A. Policy approaches of interest

1. The following policy approaches announced could be of interest to us:

a. Financial holding company structure (albeit currently only for public sector banks) and central KYC depository;
b. ECBs for rupee funding of infrastructure and reduced withholding tax rates for ECBs to select sectors;
c. Tax reform, introduction of General Anti Avoidance Rule;
d. Broad based taxation of services based on 'negative list' i.e. list of tax free services.

B. Tax reform

2. Given the delay in implementation of the two legislations viz. the Direct Taxes Code and the Goods and Services Tax, some of the approaches in these two legislations are proposed to be implemented immediately. Further details on these, including potential impact for Citi businesses, are given later in this note.

C. Rates of tax

3. For the fiscal year commencing on April 1, 2012, the rates for individual taxation and corporate taxation have generally been maintained at the same level barring the instances given below.

a. The basic exemption threshold for individual income tax has been raised by Rs.20,000. Similar changes are proposed for rates applicable to senior citizens;
b. The higher rates of 20% and 30% come in for incomes above Rs.500,000 and Rs.1,000,000 respectively.

4. The marginal rate of service tax will change to 12.36% effective from April 1, 2012. This will impact our cost structures and create expense budget pressure.

D. Corporate tax

5. With effect from April 1, 2012, the broad General Anti Avoidance Rule (GAAR) will come into effect. The term used in the statute is "impermissible avoidance arrangement" i.e. an arrangement which has one of its main purposes as that of obtaining a tax benefit.

a. This has the potential of affecting client structures on the ICG side including holding company structures, SPVs, etc. To the extent of funded exposures on client structures and proposed client solutions, fresh evaluation may be warranted for ICG, CPB and CCA businesses.

b. This proposal may need some fresh look at structures put in place by the businesses like CCA, Equities, etc.

c. It could affect potential internal restructuring of businesses in future. Existing internal restructuring in progress will be examined by the Tax team.

6. Cross border M&A activity which derives substantial value from the transfer of value embedded in Indian assets will be deemed to be subject to tax in India and also be subject to Indian withholding taxes on the transfer. This change is proposed to be made with retroactive effect in respect of transactions taking place on or after April 1, 1961. The retroactive change at # 6 above may need revisit on names like Vodafone, SAB Miller and AT&T.

7. Any income received in Indian currency by a foreign company from sale of crude oil to any person in India will be tax free, if the contract is approved by the Government of India and subject to certain other conditions. This change will take effect after the proposals come into effect. This is an opportunity for the ICG Markets business.

8. With effect from July 1, 2012, interest on foreign currency ECBs for eight select sectors (road construction, ports, ship building, aircraft operation, fertilizer production, power generation or transmission, dam construction and notified housing projects) will carry Indian withholding tax at 5% (five per cent) of the gross amount of interest. The ECBs needs Government approval and must be availed of between July 2012 and June 2015. This should be of interest to ICG.

9. With effect from April 1, 2012, domestic transactions have been brought within the ambit of transfer pricing. Finance and DCM teams and O&T, GF and COE teams should take particular note of the changes here. This change may need fresh evaluation of some of their arrangements.

10. With effect from April 1, 2012, any issuance of capital by an unlisted company at a price higher than a fair value to be determined under prescribed method will trigger tax in the hands of the investee company. This may impact the ICG, CPB and CCA businesses.

11. The definition of venture capital undertaking is proposed to be changed with effect from April 1, 2012. This could be a positive development for the CCA business.

12. With effect from July 1, 2012, the cascading effect of multi level corporate structures is proposed to be eliminated. This could be a positive for all businesses.

13. With effect from October 1, 2012, sale consideration in respect of immovable property will be subject to tax deduction at source (TDS) at 1% (one per cent) of the value of the consideration.

14. With effect from April 1, 2012, benefits of reduced rates under a Tax Treaty will not be available unless a tax residency certificate is available. This will affect all cross border payouts of expenses and could affect expense budgets where the Indian withholding tax is to be borne by the India business. ICG business, GCG (particularly,

NRI) business, GF including Legal, HR and Finance, O&T, CBS, CRS will be affected. NR Ops and XPU to make special note of this change.

E. Securities Transaction Tax (STT)

15. With effect from July 1, 2012, the rate of STT for delivery based transactions will be reduced to 0.1% each payable by the buyer and the seller as against the existing rate of 0.125%.

F. Non-corporate tax

16. Bonus received on insurance policies will not be tax free, if the annual premium payable during any year exceeds 10% (currently 20%) of the capital sum assured, if the policy is issued on or after April 1, 2012. This represents a 15-day window for clients on the GCG side to take existing insurance products and enjoy tax free bonus.

17. With effect from April 1, 2012, annual interest up to Rs.10,000 on savings account will be tax free. This could pose a challenge in retaining deposits on the GCG side but could be a positive for CASA.

18. With effect from July 1, 2012, the age of 60 will be treated as senior citizenship for the purpose of TDS. This should ease the customer challenge faced by BOSH on the GCG side.

19. With effect from July 1, 2012, delayed filing of returns relating to TDS will trigger mandatory payment of 'fees'. In addition, there will be penalties that could range up to Rs. 100,000. Such penalties could also be triggered for incorrect reporting of details e.g. incorrect or invalid PAN, wrong amounts, wrong names, etc. RMs, BOSH and Ops teams to take note, please.

G. Service tax

20. The marginal rate of service tax will change to 12.36% effective from April 1, 2012. As stated above, this will impact our cost structures and create expense budget pressure.

21. The slab rate of service tax on foreign exchange transactions will move upwards by 20% subject to a ceiling of Rs. 6,000 as maximum basic service tax (excluding cess) with effect from April 1, 2012.

22. Our advocacy that periodic invoicing as is done by the banking sector should be accepted as being appropriate, has been accepted and implemented.

23. Service tax in respect of services from offshore service providers is payable on accrual (rendering of service) or payment, whichever is earlier. This change will take effect after the proposals come into effect. All stakeholders including, in particular, IB,

GTS, Markets, Legal, O&T, Finance, HR, CBS, CRS to please take note for setting up of appropriate process to avoid incurring interest and penalties under the service tax statute.

24. With effect from a date to be notified, the service tax in respect of supply of manpower will have to be paid to the Government by the service recipient. Businesses/ functions using NE FTE please note and set in appropriate processes to report the numbers to avoid interest and penalties as mentioned above.

25. With a date to be notified, the service tax base will move to broad base of services with a few services in the 'negative list' of services i.e. tax free services. This change will create pressure on the expense budget. Interest/ discount earned on loans and advances and inter-bank transactions of foreign exchange will be listed as tax free, representing a win for our advocacy efforts on the subject.