

June 1, 2006

Ms. Catherine McGuire
Associate Director and Chief Counsel
Division of Market Regulation
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: "Mortgage Related Security" under the Secondary Mortgage Market Enhancement Act of 1984

Dear Ms. McGuire:

I am writing on behalf of our Firm's client, UBS AG, New York Branch ("UBS New York Branch")¹, to confirm with the staff of the Division of Market Regulation that the term "similar institution" as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 ("Section 3(a)(41)")², which was added to the Act by the Secondary Mortgage Market Enhancement Act of 1984 ("SMMEA"), would include a federal branch of a foreign bank established under the International Banking Act.³

SMMEA was adopted to increase the capital available to finance private residential housing by promoting private sector investment in residential mortgages.⁴ To accomplish this goal, SMMEA amended the Exchange Act by adding the definition of "mortgage related security." If securities qualify for treatment as "mortgage related securities": (i) they may be registered under the Securities Act of 1933 on a shelf registration statement pursuant to Rule 415 or Regulation C under that Act;⁵

¹ UBS AG, New York Branch is a branch of UBS AG, a Swiss banking corporation.

² 15 U.S.C. § 78c(a)(41).

³ See 12 U.S.C. § 3102.

⁴ Sen. Rep. No. 293, 98th Cong., 1st Sess. 5 reprinted in 1984 U.S.C.C.A.N. 2809 at 2810.

⁵ 17 C.F.R. § 230.415.

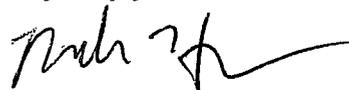
(ii) offers and sales of the securities will not be subject to the registration or qualification requirements of most state securities and "blue sky" laws pursuant to the federal preemption provided by SMMEA; and (iii) the securities become eligible investments for certain regulated institutions.⁶

Section 3(a)(41) defines "mortgage related security," in relevant part, as "a security that is rated in one of the two high rating categories by at least one nationally recognized statistical rating organization . . . and [] represents ownership of one or more promissory notes or certificates of interest or participation in such notes . . . which notes: (i) are directly secured by a first lien on a single parcel of real estate . . . or on a residential manufactured home; . . . and (ii) *were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 1709 and 1715b of title 12 . . .*"⁷

Federal branches of foreign banks are subject to supervision, examination and enforcement by the applicable federal banking agencies.⁸ In addition, pursuant to the International Banking Act, while not subject to federal deposit insurance and federal reserve membership requirements applicable to national banks, a federal branch of a foreign bank has "the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location."⁹ As a federal branch of a foreign bank, UBS New York Branch also has the same rights and privileges as a national bank and is subject to supervision and examination by the Office of the Comptroller of the Currency (the "OCC"). The OCC has examined UBS New York Branch annually. As such, UBS New York Branch considers itself a "similar institution" to a commercial bank under Section 3(a)(41) of the Act.

Based on the foregoing, we request the staff's concurrence in our view that UBS NY Branch is a "similar institution" as defined in Section 3(a)(41) of the Exchange Act. If you have any questions or require additional information, please call me at (202) 626-1944.

Very truly yours,



Richard B. Horn

cc: Brian A. Bussey
Michael Hershaft

⁶ 15 U.S.C. § 77r-1.

⁷ 15 U.S.C. § 78c(a)(41) (Emphasis added).

⁸ 12 U.S.C. §§ 3105(c), 3108(b).

⁹ 12 U.S.C. § 3102.