HUNTON & WILLIAMS

CLIENT ALERT

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Contacts

Richmond Office
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219-4074

George C. Howell, III
(804) 788-8793
ghowell@hunton.com

Cecelia Philipps Horner
(804) 788-7394
chorner@hunton.com

IRS Expands Guidance Regarding ASF Framework for Mortgage Loan Modifications

On July 8, 2008, the Internal Revenue Service ("IRS") issued Revenue Procedure 2008-47 (the "Revenue Procedure"), which expands the IRS's previous guidance in Revenue Procedure 2007-72 regarding the impact of certain "fast track" modifications made to subprime mortgages held by securitization vehicles. The Revenue Procedure was issued in response to and in conjunction with the American Securitization Forum's revised "Statement of Principles, Recommendations and Guidelines for a Streamlined Foreclosure and Loss Avoidance Framework for Securitized Subprime Adjustable Rate Mortgage Loans" (the "Framework"), which was also issued on July 8 and replaces a similar framework issued in December 2007 (the "Original Framework").

The Revenue Procedure, in accordance with an identical revision in the Framework, expands the class of fast track modifications that will not adversely impact the tax classification of a securitization vehicle to include certain modifications in advance of an initial, and also any subsequent, interest rate reset date. Under the Original Framework and Revenue Procedure 2007-72, certain mortgage loans could benefit from modifications only in advance of an initial interest rate reset date.

The Revenue Procedure provides comfort that modifications in accordance with and meeting the conditions of the Framework (or a second-lien holder's action of subordinating its lien to a first-lien that is modified under the Framework) will not trigger certain U.S. federal income taxes or adversely impact the U.S. federal income tax classification of the securitization vehicle in which the mortgage loan is held. Under the Revenue Procedure, as with Revenue Procedure 2007-72, in the case of one or more modifications occurring on or before July 31, 2010 that comply with the conditions of the Framework:

- the IRS will not challenge a securitization vehicle's qualification as a real estate mortgage investment conduit ("REMIC") on the grounds that the transactions resulted in significant modifications of the REMIC's qualified mortgages;
- the IRS will not contend that the transactions cause prohibited transactions in a REMIC on the grounds that the transactions resulted in dispositions of qualified mortgages that are not subject to another specified exception;
- the IRS will not challenge a securitization vehicle's qualification as a REMIC on the grounds that the transactions

resulted in a deemed reissuance of the REMIC regular interests; and

- the IRS will not challenge a securitization vehicle's classification as a grantor trust on the grounds that the transactions manifest a "power to vary the investment of the certificate holders."

The Revenue Procedure is effective on July 8, 2008, and amplifies and supersedes Revenue Procedure 2007-72.

If you would like to receive more information about the Revenue Procedure, or about the IRS's other guidance regarding modification of securitized mortgage loans, such as Revenue Procedure 2008-28 (relating to foreclosure prevention programs), please contact George C. Howell, III at (804) 788-8793 or ghowell@hunton.com, or Cecelia Philipps Horner at (804) 788-7394 or chorner@hunton.com.