Council of Institutional Investors
The Voice of Corporate Governance

Via Electronic Delivery

July 29, 2011

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549–1090

RE: Credit Risk Retention, Number S7–14–11[1]

Dear Ms. Murphy:

I am writing on behalf of the Council of Institutional Investors (Council), a nonprofit association of public, union and corporate pension funds with combined assets that exceed $3 trillion.[2] We appreciate the opportunity to voice our general support for the above-mentioned proposed rule to impose risk retention requirements on securitizers of asset-backed securities (ABS) and to prohibit hedging of those positions. In addition, we encourage regulators to avoid expanding on the exemptions from these requirements already included in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

As you may be aware, during the development of Dodd-Frank, the Council, consistent with the recommendations of the Investors' Working Group, advocated for the inclusion of a provision to require sponsors of ABS and structured products to retain a meaningful interest in the underlying assets they securitize, and to prohibit sponsors from hedging those retained exposures.[3] Our position is shared by many other parties that have studied the issue, including the U.S. Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Government Affairs,[4] the American Securitization Forum,[5] the Group of Thirty[6] and the Consumer Federation of America.[7]

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[1] Credit Risk Retention, 76 Fed. Reg. 24,090 (proposed Mar. 31, 2011), http://edocket.access.gpo.gov/2011/pdf/2011-8364.pdf.

[2] For more information about the Council of Institutional Investors (Council) and its members, please visit the Council's website at http://www.cii.org.

[3] Investors' Working Group, U.S. Financial Regulatory Reform: The Investors' Perspective 14 (July 2009), http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20(July%202009).pdf. Following its issuance, the Investors' Working Group (IWG) Report was reviewed and subsequently endorsed by the Council board and membership. For more information about the IWG, please visit the Council's website at http://www.cii.org/iwgInfo.

[4] Staff of S. Permanent Subcomm. on Investigations, 112th Cong, Rep. on Wall Street and The Financial Crisis: Anatomy of a Financial Collapse 12 (Apr. 13, 2011), http://hsgac.senate.gov/public/_files/Financial_Crisis/FinancialCrisisReport.pdf.

[5] Securitization of Assets: Problems and Solutions, S. Comm. on Banking, Hous., and Urban Affairs, 111th Cong. 19 (2009) (statement of George Miller, Executive Director, American Securitization Forum), http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=ce52591a-8855-48b2-8bb7-e31ee80d0428.

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While securitization can provide many benefits to the economy, including lowering the cost of credit to businesses and providing investors with attractive yields and important opportunities to diversify risk, abuses of the securitization process proved to be a major contributing factor to the financial crisis.[8] One of the many problems was that lenders and securitizers lacked sufficient incentives to carefully evaluate the credit quality of underlying loans. As stated in the proposed rule, "when incentives are not properly aligned and there is a lack of discipline in the origination process, securitization can result in harm to investors, consumers and financial institutions."[9]

We believe having "skin in the game" would better align securitizers' economic interests with those of ABS investors, making sponsors more thoughtful about the quality of the assets they securitize.[10] This would, in part, help prevent the type of abuses that preceded the financial crisis and help restore investor confidence in the ABS market.[11]

For all of the above mentioned reasons, the Council generally supports the federal agencies in their proposal to impose robust credit risk retention requirements on securitizers of ABS. We appreciate the opportunity to share our views with you. If you should have any additional questions or comments, please feel free to contact me at 202.261.7086 or laurel@cii.org, or General Counsel Jeff Mahoney at 202.261.7081 or jeff@cii.org.

Sincerely,

Laurel Leitner

Laurel Leitner
Senior Analyst
Council of Institutional Investors

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[6] Group of 30, Financial Reform: A Framework for Financial Stability 49 (Jan. 15, 2009), http://fic.wharton.upenn.edu/fic/policy%20page/G30Report.pdf.
[7] Enhancing Investor Protection and the Regulation of Securities Markets – Part II, S. Comm. on Banking, Hous., and Urban Affairs, 111th Cong. 9 (2009) (statement of Barbara Roper, Director of Investor Protection, Consumer Federation of America), http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=2dad621b-1a42-4046-bf91-08ee690c7252.
[8] Comm. on Banking, Hous., and Urban Affairs, 111th Cong., Rep. on S.3217, at 104 (Mar. 22, 2010), http://banking.senate.gov/public/_files/RAFSAPostedCommitteeReport.pdf.
[9] Credit Risk Retention, at 20,495.
[10] IWG, at 14.
[11] Comm. on Banking, Hous., and Urban Affairs Rep., at 104.