

Milbank

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# Litigation

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## The Subprime Crisis

The last several months have seen a flood of press reports about the subprime crisis and its impact on U.S. and international financial institutions. Not surprisingly, these reports have caught the attention of federal and state regulatory agencies and the plaintiffs' bar, resulting in a flurry of regulatory investigations and private civil litigation against financial institutions with exposure to the subprime mortgage market due to their lending, investing, and other activities. In light of these events, we wanted to alert you to Milbank's extensive experience, both as litigators and as transactional attorneys, with the subprime mortgage market and structured financial products such as Residential Mortgage-Backed Securities ("RMBS") and Collateralized Debt Obligations ("CDOs").

Attorneys in Milbank's Securities Litigation and White Collar Crime and Investigations Groups have represented clients in matters relating to structured financial products since the CMO market dislocation in 1994, and we currently represent a number of leading financial

institutions and their officers and directors in matters relating to the subprime crisis. These matters include internal investigations, federal and state regulatory investigations, and various types of civil litigation. For example, we are currently defending class and derivative actions on behalf of company shareholders, class and individual actions by investors in RMBS, CDOs, and other structured financial products, and potential litigation by mutual fund shareholders and other clients whose accounts were invested in such products. In connection with these matters, Milbank's litigators have developed a deep understanding of structured financial products and substantial expertise with respect to the legal and economic issues surrounding the trading and issuance of these products; related due diligence regarding credit quality and other issues; valuation of investments in structured financial products and estimation of resulting gains and losses; evaluations of structured financial products by independent ratings agencies; and investments in structured financial products on behalf of

mutual funds and other client accounts.

In addition to the firm's experience handling regulatory investigations and litigation relating to structured financial products, Milbank's corporate and transactional attorneys have unparalleled experience in the markets for structured financial products. Milbank's Securitization and Structured Finance Group has been at the forefront of these markets since their inception and regularly represents market-leading arrangers, issuers, derivative counterparties, and collateral managers. Drawing on their familiarity with the full range of structured financial products and their long-standing emphasis on innovation in these markets, Milbank's corporate and transactional attorneys are actively working with their clients to navigate the subprime crisis, including representing investors in high-profile distressed structured finance transactions such as the bankruptcies of Calpine and New Century Financial Enterprises, a number of pending SIV restructurings, and many distressed CDO transactions.

In the event your firm confronts issues arising from litigation exposure to the subprime crisis and Milbank can be of any help, please contact the following Litigation partners:

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