Article Title: ARCHIVE | Legal Criteria: Standard & Poor's Announces Position on OTS Preemption Pronouncements Data: (EDITOR'S NOTE: —This criteria article is no longer current. It has been superseded by the article titled "Standard & Poor's Criteria For Analyzing Loans Governed By Anti-Predatory Lending Laws," published on Nov. 5, 2008.) Standard & Poor's Ratings Services announced that it has reviewed various opinion letters issued by the Office of Thrift Supervision (OTS) relating to recently passed anti-predatory lending statutes (see opinion letter regarding the Georgia Fair Lending Act (GFLA) issued Jan. 21, 2003; opinion letter regarding the New York Bank Law Section 6L (NYBL) issued Jan. 30, 2003; opinion letter regarding the New Jersey Home Ownership Security Act of 2002 (NJHOSA) issued July 22, 2003; and opinion letter regarding the New Mexico Home Loan Protection Act (NMHLPA) issued Sept. 2, 2003). Based on its review of these opinion letters, the Home Owner's Loan Act (12 U.S.C. §§1461 et. seq.) and related regulations (12 C.F.R. §§500-599), as well as information received by Standard & Poor's from the OTS, Standard & Poor's is revising its criteria for inclusion in securitizations of loans governed by these laws that are made by federal savings associations and federal savings banks (federal thrifts) and their operating subsidiaries, as set forth below. Specifically, Standard & Poor's will no longer apply to federal thrifts and their operating subsidiaries its published criteria for loans governed by the Georgia, New York, New Jersey, and New Mexico anti-predatory statutes (In its review of these statutes, Standard & Poor's followed its general approach set forth in its 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, Standard & Poor's Web-based credit analysis system, on April 15, 2003; for Standard & Poor's criteria for loans governed by the original and amended GFLA, see "Standard & Poor's to Disallow Georgia Fair Lending Act Loans," published on RatingsDirect on Jan. 16, 2003, and "Standard & Poor's Will Admit Georgia Mortgage Loans Into Rated Structured Finance Transactions," published on RatingsDirect on March 11, 2003, respectively; for Standard & Poor's criteria for loans governed by the NYPL, the NJHOSA, and the NMHLPA, see "Standard & Poor's Addresses New York State High-Cost Law," published on RatingsDirect on March 27, 2003, "Standard & Poor's Addresses New Jersey Predatory Lending Law," published on RatingsDirect on May 2, 2003, "Standard & Poor's Clarifies Covered Home Loan Criteria Under NJ State Predatory Lending Law," published on RatingsDirect on Oct. 8, 2003, "Standard & Poor's Admits Additional New Jersey Mortgage Loans Into Rated Structured Finance Transactions," published on RatingsDirect on Nov. 25, 2003, and "Standard & Poor's Addresses New Mexico's Home Loan Protection Act," published on RatingsDirect on Nov. 25, 2003). With regard to Georgia loans, these revisions apply to loans governed by both the original GFLA and the amended GFLA, each as defined below. Federal Thrifts First, loans originated by federal thrifts and their operating subsidiaries under the original GFLA (from Oct. 1, 2002 through March 6, 2003) may now be included in Standard & Poor's rated transactions. For Standard & Poor's to rate transactions that include these loans, 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 anti-predatory and abusive lending laws (Compliance Representation). In addition, Standard & Poor's will require legal comfort in the form of an officer's certificate from the originator to the effect that the originator of the loans is a federal thrift or an operating subsidiary of a federal thrift, as defined in 12 C.F.R. §541.11 and §559.2, respectively. Second, loans originated by federal thrifts and their operating subsidiaries under the amended GFLA (on or after March 7, 2003), and the New York, New Jersey, and New Mexico anti-predatory lending statutes will continue to be permitted in Standard & Poor's rated transactions. For Standard & Poor's to rate transactions that include these loans, Standard & Poor's will continue to rely on the Compliance Representation. In addition, Standard & Poor's will require legal comfort in the form of an officer's certificate from the originator to the effect that the originator of the loans is a federal thrift or an operating subsidiary of a federal thrift, as defined in 12 C.F.R. §541.11 and §559.2, respectively. State Chartered Thrifts With regard to state chartered thrifts and their operating subsidiaries lending in New York, New Jersey, and New Mexico, Standard & Poor's will continue to apply its published criteria for mortgage loans governed by the applicable state's anti-predatory lending laws. For state chartered thrifts and their operating subsidiaries lending in Georgia, based upon language of the GFLA and information received from the

Georgia Department of Banking and Finance, Standard & Poor's will apply the criteria set forth in this release for federal thrifts and their operating subsidiaries. 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.