IRS to ease commercial mortgage refinancing

WASHINGTON – Sept. 16, 2009 – The IRS issued new rules Tuesday designed to make it easier to refinance some commercial real estate loans in an effort to curb the number of defaults.

The rules would allow commercial loans that are part of investment pools known as Real Estate Mortgage Investment Conduits, or REMICs, to be refinanced without triggering tax penalties for investors.

The investment pools were designed to encourage mortgage-backed securities by offering tax benefits not typically available through other investment vehicles. However, under the old rules, investors could have lost those benefits if loans in the portfolio were restructured.

The new regulations come as Wall Street braces for a wave of defaults on commercial real estate loans. More than 90 U.S. banks have already failed this year. Hundreds more banks are expected to fail in the next few years largely because of souring loans for commercial real estate.

"These changes will affect lenders, borrowers, servicers, and sponsors of securitizations of mortgages in REMICs," the new regulation says.

The changes will not affect commercial mortgage loans held by investment trusts. However, the Internal Revenue Service said Tuesday it is soliciting comments on possibly expanding the changes to other investment vehicles.

Concept Capital, a New York-based institutional broker, welcomed the changes but cautioned that they will not solve the commercial real estate crisis alone.

"We have all heard stories about commercial real estate loans that are performing now but cannot be refinanced because of the tax rules," Concept Capital's Washington Research Group said in a report issued after the regulations were released. "The IRS attempted to ease the tax code problem for these modifications."

But, the report said, "We still question if there is enough financing available to deal with the wave of commercial real estate loans that must be refinanced by 2012."