

Standard & Poor's Addresses Illinois High Risk Home Loan Act

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NEW YORK (Standard & Poor's) Nov. 17, 2003--Standard & Poor's Ratings Services announced today that it has reviewed the Illinois High Risk Home Loan Act 93-561 that is to become effective Jan. 1, 2004 (the Act). Based on its review, Standard & Poor's will rate structured finance transactions that include Illinois loans governed by the Act in accordance with its criteria set forth below.

The Act defines a "high risk home loan" as a "home equity loan" that exceeds either the annual percentage rate thresholds or the points and fees threshold set forth in the Act. A home equity loan is defined by the Act as a loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence. A high-risk home loan does not include open-end loans. Based on these definitions, lenders who wish to avoid making high-risk home loans should be able to do so. For lenders that choose to make high-risk home loans, the Act prohibits certain practices and sets forth certain rules to which a lender must adhere. High-risk home loans that fail to comply with the Act's requirements would violate the Act. These violations could result in liability for the originator of the high-risk home loans. In addition, these violations could also result in liability for purchasers or assignees of high-risk home loans that do not meet the Act's safe harbor provisions. The liability for purchasers and assignees for a loan that violates the Act is limited to the amount required to reduce or extinguish the borrower's liability under the high-risk home loan, plus the amount required to recover costs, including reasonable attorney fees.

For loans governed by a predatory lending statute, Standard & Poor's evaluates the impact the statute may have on the availability of funds to pay investors of its rated securities. In its review of the Act, Standard & Poor's followed its general approach set forth in its recently published article on evaluating predatory lending statutes (For a discussion of Standard & Poor's general approach to evaluating predatory lending statutes, see "Evaluating Predatory Lending Laws: Standard & Poor's Explains its Approach," published on RatingsDirect on April 15, 2003).

In evaluating rated transactions that include Illinois originated loans, Standard & Poor's will follow the analyses outlined below:

For transactions that do not include high-risk home loans, Standard & Poor's will require the seller to provide a representation and warranty that the loans in the rated pools are not Illinois high-risk home loans. Standard & Poor's will require this representation from a creditworthy entity that can demonstrate that existing compliance procedures are effective to track the calculations for identifying high-risk home loans under the Act. Standard & Poor's will then look for repurchase of any loan that is in breach of this representation at a purchase price that would make the securitization issuer whole, including any costs and damages incurred by the issuer in connection with such loan. In addition, Standard & Poor's will continue to rely on the representation and warranty that the loans included in the pool were originated in compliance with all applicable laws, including, but not limited to, all applicable predatory and abusive lending laws (Compliance Representation).

Where sellers propose to include high-risk home loans in a securitization, Standard & Poor's will impose criteria that are more stringent than those outlined for non-high-risk home loans. For these

transactions, Standard & Poor's will require the Compliance Representation set forth above. In addition, Standard & Poor's will require sellers to demonstrate that their compliance procedures can effectively (i) identify high-risk home loans and (ii) determine that these loans do not violate the Act. Furthermore, the Compliance Representation must be provided by an entity with sufficient financial strength to repurchase high risk home loans that are in violation, as well as cover any contingent liability associated with securitizing Illinois high-risk home loans.

Standard & Poor's regularly reviews its criteria to keep current with changes in the law in the area of predatory lending. These criteria are not stagnant, but evolve over time. Standard & Poor's will continue to publish its criteria to keep market participants informed of any new approaches in this area.

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