

SCHWARTZ & BALLEN LLP

1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465

(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

M E M O R A N D U M

July 16, 2008

To Our Clients and Friends

Re: FDIC Approves Covered Bond Policy Statement

The Federal Deposit Insurance Corporation (“FDIC”) has approved a final policy statement on how it would treat covered bonds in the event of a bank failure. The FDIC will provide bondholders with expedited access to collateral if it declines to continue the covered bonds in the event of a bank conservatorship or receivership. The FDIC’s goal in revising its policy statement is to facilitate development of the U.S. covered bond market, particularly as an additional source of financing for mortgage lending. The policy statement is effective upon publication in the *Federal Register*.

Under the Federal Deposit Insurance Act, any liquidation of collateral of an insured depository institution requires the consent of the FDIC during the initial 45 days after it is placed in conservatorship or 90 days after it is placed in receivership. The policy statement clarifies the circumstances and the covered bond transactions for which it will grant automatic consent to access pledged covered bond collateral.

The policy statement applies to covered bonds issued with the consent of the institution’s primary federal regulator that comprise no more than four percent of an institution’s total liabilities. Covered bonds are non-deposit, recourse debt obligations of insured depository institutions with terms of more than one year and no more than 30 years, secured directly or indirectly by perfected security interests on eligible mortgages¹ or by AAA-rated mortgage-backed securities that do not exceed 10 percent of the collateral. Permitted substitution collateral may include cash and U.S. Treasury and agency securities.

¹ “Eligible mortgages” are mortgages on one to four family residential properties, underwritten at the fully indexed rate and relying on documented income, and complying with existing supervisory guidelines on underwriting of residential mortgages. No specific loan-to-value ratio is required.

SCHWARTZ & BALLEN LLP

The policy statement specifies that the consent of the FDIC, as conservator or receiver, is granted to covered bond obligees to exercise their contractual rights over collateral (including liquidation) for bond transactions no earlier than (a) 10 business days after a monetary default on the institution's obligation to the obligee and delivery of a written request to the FDIC to exercise contractual rights, or (b) 10 business days after the effective date of a repudiation by the conservator or receiver, provided no involvement by the conservator or receiver is required.

The liability of the conservator or receiver for disaffirmance or repudiation of or monetary default on the covered bond is limited to the par value of the bonds plus accrued interest as of the date of the FDIC's appointment as conservator or receiver of the institution.

A copy of the FDIC's policy statement can be found on our website at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.