*, 16:2, pp. 191-204 (1998).

Coffman, Chad, Tara O'Neil, and Brian Starr, Ed. Richard D. Kahlenberg, "An Empirical Analysis of the Impact of Legacy Preferences on Alumni Giving at Top Universities," *Affirmative Action for the Rich: Legacy Preferences in College Admissions*; pp. 101-121 (2010).

PROFESSIONAL AFFILIATIONS:

Associate Member CFA Society of Chicago
Associate Member CFA Institute
Phi Beta Kappa

AWARDS:

1994 Ford Fellowship Recipient for Summer Research.
1993 Arnold Prize for Best Research Proposal.
1995 Knox College Economics Department Award.

PERSONAL ACTIVITIES:

- Pro bono consulting for Cook County State's Attorney's Office.
- Pro bono consulting for Cook County Health & Hospitals System – Developed method for hospital to assess real-time patient level costs to assist in improving care for Cook County residents and prepare for implementation of Affordable Care Act.
- Pro bono consulting for Chicago Park District to analyze economic impact of park district assets and assist in developing strategic framework for decision-making.

EXHIBIT 232

U.S. Securities and Exchange Commission

Interpretation: Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations

Securities and Exchange Commission

17 CFR Parts 211, 231 and 241

[Release Nos. 33-8350; 34-48960; FR-72]

Agency: Securities and Exchange Commission.

Action: Interpretation.

Summary: The Commission is publishing interpretive guidance regarding the disclosure commonly known as Management's Discussion and Analysis of Financial Condition and Results of Operations, or MD&A, which is required by Item 303 of Regulation S-K, Items 303(b) and (c) of Regulation S-B, Item 5 of Form 20-F and Paragraph 11 of General Instruction B of Form 40-F. This guidance is intended to elicit more meaningful disclosure in MD&A in a number of areas, including the overall presentation and focus of MD&A, with general emphasis on the discussion and analysis of known trends, demands, commitments, events and uncertainties, and specific guidance on disclosures about liquidity, capital resources and critical accounting estimates.

Effective Date: December 29, 2003

For Further Information Contact: Questions about specific filings should be directed to staff members responsible for reviewing the documents the registrant files with the Commission. General questions about this release should be referred to Todd Hardiman, Karl Hiller, Nina Mojiri-Azad, Mara Ransom, or Sondra Stokes, Division of Corporation Finance, at (202) 824-5300, Securities and Exchange Commission, 450 5th Street N.W., Washington, D.C. 20549-0401.

Supplementary Information:

I. Overview

A. Purpose

This release interprets requirements for Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A").[1] It provides guidance to assist companies:

- in preparing MD&A disclosure that is easier to follow and understand; and
- in providing information that more completely satisfies our previously enunciated principal objectives of MD&A.

We believe that management's most important responsibilities include communicating with investors in a clear and straightforward manner. MD&A is a critical component of that communication. The Commission has long sought through its rules, enforcement actions and interpretive processes to elicit MD&A that not only meets technical disclosure requirements but generally is informative and transparent. We believe and expect that when companies follow the guidance in this release, the overall quality of their MD&A will improve. The Division of Corporation Finance will continue to review MD&A submitted after this guidance is released and take action as appropriate. In addition, we have instructed the Division to keep us apprised of whether this guidance has produced improved disclosure, and to suggest additional Commission action related to MD&A as appropriate.

B. Approach to MD&A

The purpose of MD&A is not complicated. It is to provide readers information "necessary to an understanding of [a company's] financial condition, changes in financial condition and results of operations."[2] The MD&A requirements are intended to satisfy three principal objectives:

- to provide a narrative explanation of a company's financial statements that enables investors to see the company through the eyes of management;
- to enhance the overall financial disclosure and provide the context within which financial information should be analyzed; and
- to provide information about the quality of, and potential variability of, a company's earnings and cash flow, so that investors can ascertain the likelihood that past performance is indicative of future performance.[3]

MD&A should be a discussion and analysis of a company's business as seen through the eyes of those who manage that business. Management has a unique perspective on its business that only it can present. As such, MD&A should not be a recitation of financial statements in narrative form or an otherwise uninformative series of technical responses to MD&A requirements, neither of which provides this important management perspective. Through this release we encourage each company and its management to take a fresh look at MD&A with a view to enhancing its quality. We also encourage early top-level involvement by a company's management in identifying the key disclosure themes and items that should be included in a company's MD&A.

Based on our experience with many companies' current disclosures in MD&A, we believe there are a number of general ways for companies to enhance their MD&A consistent with its purpose. The recent review experiences of the staff of the Division of Corporation Finance, including its Fortune 500 review,[4] have led us to conclude that additional guidance would be especially useful in the following areas:

- the overall presentation of MD&A;
- the focus and content of MD&A (including materiality, analysis, key performance measures and known material trends and uncertainties);
- disclosure regarding liquidity and capital resources; and
- disclosure regarding critical accounting estimates.

Therefore, in this release, we emphasize the following points regarding overall presentation:

- within the universe of material information, companies should present their disclosure so that the most important information is most prominent;
- companies should avoid unnecessary duplicative disclosure that can tend to overwhelm readers and act as an obstacle to identifying and understanding material matters; and
- many companies would benefit from starting their MD&A with a section that provides an executive-level overview that provides context for the remainder of the discussion.

We also emphasize the following points regarding focus and content:

- in deciding on the content of MD&A, companies should focus on material information and eliminate immaterial information that does not promote understanding of companies' financial condition, liquidity and capital resources, changes in financial condition and results of operations (both in the context of profit and loss and cash flows);[5]
- companies should identify and discuss key performance indicators, including non-financial performance indicators, that their management uses to manage the business and that would be material to investors;
- companies must identify and disclose known trends, events, demands, commitments and uncertainties that are reasonably likely to have a material effect on financial condition or operating performance;[6] and

- companies should provide not only disclosure of information responsive to MD&A's requirements, but also an analysis that is responsive to those requirements that explains management's view of the implications and significance of that information and that satisfies the objectives of MD&A.

C. Impact of Increased Amounts of Information Available to Companies

Companies have access to and use substantially more detailed and timely information about their financial condition and operating performance than they did when our MD&A requirements initially were introduced or when we last provided general interpretive guidance.[7] Some of this information is itself non-financial in nature, but bears on companies' financial condition and operating performance. The increased availability of information is relevant to companies in preparing MD&A for the following reasons:

- First, companies must evaluate an increased amount of information to determine which information they must disclose. In doing so, companies should avoid the unnecessary information overload for investors that can result from disclosure of information that is not required, is immaterial, and does not promote understanding.

- Second, in identifying, discussing and analyzing known material trends and uncertainties, companies are expected to consider all relevant information, even if that information is not required to be disclosed.

D. Liquidity and Capital Resources

We devote a separate section of this release to disclosure in MD&A regarding liquidity and capital resources. In that section, we emphasize the need for attention to disclosure of cash requirements and sources of cash. We believe that:

- companies should consider enhanced analysis and explanation of the sources and uses of cash and material changes in particular items underlying the major captions reported in their financial statements, rather than recitation of the items in the cash flow statements;

- companies using the indirect method[8] in preparing their cash flow statements should pay particular attention to disclosure and analysis of matters that are not readily apparent from their cash flow statements; and

- companies also should consider whether their MD&A should include enhanced disclosure regarding debt instruments, guarantees and related covenants.

E. Critical Accounting Estimates

Finally, we have included a separate section in this release regarding accounting estimates and assumptions that may be material due to the levels of subjectivity and judgment necessary to account for highly uncertain matters or the susceptibility of such matters to change, and that have a material impact on financial condition or operating performance. Companies should consider enhanced discussion and analysis of these critical accounting estimates and assumptions that:

- supplements, but does not duplicate, the description of accounting policies in the notes to the financial statements; and

- provides greater insight into the quality and variability of information regarding financial condition and operating performance.

F. Effect on Prior Commission Statements

This release does not modify existing legal requirements or create new legal requirements. Rather, we intend this release to assist companies in preparing MD&A by providing interpretive guidance and, in some cases, providing additional guidance in areas that the Commission has addressed previously. We do not believe that the guidance in this release conflicts with prior Commission guidance, nor is it our intention to alter any prior Commission guidance.

II. Background

The following is a chronology of certain prior Commission action regarding MD&A:

1980 — We adopted the present form of the disclosure requirements for MD&A.[9]

1981 — We published the staff's interpretive guidance for MD&A after its review of disclosures that were prepared in accordance with the then-recently adopted disclosure requirements.[10]

1987 — We sought public comment on the adequacy of MD&A and on proposed revisions submitted by members of the professional accounting community.[11]

1989 — We published an interpretive release that addressed a number of disclosure matters that should be considered by companies in preparing MD&A.[12] The 1989 Release provided guidance in various areas, including required prospective information, analysis of long and short-term liquidity and capital resources, material changes in financial statement line items, required interim period disclosure, segment analysis, participation in high-yield financings, highly leveraged transactions or non-investment grade loans and investments, the effects of federal financial assistance upon the operations of financial institutions and the disclosure of preliminary merger negotiations.

December 2001 — As part of its process of reviewing financial and non-financial disclosures made by public companies, the Division of Corporation Finance announced that it would preliminarily review the annual reports filed in 2002 by the Fortune 500 companies, and undertake further review as appropriate, consistent with its selective review program. The focus of the project was to identify "disclosure that appeared to be critical to an understanding of each company's financial position and results, but which, at least on its face, seemed to conflict significantly with generally accepted accounting principles [GAAP] or SEC rules, or to be materially deficient in explanation or clarity."[13] As a result of this review, comment letters, many of which commented on companies' MD&A, were sent to more than 350 of the Fortune 500 companies. Earlier this year, the Division published a summary of the most frequent general areas of comment resulting from this review.[14]

December 2001 — The Commission issued cautionary advice to companies regarding the need for greater investor awareness of the sensitivity of financial statements to the methods, assumptions, and estimates underlying their preparation. This cautionary advice encouraged public companies to include in their MD&A full explanations of their "critical accounting policies," the judgments and uncertainties affecting the application of those policies, and the likelihood that materially different amounts would be reported under different conditions or using different assumptions.[15]

January 2002 — After receiving a petition requesting additional MD&A interpretive guidance,[16] we issued a statement "to suggest steps that issuers should consider in meeting their current disclosure obligations with respect to the topics described."[17] The statement provided explicit interpretive guidance on certain MD&A topics considered material to an understanding of companies' operations. The topics addressed by the release were liquidity and capital resources (including off-balance sheet arrangements), trading activities involving non-exchange traded contracts accounted for at fair value, and relationships and transactions with persons or entities that derive benefits from their non-independent relationships with the company or the company's related parties.[18]

May 2002 — We proposed additional MD&A disclosure requirements, which remain under consideration, regarding the application of companies' critical accounting estimates.[19]

January 2003 — We adopted additional disclosure requirements regarding off-balance sheet arrangements and aggregate contractual obligations.[20] The new rules require the disclosure of off-balance sheet arrangements in a designated section of MD&A and an overview of certain known contractual obligations in a tabular format.[21]

We also have brought numerous enforcement actions based on alleged violations of MD&A requirements and will continue to bring such actions under appropriate circumstances.[22]

Based on recent experiences, we have determined that additional interpretive guidance regarding the requirements of MD&A will be useful to companies in enhancing overall disclosure under MD&A requirements.

III. Overall Approach to MD&A

A. The Presentation of MD&A

Since the introduction of our MD&A requirements, many companies have become larger, more global and more complex. At the same time, the combination of our rules and investors' demands have led to an increase in the number of subjects and matters addressed in MD&A. For these and other reasons, many companies' MD&A have become necessarily lengthy and complex. Unfortunately, the presentation of the MD&A of too many companies also may have become unnecessarily lengthy, difficult to understand and confusing.

MD&A, like other disclosure, should be presented in clear and understandable language. We understand that complex companies and situations require disclosure of complex matters and we are not in any way seeking over-simplification or "dumbing down" of MD&A. However, we believe that companies can improve the clarity and understandability of their MD&A by using language that is clearer and less convoluted. We believe that efforts by companies to provide clearer and better organized presentations of MD&A can result in more understandable disclosure that does not sacrifice the appropriate level of complexity or nuance. In order to engender better understanding, companies should prepare MD&A with a strong focus on the most important information, provided in a manner intended to address the objectives of MD&A. In particular:

- Companies should consider whether a tabular presentation of relevant financial or other information may help a reader's understanding of MD&A. For example, a company's MD&A might be clearer and more concise if it provides a tabular comparison of its results in different periods, which could include line items and percentage changes as well as other information determined by a company to be useful, followed by a narrative discussion and analysis of known changes, events, trends, uncertainties and other matters. A reader's understanding of a company's fair value calculations or discounted cash flow figures also could, in some situations, be enhanced by providing a tabular summary of the company's various material interest and discount rate assumptions in one location.

- Companies should consider whether the headings they use assist readers in following the flow of, or otherwise assist in understanding, MD&A, and whether additional headings would be helpful in this regard.

- Many companies' MD&A could benefit from adding an introductory section or overview that would facilitate a reader's understanding. As with all disclosure, what companies would appropriately include in an introduction or overview will depend on the circumstances of the particular company. As a general matter, an introduction or overview should include the most important matters on which a company's executives focus in evaluating financial condition and operating performance and provide the context for the discussion and analysis of the financial statements. Therefore, an introduction or overview should not be a duplicative layer of disclosure that merely repeats the more detailed discussion and analysis that follows.

- While all required information must of course be disclosed, companies should consider using a "layered" approach. Such an approach would present information in a manner that emphasizes, within the universe of material information that is disclosed, the information and analysis that is most important. This presentation would assist readers in identifying more readily the most important information. Using an overview or introduction is one example of a layered approach. Another is to begin a section containing detailed analysis, such as an analysis of period-to-period information, with a statement of the principal factors, trends or other matters that are the principal subjects covered in more detail in the section.

We would expect a good introduction or overview to provide a balanced, executive-level discussion that identifies the most important themes or other significant matters with which management is concerned primarily in evaluating the company's financial condition and operating results. A good introduction or overview would:

- include economic or industry-wide factors relevant to the company;
- serve to inform the reader about how the company earns revenues and income and generates cash;
- to the extent necessary or useful to convey this information, discuss the company's lines of business, location or locations of operations, and principal products and services (but an introduction should not merely duplicate disclosure in the Description of Business section); and
- provide insight into material opportunities, challenges and risks, such as those presented by known material trends and uncertainties, on which the company's executives are most focused for both the short and long term, as well as the actions they are taking to address these opportunities, challenges and risks.

Because these matters do not generally remain static from period to period, we would expect the introduction to change over time to remain current. As is true with all sections of MD&A, boilerplate disclaimers and other generic language generally are not helpful in providing useful information or achieving balance, and would detract from the purpose of the introduction or overview.

An introduction or overview, by its very nature, cannot disclose everything and should not be considered by itself in determining whether a company has made full disclosure. Further, the failure to include disclosure of every material item in an introduction or overview should not trigger automatically the application of the "buried facts" doctrine, in which a court would consider disclosure to be false and misleading if its overall significance is obscured because material is "buried," such as in a footnote or an appendix.[23]

Throughout MD&A, including in an introduction or overview, discussion and analysis of financial condition and operating performance includes both past and prospective matters. In addressing prospective financial condition and operating performance, there are circumstances, particularly regarding known material trends and uncertainties, where forward-looking information is required to be disclosed. We also encourage companies to discuss prospective matters and include forward-looking information in circumstances where that information may not be required, but will provide useful material information for investors that promotes understanding.

B. The Content and Focus of MD&A

In addition to enhancing MD&A through the use of clearer language and presentation, many companies could improve their MD&A by focusing on the most important information disclosed in MD&A. Disclosure should emphasize material information that is required or promotes understanding and de-emphasize (or, if appropriate, delete) immaterial information that is not required and does not promote understanding.

Our MD&A requirements call for companies to provide investors and other users with material information that is necessary to an understanding of the company's financial condition and operating performance, as well as its prospects for the future.[24] While the desired focus of MD&A for a particular company will depend on the facts and circumstances of the company, some guidance about the content and focus of MD&A is generally applicable.

1. Focus on Key Indicators of Financial Condition and Operating Performance

As discussed, one of the principal objectives of MD&A is to give readers a view of the company through the eyes of management by providing both a short and long-term analysis of the business.[25] To do this, companies should "identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the individual company."[26]

Financial measures generally are the starting point in ascertaining these key variables and other factors. However, financial measures often tell only part of how a company manages its business. Therefore, when preparing MD&A, companies should consider whether disclosure of all key variables and other factors that management uses to manage the business would be material to investors, and therefore required.[27] These key variables and other factors may be non-financial, and companies should consider whether that non-financial information should be disclosed.

Many companies currently disclose non-financial business and operational data.[28] Academics, authors, and consultants also have researched the types of information, outside of financial statement measures, that would be helpful to investors and other users.[29] Such information may relate to external or macro-economic matters as well as those specific to a company or industry. For example, interest rates or economic growth rates and their anticipated trends can be important variables for many companies. Industry-specific measures can also be important for analysis, although common standards for the measures also are important. Some industries commonly use non-financial data, such as industry metrics and value drivers.[30] Where a company discloses such information, and there is no commonly accepted method of calculating a particular non-financial metric, it should provide an explanation of its calculation to promote comparability across companies within the industry. Finally, companies may use non-financial performance measures that are company-specific.

In addition, if companies disclose material information (historical or forward-looking) other than in their filed documents (such as in earnings releases or publicly accessible analysts' calls or companion website postings) they also should evaluate that material information to determine whether it is required to be included in MD&A, either because it falls within a specific disclosure requirement or because its omission would render misleading the filed document in which the MD&A appears. We are not seeking to sweep into MD&A all the information that a company communicates. Rather, companies should consider their communications and determine what information is material and is required in, or would promote understanding of, MD&A.

Since we adopted the MD&A requirements, and even since the last comprehensive guidance on MD&A we released in 1989, there have been significant advancements in the ability to develop and access information quickly and effectively. Changes in business enterprise systems, communications and other aspects of information technology have significantly increased the amount of information available to management, as well as the speed with which they receive and are able to use information.[31] There is therefore a larger and more up-to-date universe of information, financial and non-financial alike, that companies have and should evaluate in determining whether disclosure is required. This situation presents companies with the challenge of identifying information that is required to be disclosed or that promotes understanding, while avoiding unnecessary information overload for readers by not disclosing a greater body of information, just because it is available, where disclosure is not required and does not promote understanding. Further, with advances in technology contributing to increasing amounts and currency of information, the factors relied upon by companies to operate and analyze the business may change. As this occurs, the discussion in MD&A should change over time to maintain an appropriate focus on material factors.

The focus on key performance indicators can be enhanced not only through the language and content of the discussion, but also through a format that will enhance the understanding of the discussion and analysis. The order of the information need not follow the order presented in Item 303 of Regulation S-K if another order of presentation would better facilitate readers' understanding. MD&A should provide a frame of reference that allows readers to understand the effects of material changes and events and known material trends and uncertainties arising during the periods being discussed, as well as their relative importance. To satisfy the objectives of MD&A, companies also should provide a balanced view of the underlying dynamics of the business, including not only a description of a company's successes, but also of instances when it failed to realize goals, if material. Good MD&A will focus readers' attention on these key matters.

2. Focus on Materiality

Companies must provide specified material information in their MD&A,[32] and they also must provide other material information that is necessary to make the required statements, in light of the circumstances in which they are made, not misleading.[33] MD&A must specifically focus on known material events and uncertainties that would cause reported financial information not to be necessarily indicative of future operating performance or of future financial condition.[34] Companies must determine, based on their own particular facts and circumstances, whether disclosure of a particular matter is required in MD&A. However, the effectiveness of MD&A decreases with the accumulation of unnecessary detail or duplicative or uninformative disclosure that obscures material information.[35] Companies should view this guidance as an opportunity to evaluate whether there is information in their MD&A that is no longer material or useful, and therefore should be deleted, for example where there has been a change in their business or the information has become stale.

As the complexity of business structures and financial transactions increase, and as the activities undertaken by companies become more diverse, it is increasingly important for companies to focus their MD&A on material information. In preparing MD&A, companies should evaluate issues presented in previous periods and consider reducing or omitting discussion of those that may no longer be material or helpful, or revise discussions where a revision would make the continuing relevance of an issue more apparent.

Companies also should focus on an analysis of the consolidated financial condition and operating performance, with segment data provided where material to an understanding of consolidated information. Segment discussion and analysis should be designed to avoid unnecessary duplication and immaterial detail that is not required and does not promote understanding of a company's overall financial condition and operating performance.

Both Instruction 4 to Item 303 of Regulation S-K and the 1989 Release address the requirement of discussion and analysis of changes in line items. A review of current MD&A provided by some companies, however, reveals that this is a portion of MD&A that can include an excessive amount of duplicative disclosure, as well as disclosure of immaterial items that do not promote understanding. The 1989 Release explicitly provides for the grouping of line items for purposes of discussion and analysis in a manner that avoids duplicative disclosure. In addition, Instruction 4 and the guidance in the 1989 Release do not require a discussion of every line item and its changes without regard to materiality. Discussion of a line item and its changes should be avoided where the information that would be disclosed is not material and would not promote understanding of MD&A.

Companies also must assess the materiality of items in preparing disclosure in their quarterly reports. There may be different quantitative and qualitative factors to consider when deciding whether to include certain information in a specific quarterly or annual report. The 1989 Release addresses some aspects of MD&A disclosure in the context of quarterly filings. That release clarifies that material changes to items disclosed in MD&A in annual reports should be discussed in the quarter in which they occur.[36] There also may be circumstances where an item may not be material in the context of a discussion of annual results of operations but is material in the context of interim results.

Disclosure in MD&A in quarterly reports is complementary to that made in the most recent annual report and in any intervening quarterly reports. Therefore, there may be cases, particularly where adequate disclosure is included in the MD&A in those earlier reports, where further disclosure in a quarterly report is not necessary. If, however, disclosure in those earlier reports does not adequately foreshadow subsequent events, or if new information that impacts known trends and uncertainties becomes apparent in a quarterly period, additional disclosure should be considered and may be required.

3. Focus on Material Trends and Uncertainties

One of the most important elements necessary to an understanding of a company's performance, and the extent to which reported financial information is indicative of future results, is the discussion and analysis of known trends, demands, commitments, events and uncertainties. Disclosure decisions concerning trends, demands, commitments, events, and uncertainties generally should involve the:

- consideration of financial, operational and other information known to the company;
- identification, based on this information, of known trends and uncertainties; and

- assessment of whether these trends and uncertainties will have, or are reasonably likely to have, a material impact on the company's liquidity, capital resources or results of operations.

As we have explained in prior guidance, disclosure of a trend, demand, commitment, event or uncertainty is required unless a company is able to conclude either that it is not reasonably likely that the trend, uncertainty or other event will occur or come to fruition, or that a material effect on the company's liquidity, capital resources or results of operations is not reasonably likely to occur.[37] (In this release we sometimes use the term "known material trends and uncertainties" to describe trends, demands, commitments, events or uncertainties as to which disclosure is required.)

In identifying known material trends and uncertainties, companies should consider the substantial amount of financial and non-financial information available to them, and whether or not the available information itself is required to be disclosed. This information, over time, may reveal a trend or general pattern in activity, a departure or isolated variance from an established trend, an uncertainty, or a reasonable likelihood of the occurrence of such an event that should be disclosed.

One of the principal objectives of MD&A is to provide information about the quality and potential variability of a company's earnings and cash flow, so that readers can ascertain the likelihood that past performance is indicative of future performance. Ascertaining this indicative value depends to a significant degree on the quality of disclosure about the facts and circumstances surrounding known material trends and uncertainties in MD&A. Quantification of the material effects of known material trends and uncertainties can promote understanding. Quantitative disclosure should be considered and may be required to the extent material if quantitative information is reasonably available.

As discussed in the 1989 Release, the disclosures required to address known material trends and uncertainties in the discussion and analysis should not be confused with optional forward-looking information. Not all forward-looking information falls within the realm of optional disclosure. In particular, material forward-looking information regarding known material trends and uncertainties is required to be disclosed as part of the required discussion of those matters and the analysis of their effects.[38] In addition, forward-looking information is required in connection with the disclosure in MD&A regarding off-balance sheet arrangements.[39]

4. Focus on Analysis

MD&A requires not only a "discussion" but also an "analysis" of known material trends, events, demands, commitments and uncertainties. MD&A should not be merely a restatement of financial statement information in a narrative form. When a description of known material trends, events, demands, commitments and uncertainties is set forth, companies should consider including, and may be required to include, an analysis explaining the underlying reasons or implications, interrelationships between constituent elements, or the relative significance of those matters.

Identifying the intermediate effects of trends, events, demands, commitments and uncertainties alone, without describing the reasons underlying these effects, may not provide sufficient insight for a reader to see the business through the eyes of management. A thorough analysis often will involve discussing both the intermediate effects of those matters and the reasons underlying those intermediate effects. For example, if a company's financial statements reflect materially lower revenues resulting from a decline in the volume of products sold when compared to a prior period, MD&A should not only identify the decline in sales volume, but also should analyze the reasons underlying the decline in sales when the reasons are also material and determinable. The analysis should reveal underlying material causes of the matters described, including for example, if applicable, difficulties in the manufacturing process, a decline in the quality of a product, loss in competitive position and market share, or a combination of conditions.

Similarly, where a company's financial statements reflect material restructuring or impairment charges, or a decline in the profitability of a plant or other business activity, MD&A should also, where material, analyze the reasons underlying these matters, such as an inability to realize previously projected economies of scale, a failure to renew or secure key customer contracts, or a failure to keep downtime at acceptable levels due to aging equipment. Whether favorable or unfavorable conditions constitute or give rise to the material trends, demands, commitments, events or uncertainties being discussed, the analysis should consist of material substantive information and present a balanced view of the underlying dynamics of the business.

If there is a reasonable likelihood that reported financial information is not indicative of a company's future financial condition or future operating performance due, for example, to the levels of subjectivity and judgment necessary to account for highly uncertain matters and the susceptibility of such matters to change, appropriate disclosure in MD&A should be considered and may be required. For example, if a change in an estimate has a material favorable impact on earnings, the change and the underlying reasons should be disclosed so that readers do not incorrectly attribute the effect to operational improvements. In addition, if events and transactions reported in the financial statements reflect material unusual or non-recurring items, aberrations, or other significant fluctuations, companies should consider the extent of variability in earnings and cash flow, and provide disclosure where necessary for investors to ascertain the likelihood that past performance is indicative of future performance. Companies also should consider whether the economic characteristics of any of their business arrangements, or the methods used to account for them, materially impact their results of operations or liquidity in a structured or unusual fashion, where disclosure would be necessary to understand the amounts depicted in their financial statements.

IV. Liquidity and Capital Resources

Our rules require companies to provide disclosure in the related categories of liquidity and capital resources.[40] This information is critical to an assessment of a company's prospects for the future and even the likelihood of its survival.[41] A company is required to include in MD&A the following information, to the extent material:

- historical information regarding sources of cash and capital expenditures;
- an evaluation of the amounts and certainty of cash flows;
- the existence and timing of commitments for capital expenditures and other known and reasonably likely cash requirements;
- discussion and analysis of known trends and uncertainties;
- a description of expected changes in the mix and relative cost of capital resources;
- indications of which balance sheet or income or cash flow items should be considered in assessing liquidity; and
- a discussion of prospective information regarding companies' sources of and needs for capital, except where otherwise clear from the discussion.[42]

Discussion and analysis of this information should be considered and may be required to provide a clear picture of the company's ability to generate cash and to meet existing and known or reasonably likely future cash requirements.

In determining required or appropriate disclosure, companies should evaluate separately their ability to meet upcoming cash requirements over both the short and long term.[43] Merely stating that a company has adequate resources to meet its short-term and/or long-term cash requirements is insufficient unless no additional more detailed or nuanced information is material. In particular, such a statement would be insufficient if there are any known material trends or uncertainties related to cash flow, capital resources, capital requirements, or liquidity.

A. Cash Requirements

In order to identify known material cash requirements, companies should consider whether the following information would have a material impact on liquidity (discussion of immaterial matters, and especially generic disclosure or boilerplate, should be avoided):

- funds necessary to maintain current operations, complete projects underway and achieve stated objectives or plans;

- commitments for capital or other expenditures;[44] and
- the reasonably likely exposure to future cash requirements associated with known trends or uncertainties, and an indication of the time periods in which resolution of the uncertainties is anticipated.

One starting point for a company's discussion and analysis of cash requirements is the tabular disclosure of contractual obligations,[45] supplemented with additional information that is material to an understanding of the company's cash requirements.[46]

For example, if a company has incurred debt in material amounts, it should explain the reasons for incurring that debt and the use of the proceeds, and analyze how the incurrence of that debt fits into the overall business plan, in each case to the extent material.[47] Where debt has been incurred for general working capital purposes, the anticipated amount and timing of working capital needs should be discussed, to the extent material.[48]

Companies should address, where material, the difficulties involved in assessing the effect of the amount and timing of uncertain events, such as loss contingencies, on cash requirements and liquidity. Any such discussion should be specific to the circumstances and informative, and companies should avoid generic or boilerplate disclosure. In addition, because of these difficulties and uncertainties, companies should consider whether they need to make or change disclosure in connection with quarterly as well as annual reports.

B. Sources and Uses of Cash

As with the discussion and analysis of the results of operations, a company's discussion and analysis of cash flows should not be a mere recitation of changes and other information evident to readers from the financial statements. Rather, MD&A should focus on the primary drivers of and other material factors necessary to an understanding of the company's cash flows and the indicative value of historical cash flows.

In addition to explaining how the cash requirements identified in MD&A fit into a company's overall business plan, the company should focus on the resources available to satisfy those cash requirements. Where there has been material variability in historical cash flows, MD&A should focus on the underlying reasons for the changes, as well as on their reasonably likely impact on future cash flows and cash management decisions. Even where reported amounts of cash provided and used by operations, investing activities or financing have been consistent, if the underlying sources of those cash flows have materially varied, analysis of that variability should be provided. The discussion and analysis of liquidity should focus on material changes in operating, investing and financing cash flows, as depicted in the statement of cash flows, and the reasons underlying those changes.

1. Operations

The discussion and analysis of operating cash flows should not be limited by the manner of presentation in the statement of cash flows.[49] Alternate accounting methods of deriving and presenting cash flows exist, and while they generally yield the same numeric result in the major captions, they involve the disclosure of different types of information. When preparing the discussion and analysis of operating cash flows, companies should address material changes in the underlying drivers (*e.g.* cash receipts from the sale of goods and services and cash payments to acquire materials for manufacture or goods for resale), rather than merely describe items identified on the face of the statement of cash flows, such as the reconciling items used in the indirect method of presenting cash flows.[50]

For example, consider a company that reports an overall increase in the components of its working capital other than cash[51] with the effect of having a material decrease in net cash provided by operations in the current period. If the increase in working capital was driven principally by an increase in accounts receivable that is attributable not to an increase in sales, but rather to a revised credit policy resulting in an extended payment period for customers, these facts would need to be addressed in MD&A to the extent material, along with the resulting decrease in cash provided by operations, if not otherwise apparent. In addition, if there is a material trend or uncertainty, the impact of the new credit policy on cash flows from operations should be disclosed.[52] While a cash flow statement prepared using the indirect method would report that various individual components of working capital increased or decreased during the period by a specified amount, it would not provide a sufficient basis for a reader to analyze the change. If the company reports negative cash flows from operations, the disclosure provided in MD&A should identify clearly this condition, discuss the operational reasons for the condition if material, and explain how the company intends to meet its cash requirements and maintain operations. If the company relies on external financing in these situations, disclosure of that fact and the company's assessment of whether this financing will continue to be available, and on what terms, should be considered and may be required.

A company should consider whether, in order to make required disclosures, it is necessary to expand MD&A to address the cash requirements of and the cash provided by its reportable segments or other subdivisions of the business, including issues related to foreign subsidiaries, as well as the indicative nature of those results.[53] A company also should discuss the effect of an inability to access the cash flow and financial assets of any consolidated entities. For example, an entity may be consolidated but, because the company lacks sufficient voting interests or the assets are legally isolated, the company may be unable to utilize the entity's cash flow, cash on hand, or other assets to satisfy its own liquidity needs.

2. Financing

To the extent material, a company must provide disclosure regarding its historical financing arrangements and their importance to cash flows, including, to the extent material, information that is not included in the financial statements. A company should discuss and analyze, to the extent material:

- its external debt financing;
- its use of off-balance sheet financing arrangements;
- its issuance or purchase of derivative instruments linked to its stock;
- its use of stock as a form of liquidity; and
- the potential impact of known or reasonably likely changes in credit ratings or ratings outlook (or inability to achieve changes).

In addition to these historical items, discussion and analysis of the types of financing that are, or that are reasonably likely to be, available (or of the types of financing that a company would want to use but that are, or are reasonably likely to be, unavailable) and the impact on the company's cash position and liquidity, should be considered and may be required. For example, where a company has decided to raise or seeks to raise material external equity or debt financing, or if it is reasonably likely to do so in the future, discussion and analysis of the amounts or ranges involved, the nature and the terms of the financing, other features of the financing and plans, and the impact on the company's cash position and liquidity (as well as results of operations in the case of matters such as interest payments) should be considered and may be required.[54]

C. Debt Instruments, Guarantees and Related Covenants

There are at least two scenarios in which companies should consider whether discussion and analysis of material covenants related to their outstanding debt (or covenants applicable to the companies or third parties in respect of guarantees or other contingent obligations)[55] may be required.[56]

First, companies that are, or are reasonably likely to be, in breach of such covenants[57] must disclose material information about that breach and analyze the impact on the company if material. That analysis should include, as applicable and to the extent material:

- the steps that the company is taking to avoid the breach;
- the steps that the company intends to take to cure, obtain a waiver of or otherwise address the breach;
- the impact or reasonably likely impact of the breach (including the effects of any cross-default or cross-acceleration or similar

provisions) on financial condition or operating performance; and

- alternate sources of funding to pay off resulting obligations or replace funding.

Second, companies should consider the impact of debt covenants on their ability to undertake additional debt or equity financing. Examples of these covenants include, but are not limited to, debt incurrence restrictions, limitations on interest payments, restrictions on dividend payments and various debt ratio limits. If these covenants limit, or are reasonably likely to limit, a company's ability to undertake financing to a material extent, the company is required to discuss the covenants in question and the consequences of the limitation to the company's financial condition and operating performance. Disclosure of alternate sources of funding and, to the extent material, the consequences (including but not limited to the cost) of accessing them should also be considered and may be required.

D. Cash Management

Companies generally have some degree of flexibility in determining when and how to use their cash resources to satisfy obligations and make other capital expenditures. MD&A should describe known material trends or uncertainties relating to such determinations. For example, a decision by a company in a highly capital-intensive business to spend significantly less on plant and equipment than it has historically may result in long-term effects that should be disclosed if material. Material effects could include more cash, less interest expense and lower depreciation, but higher future repair and maintenance expenses or a higher cost base than the company would otherwise have.

V. Critical Accounting Estimates

Many estimates and assumptions involved in the application of GAAP have a material impact on reported financial condition and operating performance and on the comparability of such reported information over different reporting periods. Our December 2001 Release reminded companies that, under the existing MD&A disclosure requirements, a company should address material implications of uncertainties associated with the methods, assumptions and estimates underlying the company's critical accounting measurements.[58] In May 2002 we proposed rules, which remain under consideration, that would broaden the scope of disclosures beyond those currently required.[59]

When preparing disclosure under the current requirements, companies should consider whether they have made accounting estimates or assumptions where:

- the nature of the estimates or assumptions is material due to the levels of subjectivity and judgment necessary to account for highly uncertain matters or the susceptibility of such matters to change; and
- the impact of the estimates and assumptions on financial condition or operating performance is material.

If so, companies should provide disclosure about those critical accounting estimates or assumptions in their MD&A.

Such disclosure should supplement, not duplicate, the description of accounting policies that are already disclosed in the notes to the financial statements. The disclosure should provide greater insight into the quality and variability of information regarding financial condition and operating performance. While accounting policy notes in the financial statements generally describe the method used to apply an accounting principle, the discussion in MD&A should present a company's analysis of the uncertainties involved in applying a principle at a given time or the variability that is reasonably likely to result from its application over time.

A company should address specifically why its accounting estimates or assumptions bear the risk of change. The reason may be that there is an uncertainty attached to the estimate or assumption, or it just may be difficult to measure or value. Equally important, companies should address the questions that arise once the critical accounting estimate or assumption has been identified, by analyzing, to the extent material, such factors as how they arrived at the estimate, how accurate the estimate/assumption has been in the past, how much the estimate/assumption has changed in the past, and whether the estimate/assumption is reasonably likely to change in the future. Since critical accounting estimates and assumptions are based on matters that are highly uncertain, a company should analyze their specific sensitivity to change, based on other outcomes that are reasonably likely to occur and would have a material effect. Companies should provide quantitative as well as qualitative disclosure when quantitative information is reasonably available and will provide material information for investors.

For example, if reasonably likely changes in the long-term rate of return used in accounting for a company's pension plan would have a material effect on the financial condition or operating performance of the company, the impact that could result given the range of reasonably likely outcomes should be disclosed and, because of the nature of estimates of long-term rates of return, quantified.

Amendments to the Codification of Financial Reporting Policies

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) [47 FR 21028] is updated:

1. By adding to the following new sections to the Financial Reporting Codification from the release:

(III) Overall Approach to MD&A

(IV) Liquidity and Capital Resources

(V) Critical Accounting Estimates

2. By revising the footnotes from those sections of the release which contain a short form citation to include the complete citation form rather than the short form.

3. By renumbering the footnotes from those sections of the release to run in the Financial Reporting Codification consecutively from number 1 through number 37.

The Codification is a separate publication of the Commission. It will not be published in the Code of Federal Regulations System.

List of Subjects

17 CFR Part 211, 231 and 241

Securities.

Amendments to the Code of Federal Regulations.

For the reasons set forth above, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 211 — INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

1. Part 211, Subpart A, is amended by adding Release No. FR-72 and the release date of December 19, 2003 to the list of interpretive releases.

PART 231 — INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

2. Part 231 is amended by adding Release No. 33-8350 and the release date of December 19, 2003 to the list of interpretive releases.

PART 241 — INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

3. Part 241 is amended by adding Release No. 34-48960 and the release date of December 19, 2003 to the list of interpretive releases.

By the Commission.

Margaret H. McFarland
Deputy Secretary

Dated: December 19, 2003

Endnotes

[1] The requirements are set forth in Item 303 of Regulation S-K (Management's Discussion & Analysis of Financial Condition and Results of Operations) [17 CFR 229.303], Items 303(b) and (c) of Regulation S-B (Management's Discussion & Analysis of Financial Condition and Results of Operations, and Off-balance sheet arrangements) [17 CFR 228.303(b) and (c)], Item 5 of Form 20-F (Operating and Financial Review and Prospects) [17 CFR 249.220f], and General Instruction B.(11) of Form 40-F (Off-balance sheet arrangements) [17 CFR 249.240f].

Although the wording of the MD&A requirement in Form 20-F was revised in 1999, the Commission's adopting release noted that we interpret that Item as calling for the same disclosure as Item 303 of Regulation S-K. *See* Release No. 33-7745 (Sept. 28, 1999) [64 FR 53900 at 59304]. In addition, Instruction 1 to Item 5 in Form 20-F provides that issuers should refer to the Commission's 1989 interpretive release on MD&A disclosure under Item 303 of Regulation S-K (Interpretive Release: Management's Discussion and Analysis of Financial Condition and Results of Operations; Certain Investment Company Disclosures, Release No. 33-6835 (May 18, 1989) [54 FR 22427] (the "1989 Release")) for guidance in preparing the discussion and analysis by management of the company's financial condition and results of operations required in Form 20-F. Therefore, although this release refers primarily to Item 303 of Regulation S-K, it also is intended to apply to MD&A drafted pursuant to Item 5 of Form 20-F.

In addition, the guidance in this release applies to small business issuers that are subject to the disclosure requirements of Items 303(b) and (c) of Regulation S-B. Small business issuers, like all other companies subject to SEC reporting obligations, should consider the interpretive guidance based on their own particular facts and circumstances.

[2] Item 303(a) of Regulation S-K [17 CFR 229.303(a)].

[3] *See* Commission Statement About Management's Discussion and Analysis of Financial Condition and Results of Operations, Release No. 33-8056 (Jan. 22, 2002) [67 FR 3746] ("January 2002 Release").

[4] *See* Summary by the Division of Corporation Finance of Significant Issues Addressed in the Review of the Periodic Reports of the Fortune 500 Companies (Feb. 27, 2003) ("Fortune 500 Summary") available at www.sec.gov/divisions/corpfin/fortune500rep.htm.

[5] In this release we sometimes use the term "financial condition and operating performance" to refer to the required subjects of MD&A of financial condition, liquidity and capital resources, changes in financial condition and results of operations (both in the context of profit and loss and cash flows).

[6] Note 27 to the 1989 Release states, "MD&A mandates disclosure of specified forward-looking information, and specifies its own standards for disclosure — i.e., reasonably likely to have a material effect. The specific standard governs the circumstances in which Item 303 requires disclosure. The probability/magnitude test for materiality approved by the Supreme Court in *Basic v. Levinson*, 108 S.Ct. 978 (1988), is inapposite to Item 303 disclosure."

[7] *See, e.g., Improving Business Reporting — A Customer Focus; Meeting the Information Needs of Investors and Creditors,* Comprehensive Report of the Special Committee on Financial Reporting, American Institute of Certified Public Accountants (AICPA) (1994) ("Jenkins Report").

[8] In Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (SFAS) No. 95, *Statement of Cash Flows* (Nov. 1987), the FASB allowed the indirect method of reporting net cash flow from operating activities by adjusting net income to reconcile it to net cash flow from operating activities. Under that method, the major classes of operating cash receipts and payments are determined indirectly by determining the change in asset and liability accounts that relate to operating income. However, in SFAS 95, the FASB encouraged companies to use the direct method of reporting net cash flow from operating activities rather than the indirect method. The direct method reports net cash flow from operations by summing major classes of gross cash receipts, such as customer payments, and gross cash payments, such as cash paid to employees. The direct method also requires a reconciliation of net income to net cash flow from operating activities. The FASB gave its opinion that the direct method is "the more comprehensive and presumably more useful approach."

While this release refers primarily to U.S. GAAP, the underlying events and circumstances described in the release ordinarily will be applicable to foreign private issuers and should be discussed to the extent material. Consistent with the Instructions to Form 20-F, however, companies using that form should focus on the primary financial statements in their discussion and analysis in Item 5 (Operative and Financial Review Prospects). Also, companies are required to discuss in Item 5 of Form 20-F any aspects of the differences between foreign and U.S. GAAP that they believe are necessary for an understanding of the financial statements as a whole. *See* Instruction 2 to Item 5 of Form 20-F [17 CFR 249.220f].

[9] Final Rule: Amendments to Annual Report Form, Related Forms, Rules, Regulations, and Guides; Integration of Securities Acts Disclosure Systems, Release No. 33-6231 (Sept. 2, 1980) [45 FR 63630].

[10] Management's Discussion and Analysis of Financial Condition and Results of Operations, Release No. 33-6349 (Sept. 28, 1981) 23 SEC Docket 962 [Release not published in the Federal Register].

[11] Concept Release on Management's Discussion and Analysis of Financial Condition and Operations, Release No. 33-6711 (April 24, 1987) [52 FR 13715].

[12] 1989 Release.

[13] Fortune 500 Summary.

[14] *Id.*

[15] Cautionary Advice Regarding Disclosure About Critical Accounting Policies, Release No. 33-8040 (Dec. 12, 2001) [66 FR 65013] ("December 2001 Release").

[16] On December 31, 2001 the Commission received a petition from Arthur Andersen LLP, Deloitte and Touche, LLP, Ernst & Young LLP, KPMG LLP and PricewaterhouseCoopers LLP. The American Institute of Certified Public Accountants endorsed the petition. A copy of the petition is available at www.sec.gov/rules/petitions/petndiscl_12312001.htm.

[17] *See* January 2002 Release.

[18] *Id.*

[19] Proposed Rule: Disclosure in Management's Discussion and Analysis about the Application of Critical Accounting Policies, Release No. 33-8098 (May 10, 2002) [67 FR 35620] ("2002 Critical Accounting Policies Proposal").

[20] Final Rule: Disclosure in Management's Discussion and Analysis About Off-Balance Sheet Arrangements and Aggregate Contractual Obligations, Release No. 33-8182 (Jan. 28, 2003) [68 FR 5982] ("2003 Off-Balance Sheet Release").

The overall guidance in this Interpretive Release is applicable to all MD&A discussions, including those related to off-balance sheet arrangements. As such, it should be applied to General Instruction B.(11) of Form 40-F and Item 303(c) of Regulation S-B, in addition to the other sections set out in note 1, above. We are not addressing specifically disclosures of off-balance sheet arrangements in this release, however, because we have little experience with companies' application of the new rules, which are effective for companies' registration statements, annual reports and proxy or information statements that are required to include financial statements for their fiscal years ending on or after June 15, 2003. Companies (other than small business issuers) must include the table of contractual obligations in registration statements, annual reports, and proxy or information statements that are required to include financial statements for the fiscal years ending on or after December 15, 2003. In addition, Section 401(c) of the Sarbanes-Oxley Act requires us to complete a study and report to the President and Congress next year on these types of disclosures.

[21] The tabular disclosure is not required for small business issuers by Item 303 of Regulation S-B.

[22] *See, e.g., In the Matter of Edison Schools, Inc.*, Release No. 34-45925 (May 14, 2002); *In the Matter of Sony Corporation and Sumio Sano*, Release No. 34-40305 (Aug. 5, 1998); *In the Matter of Bank of Boston*

Corp., Initial Decision Release No. 81 (Dec. 22, 1995); *In the Matter of Gibson Greetings, Inc., Ward A. Cavanaugh, and James H. Johnsen*, Release No. 34-36357 (Oct. 11, 1995); *In the Matter of America West Airlines, Inc.*, Release No. 34-34047 (May 12, 1994); *In the Matter of Salant Corporation and Martin F. Tynan*, Release No. 34-34046 (May 12, 1994); *In the Matter of Shared Medical Systems Corporation*, Release No. 34-33632 (Feb. 17, 1994); *In the Matter of Caterpillar Inc.*, Release No. 34-30532 (Mar. 31, 1992); *In the Matter of American Express Company*, Release No. 34-23332 (June 17, 1986).

23 *See, e.g.*, Final Rule: Plain English Disclosure, Release No. 33-7497 (Jan. 28, 1998) [63 FR 6370 at 6375] (*citing Gould v. American Hawaiian Steamship Company*, 331 F. Supp. 981 (D. Del. 1971); *Kohn v. American Metal Climax, Inc.*, 322 F. Supp. 1331 (E.D. Pa. 1970), *modified*, 458 F.2d 255 (3d Cir. 1972).)

24 *See* 1989 Release, Part III.A.

25 *See, e.g.*, Release No. 33-6711 (Apr. 24, 1987) [52 FR 13715 at 13717] ("an opportunity to look at the company through the eyes of management by providing both a short and long-term analysis of the business of the company.").

26 1989 Release, Part III.A (*citing* Release No. 33-6349 (Sept. 28, 1981) 23 SEC Docket 962 at 964 [Release not published in the Federal Register]).

27 Examples of such other factors, depending on the circumstances of a particular company, can include manufacturing plant capacity and utilization, backlog, trends in bookings and employee turnover rates. *See, e.g.*, *Quality, Transparency, Accountability*, Lynn E. Turner, Chief Accountant, Securities and Exchange Commission, Remarks before Financial Executives Institute (Apr. 26, 2001), available at www.sec.gov/news/speech/spch485.htm.

Companies should also consider disclosing information that may be peripheral to the accounting function, but is integral to the business or operating activity. Examples of such measures, depending on the circumstances of a particular company, can include those based on units or volume, customer satisfaction, time-to-market, interest rates, product development, service offerings, throughput capacity, affiliations/joint undertakings, market demand, customer/vendor relations, employee retention, business strategy, changes in the managerial approach or structure, regulatory actions or regulatory environment, and any other pertinent macroeconomic measures. Because these measures are generally non-financial in nature, we do not believe that their disclosure generally will raise issues under Item 10(e) of Regulation S-K [17 CFR 229.10(e)] or Item 10(h) of Regulation S-B [17 CFR 228.10(h)].

28 *See Improving Business Reporting: Insights into Enhancing Voluntary Disclosures*, Steering Committee Report of the Business Reporting Research Project of the FASB (2001) available at www.fasb.org; the Jenkins Report; Financial Accounting Series Special Report, *Business and Financial Reporting, Challenges from the New Economy* (FASB) (2001) ("Special Report on Improving Business Reporting").

29 *See* Special Report on Improving Business Reporting.

30 *See, e.g.*, the Jenkins Report; the Special Report on Improving Business Reporting.

31 See the Jenkins Report.

32 *See, e.g.*, Item 303(a)(1) of Regulation S-K [17 CFR 229.303(a)(1)] (requiring the identification of "known trends or known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way"). *See also* Item 303(a)(2)(i) of Regulation S-K [17 CFR 229.303(a)(2)(i)] (requiring a description of registrant's material commitments for capital expenditures).

33 *See* Securities Act Rule 408 [17 CFR 230.408], Securities Exchange Act of 1934 Section 10(b) [15 U.S.C. §78j(b)], Exchange Act Rule 10b-5 [17 CFR 240.10b-5], and Exchange Act Rule 12b-20 [17 CFR 240.12b-20]. *See also*, *In the Matter of Edison Schools, Inc.*, Release No. 34-45925 (May 14, 2002) (finding, among other things, that the company failed to provide accurate and complete disclosure about its reported revenues); *In the*

Matter of Sony Corporation and Sumio Sano, Release No. 34-40305 (Aug. 5, 1998) (finding that the company violated Section 13(a) of the Exchange Act by making inadequate disclosures about the nature and the extent of Sony Pictures' net losses and their impact on the consolidated results Sony was reporting); *In the Matter of Caterpillar Inc.*, Release No. 34-30532 (Mar. 31, 1992) (finding failure to disclose the impact of a subsidiary's foreign operations on the company's results of operations violated Section 13(a) of the Exchange Act).

[34] Instruction 3 to Item 303(a) of Regulation S-K [17 CFR 229.303(a)].

[35] *See, e.g.*, Instruction 4 to Item 303(a) of Regulation S-K (indicating that repetition and line-by-line analysis is not required nor is it appropriate when the causes for a change in one line item also relate to other line items and indicating that, to the extent the changes from year to year are readily computable from the financial statements, the changes need not be recited in the discussion). The 1989 Release also addressed these points directly. *See* 1989 Release, Part III.D.

Where companies believe that information from the face of financial statements is helpful to readers in MD&A, they should consider using a tabular presentation that shows the decimal percentages of components or year-over-year percentage changes of the financial statement line items. An appropriate analysis of this data, to the extent that it is material, should accompany the tabular presentation consistent with the guidance in Section III.B.3 of this Release.

[36] *See* 1989 Release, Part III.E.

[37] *See* January 2002 Release at 3748 ("two assessments management must make where a trend, demand, commitment, event or uncertainty is known: 1. Is the known trend, demand, commitment, event or uncertainty likely to come to fruition? If management determines that it is not reasonably likely to occur, no disclosure is required. 2. If management cannot make that determination, it must evaluate objectively the consequences of the known trend, demand, commitment, event or uncertainty, on the assumption that it will come to fruition. Disclosure is then required unless management determines that a material effect on the registrant's financial condition or results of operations is not reasonably likely to occur" (*citing* the 1989 Release)).

[38] *See* 1989 Release, Part III.B.

[39] In connection with our adoption of the off-balance sheet arrangements disclosure requirements, we eliminated a portion of the instructions in Item 303 of Regulation S-K that stated that registrants were not required to provide forward-looking information. Deleting that portion of the instructions did not affect requirements to provide forward-looking information in other circumstances where required or reduce the availability of any safe harbor for forward-looking information. *See also* 2003 Off-Balance Sheet Release. *See* Securities Act Section 27A [15 U.S.C. §77z-2], Securities Act Rule 175 [17 CFR 230.175], Exchange Act Section 21E [17 U.S.C. §78u-5], and Exchange Act Rule 3b-6 [17 CFR 240.3b-6].

[40] *See* Item 303(a)(1) and (2) of Regulation S-K [17 CFR 229.303(a)(1) and (2)].

[41] *See* January 2002 Release; 2003 Off-Balance Sheet Release.

[42] *See* 1989 Release, Part III.C. *See also* Item 303(a)(1) and (2) of Regulation S-K [17 CFR 229.303(a)(1) and (2)], and Instructions 2 and 5 thereto.

[43] Short-term liquidity is defined as a period of twelve months or less and long-term is defined as a period in excess of twelve months. *See* 1989 Release, Part III.C. Note that the period of time over which a long-term discussion of liquidity is relevant is dependent upon the timing of the cash requirements of a company, as well as the period of time over which cash flows are managed. A vague reference to periods in excess of twelve months may not be sufficient.

[44] *See* Item 303(a)(2)(i) of Regulation S-K [17 CFR 229.303(a)(2)(i)].

[45] *See* Item 303(a)(5) of Regulation S-K [17 CFR 229.303(a)(5)].

46 For example, the cash requirements for items such as interest, taxes or amounts to be funded to cover post-employment (including retirement) benefits may not be included in the tabular disclosure, but should be discussed if material.

47 For example, debt may have been issued to fund the construction of a new plant, which will allow the company to expand its operations into a specific geographic area. Understanding that relationship and the expected commencement date of plant operations puts the cash requirement for the debt into an appropriate context to understand liquidity.

48 Companies are reminded of their related disclosure obligations under Item 504 (Use of Proceeds) of Regulation S-K [17 CFR 229.504] and the requirement to update this disclosure in Item 701(f) (Use of Proceeds) of Regulation S-K [17 CFR 229.701(f)].

49 *See* Instruction 4 to Item 303(a) of Regulation S-K [17 CFR 229.303(a)].

50 *See* SFAS No. 95.

51 Working capital is defined as current assets less current liabilities. *See* Chapter 3, AICPA Accounting Research Bulletin (ARB) No. 43, *Restatement and Revision of Accounting Research Bulletins* (June 1953).

52 To the extent that this change also materially impacts results of operations, discussion and analysis would also be required in that section, but companies should attempt to avoid unnecessary or confusing duplication.

53 *See* Item 303(a) of Regulation S-K [17 CFR 229.303(a)].

54 We believe that disclosure satisfying the requirements of MD&A can be made consistently with the restrictions of Section 5 of the Securities Act. *See, e.g.*, Securities Act Rules 135c [17 CFR 230.135c].

55 *See* FASB Interpretation No. (FIN) 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (Nov. 2002); 2003 Off-Balance Sheet Release; and the discussion *infra*, regarding off-balance sheet arrangements.

56 *See In the Matter of America West Airlines, Inc.*, Release No. 34-34047 (May 12, 1994) (finding that the company failed to discuss uncertainties regarding its ability to comply with covenants).

57 Companies also must take a similar approach to discussion and analysis with respect to mandatory prepayment provisions, "put" rights and other similar provisions.

58 December 2001 Release.

59 *See* 2002 Critical Accounting Policies Proposal.

http://www.sec.gov/rules/final/33-8350.htm

EXHIBIT 233

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1:09-cv-01989-PAC

REPLY REPORT OF DR. JOSEPH R. MASON

March 17, 2016

I. Introduction

1. I submitted a report in this matter dated December 15, 2015. In this report, I am responding to some of the arguments made by Defendants' experts Drs. Stulz and Kleidon. My qualifications and CV are included with that initial report and are not included again here.

2. In summary, I am of the opinion that Dr. Stulz's opinions are largely flawed and/or irrelevant. With respect to Dr. Kleidon's opinions regarding materiality, I understand that is a legal term and I do not offer an opinion as to whether the lack of disclosures meet the legal definition of materiality. I do, however, stand by my opinion that information identified in my December 15, 2015 report relating to Barclays' capital position and its discussions with the FSA regarding its capital position would have been important information to investors in the Series 5 preferred shares.[1]

3. In Section II I discuss the implication of the need to raise capital in the middle of the financial crisis and relate that to Dr. Stulz's opinion that capital raises would have been indisputedly beneficial to the Series 5 preferred shareholders. In Section III I evaluate Dr. Stulz's statements regarding Barclays' capital ratios and its discussions with the FSA. In Section IV I critique Dr. Stulz's distance to default analysis. Finally, in Section V I discuss Dr. Kleidon's opinions regarding what he refers to as materiality.

II. Raising Capital in the Midst of the Financial Crisis

4. Dr. Stulz spends much of his report explaining a firm's capital structure, describing where preferred shares sit in that capital structure, and opining merely that raising capital by issuing common equity is typically beneficial to preferred shareholders. However, much of this analysis is not pertinent to my analysis or conclusions.

5. As an initial matter, not all capital raises are carried out by issuing common equity, even in normal times. In 2008, Barclays was facing a variety of troubles and capital markets were in turmoil. In the midst of banks taking large write-downs, being propped up by governments, and in some instances being nationalized, there was no guarantee that there would be enough market support for an economically feasible offering of bank common equity.

[1] The materials I rely upon in this Reply report include those listed in Appendix B of my December 15, 2015 report, or are otherwise specifically cited herein.

6. While Dr. Stulz simply asserts that "Barclays could raise capital on acceptable terms," that is an *ex post* conclusion regarding a mix of common and preferred stock, and not a statement that could have been made with any assurance *ex ante*. As I noted in my initial report in this matter, Northern Rock, another British bank, was nationalized in February of 2008. Northern Rock presumably was not able to issue common or preferred equity "on acceptable terms".

7. Indeed, Dr. Stulz himself authored a paper that concluded that "Firms are more likely to carry out private instead of public [common] equity issues and to postpone public equity issues when market liquidity worsens."[2] It goes on to say that "The relation between liquidity and [common] equity issuance is stronger for decreases in liquidity than increases."[3]

8. There are three ways in which firms can raise capital. A firm can (i) raise funds from investors by issuing either common shares, preferred shares, or certain classes of debt, (ii) retain earnings, and (iii) sell assets. I discuss all three options for Barclays in the context of the markets as they were in the relevant time period – the first quarter of 2008.

Raising funds from investors

9. As Dr. Stulz described, there are numerous layers of a firm's capital structure. Debt is above equity, and within each of those categories there are further sublayers. Preferred equity is higher in the capital structure than common equity. Senior debt is higher in the capital structure than subordinated debt. Debt can also be secured – meaning that it is backed by specific collateral – or it can be unsecured.

10. The focus in this matter is on preferred equity. Preferred stock typically pays a dividend, does not have a claim on the excess earnings of the firm as does common stock, and sits above common stock (but beneath debt) in the firm's capital structure.

11. Issuing shares of common stock is just one way of raising capital from investors Another way, for example is to offer preferred shares similar to the Series 5 preferred shares at issue in this case. A preferred share issuance would, *ceteris paribus*, add to the existing credit risk associated with the Series 5 preferred shares and therefore negatively impact their market price.[4]

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[2] Stulz, Rene M., Vagias, Dimitrio, and van Dijk, Mathijs A. "Do firms issue more equity when markets are more liquid?", March 2014, *available at* http://static1.squarespace.com/static/531afe04e4b0b17f973f5962/t/53e07753e4b0e5c82871f910/1407219539249/Equity_issues_and_liquidity_March2014.pdf at 1. The hypothesis developed in that paper is not new. See, for instance, Baer, Herbert L., and John N. McElravey. "Capital Shocks and Bank Growth," Economic Perspectives, Federal Reserve Bank of Chicago, July-August 1993.

[3] *Id.* at 26-27.

[4] This assumes that the newly issued preferred shares have the same liquidation preference as the existing preferred shares.

12. While I offer no opinion on the methodology used by Dr. Kleidon in running his event study, it is interesting to note that two of the ten days on which Dr. Kleidon observed statistically significant movements in the price of the Series 5 preferred shares, Dr. Kleidon associated those price movements with news regarding the possibility of the UK government bailing out Barclays and taking preferred shares.

13. First, Dr. Kleidon notes that the price of the Series 5 preferred shares rose from $9.10 to $13.87 on October 13, 2008, and he also notes that on that date Barclays stated in a press release that it would not accept U.K. government funds.[5] The terms of the U.K. bailout of British banks were detailed a few days earlier, and included the following: "Government will provide the Tier 1 capital facility to the participating banks that require it *as preference share capital* (or the equivalent permanent interest bearing share capital for building societies) or will assist with the raising of ordinary equity if requested to do so."[6] (emphasis added)

14. Then, on January 21, 2009, a day in which the price of the Series 5 preferred shares declined from $13.23 to $10.35, Dr. Kleidon explains that he "conducted a search of information concerning Barclays that entered the market on that date (as well as the prior and subsequent trading days)," and then notes only that "The Barclays-specific information included media reports that there was speculation that Barclays would be nationalized by the U.K. government."[7] (citation omitted)

15. Many firms, and specifically British banks, were raising funds from investors during this time period in a variety of ways, including issuing common and preferred shares. Furthermore, there is evidence that the price of the Series 5 preferred shares traded in part based on expectations as to *whether* Barclays was going to raise funds from investors; the disclosure of the existing need to do so was, therefore, important. Once investors knew that Barclays would be seeking new capital, the mix of strategies by which such capital would be raised becomes of keen importance, as illustrated by Dr. Kleidon's findings outlined above.

16. What's more, contrary to Dr. Stulz's assertions, Barclays' internal documents show that it was not clear to Barclays' executives that the Company could raise capital by issuing either common or preferred stock "on acceptable terms." For instance, Barclays' 2008 Capital Plan Update from April of 2008 details the difficulty Barclays would have in issuing common shares and

[5] Kleidon Report at ¶¶71-73.
[6] *See* https://www.orrick.com/Events-and-Publications/Documents/1476.pdf.
[7] Kleidon Report at ¶91.

discusses the preconditions for a successful rights offering, including indications of no further "'credit crunch' related writedowns" and "a rebalancing of the Group capital to less risky, lower return business".[8] And in March of 2008 Barclays noted that "the preference share market remains closed".[9]

17. I understand that Barclays' actual ability to raise capital during the relevant time period was not as simple as Dr. Stulz suggests. For example, in the summer of 2008, Barclays attempted to raise £4.5 billion through a rights issue to existing shareholders, but shareholders opted to purchase only 19% of the offered shares.[10] Additionally, it is my understanding that it is alleged that in order to attract an emergency £7 billion capital infusion from Middle Eastern investors in October 2008, which Barclays used to avoid accepting a UK government bailout, Barclays secretly paid a subsidiary of one of the investors, Qatar Holdings, £322 million in "advisory fees."[11] In effect, Barclays "lent Qatar money to invest in it[self]."[12] Barclays' undisclosed payment of these fees has spawned a shareholder lawsuit and an ongoing criminal investigation by the UK's Serious Fraud Office.

Retaining earnings

18. Another way to raise capital is to retain earnings, instead of paying those out to investors in the form of dividends. While the first equity investors to have their dividends cut or eliminated are typically the common shareholders, it is a relevant concern, especially in periods of severe market stress as was present in early 2008, that preferred shareholders may not receive their full dividends.

19. Indeed, Dr. Stulz notes that the prospectus supplement for the Series 5 preferred shares explicitly states that "We may for any reason not pay in full or in part any dividends on the preference shares in respect of one or more of the dividend periods."[13] Dr. Stulz further notes that

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[8] BARC-ADS 01551245 at p. 6. Note that contrary to Dr. Stulz's assertion that common-equity holders prefer that the firm take on more risk and debtholders and preferred shareholders prefer that the firm take on less risk, here Barclays states that a precondition to a successful rights offering is shifting to a "less risky, lower return business". (Stulz Report at ¶23)
[9] BARC- ADS 00937638 at p. 4 of appendix.
[10] http://news.bbc.co.uk/2/hi/business/7513178.stm.
[11] *See* http://www.ft.com/fastft/2016/01/28/amanda-staveley-sues-barclays-for-almost-1bn/ and http://www.wsj.com/articles/u-k-serious-fraud-office-offers-barclays-deal-to-end-qatar-funding-probe-1437486361; *see also* http://www.bloomberg.com/news/articles/2015-09-29/u-k-prosecutor-raises-pressure-on-barclays-in-qatar-probe.
[12] http://uk.reuters.com/article/uk-barclays-ceo-bonus-idUKBRE9100HX20130201.
[13] Stulz Report at footnote 23 referencing the prospectus supplement at p. S-6.

because the preferred shares are non-cumulative, "to the extent all or part of a particular dividend is not paid according to the quarterly schedule, that dividend will not be paid in the future."[14]

20. Any market event or piece of information that would cause the market to perceive an increase in the risk that Barclays would not make full dividend payments to its preferred shareholders would be important information for Series 5 shareholders.

Selling assets

21. A third way to raise capital is to sell assets. Selling assets at distressed prices shrinks the firm and affects future profitability, which can negatively affect preferred shareholders. Assets are held because they are expected to be profit-generating. It is on those future profits that the various investors in the bank's capital structure have different claims – debtholders are entitled to periodic interest payments and the return of their principal upon maturity, preferred shareholders are entitled to their periodic dividend payments and the return of their principal upon maturity (if applicable) or liquidation, and common shareholders are entitled to the excess earnings of the bank in the form of future dividends. As noted by Dr. Stulz, "… any profits above those needed to meet promised payments to debt and preference shares accrue to the ordinary [common] shares."[15]

22. If the asset base of a bank shrinks, there is less expected future revenue, *ceteris paribus*. Less expected revenue means a greater risk that the bank will not be able to pay future dividends to the preferred shares (or interest payments due to debtholders). So, while Dr. Stulz is right that "equity holders stand to reap the upside of risky bets,"[16] he ignores the fact that preferred shares are subject to a risk that dividends will be missed and/or principal will not be repaid, but preferred investors do not benefit from that same "upside." Thus preferred shareholders are sensitive to information about downside risk.

23. In early 2008, it appears that Barclays did, in fact, consider selling assets in order to raise capital but were unable to do so "on acceptable terms."[17] In this instance, Barclays' need to raise capital, and the possibility of it being done through assets sales at distressed prices, was information that would have been important to investors in the Series 5 preferred shares.

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[14] Stulz Report at ¶25 referencing prospectus supplement at p. S-11.
[15] Stulz Report at ¶48.
[16] Stulz Report at ¶48.
[17] *See, e.g.,* Diamond Transcript at p. 194:22-25 ("But it would be wonderful to sell positions, but the liquidity in the market was less.")

III. Barclays' Capital Ratios

24. Dr. Stulz insinuates that because Barclays' capital ratios were above minimum Basel requirements, there was no risk Barclays would have to raise additional capital.[18] But that assertion is contradicted by the evidence that the FSA *was* indicating at the time of the Offering that Barclays would have to raise additional capital in the near future.[19] And while Dr. Stulz asserts that "Barclays was not being reprimanded by its primary regulator for violating minimum regulatory capital requirements,"[20] that is simply beside the point.

25. As I explained in my initial report in this matter, the U.K. did not have prompt corrective action ("PCA") or other automatic adjustment mechanisms in place. That means that there were no pre-specified triggers that required clear action on the part of regulators. In other words, there effectively weren't any minimum *requirements* for capital ratios because there was no *mandatory regulatory* response if the minimum ratios referred to by Dr. Stulz were breached.[21]

26. In fact, the lack of such minimums and mandatory actions – such as those specified under PCA in the U.S. – created substantial uncertainty about *whether* and *when* regulators would take action. Thus, the lack of PCA measures made discussions with and guidance from regulators *more* important because regulatory discretion created uncertainty regarding the amount of various types of capital that regulators would ultimately want Barclays to hold. Understanding Barclays' actual capital ratios was certainly pertinent to investors, but so was understanding the guidance – even guidance short of official *reprimand* – that Barclays was receiving from its regulators and how that might impact its capital plan going forward.

IV. Dr. Stulz's Distance to Default Analysis

27. Dr. Stulz in his report attempts to apply a distance to default ("DTD") analysis to Barclays' Series 5 preferred shares and concludes, *inter alia*, that "the impact on this default risk… would have been indistinguishable from the normal variation in the risk of the Series 5 shares."[22]

28. As an initial matter, I note that Dr. Stulz's DTD analysis attempts to address only a small part of the allegations in this case. Dr. Stulz analyzes only the £800 million of alleged Q1 2008

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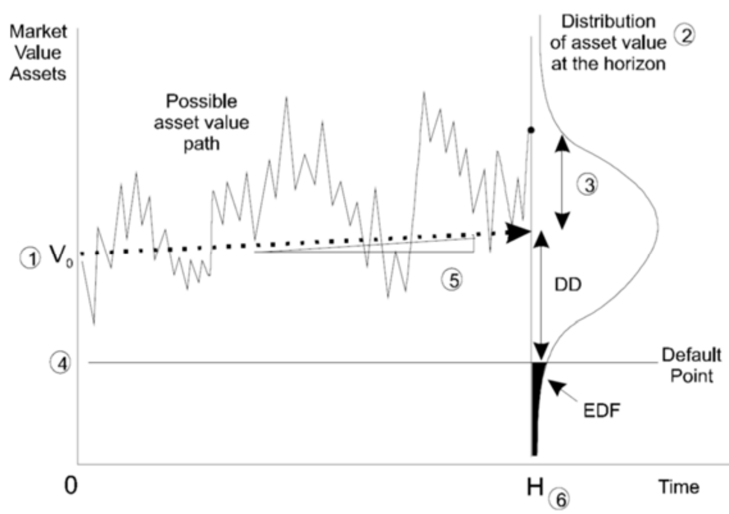
[18] Stulz Report at ¶¶40-43.
[19] Mason Declaration dated December 15, 2015 at ¶38.
[20] Stulz Report at ¶42.
[21] Mason Declaration dated December 15, 2015 at ¶29.
[22] See Stulz Report ¶¶76-103 for discussion of DTD analysis, and ¶104 for conclusion.

undisclosed credit losses, which is only part of the information that Plaintiffs allege Barclays improperly withheld from investors in the Series 5 preferred shares. The DTD analaysis, therefore, only addresses the risk of the distribution unexpectedly shifting downward by £800 million.

29. In theory, the DTD method of looking at the risk of the firm is quite simple. If we can assume that stock prices change according to a log-normal distribution, the probability that they will fall to some threshold associated with the default of the firm can be measured probabilistically. The main drivers of the model are illustrated below.

1. The current asset value.
2. The distribution of the asset value at time H.
3. The volatility of the future assets value at time H.
4. The level of the default point, the book value of the liabilities.
5. The expected rate of growth in the asset value over the horizon.
6. The length of the horizon, H.



Source: Crosby and Bohn

30. Dr. Stulz states: "As a matter of financial economics, an investor in preference shares is buying securities that pay a periodic stream of dividends and that entitle the investor to a payment in the event the firm is liquidated. Thus, a non-trivial and previously unanticipated increase in the *risk that investors will not receive the dividend payments and/or the promised liquidation payment* should cause the

shares to be issued at either a lower price or with a higher dividend rate. In this section, I refer to this risk as the 'default risk' of the preference shares."[23]

31. But Dr. Stulz's distance to default analysis does *not*, in fact, measure "risk that investors will not receive the dividend payments and/or the promised liquidation payment"[24] Instead, Dr. Stulz's distance to default analysis only measures default as the failure to return the $25 par value upon the failure of the firm, not merely the possibility of missing dividends. In Dr. Stulz's own words, "Because of the features of the Series 5 shares — the fact that dividends on the shares do not represent contractual commitments but are paid only at the directors' discretion, and the perpetual nature of the shares, meaning that there is no scheduled redemption date — the shares themselves cannot be subject to an event of default…. the shares are subject to default risk on the liquidation payment in the sense that an event of default can occur on another security in the capital structure, leading to a *liquidation in which the holders of the Series 5 shares receive less than the $25 liquidation or redemption value of the shares*."[25] Thus, the dynamic Dr. Stulz purports to measure is the wholesale *failure* and *liquidation* of Barclays that would result in a failure to pay all common stock *and* a portion of the Series 5 preferred stock, not merely a bond default.

32. Also, Dr. Stulz's Default Threshold does not include the preferred stock he purports to measure. His Exhibit 3 provides a detailed analysis of how each of these default thresholds was calculated. The first additional specification uses the same elements of the default threshold as above, but includes 100% (rather than 50%) of long-term liabilities, resulting in a default threshold of £1,234,852 million. The next two specifications (default thresholds of £1,307,054 million and £1,428,033 million respectively) include various off-balance sheet liabilities, and again differ according to whether 50% or 100% of long-term liabilities are included in the calculation. The final two specifications (default thresholds of £570,448 million and £637,906 million, respectively) are somewhat different in that they make a distinction between operating liabilities and debt."[26] None of those, however, include the Series 5 preferred stock shares. That omission means that Dr. Stulz *under*-estimates the default risk of the Series 5 shares.

33. Similarly, Dr. Stulz's method for estimating the volatility of the firm's assets – a crucial parameter of the analysis – uses the method of Vassalou and Xing (2004). Dr. Stulz, however, ignores the important caveat offered by Vassalou and Xing (2004) that, while other methods, "allow

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[23] At ¶52, emphasis added
[24] *Id.*
[25] *Id.* at ¶74
[26] Id. at ¶¶86-7.

for convertibles and preferred stocks in the capital structure of the firm," Vassalou and Xing, "allow only [common] equity and short- and long-term debt.[27] Thus Dr. Stulz's method for decomposing the crucial parameter underlying his estimate assumes away the exact financial security that is at issue in this case.

34. Dr. Stulz's DTD estimates also ignore the practical limitations of his techniques in the real world. At para 94, Dr. Stulz opines that "First, as Figure 8 of Sun, Munves, and Hamilton (2012) shows, for DTDs in the range of 3.087 to 3.128, differences between the PD calculated assuming normality and the EDF calculated using Moody's KMV's proprietary are relatively small."

35. But Dr. Stulz fails to mention that Sun et al points out that while, "The default rates may be small in absolute terms in both mappings as DD increases, … their difference can be of *several orders of magnitude*."[28] Indeed, the DTD produced by Dr. Stulz's method is in the region of results with estimates that are the *furthest* below those produced by the KMV method in Sun et al's Figure 8 at the DTD values Dr. Stulz estimates. Thus there is no reason to assume, as Dr. Stulz does, that the difference is "relatively small."

36. Even ignoring the distinctions pointed out by Sun et al, however, the default risk of preferred stock would be higher than that of debt, so that the distinctions drawn by Sun et al would be irrelevant to the Series 5 shares.[29]

37. Dr. Stulz also suggests three dimensions of the conditions surrounding Barclays that would mitigate his results. While all are speculative, the third is especially so. In his third assertion, Dr. Stulz suggests that "any risk assessments made by Series 5 investors would have incorporated the likelihood that Barclays would have taken action to maintain target capital ratios." The nature and disclosure of such attempts is, in fact, the subject of this lawsuit. The DTD model, itself, says nothing about these issues.

38. The problem is that the actions available to raise capital were extremely limited, as described above. The types of assets Barclays could sell were not in high demand and Barclays was

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[27] Vassalou, M., and Y. Xing (2004), "Default Risk in Equity Returns," *Journal of Finance*, Vol. 59, No. 2, pp. 831–868, at p. 835, fn 5.

[28] Sun et al. at 14, emphasis added

[29] Dr. Stulz omits the crucial step of translating the DTD into a default probability and equating that with a bond rating. Dr. Stulz's DTDs reported in his Exhibit 5 range from 2.351 (closer to default) to 4.343 (farther away from default). To put those in perspective, Moody's notes that a one-year DTD of 3.5 is associated with "a one-year" EDF of 25 bp, close to the median EDF of firms with a A rating." (See K.M.V., "Modeling Default Risk," 2002 at p. 13) The distribution of default probabilities and ratings is shown by KMV to vary over time for U.S. Corporates in the aggregate, sometimes reflecting an even lower rating. (See K.M.V., "Modeling Default Risk," 2002 at p. 31) Thus, the midpoint of Dr. Stulz's estimates – 3.347 – is, therefore, slightly worse than an "A"-rated bond, and possibly much worse depending upon Moody's proprietary statistics.

constrained in its ability to simply raise common equity in the public markets. As a result, Dr. Stulz's criticisms here are particularly weak.

V. Materiality and the Kleidon Event Study

39. As an initial matter, I understand that the terms "material" and "materiality" have specific legal definitions that may be different from the meaning ascribed to the terms by economists. I am not an attorney and therefore I do not have an opinion regarding whether the omissions in this case were material from a legal perspective.

40. I further understand that another of Plaintiffs' experts is opining on the validity (or lack thereof) of Dr. Kleidon's event study analysis. I am offering no such opinion here. Instead, I simply comment on the results of Dr. Kleidon's event study.

41. As I described in Section II, Dr. Kleidon's event study and subsequent news analysis indicates that the price of the Series 5 preferred shares was sensitive to changes in the market's perception of the likelihood of Barclays accepting government bailout funds and/or being nationalized. As explained above, that makes perfect sense in a period of significant market turmoil when securities were trading in part based upon expectations of whether firms would be able to successfully navigate the difficult market conditions on their own or whether they would need to sell assets rapidly in bulk, raise capital via common or preferred equity, or need special – possibly government – assistance.

42. In this context, it is my opinion that omissions regarding declining capital ratios, growing risk-weighted assets, and increased scrutiny from regulators regarding financial ratios were information that individually and collectively would have been important to the investment decision for investors in the Series 5 preferred shares.

Signed by me on this day, March 17, 2016,

Joseph R. Mason

EXHIBIT 234

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re BARCLAYS BANK PLC SECURITIES LITIGATION	Master File No. 1:09-cv-01989-PAC

REPLY REPORT OF FIACHRA T. O'DRISCOLL
SUBMITTED ON BEHALF OF LEAD PLAINTIFF

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I. INTRODUCTION

1. In my report dated December 15, 2015 ("Initial Report"), I offered expert opinions relating to Barclays' credit market positions as of year-end 2007, Barclays' risk management around certain such positions, and the changes in certain credit market positions during the first quarter of 2008 up to the commencement of the April 8, 2008 offering of Non-Cumulative Callable Dollar Preference Shares, Series 5 (the "Series 5 Offering"). Since my Initial Report, I have received and reviewed the Expert Reports of Defendants' Experts John H. Dolan (the "Dolan Report"), Allan W. Kleidon (the "Kleidon Report"), René M. Stulz (the "Stulz Report"), and Patricia O'Malley (the "O'Malley Report"), each dated February 2, 2016. In these rebuttal reports, Defendants' Experts address certain of the opinions that I expressed in my Initial Report. This Reply Report responds to the opinions Defendants' Experts have expressed concerning my Initial Report.

2. As explained herein, in criticizing some of the opinions I express in my Initial Report, the Defendants' Experts' Reports rely on numerous unsupported and inaccurate assertions with respect to Barclays' business and the credit market in the time preceding the Series 5 Offering, and also misstate aspects of my Initial Report. In particular, the Dolan Report contains factual errors with respect to the credit markets and specific assets owned by Barclays that render its opinions unreliable. The opinions expressed in Defendants' Experts' Reports, whether specifically addressed in this Report or not, do not change my opinions expressed in the Initial Report. I will address the more significant of Defendants' errors in this Report.

3. In preparing this Report, I reviewed the above-mentioned reports and the exhibits cited in the footnotes thereto, the materials listed in Exhibit 2 of my Initial Report, and the other documents referenced in Exhibit 1 or otherwise cited herein.

4. The opinions below are based on the information available to me and on my expertise and experience.

II. OPINIONS AND REBUTTAL

A. The Market Was Concerned About the Financial Health of Monoline Insurers Prior to the Series 5 Offering

5. Contrary to one of Mr. Dolan's core rebuttals, at the time of the Series 5 Offering, Barclays and other market participants expressed concern about the monoline bond insurance industry and the bank positions the monolines had insured.

6. Mr. Dolan states that: *"Stephen King, a senior credit trader at Barclays, testified that 'I don't remember monolines failing as being any more than Lehman failing being kind of on anybody's radar in early 2008.'"*[1] Mr. Dolan also states that "*[i]n fact, emails cited by Mr. O'Driscoll indicate that Barclays did not expect the monolines to experience the level of distress that subsequently occurred."*[2] Mr. Dolan goes on to say that *"The rating agencies and the market as a whole similarly did not expect such distress, as shown by the monolines' credit ratings and equity values in Exhibit 4."*[3]

7. On the contrary, there is much evidence that, by late 2007 and early 2008, the market was concerned with the monolines' capital markets exposures and ability to

[1] Dolan Report, para. 40.

[2] Dolan Report, para. 36.

[3] *Ibid.*

make payments on guaranteed positions like the £21 billion in wrapped assets held by Barclays, and how, if at all, the monolines might be repaired.

8. For instance, on November 19, 2007, Total Securitization, a well-known trade journal cited in my Initial Report, reported that:

> Deutsche Bank in London found that spreads on AAA prime residential mortgage-backed securities ... moved out again in the last week to just over 40 bps. The firm's report said structured finance markets were impacted by a combination of negative news linked to banks and financials, the looming prospect of portfolio liquidations in the collateralized debt obligations and structured investment vehicles space and growing ***uncertainty over monoline capital adequacy***.[4]

9. On December 21, 2007, Moody's attempted to reassure investors that it was taking full account of monolines' exposure to CDOs, saying:

> Moody's has received a number of inquiries from market participants about whether all the CDOs detailed in [MBIA's recent] disclosure had been incorporated into the analysis leading to Moody's recent rating action on MBIA. …in its recent stress testing of MBIA's mortgage-related risk, the rating agency included the CDOs totaling $30.6 billion in net par that are detailed on MBIA's website.[5]

10. Also in December 2007, Total Securitization reported on investors' skeptical reactions to Moody's stress testing and downgrades of certain monolines:

> Moody's Investors Service may have been too lenient in stress-testing collateralized debt obligations of asset-backed securities as part of its recent analysis of financial guarantors, according to Douglas Lucas, head of CDO research at UBS. His comments were a response to a Moody's conference call last week after it placed on watch for downgrade Aaa-rated Financial Guaranty Insurance Company and XL Capital and attached a negative outlook to MBIA Insurance Corporation and CIFG Guaranty. … UBS

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4 "Euro ABS Mart Sees Renewed Spread Widening," Total Securitization, November 19, 2007, p. 7.

5 "Announcement: Moody's Comments on MBIA's CDO Exposure," December 21, 2007, Moody's Investors Service, *available at* https://www.moodys.com/research/Moodys-Comments-on-MBIAs-CDO-Exposure--PR_146999.

> monoline analyst David Havens said there was a lack of detail and granularity in the Moody's statement, and that the rating agency's conference call did not shed additional light. David Gilliland, chief credit strategist of municipal securities at the bank, concurred and said that the market had expected a complete detailed analysis. "Instead we got a three-page report."[6]

11. A separate article in the same issue of Total Securitization reported on Standard & Poor's negative rating actions on the monolines:

> Standard & Poor's negative rating actions on ACA Capital Holdings and FGIC will send shock waves through the securitizations markets. "This is huge," said one MBS trader. "***One minute ACA was an A, now it has a junk rating? Watch the ripples this causes***." ***Last week S&P slashed its rating of ACA to CCC from A and placed FGIC on credit watch negative. Ambac Assurance, MBIA and XL Capital Assurance had their financial strength affirmed but were given negative outlooks. The rating actions question the ability of the monolines' capital cushions to absorb potential losses from exposure to subprime residential mortgage- backed securities and collateralized debt obligations.*** One industry vet and ex-rating agency analyst said although ACA's downgrade is painful, doomsday would come if one of the bigger monolines lost their AAA rating. In the meantime, market players are watching credit default swaps. "If there are substantial calls under these agreements this will cause severe liquidity problems for the monolines," he said. Legal wrangles may not ensue however, as although subprime sector is rife with class action suits, the monolines tend to be plaintiffs. "Their own policies carefully detail only their intention to hold their AAA rating, not their guarantee."[7]

12. By late 2007, the monolines had also become a target for short sellers, reflecting negative market sentiment regarding the monolines and complicating their ability to raise capital. Hedge fund manager William A. Ackman had long been a short seller of MBIA, Inc., the largest monoline. *The New York Times* reported on December 1, 2007 that "[a]t the investor presentation he held this week, Mr. Ackman predicted that

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[6] "Monolines May Be Worse Off Than Moody's Thinks, Says UBS," Total Securitization, December 24, 2007, p.4-5.

[7] "Rating Actions On Monolines Jolt Market," Total Securitization, December 24, 2007, p.17.

the holding company could be bankrupt by the second quarter of 2008, which MBIA says is preposterous."[8] The article went on to say:

> In the 1990s, MBIA began to guarantee not just muni bonds but so-called structured finance vehicles, including those now infamous C.D.O.'s that are causing so much trouble. "If you analogize it to life insurance," said [Sean] Egan [the co-founder of Egan-Jones, an independent bond rater] — who uses the kind of pithy language that escapes Mr. Ackman — "it is as if they once insured only 18-year-old women who didn't smoke or drink. Now they are insuring the Evel Knievels of the world."

13. In a January 29, 2008 Oppenheimer & Co. Inc. research report, which was circulated internally among traders at Barclays, analyst Meredith Whitney wrote:

> Among the myriad of negatives that surround financial stocks today, we see no issue more critical than the fate of the monoline insurers. ***The fate of the monoline insurers is of paramount importance to financial stocks***, as further downgrades of major monoline insurers by the rating agencies could put another $100 billion in assets held by banks in jeopardy of further writedowns.[9]

14. Additional concerns regarding monoline insurers were expressed during Congressional hearings held on February 14 and 15, 2008, concerning "[t]he state of the bond insurance industry."[10] Among the witnesses were the Chief Executive Officer of Ambac Financial Group, Inc., the Chief Financial Officer of MBIA Inc., and the Hon. Eliot Spitzer, Governor of New York State, the domicile of many of the monolines. Gov. Spitzer stated that the monolines' "expansion from monolines to dual lines [i.e. into structured finance exposure] is what has generated ***the crisis that we are faced with*** and

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[8] "Short Seller Sinks Teeth Into Insurer," Joe Nocera, *The New York Times*, December 1, 2007, *available at* http://www.nytimes.com/2007/12/01/business/01nocera.html?_r=0.

[9] Exhibit 358, BARC-ADS-00263822-855 at 823.

[10] The State of the Bond Insurance Industry, Hearing Before the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises of the House Committee on Financial Services, U.S. House of Representatives, February 14, 2008.

what we must think about."[11] *The New York Times* pointed out on February 20, 2008, that "talk of rescuing municipal bond insurance companies, like Ambac and MBIA, has not reassured investors."[12]

15. In March 2008, the New York State Assembly held hearings on the monolines.[13] Eric DiNallo, at that time the superintendent of the State Department of Insurance (today amalgamated into the Department of Financial Services), reported that, while the Department was helping the monolines to recapitalize, it was already "studying what steps could be necessary if one of the bond insurers is unable to find the capital it needs to maintain its ratings and stabilize its business."[14] In other words, by March of 2008, the Department was acknowledging the possibility that monoline insurers could fail.

16. In fact, on January 25, 2008, while it hid its £21 billion in monoline-wrapped assets from investors, Barclays Capital itself published a 23-page credit research article on monoline insurers, which makes it clear that Barclays Capital thought its customers should be attentive to the monoline problem. Among other things, the article, entitled "European Alpha Anticipator: Decoding the Fed and Monolines," says:

- "The key issues for the monolines are: 1) the potential downgrade of all structured securities they wrap, ranging from municipal bonds to routine

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11 *Ibid.*

12 Norris, Floyd, "Auctions Yield Chaos for Bonds," *The New York Times*, p. C1, February 20, 2008, *available at* http://www.nytimes.com/2008/02/20/business/20place.html.

13 Notice of Public Hearing – New York Assembly Standing Committee on Insurance, March 14, 2008 ("The purpose of this hearing is to examine the current state of the Bond Insurance Industry, including past decisions and policies that have led to the present crisis.").

14 Testimony of the New York State Insurance Department Before the New York State Assembly Regarding The New York State Insurance Department's Regulatory Role In Light Of Bond Insurance Crisis, March 14, 2008.

ABS transactions to structured deals with the potential for forced selling and further writedowns; and 2) whether there will have to be further bank write-downs on the value of the hedges investment banks sell to them."[15]

- "Global banks could end up requiring up to $143bn in additional capital."
- "During the second half of 2007, it became increasingly clear that the monolines will need to pay cyclical claims on exposures in these this time around, whereas they have never needed to do so before."
- "Bank exposures could be relatively high, on the other hand. So far, they have been reticent about giving too much detail."
- "In terms of our understanding of how banks' capital may be affected by monoline downgrades, we believe it is double-edged. On the one hand, bank equity will be hit by any negative mark to market on the difference in value between the wrapped (AAA) security and the underlying. On the other, as the security credit quality (and rating falls), the risk-weighting attached to it should rise. This puts additional pressure on bank capital requirements."[16]

17. Internally, Barclays' traders were attuned to Barclays' monoline exposure and the possibility of losses that defaults or downgrades of the monolines would cause. In November 2007, Stephen King did an informal survey of the monoline exposure of peer banks, based on peer disclosures, sales discussions and CDO desk knowledge, to assess how Barclays' negative basis trade ("NBT") exposure stacked up against its peers. According to Mr. King's survey, Barclays' NBT exposure of $50 billion was the third highest exposure among its peers[17] and the second highest exposure to counterparties that did not post collateral to protect insured parties.[18]

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[15] Barclays Capital, Decoding the Fed and Monolines, European Alpha Anticipator, January 25, 2008, p. 5.

[16] *Ibid.*, p. 10.

[17] Exhibit 357, BARC-ADS-00416617.

[18] AIG would post collateral against its exposures if downgraded. *See* "Valuation and Pricing Related to Initial Collateral Calls on Transactions with AIG," Goldman Sachs, August 31, 2010.

18. In addition, Barclays' Risk Management said in November 2007 with respect to their views on monolines: "We do have substantial exposure to monolines in the Negative Basis book. We have been discussing the exposure with Group to determine appropriate Mandate and Scale limits . . . Our credit view on the monolines is negative and we believe that the ratings could come under pressure in the next few quarters due to the exposure that they have to the ABS CDO market."[19]

19. Moreover, Robert Le Blanc, Barclays' Chief Risk Officer, sent a paper to Barclays' Board on March 20, 2008, that addressed concerns regarding the monoline insurers, showing that Barclays' management was sufficiently concerned to flag the problem to the Board. Mr. Le Blanc wrote: "Concern over the future of the major Monolines remains an important factor, and despite their recent efforts to raise new capital. Further pressure on their AAA-rating *[sic]* and business model is likely."[20]

20. In summary, to say that "the market as a whole similarly did not expect such distress," as Mr. Dolan does, is to play with words and miss the point. I have not opined that Barclays should have known that the monolines were sure to default. Rather, I opine that there was evidence that monolines were a concern and in distress from November 2007 through the date of the Series 5 Offering, and that during this time period, Barclays did not disclose the true extent of its exposure to the monolines. For example, as discussed below, while Barclays stated in the 2007 Form 20-F that none of the hedges of its reported ABS CDO Super Senior exposures "were held with monoline

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[19] Exhibit 354, BARC-ADS-00582828.

[20] BARC-ADS-01544567, p. 1.

insurer counterparties,”[21] it failed to disclose that the company actually held billions of dollars in undisclosed ABS CDO Super Senior positions that were insured almost ***entirely*** by monoline insurers.

B. Barclays Did Not Disclose the Magnitude of Its Negative Basis Trade Positions Prior to the Series 5 Offering

21. As discussed above and in my Initial Report, Barclays held a total of £21.5 billion in undisclosed NBTs that had been insured by monoline insurance companies and other entities as of November 19, 2007, including £6.2 billion in ABS CDO positions.

22. Mr. Dolan does not dispute that Barclays held these positions. Instead, he opines that *“Mr. O’Driscoll and Mr. Regan are wrong to state that these positions… were not disclosed. These positions were in fact disclosed at fair value, which in my opinion was consistent with their underlying economic structure.”* But Mr. Dolan is wrong because, as I stated in my Initial Report, Barclays did not disclose its NBT positions in the 2007 Form 20-F’s disclosure of Barclays’ credit market positions. Instead, it disclosed only that the “value of exposure to monoline insurers” was £1,335 million (approximately $2.7 billion) at December 2007.[22] Barclays never disclosed to investors before the Series 5 Offering the existence or notional value of its NBT book, which consisted of £21 billion in positions as of November 2007.[23]

23. Because of the way in which Barclays minimized its monoline exposure, market participants frequently misunderstood the nature and scale of the exposure. For

[21] Barclays 2007 Form 20-F. p. 53.

[22] Barclays 2007 Form 20 F, page 53.

[23] Exhibit 356, BARC-ADS-00090242.

instance, the *Financial Times* wrote on February 19, 2008, that "we can't see what write-downs, if any, Barclays has taken on its ballooning exposure to assets backed by a monoline guarantee."[24] The *Financial Times* failed to understand – because Barclays never disclosed – that Barclays' exposure to assets backed by monoline insurers wasn't "ballooning." Rather, these assets had always been on Barclays' balance sheet; only the mark-to-market value of this exposure was changing. In fact, Barclays had not added a monoline trade to its position since September 20, 2007, and had added only one trade after the end of August 2007.[25]

24. Furthermore, hiding the NBT positions and disclosing only a £1,335 million mark-to-market value of monoline exposure, led at least one major equity analyst to incorrectly calculate Barclays' shares' downside potential. Peter Toeman, HSBC's Senior Analyst for Banks, in his report dated February 21, 2008, calculated that "[w]riting-off the CDO and monoline exposure to 60% and recapitalising the group to its target 5.25% equity tier 1 ratio would imply 7% EPS dilution."[26] HSBCs calculation was sound enough with respect to estimating CDO losses, but Mr. Toeman could not know that it was an entirely incorrect way to calculate Barclays' potential losses on monolines. This is because the mark-to-market value of the monolines' protection that Barclays disclosed bore ***no relation*** to its potential exposure to the monolines. In truth, Barclays' notional exposure to monolines was over £21 billion as of year-end 2007. Thus, HSBC's

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[24] "All that's missing at BarCap is a little clarity," Thomas, Helen, *Financial Times*, February 19, 2008, *available at* http://ftalphaville.ft.com//2008/02/19/11010/all-thats-missing-at-barclays-is-a-little-clarity/.

[25] BARC-ADS-00833242.

[26] "Barclays, Flashnote, Relief bounce, but risk exposure remains," Toeman, Peter, HSBC Global Research, February 21, 2008.

calculation was analogous to estimating the damage potential to the RMS Titanic based on 60% of the visible iceberg, without knowing how big the iceberg was below the waterline.

25. Mr. Dolan goes on to state that *"Mr. O'Driscoll's claims about 'undisclosed exposure to CLOs of US$24,383 million' [] and 'undisclosed exposure to commercial mortgages, CMBS and "CRE CDOS". . . of $4,895 million,' [] similarly refer to the NBTs discussed in this section, and are flawed for the same reason."*[27] But Mr. Dolan does not dispute that Barclays omitted any mention of these positions from the 2007 Form 20-F's discussion of its credit market positions, and instead disclosed the above-mentioned £1,335 million monoline mark-to-market value. Likewise, Barclays executives never discussed these exposures on its public conference calls or presentations before the Series 5 Offering.

26. In addition, the evidence indicates that at least one of Barclays' biggest investors was seeking information about the company's true notional monoline exposure and Barclays appears to have shared additional information about its exposures with this investor. Temasek Holdings Private Limited ("Temasek") is a sovereign wealth fund owned by the Government of Singapore[28] that held an approximately 2% stake in Barclays in 2007-2008.[29] While little known in the United States, it is also among the

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[27] Dolan Report, para. 31.

[28] http://www.temasek.com.sg/abouttemasek/faqs.

[29] "Temasek sold Barclays stake at loss," *Reuters*, June 3, 2009, *available at* http://uk.reuters.com/article/uk-barclays-idUKL334812220090603.

active investment funds best known in international banking circles.[30] Temasek's portfolio of investments was $266 billion at the most recent year-end, with a larger exposure to financial services than to any other sector.[31] Temasek's investment in Barclays was specifically discussed in Barclays' 2007 Form 20-F. According to at least one Barclays' document, prior to the Series 5 Offering in March 2008, Temasek asked a number of questions about Barclays' exposure to CDOs and, specifically, requested information concerning the composition and notional value of Barclays' exposure to monolines.[32] It should be noted that Temasek had extensive exposure to CDOs and monolines, both directly and because it had invested in Merrill Lynch & Co., Inc. in December 2007.[33] According to internal Barclays documents, Temasek had a private conference call with senior Barclays executives on or about March 18, 2008.[34] A presentation was assembled for that call, entitled "Sub-prime Exposures February 29th 2008" that included notional amounts broken down by monoline insurer.[35] Notably, the presentation indicates that as of February 29, 2008, Barclays' notional exposure to monolines was $42,148 billion.[36]

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30 *See, e.g.,* Meredith Whitney, Kalmon Chung, "US Banks: The Big 'What If': $40 -$70B In Est. Damage Caused By Monoline Downgrades," Oppenheimer and Co. Inc., p.6; *see also* Exhibit 358, BARC-ADS-00263822-853.

31 http://www.temasek.com.sg

32 BARC-ADS-01573580.

33 "Merrill Lynch Will Sell Stake to Temasek Holdings," *Reuters*, December 25, 2007.

34 BARC-ADS-01573580-583 at 581.

35 *Ibid.*, at 584 (native attachment).

36 *Ibid.*, at 584 (native attachment).

27. Similarly, as I noted in my Initial Report, when Barclays presented its monoline exposure to the FSA in November 2007, it disclosed, among other things, the notional value of its positions.[37]

C. Measures of Exposure

28. Mr. Dolan says that *"Mr. O'Driscoll and Mr. Regan incorrectly focus on notional values as measures of exposure. ... these measures do not represent the underlying economic exposures of the NBTs. Instead, Barclays reported NBT exposures at fair value, which is consistent with the economic nature of the underlying exposure."*[38] In response, I will briefly explain the concept of "notional" amounts. In the context of credit derivatives, ISDA, the International Swaps and Derivatives Association, defines notional[39] as the amount paid by the protection seller (i.e., the guarantor) when a default occurs, less any adjustment due to expected recoveries (the "Final Price").[40] In other words, the "notional amount" is the maximum amount a lender or guarantor can lose on a position, assuming a recovery rate of zero, and the "potential future exposure" is the product of the notional amount and the expected recovery rate given default.

29. Professor Stulz appears to agree with me and contradict Mr. Dolan when he says *"[m]easures such as potential exposure are relevant not only to the specific example of these negative basis trades, but also to over-the-counter derivative transactions more*

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[37] Initial Report at para. 119 (citing BARC-ADS-00833240).

[38] Dolan Report, para. 18.

[39] Called the "Floating Rate Payer Calculation Amount," 2003 ISDA Credit Derivatives Definitions, International Swaps and Derivatives Association, Inc.

[40] *Ibid. See* "Cash Settlement Amount" definition. Note that for CDS the "Reference Price" therein is 100%.

generally.'[41] However, Professor Stulz goes on to claim that "*a search of the Barclays Annual Report for 2007 for the terms 'potential exposure' or 'potential future exposure' yields no hits.'*[42] Professor Stulz overlooks the fact that potential future exposure is simply the product of the notional amount and expected recovery, as discussed above, and Barclays ***did*** disclose notional amounts in its 20-F annual reports with respect to derivatives. For example, on page 102 of the 2007 Form 20-F, under the heading "Notional Principal Amounts of Credit Derivatives," Barclays disclosed "Credit derivatives held or issued for trading purposes" of £2,472,249 million. Also, in Note 14 of the accounts, Barclays disclosed "Fair Value" and "Notional contract amount" with respect to its derivative contracts, analyzed between foreign exchange, interest rate, credit, commodity, and equity derivatives contracts. Barclays did not disclose expected "Final Prices" or recoveries with respect to those derivatives that would allow one to calculate "potential future exposures," but since there are standard assumptions for expected recovery built into the market pricing of credit derivatives, estimating the "potential future exposures" on Barclays' derivatives positions would not be a complicated exercise.

30. More generally, a bank will almost never know exactly how much it can lose on a given default. There is, however, a hierarchy of measures that a credit risk manager or a bank analyst can use to assess a bank's possible loss if and when a borrower defaults. Each of these measures has two properties associated with it: its magnitude

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[41] Stulz Report, para. 109.

[42] *Ibid.*

upon default and its degree of certainty. The notional amount is the measure that produces the highest magnitude and has the highest associated certainty: a bank like Barclays knows with a high degree of precision the amount it has insured with monoline counterparties.

31. The "fair value" of a derivatives position is, in general, the ***least*** amount the bank can expect to lose. Barclays' 2007 Form 20-F defined "fair value" as "the amount at which the instrument could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale."[43] In other words, "fair value" is the price the bank could obtain if it could ***immediately*** sell the position in a liquid market. Since, by its nature, when a credit position becomes more risky, its price falls and the number of "willing parties" to whom the bank can sell the position falls, in a declining market the "fair value" is usually the ***least*** the bank can expect to lose and is, with respect to most non-traded derivatives positions, subject to uncertainty. Barclays' 2007 Form 20-F said that "[t]o the extent that valuation is based on models or inputs that are not observable in the market, the determination of fair value can be more subjective, dependent on the significance of [] unobservable input[s]." Other measures risk managers use, as discussed in my Initial Report, are Potential Future Exposure (notional amount times expected recovery), Expected Exposure (average exposure on a future date taking into account the expected movements of prices), Expected Positive Exposure (the Expected Exposure in a given time interval), Right-way/Wrong-way Exposures (exposures that are positively/negatively correlated with the credit quality of the

[43] Barclays 2007 Form 20-F, p. 48.

counterparty, *i.e.* the worse the exposure gets the less likely the counterparty is to be able to pay) and Current Exposure. Of these measures Current Exposure, or "fair value," is the method that in practice produces the lowest exposure, and that is the measure that Barclays chose to share with its investors.

32. In addition, notional exposure is particularly meaningful in the context of a market downturn, when the assets wrapped by monoline insurance are declining in value. If a bank discloses only the "fair value" of its monoline exposure, as Barclays did prior to the Series 5 Offering, that "fair value" amount will continue to increase as the insured assets decline in value, but it tells investors nothing about where the bank's exposure ends. By contrast, the notional value of the assets wrapped by monoline insurers does ***not*** increase as the value of the underlying assets decline in value and thus, unlike the "fair value" figure disclosed by Barclays, it lets investors in a declining market know where the bank's exposure ends and how large the bank's losses could be.

33. But more importantly, before the Series 5 Offering Barclays did not give investors in general any indication that Barclays had any exposure to NBTs or monolines that could exceed the above-mentioned £1,335 million mark-to-market value. As discussed above, Barclays' failure to disclose its NBT positions under the mantle of a £1,335 million monoline "exposure" confused analysts. For example, before Barclays' 2007 earnings call on February 19, 2008, Deutsche Bank's Jason Napier wrote: "In addition, though ***we believe that Barclays has no hedge exposure to the weakened monoline bond insurer sector***, we have been unable to ascertain either gross exposure

figures or the manner in which basis risk has been treated by the company in the calculation of the net exposures listed below."[44]

34. Mr. Dolan also incorrectly asserts that Barclays' Negative Basis Trades *"were fundamentally different from standalone CDO exposures in that they would only experience loss in case of 'double default'"* and that monolines *"are essentially immune from credit risk"* absent a default of the insurer.[45] Mr. Dolan's claim ignores the "wrong way risk" inherent in such a trade. The Basel Committee on Banking Supervision's "Basel II" bank capital rules[46] state that a bank is "exposed to 'specific wrong-way risk' if future exposure to a specific counterparty is expected to be high when the counterparty's probability of default is also high. For example, a company writing put options on its own stock creates wrong-way exposures for the buyer that is specific to the counterparty." The rule requires that "[a] bank must have procedures in place to identify, monitor and control cases of specific wrong way risk, beginning at the inception of a trade and continuing through the life of the trade."

35. Monoline bond insurance exposed Barclays to a classic case of wrong-way risk because, while monolines could pay for isolated defaults, if they were hit with a correlated wave of defaults on insured CDOs, the monolines could never pay because they were too thinly capitalized. Thus, for banks like Barclays, their future exposure to monolines would be its highest at the same point in time when the monolines' probability

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[44] Barclays FY2007 results preview, Jason Napier, CFA, Deutsche Bank AG/London, February 7, 2008.

[45] Dolan Report, para. 30-31.

[46] "The Application of Basel II to Trading Activities and the Treatment of Double Default Effects.," Basel Committee on Banking Supervision, July 2005, *available at* http://www.bis.org/publ/bcbs116.pdf.

of default is the highest – when the market for subprime-backed CDOs collapses. Similarly, the monoline insurance would become worthless at the very time it was needed most by Barclays – when the values of the underlying ABS CDO assets declined sharply in value.

36. Just as importantly, the "Basel II" bank capital rules discussed above assigned the risk weights of the insurer to NBT assets.[47] Put simply, a bank could hold a $1 billion ABS CDO tranche rated BBB (with a 100% risk weighting under Basel II) but, with a guarantee from MBIA, treat the security as if it was rated AAA (with a 20% risk weighting). This would reduce the risk weighted assets under the NBT from $1 billion to $200 million and the capital that the bank had to hold under the NBT (at 8%) from $80 million to $16 million. However, if the ABS CDO and MBIA were downgraded to B+, the capital requirement soared, to $1 billion absent any mitigation.[48] Therefore the notional amounts of such trades were important to investors' understanding of the potential capital shortfalls a bank might face due to monoline downgrades.

37. Professor Stulz similarly says *"Mr. O'Driscoll argues that Barclays should have disclosed a different measure of exposure… He fails to note that Mr. LeBlanc* [sic], *the Risk Director of Barclays, used the current exposure and not the potential exposure when he reported to the board,"*[49] citing a document dated March 20, 2008. But

[47] "Basel II: International Convergence of Capital Measurement and Capital Standards: A Revised Framework - Comprehensive Version," Basel Committee on Banking Supervision, June 2006, Part 2 para. 585, *available at* http://www.bis.org/publ/bcbs128b.pdf

[48] *Ibid.*, para 567.

[49] Stulz Report, para 109. Robert Le Blanc was Chief Risk Officer, but he was not a Director of Barclays Bank plc or Barclays plc.

Professor Stulz overlooks numerous other instances where Barclays' notional exposure was specifically disclosed to the board (but not investors). For example, Professor Stulz ignores PwC's Board Audit Committee Report dated February 2008, which said that "The notional amount of monoline guarantees received is $42.3bn and the fair value exposure is $2.9bn."[50] Professor Stulz similarly ignores Barclays Capital's own presentation to the Board Audit Committee dated February 7, 2008, which disclosed both "Notional of underlying wrapped bonds" broken down by monoline insurer as well as "Current MTM exposure to insurer."[51] According to the table, the notional exposure totaled £19,373 million and the MTM exposure totaled £1,395 million. Professor Stulz similarly ignores PwC's Board Audit Committee Report dated May 5, 2008, which said that: "The notional amount of monoline guarantees amounts to $42.3bn and the fair value exposure is $5.5bn."[52]

D. Defendants' Experts Additional Opinions Concerning Barclays' Negative Basis Trades and Monolines

38. Mr. Dolan also states that *"[e]ven as late as December 31, 2008, no claims had been made against the monoline insurers, as none of the underlying assets were in default."*[53] The statement that "none of the underlying assets were in default" is simply incorrect. Mr. Dolan relies on Barclays documents for this premise but the actual EOD dates for CDOs are readily available and tell a decidedly different story. The table below

[50] BARC-ADS-01297226-254.

[51] BARC-ADS-01554693.

[52] BARC-ADS-01550737-746 at 743.

[53] Dolan Report, para. 32.

is a listing of Barclays' NBT Trades that bore the collateral types "US RMBS and ABS"; "US RMBS, ABS, and CDO"; "US High-Grade ABS or RMBS"; and "European Mezz ABS and CDOs" in Barclays' books and records.[54] I have appended the date of the EOD to the CDOs that are known to have defaulted:

Issuer	**Monoline**	**Original Commitment (000)**	**Original Commitment (US$ 000)**	**Average Collateral Rating**	**CDOs EOD Date**
C-BASS CBO XI Ltd.	MBIA	$90,000	$90,000	BBB	
Hillcrest CDO I Ltd	MBIA	$75,000	$75,000	BBB/BBB-	1-Oct-08
C-BASS CBO XIII Ltd.	FGIC	$240,000	$240,000	BBB	
High Grade Structured Credit CDO 2005-1 LTD	Ambac	$224,000	$224,000	A+/A	25-Mar-09
Eurocastle CDO III PLC	MBIA	€ 324,000	$457,585	BBB-	
Eurocastle CDO II PLC	MBIA	£158,000	$328,166	BBB-	
Millerton II High Grade ABS CDO	Ambac	$386,000	$386,000	AA-/A+	5-Aug-08
Belle Haven ABS CDO 2006-1, Ltd.	Ambac	$351,000	$351,000	A+/A	14-Apr-08
Harp High Grade CDO I, Ltd.	MBIA	$650,000	$650,000	AA-	1-Aug-08
Broderick CDO 2, Ltd.	MBIA	$475,000	$475,000	AA-/A+	27-Feb-08
Highridge ABS CDO I	MBIA	$750,000	$750,000	AA-/A+	27-Nov-07

[54] BARC-ADS-00833242.

39. Contrary to Barclays' repeated statements, which Mr. Dolan repeats without any scrutiny, six of the eleven such CDOs, totaling almost exactly two-thirds (by dollar amount) of the "underlying assets" were in default by December 31, 2008. "High Grade Structured Credit CDO 2005-1 Ltd." defaulted in early 2009. Two CDOs, Highridge ABS CDO I and Broderick CDO 2, Ltd. defaulted before the Series 5 Offering.

41. In addition, although Mr. Dolan suggests that Plaintiff's complaint identifies "*only three actual downgrades of monoline insurers,"*[55] there were in fact many credit rating actions on monoline insurers in 2007 and prior to the Series 5 Offering in 2008. *See* Appendix 1 for a list that was prepared by the Association of Financial Guaranty Insurers. In fact, on 30 occasions between December 19, 2007, and June 26, 2008, Moody's, Standard & Poor's and Fitch downgraded, withdrew, or suspended the credit ratings of financial guaranty insurers, downgrading some of the insurers more than once.

42. In addition, in support of his statement that, in January 2008, Barclays *"understood that the actual losses incurred were not exceeding the monolines' ability to pay,"*[56] Dolan cites only one document that, on closer scrutiny, does not support his assertion. First, Mr. Dolan's position misconstrues my opinion. I have opined that Barclays' monoline disclosures did not reflect the true risks associated with these positions. My opinion is unaffected by Barclays' knowledge of whether, as of January

[55] Dolan Report, para. 39.

[56] Dolan Report, para. 40.

2008, actual losses were exceeding the monolines' ability to pay. Second, the document cited by Mr. Dolan is an email from Gary Hibbard, a Barclays Capital corporate bond trader who was writing a note explaining a bond trading loss, in which he writes: "large negative today of around £2mm on remarking positions across the desk."[57] There is no reason to think his email was Barclays' official position on the monolines. However, Mr. Hibbard's cautionary last paragraph sums up the problem with the monolines very well: "The blackest outcome would be that losses actually incurred (not mark-to-market losses which do not impact the monoline paying ability) by the monoline exceed its claims paying ability (which is not the case currently, nor are the agency's forseeing *[sic]* this). At this point the monoline wrap is worthless and values drop to the value of the underlying collateral."[58] Thus, even Barclays' own traders understood that if the monolines failed, Barclays would be exposed to the entire notional value of the underlying CDO positions.

43. Mr. Dolan goes on to claim that Barclays expected any claims against monoline insurers to be small, noting that *"[i]n a memo to the Financial Services Authority ('FSA') concerning profit before tax ('PBT') volatility, Barclays classified the monoline exposure business as an area 'likely to have [a] relatively small impact on PBT volatility on a monthly basis even under a scenario of severe stress.'"*[59]

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[57] BARC-ADS-00784174–76 at 74.

[58] *Ibid.*, at BARC-ADS-00784175.

[59] Dolan Report, para. 41.

44. To support his claim, Mr. Dolan cites a memo from Robert Le Blanc to the UK Financial Services Authority dated March 18, 2008. However, Mr. Le Blanc's memo concerned only ***monthly*** profit and loss, so it's hard to draw many conclusions about Barclays' expected losses on a bi-annual or annual reporting basis. Furthermore, the memo Mr. Dolan quotes has grave errors. The memo states that "If claims for our positions arise because a coupon or principal payment is missed in the next few years, we would likely make that claim ahead of any claims developing in the longer term against for example municipal bonds, so our claim would be structurally superior by time of claim." In fact, the phenomenon that was arising at that time was exactly the reverse, because the monolines were already paying claims on RMBS policies in 2008, and therefore there was little reason to believe that later-made claims would be structurally superior. For instance, in the first quarter of 2008, the largest monoline, MBIA, paid $108 million in claims, net of reinsurance, on eleven RMBS policies and said that it expected that loss payments on second-lien RMBS during 2008 will amount to "a significant portion" of its $510 million in reserves for such exposure.[60]

45. The opinions expressed in the Dolan Report suggest that Mr. Dolan does not understand how monoline insurance of CDOs worked. For example, Mr. Dolan states that *"in some cases, I understand that Barclays also purchased single-name CDS on the monoline counterparty in an NBT, which would eliminate exposure to that monoline. In such cases, Barclays would suffer a loss only in the event of a triple default: that of the underlying asset, the monoline insurer, and the seller of protection on the monoline*

[60] MBIA Q1 2008 Form 10- Q, p. 51.

insurer."[61] However, the document Mr. Dolan cites to support his claim states "[a]s we understand, BarCap has entered into CDO transaction hedged with a CDS (short risk) on each respective CDO tranche and a single name CDS on the monoline insurance counterparty."[62] The way monolines actually insured most CDOs was very different from the direct financial guarantees that Mr. Dolan appears more familiar with. To enter into a negative basis trade, a bank bought a security such as a super senior tranche and then bought a single-name CDS on this super senior tranche from a monoline-sponsored shell company. For Barclays, the largest such swap counterparty in 2007-2008 was LaCrosse Financial Products, LLC, sponsored by MBIA.[63] MBIA would then write an insurance policy on LaCrosse's obligations under the credit default swap.[64] The statement in the PwC document Mr. Dolan relies upon is an inaccurate statement of the process Barclays actually used because the CDS is ***from*** the monoline insurance counterparty and not "***on*** the monoline insurance counterparty."[65] While other Wall Street firms, most notably Goldman Sachs & Co.,[66] did buy protection against the default of certain monoline insurance companies, neither the cited PwC document nor any of

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[61] Dolan Report, para. 33.

[62] PwC000538–586 at 556.

[63] BARC-ADS-00833242.

[64] MBIA Inc. Form 10-K (Annual Report) Filed 03/01/10 for the Period Ending 12/31/09, p.37 ("As part of the Company's financial guarantee business, we have insured credit derivatives contracts that were entered into by LaCrosse Financial Products, LLC with various financial institutions.").

[65] PwC000538–586 at 556 (emphasis added).

[66] *E.g.* Boyd, Roddy, "Fatal Risk: A Cautionary Tale of AIG's Corporate Suicide," John Wiley & Sons, March 3, 2011, p.243 ("This was the reason between August 2 and August 10 [2007], the firm [Goldman Sachs] bought an additional $475 million in credit default protection on AIG.").

Barclays' hedging records I have seen[67] support Mr. Dolan's claim that Barclays had triple default protection.

46. While Mr. Dolan suggests that I am opining "*that Barclays should have anticipated these defaults and therefore that Barclays' year-end 2007 valuations were incorrect,"* I have offered no such opinion. Rather, I opine that monoline risks, and concerns over these risks, existed prior to the Series 5 Offering and that Barclays failed to disclose that it had monoline risks through CDO, CLO, CMBS and other positions in NBT trades, totaling, in November 2007, $41 billion with monolines (as Barclays classified them) and a further $9 billion with banks (again, as Barclays classified them).

47. Finally, Mr. Dolan states that *"Mr. O'Driscoll asserts that some counterparty protection sellers who were not monoline insurers (such as Goldman Sachs) needed to be 'bailed out' by the government in 2008... the market viewed the probability that a highly rated entity like Goldman Sachs would default on a payment obligation under these contracts as extremely low..."* Mr. Dolan goes on to say that *"[i]n addition, Mr. O'Driscoll has cited no evidence that Goldman Sachs did not meet its obligations under the CDS contracts."*[68] Mr. Dolan is misstating my Initial Report. The only place in my report where I mention Goldman Sachs (other than citation footnotes) is in the table on page 21, where I tabulate that Goldman Sachs & Co. acquired loan servicer Litton Loan Servicing LP on December 16, 2007.

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[67] *See, e.g.,* BARC-ADS-00781565-594 at 584; PwC00628; BARC-ADS-00238918; BARC-ADS-01030680.

[68] Dolan Report, para. 42.

E. Barclays Did Not Reduce its ABS CDO Super Senior Positions in 2007

48. In my Initial Report, I pointed out that, contrary to its statements, Barclays Capital added to its ABS CDO super senior positions in 2007 rather than reducing them.[69] In response, Mr. Dolan opines that my "*argument is flawed, because it ignores, among other things, Barclays' efforts to hedge its CDO positions*."[70] Mr. Dolan goes on to state that "*Barclays made a concerted effort to reduce its ABS CDO exposure during the second half of 2007*,"[71] and "*did in fact take steps to reduce its CDO exposure during 2007*" by "*entering into hedge transactions.*"[72] As an example, Mr. Dolan references "*an action plan sent in a July 12, 2007 email within Barclays' CDO desk outlined several steps to reduce the bank's positions, including adding hedges on several ABS CDO positions, selling others if possible, and evaluating the possibility of restructuring some deals*."[73]

49. Mr. Dolan's reliance on the July 12, 2007 email to critique my opinions is misplaced.[74] First, Mr. Dolan cites no evidence that Barclays achieved any or all of these proposed action items in the second half of 2007. Indeed, there is evidence that these action items were not achieved. For example, while the email makes reference to several action items surrounding Barclays' positions in the Markov, Pampelonne 1 and

[69] *See e.g.,* Initial Report, para. 107-08.

[70] Dolan Report, para. 48.

[71] Dolan Report, para. 50.

[72] Dolan Report, para. 19.

[73] Dolan Report, para. 50.

[74] BARC-ADS-00289082-83.

Pampelonne 2 CDOs, Barclays' positions in these CDOs were unchanged from June 2007 as of year-end 2007.[75]

51. Second, Mr. Dolan is wrong to suggest that hedging can reduce the size of a position. Barron's Dictionary of Finance and Investment Terms, a reputable and widely-used reference in the industry, defines a position as an "investor's stake in a particular security or market."[76] Hedging can reduce an investor's exposure to a position but not the size of a position.

52. Third, Barclays didn't hedge its CDO exposure. Instead, it entered into short positions on series of the ABX indices, which even Mr. Dolan agreed was an imperfect offset for Barclays' subprime exposures.[77] It may have been reasonable to assume that, ultimately, realized losses on ABS CDO super seniors would be offset by realized gains on ABX Index shorts. However, this wasn't an actual hedge of the super senior ABS CDO positions. If Barclays wanted to "hedge" its CDO exposures it would have bought CDS protection on ABS CDOs. Barclays considered this route as early as July 2007,[78] but there is no indication that Barclays ultimately purchased any such protection, even though Barclays management actually implied that they had hedged Barclays' CDO super senior exposures.

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[75] *See* BARC ADS-01633167-69.

[76] Barron's Dictionary of Finance and Investment Terms, Downes, John and Jordan Goodman, Barron's Educational Series, 9th ed. 2014.

[77] Dolan Report, n.165 ("I note that this differs from, but is not inconsistent with, Barclays' valuation of its subprime whole loan portfolio, for which the bank determined that the ABX was not an appropriate valuation input due to observed differences in loan origination standards and performance.").

[78] BARC-ADS-00289082-83.

53. In the scripted part of the February 19, 2008, earnings conference call Barclays' Group Finance Director said "[n]one of the hedges we've executed were with Monoline insurance counterparties."[79] This statement was repeated on page 53 of the 2007 Form 20-F, when Barclays disclosed £1,347 million in purported hedges on its super senior CDO positions, but stated that "[n]one of the above hedges of ABS CDO Super Senior exposures as of 31st December 2007 were held with monoline insurer counterparties."[80] It was reported that other Wall Street firms had hedged their super senior exposure in the summer of 2007 with monolines.[81] The *Financial Times* said on February 19, 2008, that "Barclays' has £1.3bn of hedges against its £6bn gross ABS CDO super senior exposure, none of which is with monolines – which rather begs the question of who it is with."[82] Most equity analysts said more or less the same thing. For instance, Panmure Gordon, a corporate broker in the London market,[83] said "BARC has

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[79] Conference Call Transcript BCS - Preliminary Barclays Bank PLC Earnings Conference Call, Feb 19 2008 / 09:30AM GMT, Thomson StreetEvents, p. 4.

[80] As discussed above, however, Barclays actually held – but never disclosed – billions of dollars in additional ABS CDO positions in its NBT book that were hedged ***entirely*** by monoline insurer counterparties.

[81] *See, e.g.*, Francesco Guerrera, Aline van Duyn and Ben White, "The monoline clock is ticking," *Financial Times,* February 21, 2008 ("Merrill Lynch, one of the banks most exposed to MBIA, was at first reluctant to step in."), *available at* http://www.ft.com/intl/cms/s/0/43fce1dc-e0a6-11dc-b0d7-0000779fd2ac.html - axzz42zjQH6y6; Francesco Guerrera, "Moral difficulties of unwinding financial crises," *Financial Times*, February 23, 2008 ("Wall Street banks have given short shrift to Mr. Dinallo's proposals for an industry-wide solution. The reason: they want to negotiate separate rescue plans with the insurer they are most exposed to. (Citigroup gets Ambac, Merrill Lynch talks to MBIA and so on)."), *available at* http://www.ft.com/intl/cms/s/0/203f8d96-e1b2-11dc-a302-0000779fd2ac.html - axzz42zjQH6y6.

[82] Helen Thomas, "All that's missing at BarCap is a little clarity," *Financial Times*, February 19, 2008, *available at* http://ftalphaville.ft.com//2008/02/19/11010/all-thats-missing-at-barclays-is-a-little-clarity/.

[83] Dana Cimilluca and Sara Schaefer Munoz, "'Corporate Broking' Faces Scrutiny in U.K.," *The Wall Street Journal*, January 27, 2012 ("Corporate brokers are a breed of banker native to the U.K. and a few other countries—excluding the U.S.—whose function is to serve as a liaison between public companies and their institutional investors."), *available at* http://www.wsj.com/articles/SB10001424052970203363504577185192022925250.

disclosed £6.0bn in gross exposure to super senior ABS CDOs, with £1.3bn in hedges (none held with monolines)."[84]

54. Mr. Dolan states that, in the context of the Tourmaline positions, *"Mr. O'Driscoll claims that the mark-to-market mezzanine portion of the ABS CDO super senior portfolio was written down to 16% as of the end of 2007. Mr. O'Driscoll mistakenly using* [sic] *an exposure number that is net of hedges. In fact, these positions were marked at 53% as of the end of 2007."*[85] Mr. Dolan wants to have his cake and eat it. Above, he criticizes me for failing to take account of hedging; here, he criticizes me for doing exactly that.

55. However, Mr. Dolan's statement raises the question of what the ABX positions were used for. Barclays purportedly bundled the ABX index mark-to-market gains with the CDO positions. In fact, trading position spreadsheets show that Barclays allocated its ABX positions against the ABS CDO Super Seniors and also against the "Sub-prime RMBS" positions,[86] the largest of which was Barclays' exposure to the Mainsail SIV, followed by a failed CDO warehouse to be managed by Collineo[87] Asset Management GmbH. The allocation shown in the trading records varied from month to month, from a 100% allocation to the Super Senior ABS CDO positions to a 91% allocation to the "Sub-prime RMBS" positions in March 2008 after a number of ABS CDOs had been liquidated. The allocation did not vary in proportion to the notional

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[84] Sandy Chen, Barclays "Results initial comment," Panmure Gordon, February 19, 2008.

[85] Dolan Report, para. 100.

[86] BARC-ADS-01030680.

[87] *Ibid.*

amount of the risk in the ABS CDO Super Senior positions during the months prior to March 2008. The ABX hedges were then further allocated to the "High Grade MTM" and "Mezzanine MTM" ABS CDO Super Seniors. It is impossible to tell whether Barclays would have added a corresponding allocation to the Tourmaline CDOs if they had been marked to market or whether Barclays would simply have spread its ABX position allocation more thinly across its MTM ABS Super Senior positions.

56. Mr. Dolan states that *"Moreover, Mr. O'Driscoll incorrectly calculated Barclays' new liquidity facility issuance in 2007 as $5.6 billion when in fact it in fact* [sic] *was $4.0 billion."*[88] While Mr. Dolan is correct on this point, *see* Exhibit 5 attached hereto, it does not change the fundamental fact that Barclays did not reduce its positions, notwithstanding its numerous contrary statements, such as: "Our ABS CDO Super Senior positions were reduced during the year."[89]

57. Mr. Dolan states that *"Mr. O'Driscoll selectively cites from the document and omits this information (highlighted in bold below): Our ABS CDO Super Senior positions were reduced during the year* ***and our remaining exposure reflected netting against writedowns, hedges, and subordination****."*[90] The language Mr. Dolan relies upon confirms that hedging does not reduce the size of a position, and that Barclays' Super Senior positions were not reduced during the year.

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[88] Dolan Report, para. 52.

[89] 2007 Form 20-F, page 65.

[90] Dolan Report, para. 54.

58. Lastly, Mr. Dolan states that *"It is also important to note that Barclays' 2007 Form 20-F reported a lower ABS CDO exposure as of December 31, 2007 than as of June 30, 2007, a fact that Mr. O'Driscoll does not address or claim was incorrect."*[91]

59. Mr. Dolan fails to note that Barclays only reduced its exposure by taking impairment charges against its unchanged super senior positions and by applying its mark-to-market gains on ABX index short positions against these unchanged positions. As I noted in my Initial Report, taking a writedown or impairment charge on a position does not reduce the size of the position.

F. Barclays' High Grade ABS CDO Positions

60. Mr. Dolan states that *"[d]escribing CDOs as 'High Grade' was not misleading"* because *"market participants at the time generally understood the term 'High Grade' (as applied to CDOs) to indicate that such CDOs were backed by highly rated collateral at origination—and not whether a CDO could suffer loss."*[92]

61. Contrary to what Mr. Dolan says, there is certainly evidence that market participants, for a time, regarded High Grade ABS CDOs as being more stable and more insulated from losses than Mezzanine ABS CDOs. There is also evidence that the market appetite for Mezzanine ABS CDOs dried up before that for High Grade ABS CDOs. For instance, Total Securitization reported on June 4, 2007, that "CDO MART TURNS TO HG DEALS," stating that "[t]he collateralized debt obligation market has turned to high-grade structured finance deals as the pipeline for mezzanine deals slows to a trickle.

[91] Dolan Report, para. 56.

[92] Dolan Report, para. 21.

Managers are turning to high-grade deals now ***because they are better credit stories*** and can offer ***better relative values*** versus mezzanine deals, noted Kedran Garrison, researcher at J.P. Morgan."[93]

62. Further, while Mr. Dolan suggests that investors would not have expected losses on High Grade CDOs to be modest, there is certainly evidence that analysts during this period regarded Mezzanine ABS CDOs as having greater exposure to losses than High Grade CDOs. For instance, Societe Generale's analyst covering Barclays wrote on November 22, 2007, that "[i]f we assume that 50% of the CDO business that originated post-H2 06 is mezzanine and needs to be written down to zero, the £0.4bn in warehoused direct sub-prime is also completely written off (mimicking mark downs by more aggressive peers) and there is another £0.4bn worth of mark downs in the trading book, we arrive at an additional £1.4bn of writedowns."[94] Note that the analyst made no mention of assuming further writedowns on High Grade ABS CDOs.[95]

63. Mr. Dolan complains that my statement that *"Barclays' High Grade CDO positions were collateralized by underlying CDO notes that were poised to wipe out its entire subordination protection"* was given *"without explaining or disclosing the underlying analysis that would be required to support it… Importantly, the only "internal document[]" Mr. O'Driscoll cites is as of March 31, 2008, and Mr. O'Driscoll does not*

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[93] "CDO MART TURNS TO HG DEALS," Total Securitization, June 4, 2007.

[94] "Barclays. No longer silent," Asheefa Sarangi, Societe Generale Cross Asset Research, November 22, 2007.

[95] Mr. Dolan states that *"I have seen no evidence, and Mr. O'Driscoll does not cite any, that Barclays' statement in its 2007 Form 20-F that it was primarily exposed to 'High Grade' CDOs was inaccurate."* Dolan Report, para. 60. Once again, Mr. Dolan is rebutting an opinion that I did not offer in my Initial Report.

take into account whether that document incorporated developments subsequent to the December 31, 2007 valuation date."[96]

64. Appendix 2[97] explains how subordination could be (and was) wiped out. Barclays' positions in these ABS CDOs did not change between December 31, 2007, and the date on which the spreadsheet was prepared, nor does it appear that the underlying assets of these CDOs changed.

G. Barclays' Valuation of Its CDO Liquidity Facilities

65. In my Initial Report, I opined that Barclays overvalued its CDO liquidity facilities, and that its valuation methodology for these assets was based on a fragile and problematic set of assumptions.

66. Mr. Dolan criticizes me for only discussing one such assumption – the likelihood of a future EOD – but that was the critical assumption for Barclays' valuation. If an EOD was projected within two years then the CDO position was to be marked to market based on an assessment of the net asset value in the CDO.[98] If no EOD was projected, Barclays recognized only a small impairment charge or no impairment charge on the CDO position. This is why the analysis, projection, and disclosure of the EODs was so vital. Attached as Appendix 3 is a table[99] showing the fair value losses on CDOs marked to market as a percent of principal balance compared to "CF PV shortfalls" on the CDOs not marked to market under Barclays' accounting policy. The table shows that

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[96] Dolan Report, para. 61.

[97] BARC-ADS-00898760.

[98] *See* Initial Report, para. 111.

[99] PwC00628; *see also* BARC-ADS-00238918.

the "NAV Shortfall" with respect to the "Non MTM" positions was $2,030 million as of December 31, 2007, whereas the impairment charges actually taken on the same positions was only $581 million as of December 31, 2007.[100]

67. Mr. Dolan's remaining criticisms fail. First of all, while Mr. Dolan accused me of committing "conceptual errors," he has not actually identified any such errors in his report. Second, Mr. Dolan's suggestion that my claims are based on "the benefit of hindsight" is incorrect because the Tourmaline CDOs had experienced their events of default ***before*** the April 8, 2008 Series 5 Offering. Citius II Funding Limited, another CDO for which Barclays in January predicted no EOD within two years, actually defaulted on November 13, 2008,[101] but I have expressed no particular opinion about Citius II. Third, as to Barclays' "fragile valuation assumptions," PwC's year-end Critical Matters report on valuations noted that "In our discussion on November 13, 2007, S[tephen] King noted that identifying all the EODs can be difficult as some are very subtle ... Unlike management, we did not model all the EODs and recognize that management's assessment and therefore our review is very subjective."[102] Mr. King's statement is correct and underscores the problem with relying on EODs to determine whether to recognize a loss. Many events of default in CDO indentures were straightforward failures to pay interest or failures to maintain adequate security for the senior notes, but some were not. For instance, some EODs could cure spontaneously and

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100 BARC-ADS-01633167-69, native attachment at p.11.

101 "CITIUS II FUNDING, LTD., CITIUS II FUNDING LLC NOTICE OF EVENT OF DEFAULT," The Bank of New York Mellon Trust Company, National Association, November 4, 2008, *available at* http://www.investegate.co.uk/citius-ii-funding-ld/rns/notice-of-event-of-default/200811141211531964I/.

102 PwC000509-643.

Barclays in January 2008 found itself in a dilemma with one such instance.[103] Also, management's assessment was often subjective as the arising of an EOD could depend on the actions of third parties – CDO asset managers, noteholders, trustees etc.

68. Moreover, Mr. Dolan is correct that I *"point[] to events that occurred after the close of the fiscal year 2007."* I take note of events that occurred up to the date of the Series 5 Offering. I note also that Mr. Dolan says he examined the methodologies "as of December 2007" and he makes no claim for what happened between that date and the date of the Series 5 Offering, even though the document he cites[104] in that discussion is dated after December 2007.

69. In an effort to justify Barclays' valuation of its liquidity facilities, Mr. Dolan relies on a November 14, 2007 meeting of the Board Audit Committee, where *"a partner at PwC described Barclays' CDO valuation methodology as 'more thorough and detailed than any other bank had provided.'"*[105] However, the document Mr. Dolan cited shows that the statement was made by Phil Rivett, an Audit Partner at PricewaterhouseCoopers UK, a separate entity from PwC in the United States. Since only one UK bank other than Barclays had a material CDO position,[106] and it is unlikely that a UK Audit Partner would have detailed knowledge of the internal policies of banks outside the UK, it's unlikely that Rivett was in a position to know what detail other banks

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[103] BARC-ADS-01592227.

[104] *E.g.* BARC-ADS-01603475.

[105] Dolan Report, para. 94.

[106] *See* "Barclays. FY2007 results preview," Jason Napier, CFA, Deutsche Bank AG/London, February 7, 2008. p. 7; *see also* http://www.lloydsbankinggroup.com/globalassets/documents/investors/2007/2007dec10_ltsb_trading_update.pdf.

had been providing concerning their CDO valuation methodology. Furthermore, the meeting was held to finalize Barclays' November 15th trading statement, not Barclays' year-end financial results. Mr. Rivett was minuted as saying in the same meeting that, *"it would not be possible to include any reference to PricewaterhouseCoopers ('PwC') having reviewed the statement if the statement were to be made public within the next 24 hours. It would not be possible [for PwC] to achieve the required level of comfort in the time available."*[107]

70. Mr. Dolan is wrong in saying that PwC "*specifically reviewed Barclays' assessment [of the likelihood of an EOD] and concurred with it.*"[108] Rather, PwC stated that "[u]nlike management, we did not model all the EODs and recognize that management's assessment and therefore our review is very subjective. In addition, we relied on external counsels' legal analysis for completeness of the EOD triggers identified."[109]

71. I pointed out in my initial report that when Barclays performed its CDO impairment analysis in January 2008, it concluded that six CDOs would not default within two years. In fact, two such CDOs, Tourmaline I and Tourmaline II, defaulted just weeks later, Tourmaline I on April 3, 2008, and Tourmaline II on March 31, 2008. Mr. Dolan's opinions concerning Tourmaline I and Tourmaline II[110] are also incorrect and again rely on false assertions in Barclays' documents rather than primary evidence.

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[107] BARC-ADS-01601539-551.

[108] Dolan Report, para. 97.

[109] PwC000513–534 at 524.

[110] Dolan Report, para. 97-99.

Contrary to Mr. Dolan's assertion, there is no "supersenior liquidation trigger" in the Tourmaline CDOs. The indenture for the Tourmaline CDOs states that:

> The Holders of at least 66 2/3% of the Outstanding principal balance of the Controlling Class will only be able to direct a sale or liquidation of the Collateral in connection with the occurrence of (A) an Event of Default that occurs as a result of a default for 5 Business Days in the payment, when due and payable, of any interest on any Class I Note, Class II Note or the Class III Note or the Class I Facility Fee, (B) an Event of Default in the payment of principal of any Rated Note when due and payable, or (C) an Event of Default that occurs as a result of the Senior Par Value Coverage Ratio falling below 100% on any date of determination and at such time the Class I Par Value Coverage Ratio is below 100%.[111]

72. The nuances of the Tourmaline indentures gave Barclays control over a Tourmaline CDO once an EOD occurred but not the right to direct an auction of the CDO's assets until the Class I Par Value Coverage Ratio had fallen below 100%. This difference in auction rights is irrelevant with respect to Barclays' policy, as of December 2007, which stated that *"[i]f it is deemed that an ABS CDO is likely to suffer an EOD within the two years commencing January 1, 2008, the stress loss is calculated using the same stressed market valuation (NAV) basis described above* [i.e. in the rest of the policy document]."[112] CDOs that were projected to have an event of default within two years would be marked to market and this was not linked to or qualified by auction rights or other remedies.

73. Mr. Dolan states that *"for the results announcement for the first half of 2008, Tourmaline II was moved from a CF PV valuation to a NAV approach, and*

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[111] Tourmaline CDO I Ltd. and Tourmaline I CDO Corp. Indenture dated as of September 29, 2005. Section 5.4.

[112] BARC-ADS-00781565-594 at 584.

Tourmaline I was moved to a NAV approach in the third quarter of 2008."[113] Mr. Dolan's cited document shows that Barclays did indeed take $176 million in impairments in Q2 2008 against the Tourmaline CDOs,[114] and a further $91 million in impairments in Q3 2008 against the Tourmaline I CDO.[115]

74. Mr. Dolan makes a number of other inaccurate points concerning Barclays' valuation of its liquidity facilities. For example, he states: *"I show specifically that the approach taken by Barclays was common in the industry. For instance, the Bond Market Association's CDO primer, published with contributions from several of Barclays' peers, observed that it was industry standard to assess CDOs' value via a discounted cash flow ('DCF') model or, '[i]n situations where liquidation is a possibility,' to use a Net Asset Value ('NAV') approach to value the underlying collateral, much as Barclays did.*[]*"*[116] Mr. Dolan quotes selectively from this document and doesn't mention that the source goes on to suggest other valuation methods:

> In still other situations, investors may want to separate the principal and interest components of a CDO security and value them on an interest-only (IO) and principal-only (PO) basis. Market participants will often use more than one approach to make sure that their assessment of value stands up to different ways of analyzing a CDO security.[117]

75. Mr. Dolan states that *"Mr. O'Driscoll does not appear to claim, and he certainly has not established, that Barclays was required to change its accounting*

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[113] Dolan Report, para. 99, n. 157.

[114] BARC-ADS-01554547, slide 6.

[115] BARC-ADS-01023841, slide 8.

[116] Dolan Report, para. 88.

[117] "CDO Primer," *The Bond Market Association*, 2004.

treatment and mark these CDOs to market as opposed to using the accounting treatment based on discounted cash flows."[118] I have no opinion with respect to the accounting treatment except to point out, as discussed, that its accounting policy was not followed with respect to Events of Default that transpired, or with respect to EODs that should have been predicted based on readily available information.

76. The section of the Dolan Report titled "*Regulators regularly discussed valuations with Barclays*,*"*[119] does not rebut anything I stated in my report; his paragraphs 83 to 85 seem to be a soliloquy unrelated to anything I wrote.[120] That said, Dolan says that *"[i]n December 2008, Barclays gave a presentation to the FSA discussing CDOs and CLOs including valuation methods, data sources, and price testing methodologies."* Dolan cites a December 17, 2008, presentation to the FSA entitled "CLO CDO Visit Overview of Valuation Methodology"[121] but either fails to understand or ignores that this presentation concerns the valuation of ***synthetic*** CDOs and CLOs, which were credit derivatives transactions never mentioned in Plaintiff's complaint or my Initial Report and which involved very different valuation methods.

77. Finally, while Mr. Dolan states that I "do[] *not provide any analysis to show that Barclays' valuations of the monoline exposures as of December 31, 2007 were incorrect or inadequate*,"[122] as discussed above, my opinion is that Barclays' disclosed

[118] Dolan Report, para. 101

[119] Dolan Report, para. 83-85.

[120] The same is true for Appendix A to the Dolan Report.

[121] BARC-ADS-01632992.

[122] Dolan Report, para. 17

valuation of its monoline exposures as of December 31, 2007, was not an accurate and meaningful disclosure of the true risk inherent in Barclays' monoline-insured positions.

H. Barclays' SIVs and SIV-Lites

78. Mr. Dolan states that in my report I *"only point[] to subsequent events that occurred in 2008 (Barclays' decision to 'repurchase' $975 million of Whistlejacket paper from BGI's funds,… made on February 4, 2008).... I note that the $975 million figure represented less than 0.04% of Barclays' reported total assets of £1,227,361 million as of December 31, 2007.[]"*[123] Mr. Dolan's calculation is irrelevant because Barclays' total assets were not available to absorb losses – only Barclays' capital was available, and from the perspective of the ADS holders in the Series 5 Offering, only the ordinary share capital was available.

79. Professor Stulz similarly says *"Mr. O'Driscoll also claims that Barclays decided to repurchase $975 million in structured investment vehicle ('SIV') paper held by funds within Barclays Global Investors ('BGI') in February 2008 …. He does not claim, nor have I seen any evidence to support such a claim, that Barclays was aware of a loss associated with this transaction as of the date of the offering."*[124] In fact, by no later than February 19, 2008, Barclays was expecting to take a loss provision on the Whistlejacket purchase. Notes drafted for its earnings call that day disclosed the size of the likely loss ("earnings charge"): "If Comment Regarding Our Actions on Whistlejacket is Necessary: • We have purchased additional securities and provided additional credit support to

[123] Dolan Report, para. 117.

[124] Stulz Report, n. 151.

certain institutional liquidity products. • The earnings charge in 2008 from these actions may be of similar size to the charge in 2007."[125]

I. Disclosure

80. Mr. Dolan states that *"Mr. O'Driscoll makes various assertions about Barclays' public disclosures .... My opinions address whether Barclays' valuations and disclosures were appropriate based on the economic nature of the assets at issue, market practice, and relevant developments in the credit markets at the time, and I disagree with Mr. O'Driscoll's conclusions."*[126]

81. My opinion is that Barclays' disclosures regarding its credit market positions did not reveal their true extent and risk. Using Mr. Dolan's standard, as discussed in my initial report and above, the *"economic nature"* of many of Barclays' credit markets positions was that they were risky and opaque, and *"recent developments ... at the time"* were that these positions were deteriorating in quality, falling in price, and becoming increasingly illiquid, and the market was concerned about the asset classes comprising Barclays' credit market positions. As regards "market practice," one can look at what other banks that held similar positions were disclosing. Barclays, as discussed earlier, had approximately \$41 billion of NBTs with monolines (using Barclays' definition of monolines) at year-end 2007, but did not disclose that notional amount in its 2007 Form 20-F. By contrast, on February 22, 2008, Citigroup disclosed \$12.7 billion of "notional amount" of transactions with monoline insurers at December 31, 2007, and a

[125] BARC-ADS-01024010.

[126] Dolan Report, para. 115.

"net market value direct exposure" of $4.0 billion.[127] Similarly, on February 25, 2008 Merrill Lynch & Co. Inc. disclosed "Credit Default Swaps with Financial Guarantors" totaling $19.9 billion "notional of CDS" at December 31, 2007.[128] Further, on March 18, 2008, UBS AG disclosed "Exposure to monoline insurers, by rating" totaling $24.2 billion "notional amount" at December 31, 2007, and a "Fair value of CDSs after Credit Valuation Adjustment" of $3.6 billion.[129]

III. CONCLUSION

82. For the reasons discussed above, the assertions contained in Defendants' Expert Reports do not change any of the opinions I expressed in my Initial Report.

83. The opinions and statements set forth herein represent my conclusions based upon the information available and provided to me through March 18, 2016. I reserve the right to supplement, refine or add to my opinions and statements based on any additional information that becomes available, such as deposition testimony and additional documents. I also reserve my right to provide additional explanation to address issues raised in briefs submitted by the parties and to rebut any opinions and/or testimony that are given by other experts.

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[127] Citigroup Inc. 2007 Form 10-K, p. 55.

[128] Merrill Lynch & Co. Inc. 2007 Form 10-K, p. 37.

[129] UBS AG 2007 Form 20-F, p 13.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 18, 2016
New York, New York

Fiachra T. O'Driscoll

<u>EXHIBIT 1: ADDITIONAL MATERIALS CONSIDERED</u>

PX 354
PX 356
PX 357
PX 358
BARC-ADS-00238918
BARC-ADS-00289082-83
BARC-ADS-00781565-594
BARC-ADS-00784174–76
BARC-ADS-00833242
BARC-ADS-00898760
BARC-ADS-01023841
BARC-ADS-01024010
BARC-ADS-01030680
BARC-ADS-01297226
BARC-ADS-01544567
BARC-ADS-01550737-746
BARC-ADS-01554693
BARC-ADS-01573580
BARC-ADS-01573583
BARC-ADS-01601539-551
BARC-ADS-01603475
BARC-ADS-01632992
BARC-ADS-01633167-69
PWC000513–534
PWC000538–586
PWC00628
Barron's Dictionary of Finance and Investment Terms, John Downes, Jordan Goodman, Barron's Educational Series, 9th ed. 2014
"Fatal Risk: A Cautionary Tale of AIG's Corporate Suicide," Roddy Boyd, John Wiley & Sons, March 3, 2011
"All that's missing at BarCap is a little clarity," *Financial Times*, FT Alphaville, 19 February 19, 2008
"Bond insurers spark new credit concerns," *Financial Times*, January17, 2008
"Barclays, Flashnote, Relief bounce, but risk exposure remains," Toeman, Peter, HSBC Global Research, February 21, 2008
"Barclays. FY2007 results preview," Jason Napier, CFA, Deutsche Bank AG/London, February 7, 2008
"Barclays: No longer silent," Asheefa Sarangi, Societe Generale Cross Asset Research, November 22, 2007
"European Alpha Anticipator Decoding the Fed and Monolines," Barclays Capital, January 25, 2008

"Monolines explained," *Financial Times*, February 15, 2008
"Moral difficulties of unwinding financial crises," *Financial Times*, February 23, 2008
"North America Corporate Research Q&A Subprime Meltdown, the Repricing of Credit, and the Impact Across Asset Classes," JPMorgan, July 19, 2007
"The monoline clock is ticking," *Financial Times*, February 21, 2008
"US Banks: The Big 'What If': $40 - $70B In Est. Damage Caused By Monoline Downgrades," Meredith Whitney, Kalmon Chung, Oppenheimer and Co. Inc.
Subprime Crisis Timeline of Rating Agency Actions: Excerpted from a July 2008 AFGI Report
Tourmaline CDO I Ltd. and Tourmaline I CDO Corp. Indenture Dated as of September 29, 2005
Barclays Bank PLC (Barclays Capital) Trading Update Conference Call Transcript, November 15, 2007 / 08:30AM GMT, Thomson StreetEvents
Q1 2008 MBIA Form 10-Q
2009 MBIA Inc. Form 10-K
2007 Citigroup Form 10-K
2007 Merrill Lynch Form 10-K
2007 UBS AG Form 20-F

EXHIBIT 5

	Deal	Issue Date	Attachment	Original Deal Notional	Subordination	Liquidity Notional	Valuation [Method]	
Liquidity Facilities								
High Grade	Buckingham I	28-Jul-05	10%	$ 1,000	$ 100	$ 900	CF PV	Liquidity Facility
High Grade	Buckingham II	28-Nov-05	10%	$ 1,300	$ 130	$ 1,170	CF PV	Liquidity Facility
High Grade	Buckingham III	29-Aug-06	10%	$ 1,500	$ 150	$ 1,350	CF PV	Liquidity Facility
High Grade	Citius I	3-May-06	10%	$ 1,808	$ 175	$ 1,633	CF PV	Liquidity Facility
High Grade	Citius II	1-Dec-06	10%	$ 1,925	$ 193	$ 1,732	CF PV	Liquidity Facility
High Grade	Liberty Harbor I	13-Jan-05	13%	$ 1,800	$ 234	$ 1,566	CF PV	Liquidity Facility
				$ 9,333	$ 982	$ 8,351		
					10.5%			
Mezz	Camber VI	28-Jun-06	35%	$ 750	$ 263	$ 487	NAV	Liquidity Facility
Mezz	Tourmaline I	22-Dec-05	35%	$ 750	$ 263	$ 488	CF PV	Liquidity Facility
Mezz	Tourmaline II	30-Mar-06	30%	$ 1,000	$ 300	$ 700	CF PV	Liquidity Facility
Mezz	Slack 2005-2	20-Dec-05	30%	$ 500	$ 150	$ 350	NAV	Liquidity Facility
Mezz	Tenorite	10-May-07	36%	$ 1,250	$ 450	$ 800	NAV	Liquidity Facility
Mezz	Silverton	31-Oct-06	40%	$ 750	$ 300	$ 450	NAV	Liquidity Facility
				$ 5,000	$ 1,726	$ 3,275		
					34.5%			
Total Liquidity Facilities				14,333	2,708	11,626		
MTM SS Risk								
High Grade	Pampelonne I	19-Oct-06	15%	$ 1,251	$ 188	$ 1,063	NAV	CDS Trade
High Grade	Pampelonne II	6-Mar-07	20%	$ 2,000	$ 400	$ 1,600	NAV	CDS Trade
High Grade	Markov	1-May-07	20%	$ 2,000	$ 400	$ 1,600	NAV	CDS Trade
Total MTM SS Risk				$ 5,251	$ 988	$ 4,263		
					18.8%			
Total SS Exposure				$ 19,584	$ 3,696	$ 15,889		
Exposure added in 2007						$ 4,000		

Source: BARC-ADS-00781565-581

Appendix 1 List of Rating Agency Statements and Actions Concerning Monoline Insurers

Date	Rating Agency Statement / Action
25-Sep-07	Moody’s says guarantors’ risk from subprime RMBS and ABS CDO potentially significant.
5-Nov-07	Fitch details approach to assessing guarantor ABS CDO exposures and assigns probabilities that each may experience erosions in capital cushion.
8-Nov-07	Moody’s announces plans to update opinion of financial guarantors and likelihood of rating actions.
22-Nov-07	Fitch affirms CIFG’s “AAA” rating with stable outlook following $1.5Bn capital injection.
23-Nov-07	Moody’s comments on CIFG’s announced capital plan- “...greatly reduces the risk of the firm falling below Moody's target capital ratios for a Aaa.”
26-Nov-07	Standard & Poor’s announces reviewing bond insurers’ subprime transactions.
5-Dec-07	Moody’s publishes comment & Q&A on monoline review process and re-assigns MBIA to “somewhat likely” to need more capital.
12-Dec-07	Fitch places SCA (XLCA) on rating watch negative.
12-Dec-07	Fitch affirms Assured Guaranty’s ratings.
13-Dec-07	Fitch places 3,375 XLCA-insured issues on rating watch negative.
14-Dec-07	Moody’s announces rating actions on financial guarantors and holds a teleconference
14-Dec-07	FGIC and XLCA put on review for downgrade; MBIA and CIFG ratings outlooks changed to negative. All others affirmed.
17-Dec-07	Fitch puts FGIC on negative watch after a review of its RMBS and ABS CDO portfolio.
19-Dec-07	S&P takes rating actions on six bond insurers & holds teleconference ACA to CCC/WatchDev; Ambac & Connie Lee to AAA/Negative; FGIC to AAA/Watchlist Neg; MBIA to AAA/Negative; XLCA to AAA/Negative. All others affirmed.
19-Dec-07	Moody’s places the debt ratings of XL Capital and the insurance strength of its subsidiaries on review for downgrade on pressure from its reinsurance of and investment in SCA.
20-Dec-07	Fitch places MBIA on rating watch negative on CDO & RMBS review and says if MBIA is unable to raise about $1Bn in 4-6 weeks in addition the Warburg Pincus $1Bn, Fitch would expect to downgrade to AA+.
21-Dec-07	Fitch places Ambac on rating watch negative on CDO & RMBS review – indicates that Ambac’s capital adequacy falls below AAA guidelines by about $1 Bn
9-Jan-08	Fitch states it expects to assign a ‘AA’ rating to MBIA’s $1Bn offering.
9-Jan-08	Moody’s rates MBIA’s surplus notes Aa2, downgrades holding company to Aa3 due to structural subordination.
11-Jan-08	S&P suspends its ratings on public finance and corporate transactions insured by ACA that do not have an underlying public rating from S&P.
16-Jan-08	Moody’s places Ambac on review for possible downgrade.
16-Jan-08	Fitch affirms MBIA’s AAA IFS rating with a stable outlook, removing Rating Watch Negative following the completion of MBIA’s $1Bn surplus note offering.
17-Jan-08	Moody’s announces MBIA’s ratings are on review for downgrade.
18-Jan-08	Fitch downgrades Ambac two notches to AA with Watch Negative following the company’s announcement that it chooses not to raise equity capital under current market conditions.
24-Jan-08	Fitch downgraded XLCA to A with Watch Negative
24-Jan-08	Fitch affirmed FSA at AAA with Stable outlook
30-Jan-08	Fitch downgraded FGIC to AA with Watch Negative
31-Jan-08	S&P downgraded FGIC to AA with Watch Developing
31-Jan-08	S&P affirmed ACA at CCC with Watch Developing
31-Jan-08	S&P affirmed Assured Guaranty at AAA with Stable outlook
31-Jan-08	S&P affirmed Ambac at AAA with Watch Negative
31-Jan-08	S&P affirmed CIFG at AAA with Negative outlook
31-Jan-08	S&P affirmed FSA at AAA with Stable outlook
31-Jan-08	S&P placed MBIA on Watch Negative
31-Jan-08	S&P placed XLCA on Watch Negative
5-Feb-08	Fitch placed CIFG on Watch Negative
5-Feb-08	Fitch placed MBIA on Watch Negative
7-Feb-08	Moody's downgraded XLCA to A3 with Negative outlook
14-Feb-08	Moody's downgraded FGIC to A3 on Review for Possible Downgrade, from Aaa
22-Feb-08	Moody's placed CIFG's Aaa ratings on Review for Downgrade, from Negative Outlook
25-Feb-08	S&P placed MBIA at AAA on Negative Outlook, from Watch Negative

25-Feb-08	S&P affirmed Ambac at AAA on CreditWatch with Negative Implications
25-Feb-08	S&P downgraded FGIC to A on CreditWatch with Developing Implications, from AA
25-Feb-08	S&P downgraded XLCA to A- on CreditWatch with Negative Implications, from AAA
25-Feb-08	S&P affirmed CIFG at AAA with Negative Outlook
26-Feb-08	Moody's affirmed MBIA at AAA with Negative Outlook, from Review for Downgrade
29-Feb-08	Moody's announced it is continuing its review of Ambac's Triple-A ratings
4-Mar-08	Moody's placed XLCA's (SCA) A3 ratings on Review for Possible Downgrade, from Negative Outlook
6-Mar-08	Moody's downgraded CIFG to A3 Stable Outlook, from Aaa Review for Possible Downgrade
7-Mar-08	MBIA requested withdrawal of Fitch Insurer Financial Strength Ratings
7-Mar-08	Fitch downgraded CIFG to AA- Watch Negative, from AAA Negative Outlook.
11-Mar-08	Moody’s affirmed FSA at Aaa Stable Outlook.
12-Mar-08	S&P downgraded CIFG to A+ Negative Outlook, from AAA Negative Outlook.
12-Mar-08	S&P placed Ambac on AAA Outlook Negative, from CreditWatch Negative
12-Mar-08	Moody’s affirmed Ambac at Aaa Outlook Negative, from Review for Possible Downgrade
12-Mar-08	Fitch affirmed Ambac at AA Outlook Negative, from Watch Negative
14-Mar-08	Moody’s affirmed Assured Guaranty Corp. at Aaa Stable
21-Mar-08	S&P revised FGIC’s A rating to CreditWatch Negative from Developing
24-Mar-08	Fitch announced it will continue to rate MBIA as long as it can maintain a “clear, well-supported” view without access to non-public information
26-Mar-08	Fitch downgraded FGIC to BBB Negative Outlook, from AA Watch Negative.
26-Mar-08	Fitch downgraded XLCA (SCA) to BB Negative Outlook, from A Watch Negative.
28-Mar-08	S&P downgraded FGIC to BB Negative Outlook, from A Watch Negative.
31-Mar-08	Fitch downgraded CIFG to A- Negative Outlook, from AA- Watch Negative.
31-Mar-08	Moody’s downgraded FGIC to Baa3, Under review for downgrade, from A3.
1-Apr-08	CIFG requested that its Fitch IFS rating be withdrawn.
4-Apr-08	Fitch downgraded MBIA to AA Negative Outlook, from AAA Watch Negative.
11-Apr-08	S&P assigns AAA ratings to Berkshire Hathaway Assurance Corporation and Berkshire's Columbia Insurance Company, with a stable outlook on both entities.
25-Apr-08	Moody’s assigns Aaa, stable outlook ratings to Berkshire's Columbia Insurance Company and Berkshire Hathaway Assurance Corporation.
20-May-08	Moody’s downgraded CIFG seven levels to Ba2, from A1 to reflect “the high likelihood that, absent material developments, the firm will fail minimum regulatory capital requirements”.
30-May-08	Fitch downgraded CIFG to CCC Watch Evolving, from AA-, Watch Negative.
4-Jun-08	Moody’s placed Ambac on Review for Possible Downgrade, ratings remain Aaa.
4-Jun-08	Moody’s placed MBIA on Review for Possible Downgrade, ratings remain Aaa.
5-Jun-08	S&P downgraded MBIA to AA, Negative Outlook, from AAA, review for downgrade.
5-Jun-08	S&P downgraded Ambac to AA, Negative Outlook, from AAA, review for downgrade.
6-Jun-08	S&P downgraded SCA/XL to BBB-, Watch Negative, from A- Watch Negative.
6-Jun-08	S&P downgraded CIFG to A-, Watch Negative, from A+ Negative Outlook.
6-Jun-08	S&P placed FGIC’s BB rating on Watch Negative, from BB, Negative Outlook.
18-Jun-08	Ambac requested the withdrawal of Fitch Insurer Financial Strength Ratings.
18-Jun-08	S&P affirmed Assured at AAA, Stable Outlook.
19-Jun-08	Moody’s downgraded Ambac to Aa3, Negative Outlook, from Aaa, review for downgrade.
19-Jun-08	Moody’s downgraded MBIA to A2, Negative Outlook, from Aaa, review for possible downgrade.
20-Jun-08	Moody’s downgraded FGIC to B1, Negative Outlook, from Baa3, review for possible downgrade.
20-Jun-08	Moody’s downgraded XLCA/XLFA to B2, Negative Outlook, from A2, review for possible downgrade.
26-Jun-08	Fitch withdrew its IFS ratings on MBIA and Ambac.

Source: Subprime Crisis: Timeline of Rating Agency Actions. Excerpted from a July 2008 Association of Financial Guaranty Insurers Report AFGI070708.ppt.

Appendix 2
Non-MTM Super Senior Tranches: WRA analysis: As at March 31, 2008
All Totals in USD

		First Priority (Supersenior) AAA Tranches - Cash Flow PV Structures												
Transaction	**Current Notional**	**Tranche**	**Rating - 3/31/2008**	**RBA Risk Weight**	**Rating - 4/1/2008**	**Current RBA Risk Weight**	**estimated downgrade**	**estimated potential ratings post-downgrade[1]**	**second lien**	**2005 A+ or lower subprime**	**CCC/CC S&P assets**	**ABS CDOs / bespokes**	**Risk Assets as % of Subordination**	**Comments**
Buckingham I	917,778,941	Liq Draw	Aaa/AAA	7%	n/a(2)	7%	Jun-08	Aa2/AA	21,000,000	100,000,000			121%	$21mm second lien, $100mm 2005 A+ or lower subprime vs. $100mm subordination
Buckingham II	1,266,283,585	Liq Draw	Aaa/AAA	7%	AA	8%	Jun-08	A3/A-	70,000,000	114,000,000			142%	$70mm second lien, $114mm 2005 A+ or lower subprime vs. $130mm subordination
Buckingham III	1,468,055,170	Class A-ST	BB+	265%	BB+	265%	Mar 08*	BB+			100,000,000		67%	$100mm CCC/CC S&P assets vs. $150mm subordination
Citius I	1,768,284,123	Class A-ST	BBB-	106%	BBB-	106%	Mar 08*	BBB-			200,000,000		100%	$200mm CCC/CC S&P assets vs. $200mm subordination
Citius II	1,878,443,332	Class ST	Aaa/AAA	7%	B	1250%	Mar-08	B3/B+ or lower			300,000,000		100%	$300mm CCC/CC S&P assets vs. $200mm subordination
Liberty Harbour I	1,615,510,965	Liq Draw	n/a(2)	1250%	B1	1250%	Mar-08	B1(Tranche below Liquidity Facility)				135,000,000	100%	$135mm ABS bespokes vs. $195mm subordination; most collateral v seasoned
Tourmaline I	701,672,820	Class I Liquidity Facility	Aaa/AAA	7%	Aaa/AAA	7%	Sep-08	Aa2/AA						$149mm 05-06 BBB subprime vs. $262.5mm subordination
Tourmaline II	972,514,759	Class A Liquidity Facility	Aaa/AAA	7%	Aaa/AAA	7%	Jun-08	A3/A-						$195mm 2005+, A+ or lower subprime vs. $300mm subordination
		First Priority (Supersenior) AAA Tranches - NAV Structures												
Stack 2005-2	495,517,204	Class A Liquidity Facility	AA	8%	AA	8%	Mar-08(DG)	AA(downgraded 4-March)						$21.5m mezz CDOs, $157mm 2005+, A+ or lower subprime (underperforming) vs. $150mm subordination
Tenorite	1,254,107,967	Class A Liquidity Facility	Ba1	265%	Ba1	265%	Feb-08(DG)	Ba1(downgraded 26-Feb)						EOD on 2/6, although liquidation subject to further downgrades
Camber VI	729,630,863	Class A Liquidity Facility	A-	21%	A-	21%	Feb-08(DG)	A-(downgrade on 25-Feb)						close to EOD/acceleration/liquidation triggers
Totals														

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Appendix 3
Super Senior ABS CDO Exposure and Loss Summary PwC00628 BARC-ADS-00238918 native
All Totals in USD

1/8/08

NAV/PV Shortfall Projections

Deal	Super Senior Notional ($M) (12/31)	Pre-Paid Swap ($M) (12/31)	P.P. Swap Included	Estimated NAV (10/31) ($M)	Estimated NAV (12/31) ($M)	Estimated NAV (1/08) ($M)	Cash in Deal (12/31) ($M)	Cash Valued in Estimated NAV	NAV Shortfall (12/31) ($M)	CF PV Shortfall CF PV (10/31) ($M)	CF PV (12/11) ($M)	CF PV (1/08) ($M)	Valuation Method	Summary Shortfall ($M)	Shortfall (%)	Unamortized Day 1 P&L ($M)*	Net Shortfall ($M)
Buck I	900	8	No	757	708	687	67	No	192	52	28	27	PV	27	3.0%	-	27
Buck II	1,145	12	No	994	910	865	0	No	235	70	61	57	PV	57	5.0%	-	57
Buck III	1,327	18	No	941	908	857	0	Yes	419	197	230	245	PV	245	18.5%	7	239
Citius I	1,606	14	No	1,305	1,262	1,216	13	No	344	-	6	27	PV	27	1.7%	2	25
Citius II	1,706	37	No	1,348	1,293	1,237	4	Yes	413	77	169	192	PV	192	11.2%	9	182
Liberty I	1,437	11	Yes	1,262	1,179	1,160	0	Yes	269	196	147	148	PV	148	10.2%	3	145
Tour I	488	11	No	446	416	420	12	No	72	-	-	-	PV	-	0.0%	-	-
Tour II	700	19	No	622	614	602	0	No	86	-	-	27	PV	27	3.9%	-	27
Total	**9,309**	**130**	**N/A**	**7,675**	**7,289**	**7,045**	**96**		**2,030**	**592**	**641**	**723**	**n/a**	**723**	**7.8%**	**21**	**703**
Pamp1	1,063	0	Yes	669	642	596	0	Yes	421	158	174	188	NAV	421	39.6%	7	413
Pamp2	1,600	0	Yes	786	762	708	0	Yes	838	473	579	611	NAV	838	52.4%	38	800
Markov	1,600	0	Yes	831	774	691	2	Yes	826	346	376	381	NAV	826	51.6%	40	786
Silverton	450	0	Yes	224	201	175	1	Yes	249		27	96	NAV	249	55.3%	8	241
Total	**4,713**	**0**	**N/A**	**2,510**	**2,378**	**2,171**	**3**		**2,334**	**977**	**1,156**	**1,276**	**n/a**	**2,334**	**49.5%**	**93**	**2,241**
Camber VI	487	8	Yes	324	283	250	8	No	212	-	-	10	NAV	212	42.8%	2	209
Stack 05-2	350	4	Yes	238	231	219	16	No	123	-	-	8	NAV	123	34.7%	-	123
Tenor	800	17	Yes	458	397	387	1	No	419	324	286	281	NAV	419	51.4%	-	419
Total	**1,637**	**29**	**N/A**	**1,020**	**912**	**857**	**25**		**754**	**324**	**286**	**298**	**n/a**	**754**	**45.3%**	**2**	**752**
Grand Total	**15,658**	**159**	**N/A**	**11,205**	**10,579**	**10,072**	**123**		**5,119**	**1,893**	**2,082**	**2,297**	**n/a**	**3,811**	**24.3%**	**116**	**3,695**
								Non MTM	2,030								

For net shortfall amount, includes Pre-Paid Swaps where NAV Valuation Method is used or if waterfall does not readily provide for acceleration
Cashflow projections run through 2012
Discount Rate equals forward 1-month LIBOR
Super Senior notionals and cash balances as of trustee reports dated as follows:

Buck I	11/30/07
Buck II	1/7/08
Buck III	1/7/08
Citius I	11/29/07
Citius II	12/31/07
Liberty I	11/30/07
Tour I	11/30/07
Tour II	11/21/07
Pamp1	12/5/07
Pamp2	12/5/07
Markov	12/4/07
Silverton	12/10/07
Camber VI	11/30/07
Stack 05-2	11/30/07
Tenor	11/6/07

For Estimated transaction NAV, cash is valued at 0, unless otherwise stated in column labeled Cash Valued in NAV
Liberty Harbor Super Senior Notional reflects Barclays' Super Senior exposure net of cash
The Super Senior Notional Amount is the 12/31 balance excluding any principal payments to Super Seniors after December 31
*Unamortized Day 1 P&L on ABS Bespokes and Intermediation
Pre-Paid Swap numbers include PV of interest rate swaps, basis swaps, and pre-paid swaps
Pre-Paid Swap numbers exclude swap termination costs in Pamp1, Pamp2, Markov, and Silverton
Tenorite $800mm Super Senior Notional includes amounts in reserve account ($550mm Super Senior plus $250mm reserve account exposure)