

UNITED STATES OF AMERICA  
FEDERAL DEPOSIT INSURANCE CORPORATION

+ + + + +

BOARD OF DIRECTORS

+ + + + +

MEETING  
CLOSED SESSION

+ + + + +

MONDAY  
SEPTEMBER 29, 2008

+ + + + +

The Board convened at 6:00 a.m. in the Federal Deposit Insurance Corporation Board Room at 550 17th Street, N.W., Washington, D.C., Sheila C. Bair, Chairman, presiding.

PRESENT:

SHEILA C. BAIR, Chairman

MARTIN J. GRUENBERG, Vice Chairman

THOMAS J. CURRY, Director

JOHN C. DUGAN, Comptroller of the Currency

JOHN M. REICH, Director, Office of Thrift  
Supervision

STAFF PRESENT:

Miguel Bran  
John H. Corston  
Herbert J. Held  
Jim Wigand

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

P R O C E E D I N G S

1  
2 CHAIRMAN BAIR: Okay. I have no  
3 gavel, so we'll just begin this morning the  
4 meeting.

5 (laughter.)

6 CHAIRMAN BAIR: Okay. I'd like  
7 to call the meeting to order. I need a  
8 Sunshine motion.

9 MR. : I move.

10 CHAIRMAN BAIR: May I have a  
11 second? I'll second. All in favor, say aye.

12 [Chorus of ayes]

13 CHAIRMAN BAIR: The motion's  
14 agreed to. No summary agenda. There's one  
15 item on the discussion agenda. It is a  
16 memorandum and resolution relating to  
17 Wachovia Bank, National Association,  
18 Charlotte, North Carolina, and its affiliate  
19 insured depository institutions.

20 Jim Wigand, John Corston, Miguel  
21 Bran and Herb Held will present the case.

22 MR. WIGAND: Good morning, Madam

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chairman, members of the Board. We're here  
2 to present a recommendation that the Board  
3 find that the respective failure of Wachovia  
4 Corporation and its affiliates, banks and  
5 thrifts, would have serious adverse effects  
6 on economic conditions and financial  
7 stability. Its failure would seriously and  
8 negatively affect already-disrupted credit  
9 markets, including short-term interbank  
10 lending, counterparty relationships and  
11 qualified financial contract markets, and  
12 bank senior subordinated debt markets and  
13 would further disrupt the related markets and  
14 derivative products in other markets.

15 Staff recommends that the Board  
16 accept the bid of Citigroup as the least  
17 costly available method, mitigating systemic  
18 risk, and that the Board authorize staff to  
19 take all steps needed to implement this  
20 decision.

21 Based on preliminary information,  
22 staff estimates that there will be no

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 expected loss to the Deposit Insurance Fund  
2 for this transaction.

3 MR. CORSTON: Wachovia Bank is a  
4 nationally-chartered bank. It's wholly-owned  
5 by Wachovia Corporation. The bank is the  
6 fourth largest bank in the country and is the  
7 predominant legal entity within Wachovia  
8 Corporation representing 83 percent of  
9 consolidated holding company assets. The  
10 insured legal entities of Wachovia  
11 Corporation consist of three national banks  
12 and two federal savings banks. The bank  
13 operates approximately 3400 banking centers  
14 in 21 states.

15 The risk profile of the bank is  
16 declining rapidly because of deteriorating  
17 liquidity and poor quality assets, and  
18 liquidity has reached crisis proportions.

19 The company's rapidly  
20 deteriorating financial condition is due  
21 largely to its portfolio of pay option ARM  
22 products, commercial real estate portfolio,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and weakened liquidity position.

2           On Friday, September 26, market  
3 acceptance of Wachovia liability ceased as  
4 the company's stock plunged, credit default  
5 swap spreads widened, some parties declined  
6 to advance the bank overnight funds, and  
7 counterparties advised that they would  
8 require greater collateralization on any  
9 transactions with the bank.

10           Unless the bank immediately  
11 attracts a merger partner, the FDIC and other  
12 regulators project the bank will likely be  
13 unable to pay obligations or meet expected  
14 deposit outputs.

15           Miguel.

16           MR. BRAN: Thanks, John. Staff  
17 recommends the Board find the least-cost  
18 resolution of Wachovia and its affiliate  
19 banks and thrifts, and they'd have serious  
20 adverse effects on economic conditions and  
21 financial stability, and would seriously  
22 disrupt an already moribund credit market.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           The least-costly resolution would  
2 likely be a purchase and assumption after the  
3 FDIC was appointed receiver. I'd like to  
4 first describe some of the economic and  
5 financial circumstances we find ourselves in  
6 in September 2008.

7           Short-term funding mechanisms in  
8 interbank lending are under considerable  
9 strain. This pressure is increasing  
10 following the failure of Lehman Brothers, the  
11 difficulties of AIG, the closing of WaMu.  
12 Libor has jumped a 100 basis points in the  
13 last three weeks. Commercial paper rates  
14 have risen dramatically. And this has all  
15 led to a strained liquidity position for many  
16 banks and has resulted in downward pressure  
17 on stock prices and upward pressure on credit  
18 default swap prices.

19           All of these effects would likely  
20 cause investors to rise sharply their  
21 assessments of the risks of investing in  
22 similar, albeit smaller regional banks,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 making it much less likely that those  
2 institutions would be able to raise capital  
3 and other funding.

4 The potential also exists for the  
5 harm to extend to the broader economy. It  
6 could undermine business and household  
7 confidence and also cause banks to become  
8 less willing to lend to businesses and  
9 households.

10 If the systemic risk exception  
11 were invoked, staff believes that the  
12 transaction described --

13 [Teleconference is interrupted.]

14 MR. : [inaudible] is now  
15 joining.

16 CHAIRMAN BAIR: Who joined?

17 MS. : Hello. This is Julie  
18 Williams [ph].

19 CHAIRMAN BAIR: okay.

20 MR. BRAN: -- described in this  
21 Board case would avoid all or most of the  
22 adverse impacts discussed previously. Use of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the systemic risk exception may involve cost.

2 The FDIC could suffer some losses from  
3 protection of certain asset pools, although  
4 the expectation is not. The size of the  
5 losses is not known and, as described by Mr.  
6 Wigand, is likely to be zero.

7 In addition, moral hazard will be  
8 exacerbated and the potential for market  
9 discipline in the future would be reduced for  
10 the very largest depository institutions.

11 In conclusion, staff believes the  
12 imposition of a least-cost resolution on  
13 Wachovia would almost surely have major  
14 systemic effects. Both financial stability  
15 and overall economic condition would likely  
16 be adversely affected for the reasons already  
17 discussed.

18 Staff believes we have  
19 recommended the least-costly alternative, one  
20 where equity holders take significant losses,  
21 albeit not wiped out. A least-cost  
22 resolution that protects most creditors would

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701



1 best ameliorate the adverse effects of a  
2 failure on financial markets and the real  
3 economy.

4 In creating the systemic risk  
5 exception, the Congress clearly envisioned  
6 that circumstances could arise in which the  
7 exception should be used. In view of the  
8 current intense financial strains which have  
9 already seriously impaired the functioning of  
10 the financial system and the likely  
11 consequences for the financial system and the  
12 economy of a least-cost resolution of the  
13 fourth largest commercial bank in the United  
14 States, staff believes that the circumstances  
15 such as Congress envisioned are clearly  
16 present and that invocation of the systemic  
17 risk exception is justified. Thank you.

18 Herb.

19 MR. HELD: An electronic data  
20 room was established by the bank in order to  
21 allow potential buyers to perform due  
22 diligence. However, there were no proposals

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 submitted on an open basis.

2 On September 28th, the FDIC staff  
3 began discussions with Citigroup and Wells  
4 Fargo, both of which submitted bids the same  
5 day. Both bids sought open bank assistance  
6 from the FDIC.

7 The Wells Fargo bid required the  
8 FDIC to cover potential losses on a pool of  
9 up to \$137.3 billion in assets, of which 80.7  
10 billion has been funded. Wells Fargo would  
11 assume the first \$2 billion of losses, and  
12 thereafter, losses would be shared, 80  
13 percent for FDIC and 20 percent for Wells.

14 Our analysis of this proposal  
15 estimated the cost to be between 5.6 and 7.2  
16 billion dollars. Our exposure in the  
17 transaction was capped at \$20 billion net.

18 The Citi bid, Citigroup bid  
19 requested that FDIC provide loss-share (audio  
20 drops for about a second) on a \$312 billion  
21 pool. Losses would be shared first. The  
22 first \$30 billion of losses would be absorbed

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 by Citigroup. Then Citigroup would absorb \$4  
2 billion in losses a year for the next three  
3 years and after that, FDIC would absorb all  
4 the losses. These would be partially offset  
5 or, we think, wholly offset by \$12 billion of  
6 preferred stock transference, which FDIC  
7 would receive at the closing of the  
8 transaction.

9 We -- our analysis of the (audio  
10 breakup) group portfolio indicates that  
11 losses range between 35 and (audio breakup)  
12 billion dollars. And even under the most  
13 severe scenario, there would be no cost to  
14 the DIF fund.

15 In addition, Wachovia Corporation  
16 itself submitted a proposal for open-bank  
17 assistance, and it required a pool of \$200  
18 billion of loans to have credit protection  
19 from the FDIC, and the Wachovia would cover  
20 the first \$25 billion in losses, and the FDIC  
21 would receive \$10 billion in preferred stock  
22 and warrants.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           Based on our analysis, the  
2 proposal from Citigroup is no cost, and is  
3 clearly the better of these proposals.

4           MR.       : Now just for a point  
5 of clarification, that is making an  
6 assumption of the estimated high-end loss of  
7 the range of losses. It would appear that  
8 the cushion available with the transaction  
9 with City would still not result in a loss to  
10 the Deposit Insurance Fund, but, you know,  
11 once again, you know, we have the range of  
12 estimates there, and the point estimate is  
13 certainly within the range of the absorption  
14 amount (audio breakup) provided by Citi.

15           CHAIRMAN BAIR: Okay. Thank you.

16           Vice Chairman Gruenberg.

17           VICE CHAIRMAN GRUENBERG: Thank  
18 you, Madam Chairman. I will say, this is a  
19 momentous proposal that's being placed before  
20 the Board. It will be the first exercise by  
21 the Board of the systemic risk exception that  
22 was provided in the Federal Deposit Insurance

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Corporation Improvement Act of 1991.

2 It is a decision, it seems to me,  
3 we reach reluctantly, and in some sense, we  
4 don't have a desirable option in front of us,  
5 but among the options available, this is  
6 perhaps the best.

7 So it's the least bad, perhaps,  
8 of a set of undesirable options, and in that  
9 regard we're facing extraordinary times, and  
10 this is the appropriate action for us to take  
11 at this time, and I'm prepared to support  
12 this case.

13 CHAIRMAN BAIR: Thank you.

14 Director Curry.

15 DIRECTOR CURRY: I agree with the  
16 vice chairman. It's -- sadly, all the  
17 elements of the systemic risk has seemed to  
18 be amply supported by the case and the  
19 circumstances both at Wachovia, and external  
20 conditions within the economy at large. So I  
21 am also prepared to vote in favor of this.

22 CHAIRMAN BAIR: Director Dugan.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   DIRECTOR DUGAN: Thank you, Madam  
2 Chairman. I think these are absolutely  
3 extraordinary time. I think it's remarkable  
4 that we've come to this situation where an  
5 institution like Wachovia, which, in many  
6 ways, is a quite viable, attractive  
7 franchise, just couldn't withstand the  
8 liquidity shock that it was facing because of  
9 the extraordinary circumstances in markets.  
10 I think that this is a clear example of the  
11 need for the systemic risk exception,  
12 certainly with the view of the Federal  
13 Reserve and Treasury Department, and  
14 discussions that we've had over the weekend,  
15 I don't think we have any choice. I'd say I  
16 want to commend staff. I think they did a  
17 very good job of putting this together in a  
18 very short period of time, and I think among  
19 the competing offers, this was the best  
20 option, and one that (audio breakup) no cost  
21 to the FDIC fund. It certainly helps them,  
22 and I support the resolution.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN BAIR: Director Reich.

2 DIRECTOR REICH: Thank you, Madam  
3 Chairman. There's a lot that I don't know,  
4 unfortunately. I heard staff indicate that  
5 equity holders would take significant losses,  
6 though not wiped out, and I guess I'd like to  
7 know what, what that means. Could somebody -  
8 -

9 CHAIRMAN BAIR: Do you want to  
10 take that, Jim.

11 MR. WIGAND: The proposal that  
12 Citicorp is tendering, and of course it has  
13 to be approved by the shareholders of  
14 Wachovia, is for a dollar per share purchase  
15 price of the stock.

16 MR. POLAKOFF: What does the FDI  
17 Act require with respect to treatment of  
18 equity holders?

19 MR. : John Thomas is coming  
20 to the table.

21 MR. THOMAS: It requires that  
22 (audio breakup) probably not benefit equity

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 holders unless there is a systemic  
2 determination. That's why a systemic  
3 determination is necessary in this case in  
4 order to do this transaction.

5 I would add, I think in addition  
6 to the dollar a share, there would be some  
7 assets left behind in the holding company,  
8 but the --

9 MR. WIGAND: That's correct.

10 MR. THOMAS: -- bulk of its debt  
11 would be assumed. I think Citi's guessing  
12 about \$2 or 2.60 a share value for stock.  
13 That's their guess. It's not ours.

14 MR. : And what about the  
15 debt holders, the subordinated debt, senior  
16 debt?

17 MR. : In all cases the  
18 senior subordinated debt holders are being  
19 assumed in the transaction.

20 MR. POLAKOFF: How do we -- what  
21 do we think we're doing, or how will  
22 litigation risk be affected -- now I'm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701



1 thinking of WaMu -- equity and debt holders  
2 that were wiped out. Are we -- do we run the  
3 risk of increased litigation risk for --

4 MR. : No one has a right, a  
5 legal right to a systemic risk determination  
6 and being bailed out. I think the answer is  
7 this does not change that risk. It may  
8 change the risk whether someone sues. It  
9 will not change the risk where there's any  
10 significant loss, risk of loss in that  
11 litigation. Any time somebody sees money,  
12 you may get a law suit; but it does not  
13 change the legal risk.

14 MR. : Is there any exposure  
15 to the industry for a special assessment?

16 MR. : If it turns out that  
17 the transaction actually does cost more than  
18 a simple closing of the institutions here  
19 would cost, and right now it looks like a  
20 zero cost -- our best estimate, zero cost.  
21 If that's true, there'll be no special  
22 assessment. If it turns out that there is a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 cost from doing the systemic finding, and  
2 doing the transaction this way, then the  
3 industry would be assessed, and they're  
4 assessed based on assets minus equity rather  
5 than on deposits.

6 CHAIRMAN BAIR: Treasury's also  
7 agreed if there are any losses attendant with  
8 this transaction, they will separately fund  
9 those, so that our cash balance wouldn't be  
10 depleted in any way, and hopefully our  
11 reserve balance\*.. I guess that's still "up  
12 in the air." What do they -- as an  
13 accounting matter we could do that.

14 MR. : Does that -- when you  
15 say that they would separately fund the  
16 losses, does that mean that the industry  
17 would not be assessed, or --

18 CHAIRMAN BAIR: No.  
19 Unfortunately, with our statute, there's a  
20 special assessment for any costs associated,  
21 or losses associated with a systemic risk  
22 exception. But the usual rule for Treasury

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is that we have to spend down our entire  
2 balance before the will allow us to borrow  
3 from them. In this case, they've agreed to  
4 fund any, any losses that we might suffer in  
5 connection with this transaction, so that we  
6 would not have to -- it would not deplete our  
7 cash balance.

8 I don't think that's going to  
9 happen. I think that the -- at least given -  
10 -I think staff is right, that it's probably  
11 remote that we will suffer any losses under  
12 this, given the sizeable first loss position  
13 that Citi has taken.

14 But it was important to me,  
15 especially since Treasury are the ones  
16 vigorously pushing this, that they agree to  
17 separately fund those losses if we do incur  
18 them. And we're trying, we're still trying  
19 to determine whether they could give us some  
20 type of language that would allow us not to  
21 have to reserve against those losses if they  
22 should occur.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 In other words, they would just  
2 fund them immediately as they occurred so it  
3 wouldn't impact our DIF balance. But we're  
4 not talking about that. We haven't worked  
5 that out yet.

6 MR. : Are we anticipating  
7 any other possibility of a large failure  
8 within the next couple weeks?

9 CHAIRMAN BAIR: Well, I know John  
10 Dugan, he might have some thoughts on that.  
11 We're watching that Citi closely. I think we  
12 need to have more discussions with OCC. I'm  
13 not aware on the staff. John, do you have  
14 anything?

15 DIRECTOR DUGAN: What I would say  
16 is if it happens, it will be a liquidity-  
17 based issue, not a capital-based issue like  
18 this one, and it'll depend on how markets  
19 react, and we'll -- institutions have been  
20 taking precautions but in the financial storm  
21 that we're in, it's difficult to predict what  
22 direction it will take for the particular

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 institution which Sheila just mentioned or  
2 other institutions, whether supervised by us  
3 or others.

4 CHAIRMAN BAIR: Okay. Any more  
5 questions, John?

6 MR. : I think that's it,  
7 Sheila. Thank you.

8 CHAIRMAN BAIR: Thank you.

9 Well, i think this is, you know,  
10 as Marty said, one option of a lot of not-  
11 very-good options. I would note for the  
12 record, that both the Treasury and the  
13 Federal Reserve Board "weighed in" early on  
14 for us to provide a systemic risk exception.

15 In fact, the Federal Reserve Board, several  
16 hours ago, voted on a systemic risk exception  
17 before we'd even acted. So they clearly,  
18 both pressed for this, and I know it was  
19 important to the OCC as well.

20 I have acquiesced in that  
21 decision based on the input of my colleagues,  
22 and the fact the statute gives multiple

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 decision makers a say in this process.

2 I'm not completely comfortable  
3 with it but we need to move forward with  
4 something, clearly, because this institution  
5 is in a tenuous situation.

6 I would like to very much thank  
7 and commend the staff for really going above  
8 and beyond a very -- you know, usual  
9 challenges of the job. We did not really  
10 know, until 5:00 o'clock yesterday afternoon,  
11 that this was not going to get done on an  
12 open bank and assisted basis, and it really  
13 put us in a bind. So it is what it is,  
14 markets move quickly, and we just take the  
15 balls as they come, or pitched at us. But it  
16 was a very difficult night and a resolution  
17 that is a resolution, and we needed a  
18 resolution that, whether it's the best  
19 resolution I don't know.

20 So with that, I will -- may I  
21 have a motion with respect to Wachovia Bank.

22 MR. : I move.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN BAIR: And may I have a  
2 second.

3 MR. : Second.

4 CHAIRMAN BAIR: All in favor say  
5 aye.

6 [Chorus of ayes]

7 CHAIRMAN BAIR: The motion's  
8 agreed to. That concludes the discussion  
9 agenda. Thank you, gentlemen, for all  
10 getting up so early, and John, in your case  
11 staying up all night. And if there's no more  
12 business, we'll conclude the meeting. Thank  
13 you.

14 (Whereupon, the closed meeting  
15 was concluded)

16  
17  
18  
19  
20  
21  
22  
**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1  
2  
3  
4  
5  
6  
7

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701