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### **The Dodd Frank Act: Section 941: Improvements to the Asset-Backed Securitization Process: Credit Risk Retention**

On March 29, 2011, the U.S. Securities and Exchange Commission, the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Department of Housing and Urban Development, and the Federal Housing Finance Agency (collectively the Agencies) submitted their proposed rules for Section 941 of the Dodd Frank Act: Credit Risk Retention. Aimed at guaranteeing improvements to the asset-backed securitization process, Section 941 mandates that securitizers retain an economic interest in the credit risk of the assets that they securitize; more explicitly, the Agencies stress that “the Proposed Rules are intended to ‘provide a sponsor with an incentive to monitor and control the quality of the assets being securitized and help align the interests of the sponsor with those of investors in the ABS’” (Mayer Brown 1). The Dodd Frank Act defines an asset-backed security as “as a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including (i) a collateralized mortgage obligation; (ii) a collateralized debt

obligation; **(iii)** a collateralized bond obligation; **(iv)** a collateralized debt obligation of asset-backed securities; **(v)** a collateralized debt obligation of collateralized debt obligations; and **(vi)** a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section” (DFA 4.9.2). Seeking to increase securitizers “skin in the game,” these proposed rules outline specific requirements of securitizers and originators that are intended to yield a more thorough and conscientious extension of credit, particularly in the housing sector. Although the proposal’s intentions lie in line with the legislative contingencies as expressed by the Dodd Frank Act, many securitizers and loan originators in the private sector fear that the standing rules will devastate a private credit market for housing; moreover, the arguments presented by these lobbyists have stalled the Agencies further implementation of the rules, elucidating the political difficulties they face in effectively eliciting manifestation of this regulation.

As an extension of The Securities Exchange Act of 1934, Section 941 is intended to ensure the proper functioning of the securitization process and continue its initial purpose—extending economic benefits of *lower costs* of credit amongst businesses and households. The 2007 financial crisis elucidated the harm inflicted on investors when the incentives of borrowers, securitizers, and investors are misaligned and greed remains untamed in the origination process. The severe losses to ABS investors revealed that they were not fully aware of the true underlying risks of the asset pools they purchased. Thus, the inconsistency of such incentives heightened the vulnerability of the securitization process and undermined the stability of the entire financial system. Section 941 aims to recalibrate these incentives and restore the integrity of the asset-backed securitization

process via the direct increase in a securitizer's exposure to risk.<sup>1</sup>

Section 941 begins with a definition of the major players in the asset-backed security reform process: the regulating “Federal Agencies,” securitizers, and originators. A securitizer, it claims, is “an issuer of an asset-backed security; or a person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer” (DFA 941). An originator is defined as “a person who, through the extension of credit or otherwise, creates a financial asset that collateralizes an asset-backed security, and sells the asset directly or indirectly to a securitizer,” (DFA 941) (i.e., a sponsor or depositor). The importance of this distinction is paramount in ensuring that credit risk is shared by all parties involved in the generation of the loan, such that securitizers do not bear all of the risk associated with a particular security. In compelling all parties to increase their amount of “skin in the game,” this section stands to counter the former “originate to distribute” model that lead originators to lower loan-underwriting standards to increase the volume of loans they resold to securitizers and issuers, barring zero risk at the originator level but high risk at the securitizer echelon.<sup>2</sup>

The act mandates, “not later than 270 days after the date of the enactment of this section, the Federal banking agencies, the Commission, the Secretary of Housing and

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<sup>1</sup> Section 941 of the Dodd Frank Act discusses credit risk retention for a wide range of asset-backed securities in the securitization market—residential mortgages, commercial mortgages, auto loans, and other securities that constitute the definition of an asset-backed security—with differing regulatory requirements for each class of assets. However, my paper will address particularly the credit risk retention as it applies to residential mortgages.

<sup>2</sup> Securitizers are permitted to reduce their risk by the proportion of risk that is transferred to the originator, promoting risk sharing amongst the two responsible parties.

Urban Development, and the Federal Housing Finance Agency, shall jointly prescribe regulations to require any securitizer to retain an economic interest in a portion of the credit risk for any residential mortgage asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party” (DFA 941). While the Dodd Frank Act imparts the responsibility of drafting and finalizing the proposed rules for credit risk retention to the Agencies, it generally outlines requirements regarding credit risk retention implementation, particularly with respect to commercial and residential mortgage-backed securities. Securitizers and originators are required to maintain not less than five percent of the credit risk for any asset. The standards of these rules prohibit a securitizer from transferring or hedging, indirectly or directly, any of the credit risk he must maintain. Unspecified in the Agencies’ proposal are the required duration and permissible modes of risk retention, leaving both decisions at the discretion of the regulating agencies. Perhaps the more controversial aspect of these regulations is the guarantee of “a total or partial exemption for the securitization of an asset issued or guaranteed by the United States, or an agency of the United States, as the Federal banking agencies and the Commission jointly determine appropriate in the public interest and for the protection of investors” (DFA 941). Included in this exemption category is a specific subsection for “qualified residential mortgages”—a definition to be solidified by the Agencies—whose “historical loan performance data indicate result in a lower risk of default” that has been determined via appropriate documentation and verification of financial resources to meet mortgage demands—such indicators are:

the residual income of the mortgagor after all monthly obligations; the ratio of the

housing payments of the mortgagor to the monthly income of the mortgagor; the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor; mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards; mortgage guarantee insurance or other types of insurance or credit enhancement obtained at the time of origination, to the extent such insurance or credit enhancement reduces the risk of default; and prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.” (DFA 941 (B))

The myriad of qualified residential mortgage requirements are restrictive in nature to limit the potential for risk retention evasion. Moreover, the Dodd Frank Act explicitly instructs that QRMs that are collateralized by tranches of non-QRMs *will not* incur exemption from credit risk retention requirements, further reducing the possibility of exemption abuse. While objectives of this section develop the framework for future improvements to the asset-backed securitization process, their intention is not to ration the availability of credit but rather to “encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors” (DFA 941). Finally the Act discusses enforcement responsibilities: the Agencies are responsible for the implementation and future oversight of the credit risk retention rules.

In keeping with the guidelines outlined by Dodd Frank, the Agencies’ unveiled

their proposed credit risk retention rules on March 29, 2011. The proposed rules emphasized the two most controversial aspects outlined in Dodd Frank: the mandated minimum of five percent retained credit risk and the exemptions to credit risk retention. The proposal released by the Agencies “would require that a sponsor retain an economic interest equal to at least five percent of the aggregate credit risk of the assets collateralizing an issuance of ABS (the “base” risk retention requirement)” (SEC Proposal 22). The five percent rule bears roots in the idea that “when securitizers retain a material amount of risk, they have ‘skin in the game,’ aligning their economic interest with those of investors in asset-backed securities” (SEC Proposal 13-14). This requirement will incentivize securitizers to tread more slowly in market waters and proceed more cautiously in their decisions to extend credit and package securities, aiming to alter behaviors of the past.

As requested by the Dodd Frank Act, the proposal then discusses permissible forms of retained credit risk. Securitizers are allowed to hold risk in vertical slices or horizontal slices. A vertical slice of asset-backed security interests insinuates that “the sponsor or other entity retains a specified pro rata piece of *every class* of interests issued in the transaction,” indicating that a sponsor of a security comprised of “a senior AAA-rated class, a subordinated class, an interest-only class, and a residual interest would have to retain at least five percent of each such class or interest” (SEC Proposal 23). Thus, vertical integration induces the securitizer to take an economic interest the entirety of the underlying collateral structure, leading to a more carefully conducted securitization process. Increasing the transparency of the system, the proposed rules require the

securitizer to disclose the percentage of risk retained per issued security to the Agencies and investor upon request, which most surely will influence investor's interests in securities and link the two. Moreover, this exposé of information will facilitate direct monitoring of compliance with retention requirements.

Possessing a horizontal slice would “expose the sponsor to a five percent first-loss exposure to the credit risk of the entire pool of securitized assets,” (SEC Proposal 23) and would surely serve to align the interests of the investor and securitizer, for the securitizer stands to lose the most should the borrower default.<sup>3</sup> In order to guarantee retained risk using this classification, such residual interest can only be considered truly horizontal “if it is an ABS interest that is allocated all losses on the securitized assets until the par value of the class is reduced to zero and has the most subordinated claim to payments of both principal and interest by the issuing entity” (SEC Proposal 28). The threat of being paid last incentivizes the securitizer to act in the best interest of all parties, realigning interests across the ABS spectrum. These options for risk retention offer flexibility within the market, allowing securitizers to choose a method that best suits their desires in the securitization process. Such flexibility is the key to pressing forward with implementation.

Finally, in contention with the inability to hedge retained risk, securitizers are required to maintain a Premium Capture Cash Reserve Account in which the amounts held amounts equal the potential excess spread earned in a sale of asset-backed securities.

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<sup>3</sup> Horizontal risk slices were more typical of commercial mortgage backed securities that involved a third party piece buyer who would partially select the mortgages that comprised the security—yielding informational and interest asymmetries amongst the senior investors and buyers—information from SEC Proposal.

In the past, securitizers were able to sell premium or interest only tranches of the mortgage backed securities they possessed, allowing them to

monetize at the inception of a securitization transaction the “excess spread” that was expected to be generated by the securitized assets over time. By monetizing excess spread before the performance of the securitized assets could be observed and unexpected losses realized, sponsors were able to reduce the impact of any economic interest they may have retained in the outcome of the transaction and in the credit quality of the assets they securitized. (SEC Proposal 51-52)

PCCRAAs will also adjust by the amount (perhaps greater than the amount equal to 5% of the risk) required to eradicate the potential for investors to capture excess spread on *premium or interest-only* tranches.<sup>4</sup> The obligation of a PCCRA eliminates the former tendency of securitizers to employ “originate-to-distribute” methods to obtain profit and lessens the exposure of the entire securities market to heightened default risk via reinforced alignment of investor-securitizer interests.

In addition to establishing viable provisions for risk retention, the proposal addresses exempt entities from the new credit risk retention requirements: qualified residential mortgages and government-sponsored enterprises. Should a mortgage-backed security be completely collateralized by qualified residential mortgages, it is eligible for total exclusion from all credit risk retention requirements. The proposed rules classify qualified residential mortgages using the credit history of the borrower, payment terms of the loan, down payments, and loan-to-value ratios to ensure that they are of the highest

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<sup>4</sup> The proposal does not require mortgage-backed securities without premiums or interest-only tranches to hold PCCRA accounts, simply because they were not issued for the purpose of capturing excess spread.



quality:

borrowers must have a FICO score above 690 to satisfy QRM credit history standards; front-end and back-end borrower debt-to-income ratios must not exceed 28 percent and 36 percent, respectively; the loan-to-value ratio (“LTV”) of 80 percent in the case of a purchase transaction; required downpayment of 20 percent in the case of a purchase transaction; and borrower credit history restriction, including a requirement that the borrower has not had any 60-day delinquencies on any debt obligation within the past 24 months. (Radetsky and Larkin)

The Agencies suggest that implementing stringent requirements, particularly with respect to LTV ratios, will generate a decrease in future default rates. Thus, these requirements are intended to be exclusive in nature so as to solidify the reality of credit risk retention among the securitizing sector. Moreover, such explicit criteria increase transparency in the securitization market, as the ability to identify a qualified residential mortgage is less cumbersome. Yet credit risk retention exemptions are not limited to QRMs.

Operating under the conservatorship of FHFA, the daily operations of government-sponsored enterprises Fannie Mae and Freddie Mac are to “pool conventional mortgage loans and to issue securities backed by these mortgages that are fully guaranteed as to the timely payment of principal and interest by the issuing Enterprise” (SEC Proposal 49)—denoting Fannie and Freddie as the sponsors of these mortgage-backed securities. The guarantee of Fannie and Freddie to repay interest and principal on the mortgage-backed securities they issue places them entirely in a first-loss position, without having to directly retain a portion of the credit risk from any security

they issue. This one hundred percent exposure to credit risk coupled by a government-insured guarantee of repayment serve to exempt GSEs from the credit risk retention requirements. This exemption, however, embodies profound implications for the future of the private mortgage market.

In their extreme alterations to securitization practices, the proposed rules for credit risk retention have generated enormous feedback from politicians and leading officials in the securitizations market, who voice concerns regarding the ramifications of the proposed rules on the private credit market. In his testimony before The House Financial Services Subcommittee On Insurance, housing and Community Opportunity, Georgia Senator Johnny Isakson expressed that the credit risk retention requirements do not entirely fulfill their primary mission in reforming the current securitization market. As a leader from the state plagued by the highest amount of bank foreclosures, Senator Isakson articulated his staunch support of the initial “skin in the game” proposal in Congress; however, he admits that the “narrowly envisioned” QRM market carries grave setbacks to the future extension of credit:

Our concept was to provide for an exception to the 5% risk retention for high quality residential mortgages with underwriting and with product features that historical data prove have a reduced risk of default. A standards-based approach would incent high quality lending and borrowing without the higher costs, while risk retention would be targeted to risky lending behavior. [...] Unfortunately, the regulators, in their Notice of Proposed Rulemaking, have narrowly interpreted the QRM exception to the point where it will never attract sufficient mortgage

origination to support a new asset classification for securitization. (Isakson 9/8/11)

Senator Isakson's anxieties stem from his belief that a large QRM market should be sought after, for it reflects healthy, sustainable lending and borrowing. However, he admits that the current required down payment of 20 percent to qualify for a QRM is excessively high and eliminates the potential for many responsible borrowers to qualify as QRM borrowers. Yet perhaps his most insightful and compelling contribution is his direct address of the problematic, yet highly plausible inability for the private sector to regain its position as the primary source of credit for borrowers:

The narrowly proposed QRM rule will have serious and adverse consequences for the FHA program and for our collective efforts to restore fully private capital as the primary source of mortgage credit in the market. Today, virtually all high LTV lending is being done by the FHA. The loan level price adjustments charged by Fannie Mae and Freddie Mac for all high LTV lending discourages conforming origination in those categories. The average loan purchased by Fannie and Freddie today has a 69% LTV and a 760 FICO score – standards that exclude many responsible borrowers from the conventional market. Moreover, Dodd-Frank exempts the FHA from risk retention altogether. That means that if safe high LTV conventional lending is not also included in the QRM standard, FHA will be the only option available for consumers without a sizeable down payment. (Isakson 9/8/11)

His testimony defends the inability of the private sector to compete in a market where

GSEs, exempt from credit risk retention, currently monopolize the LTV lending market. The perverse effects of the current proposal stand to “crowd out” the private sector’s potential to facilitate its role in consumer lending and credit extension. Therefore, he suggests that a lower down payment is ultimately in the best interests for all because this currently restricts creditworthy borrowers from being able to obtain a reasonably priced mortgage from anyone in the private sector. Moreover, he stresses that the small QRM margin coupled by the inability of banks to resell their shares credit risk will force commercial banks to hold a majority of their 30-year fixed rate (non-QRM) mortgages on their balance sheets, severely reducing their profit margins and liquidity capacity; thus, this novel threat to liquidity and profits will lead these private lenders to exit the market (eventually banks will stop this sort of lending).

While Senator Isakson’s comments shed light on the problems facing creditors in the private sector today, the commentary of JP Morgan Chase extends these ideals to the effects on market interest rates and costs to borrowers. As a leader in the securitization market—the third largest originator and servicer of residential mortgage loans in the US (over 10% of the market share)—JP Morgan’s primary concerns center upon the increased cost of borrowing to consumers, potential crowding out of private lenders due to the mandated Premium Capture Cash Reserve Account, and potential accounting issues stemming from the calculation of the 5 percent retained risk. Despite JP Morgan’s support of the current 5 percent retention rate<sup>5</sup> and the need for increased underwriting

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<sup>5</sup> JP Morgan Chase introduces the market concept of “potential significance” in addressing the imposition of a 5 percent risk retention rate as opposed to something greater or less. The concept of potential significance is defined as follows: “While the concept of “potentially significant” has not been defined, industry practice and interpretations have developed regarding quantitative and qualitative considerations

standards in order to recover the health of the securitization market, JP's comments stress that certain provisions of the proposal need to be altered in order to achieve the most pareto optimal of results. In particular, JP Morgan Chase illuminates the negative effects of the PCCRA requirements, not the 5 percent risk retention requirements, on interest rates and increased costs to borrowers: the current 5 percent requirement is potentially significant—it drives alignment of investor-securitizer interests, which engenders cooperation and therefore, poses no threats to market interest rates. The Premium Capture Cash Reserve accounts, however, will drive market interest rates up, negatively affecting borrowers and decreasing the availability of credit in the market:

The premium capture provisions would substantially raise hedging costs due to the asymmetrical impact that the premium capture provisions would have in response to interest rate changes. For example, consider a sponsor who originated or purchased a loan at par and securitized six months later. During this six-month period, the interest rate risk to which the sponsor would be exposed would typically be hedged with Treasuries or swaps, such that any change in the loan value due to an unexpected interest rate change would be offset by a corresponding change in the value of the hedge. With the introduction of the proposed premium capture provisions, however, the interest rate risk would become asymmetrical: a decline in interest rates during that period would cause

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used to apply the concept of "potentially significant." The proposed credit risk retention threshold of 5% in the Proposal generally falls within industry practice to not be considered "potentially significant." (JP Morgan Chase 6)

the value of the securitization to increase, thus raising the required premium capture amount. Realization of this captured premium, which could take decades, would reduce the present value of this premium to a fraction of the premium amount. However, an increase in rates, which would lower the loan's value to below par, would not cause any premium capture amount account to be created, since the securities would be sold below the par value of the loans. We estimate that these increased hedging costs, which would ultimately be transferred to the borrower, could raise mortgage rates by approximately 40-45 basis points. (JP Morgan Chase 15).

Moreover, because market interest rates move in the opposite direction of loan prices, the current PCCRA requirements will result in a decrease in the amount of credit or capital in circulation when rates are reduced and premium loans are created. JP Morgan argues that “the premium capture provisions would dilute the impact of the U.S. government's federal interest rate policy decisions by reducing the capital available for mortgage loans when interest rates are lowered and by increasing the capital available for mortgage loans when interest rates are raised” (JP Morgan Chase 15). Such an effect will force mortgage interest rates up significantly for borrowers, adversely affecting low-income borrowers even more.

Although JP Morgan advises restructuring of the PCCRA requirements, it also insists that elements of the QRM definition must be revisited. Similar to Senator Isakson, JP Morgan suggests that changes to the LTV ratios (from 75 to 80 percent) and DTI ratios (from 28/36 percent to a back-end 42 percent) need to be made in order to be more

inclusive to potential creditworthy borrowers who do not meet such rigorous standards.

JP Morgan further argues that the current rules that do not allow QRMs mixed with non-QRMs to receive CCR exemptions should be altered to allow QRMs integrated with QMs to enjoy exemption from CRR requirements. Finally, JP Morgan advises that the proposal incorporate a lifting of credit risk retention requirements after three years, for the likelihood of borrower default is highest within the first three years, and a cap on the duration of retention requirements will help to mitigate the potential liquidity problems imposed by the current regulations.

The insights and concerns addressed in the JP Morgan Chase commentary highlight strong concerns echoed by other banks throughout the securitization market. With a testimony similar to that of JP Morgan, the Mortgage Bankers Association's remarks regarding the current proposal serve as a bridge between the JP Morgan submission and the Isakson testimony—further elucidating the one-sided, similar viewpoints of the private sector in response to the new regulation. Arguing that the proposed definition of QRMs is too narrow and uncharacteristic of the U.S. housing market, MBA's proposal represents another lobbying attempt on behalf of the private sector to stall the implementation of reform legislation. Differing slightly from JP Morgan and Isakson, MBA argues that the current requirements for QRMs should be eliminated all together and should coincide, rather, with the preexisting definition of qualified mortgages as denoted by the Truth In Lending Act. Because down payments are not the sole determinant of creditworthiness of borrowers or of loan performance, the down payment requirement, in particular, they argue must be reduced: the 20 percent

requirement assigns too much weight to the down payment and will greatly stifle the ability of first-time homebuyers and low-income borrowers to obtain credit. MBA claims that the key to successful loan performance, characterized by low rates of default, lies entirely in the underwriting standards, not simply the down payment. Similar to JP Morgan, MBA proposes a duration cap on the retention of risk, arguing that the greatest risks of default occur in the early years of borrowing.

In lieu of slight distinctions of proposal suggestions, the opinions of the private sector regarding the current proposal do appear to run together. The largest concern expressed from these lobbying parties centers upon the decrease in viability of a private credit market. The current proposed rules, while undoubtedly aimed at realigning investor interests with those of securitizers and eliminating the potential for poor discipline and greed to inundate the securitization market, stifle the ability and incentives for the private sector to extend funds to borrowers in the housing market because the costs exceed the potential gains. While the current permissible means of calculating and retaining credit risk offer the flexibility that is so important to flexible implementation, the persistence of a premium capture cash reserve account seems to combat potential implementation practices. It is this requirement that has completely reduced the motivations of private sector lenders to continue to extend credit; however, without the presence of the private sector, the current market will endure decreases in liquidity and will be unable to enjoy easy access to credit. In fact, the submission of GSE Freddie Mac in response to the proposal elucidates the dangers of this PCCRA requirement.

As a GSE under the FHRA, Freddie Mac is currently exempt from all credit risk



retention requirements soon to be inflicted on the private sector. Although Freddie's response pertains more closely to commercial mortgage-backed securities due to the effects of horizontal risk slicing, the response of Freddie Mac reiterated the negative effect of a premium capture cash reserve account on the securitization market:

Amounts in the premium capture cash reserve account would be used to cover credit losses on underlying assets before losses would be allocated to any of the securities issued, including any securities retained by the sponsor, or by the B-piece investor In the case of the CMBS Alternative. The Agencies included the premium capture cash reserve account requirement in order to prevent sponsors from monetizing excess spread at the start of a transaction and thereby reducing the impact of the risk retention requirements. We are concerned, however, that the premium capture requirements as currently proposed would prove overly burdensome, will increase costs without appreciable benefit, and may reduce liquidity for multifamily financing. (Freddie Mac 3)

These concerns reiterate those expressed by JP Morgan, MBA, and numerous others in the private sector who see the introduction of a premium capture cash reserve account as a way to punish lending that is not intended to monetize excess spread via immediate resale, but should not apply to all securitizations. The heightened initial securitization costs will trickle down to borrowers in the form of increased costs to finance mortgages and will simultaneously serve to contract the supply of credit in the housing market.

In examining the responses from different private sector actors, it is apparent that the initial proposal for credit risk retention is not quite ready for further implementation.

While the Agencies extended the initial comment period from June 10, 2011 to August 1, 2011 in order for actors in the securitization market to fully comprehend and offer feedback regarding the new proposed regulations, a final rule has not been determined, suggesting that the lobbying efforts on behalf of critical actors in the banking and political sector have managed to grab the attention and ears of the regulating agencies. Moreover, the inability of the Agencies to alter their current proposal elucidates the difficulties implicit in a governing body comprised of multiple actors: the deliberation, decision, and implementation processes involve much time. While the great size of the Agencies gives them the luxury of being more prevalent and present in the monitoring arena, it can simultaneously serve as a detriment to implementation. Despite the Agencies' ability to comply with the Dodd Frank Act's initial timeline in drafting proposal, it appears that the official enactment of finalized rules (one year from their proposed date—April 15, 2012) will not meet the deadline specified by Dodd Frank. Nevertheless, finalized retention rules remain on the "Upcoming Plans" list at the FDIC (updated 12/9/11). Though the date of enactment is likely to be postponed, the underlying reasons for its delay are of utter importance. As expressed in commentary by the Treasury, "retained share may have a larger impact on loan price for risky and opaque firms, where these frictions are likely to be important, and the ability to hedge retained share has an adverse impact on the supply of credit to these types of firms." Thus, at the heart of the debate lies the larger, macroeconomic implications of such a rule: as Senator Isakson eloquently articulates, "The standard has huge implications for the recovery of private capital in or nation's system of housing finance. The regulators need to get this

one right” (Isakson 9). Pertaining to residential mortgages, the Act specifies effective date of regulation to be one year from the date on which final rules are published with the registrar. Yet, as the complexities engendered from the proposed rules illustrate, adherence to this deadline is inclined to be problematic.

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