The Commission amended rule 0–1 to include the definition of the term ''independent legal counsel'' in 2001.[5] This amendment was designed to enhance the effectiveness of fund boards of directors and to better enable investors to assess the independence of those directors. The Commission also amended the exemptive rules to require that any person who serves as legal counsel to the independent directors of any fund that relies on any of the exemptive rules must be an ''independent legal counsel.'' This requirement was added because independent directors can better perform the responsibilities assigned to them under the Act and the rules if they have the assistance of truly independent legal counsel.

If the board's counsel has represented the fund's investment adviser, principal underwriter, administrator (collectively, ''management organizations'') or their ''control persons'' [6] during the past two years, rule 0–1 requires that the board's independent directors make a determination about the adequacy of the counsel's independence. A majority of the board's independent directors are required to reasonably determine, in the exercise of their judgment, that the counsel's prior or current representation of the management organizations or their control persons was sufficiently limited to conclude that it is unlikely to adversely affect the counsel's professional judgment and legal representation. Rule 0–1 also requires that a record for the basis of this determination is made in the minutes of the directors' meeting. In addition, the independent directors must have obtained an undertaking from the counsel to provide them with the information necessary to make their determination and to update promptly that information when the person begins to represent a management organization or control person, or when he or she materially increases his or her representation. Generally, the independent directors must re-evaluate their determination no less frequently than annually.

Any fund that relies on one of the exemptive rules must comply with the requirements in the definition of ''independent legal counsel'' under rule 0–1. We assume that approximately 4128 funds rely on at least one of the exemptive rules annually.[7] We further assume that the independent directors of approximately one-third (1376) of those funds would need to make the required determination in order for their counsel to meet the definition of independent legal counsel.[8] We estimate that each of these 1376 funds would be required to spend, on average, 0.75 hours annually to comply with the recordkeeping requirement associated with this determination, for a total annual burden of approximately 1032 hours. Based on this estimate, the total annual cost for all funds' compliance with this rule is approximately $145,168. To calculate this total annual cost, the Commission staff assumed that approximately two-thirds of the total annual hour burden (688 hours) would be incurred by compliance staff with an average hourly wage rate of $180 per hour,[9] and one-third of the annual hour burden (344 hours) would be incurred by clerical staff with an average hourly wage rate of $62 per hour.[10]

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is mandatory and is necessary to comply with the requirements of the rule in general. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Shagufta_Ahmed@omb.eop.gov*); and (ii) Charles BoucherDirector/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 22, 2008.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–31091 Filed 12–30–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28572; 812–13615]

Citigroup Global Markets Inc., et al.; Notice of Application and Temporary Order

December 23, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against Citigroup Global Markets Inc. (''CGMI'') on December 23, 2008 by the United States District Court for the Southern District of New York (the ''Injunction''), until the Commission takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

APPLICANTS: CGMI, CEFOF GP I Corp. (''CEFOF''), CELFOF GP Corp. (''CELFOF''), Citibank, N.A. (''Citibank''), Citigroup Alternative Investments LLC (''Citigroup Alternative''), Citigroup Investment

rule 15a–4(b)(2) (17 CFR 270.15a–4(b)(2)), rule 17a–7 (17 CFR 270.17a–7), rule 17a–8 (17 CFR 270.17a–8), rule 17d–1(d)(7) (17 CFR 270.17d–1(d)(7)), rule 17e–1(c) (17 CFR 270.17e–1(c)), rule 17g–1 (17 CFR 270.17g–1), rule 18f–3 (17 CFR 270.18f–3), and rule 23c–3 (17 CFR 270.23c–3).

[5] See Role of Independent Directors of Investment Companies, Investment Company Act Release No. 24816 (Jan. 2, 2001) (66 FR 3735 (Jan. 16, 2001)).

[6] A ''control person'' is any person—other than a fund—directly or indirectly controlling, controlled by, or under common control, with any of the fund's management organizations. See 17 CFR 270.01(a)(6)(iv)(B).

[7] Based on statistics compiled by Commission staff, we estimate that there are approximately 4586 funds that could rely on one or more of the exemptive rules. Of those funds, we assume that approximately 90 percent (4128) actually rely on at least one exemptive rules annually.

[8] We assume that the independent directors of the remaining two-thirds of those funds will choose not to have counsel, or will rely on counsel who has not recently represented the fund's management organizations or control persons. In both circumstances, it would not be necessary for the fund's independent directors to make a determination about their counsel's independence.

[9] The estimated hourly wages used in this PRA analysis were derived from reports prepared by the Securities Industry and Financial Markets Association. See Securities Industry and Financial Markets Association, Report on Management and Professional Earnings in the Securities Industry—2007 (2007), modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead; and Securities Industry and Financial Markets Association, Office Salaries in the Securities Industry—2007 (2007), modified to account for an 1800-hour work year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[10] (688 × $180/hour) + (344 × $62/hour) = $145,168).

Advisory Services Inc. (''Citigroup Advisory''), Citigroup Capital Partners I GP I Corp. (''CCP I'') and Citigroup Capital Partners I GP II Corp. (''CCP II'') (collectively, ''Applicants'').[1]

FILING DATE: The application was filed on December 23, 2008.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2009, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090. Applicants: CGMI and Citigroup Advisory, 787 Seventh Avenue, New York, NY 10019; CEFOF, CELFOF, CCP I and CCP II, 388 Greenwich Street, New York, NY 10013; Citibank, 399 Park Avenue, New York, NY 10043; and Citigroup Alternative, 731 Lexington Avenue, 28th Floor, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at (202) 551–6878, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1520 (tel. 202–551–5850).

Applicants' Representations:

1. Each of the Applicants is an indirect wholly owned subsidiary of Citigroup Inc., a financial holding company whose businesses provide a broad range of financial services. CGMI is registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act'') and serves as principal underwriter for one or more registered investment companies and unit investment trusts (''UITs'', together with registered investment companies, ''Funds''). Citigroup Alternative and Citigroup Advisory are registered as investment advisers under the Investment Advisers Act of 1940 and serve as investment advisers for one or more Funds. CEFOF, CELOF, Citibank, CCP I and CCP II (''ESC Advisers'') serve as investment advisers to certain employees' securities companies within the meaning of section 2(a)(13) of the Act, which provide investment opportunities for certain eligible employees, officers, directors and persons on retainer of Citigroup and its affiliates (''ESCs'' and included in the term ''Funds'').[2]

2. On December 23, 2008, the United States District Court for the Southern District of New York entered a judgment against CGMI (''Judgment'') in a matter brought by the Commission.[3] The Commission alleged in the complaint (''Complaint'') that CGMI violated section 15(c) of the Exchange Act in connection with the marketing and sale of auction rate securities (''ARS''). The Complaint alleged that CGMI misled its customers regarding the fundamental nature and increasing risks associated with ARS that CGMI underwrote, marketed and sold. The Complaint further alleged that CGMI misrepresented to its customers that ARS were safe, highly liquid investments that were equivalent to money market instruments. Without admitting or denying the allegations in the Complaint, except as to jurisdiction, CGMI consented to the entry of the Judgment that included, among other things, the entry of the Injunction and other equitable relief including undertakings to take various remedial actions for the benefit of purchasers of certain ARS.

Applicants' Legal Analysis:

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security or in connection with activities as an underwriter, broker or dealer, from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered UIT or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that CGMI is an affiliated person of each of the other Applicants within the meaning of section 2(a)(3) of the Act. Applicants state that the entry of the Injunction results in Applicants being subject to the disqualification provisions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting them and Covered Persons from the disqualification provisions of section 9(a) of the Act.

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to the Applicants would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did not involve any of the Applicants acting in the capacity of investment adviser, subadviser or depositor to a Fund, or principal underwriter for any open-end Fund or UIT. Applicants also state that none of the current or former directors, officers, or employees of the Applicants (other than CGMI) had any participation in the violative conduct alleged in the Complaint. Applicants further state that the personnel at CGMI who were involved in the violations alleged in the Complaint have had no and will not have any future involvement in providing advisory, subadvisory or depository services to Funds, or principal underwriting services to open-end Funds or UITs.

5. Applicants state that the inability of the Applicants to continue to serve as investment adviser, depositor or

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which CGMI is or hereafter may become an affiliated person (together with the Applicants, the ''Covered Persons'').

[2] Greenwich Street Employees Fund, L.P., et al., Investment Company Act Release Nos. 25324 (Dec. 21, 2001) (notice) and 25367 (Jan. 16, 2002) (order).

[3] United States Securities and *Exchange Commission* v. *Citigroup Global Markets Inc.,* 08–CV–10753, Judgment as to Defendant Citigroup Global Markets Inc. (S.D.N.Y.) (entered Dec. 23, 2008).

principal underwriter to the Funds would result in potentially severe financial hardships for the Funds and their shareholders. The Applicants have distributed, or will distribute as soon as reasonably practical, written materials, including an offer to meet in person to discuss the materials, to the board of directors of each Fund, including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of such Fund, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any, regarding the Judgment, any impact on the Funds, and the application. The Applicants state they will provide the Funds with all information concerning the Judgment and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the federal securities laws.

6. Applicants also state that, if they were barred from serving as investment adviser, depositor or principal underwriter to the Funds, the effect on their businesses and employees would be severe. Applicants state that they have committed substantial resources to establish an expertise in providing services covered by section 9(a) of the Act to Funds. Applicants further state that prohibiting them from providing advisory and distribution services would not only adversely affect their businesses, but would also adversely affect approximately 50 employees that are involved in those activities. Applicants also state that disqualifying the ESC Advisers from continuing to provide investment advisory services to ESCs is not in the public interest or in furtherance of the protection of investors. Because the ESCs have been formed for certain eligible officers, directors and persons on retainer of Citigroup and its affiliates, it would not be consistent with the purposes of the ESC provisions of the Act or the ESC Order to require another entity not affiliated with the ESC Advisers to manage the ESCs. In addition, participating employees of Citigroup and its affiliates subscribed for interests with the expectation that the ESCs would be managed by an affiliate of Citigroup.

7. Applicants previously have received exemptions under section 9(c) as the result of conduct that triggered section 9(a) as described in greater detail in the application.

Applicants' Condition:

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order:

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that the Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from December 23, 2008, until the Commission takes final action on their application for a permanent order.

By the Commission.

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–31090 Filed 12–30–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—28569; 812–13609]

UBS Securities LLC, et al.; Notice of Application and Temporary Order

December 23, 2008.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

Summary of Application: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against UBS Securities LLC (''UBS Securities'') and UBS Financial Services Inc. (''UBSFS,'' and together with UBS Securities, the ''Settling Firms'') on December 23, 2008 by the United States District Court for the Southern District of New York (''Injunction'') until the Commission takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

Applicants: UBS Securities; UBSFS; UBS Fund Advisor, L.L.C. (''UBSFA''); UBS Willow Management, L.L.C. (''UBS Willow''), UBS Eucalyptus Management, L.L.C., UBS Tamarack Management, L.L.C., UBS Juniper Management, L.L.C., and UBS Enso Management L.L.C. (collectively, ''UBSFA Advisers''); UBS Global Asset Management (Americas) Inc. (''UBS Global AM Americas''); UBS Global Asset Management (US) Inc. (''UBS Global AM US''); and UBS AG and UBS IB Co-Investment 2001 GP Limited (''ESC GP'') (together, other than UBS Securities, ''Fund Servicing Applicants'' and together with UBS Securities, the ''Applicants'').[1]

Filing Dates: The application was filed on December 16, 2008. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: UBS Securities, 299 Park Avenue, New York, NY 10171; UBSFS, 1200 Harbor Boulevard, Weehawken, NJ 07086; UBSFA, UBSFA Advisers, and UBS Global AM US, 51 West 52nd Street, New York, NY 10019; UBS Global AM Americas, One North Wacker Drive, Chicago, IL 60606; and UBS AG and ESC–GP, 677 Washington Boulevard, Stamford, CT 06901.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at 202–551–6878 or Julia Kim Gilmer, Branch Chief, at 202–551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and summary of the application. The

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which either of the Settling Firms is or may become affiliated persons (together with the Applicants, the ''Covered Persons'').