THE LOAN SYNDICATIONS AND TRADING ASSOCIATION®

September 13, 2013

By Electronic Submission

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Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
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Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
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Ms. Elizabeth M. Murphy
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Securities and Exchange Commission
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Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, S.W., Room 10276
Washington, D.C. 20410-0500

Re: **Request for Extension of Comment Period, Notice of Proposed Rulemaking, Credit Risk Retention**
SEC (Release No. 34-64603; File No. S7-14-11); FDIC (RIN 3064-AD74);
OCC (Docket No. OCC-2011-0002); FRB (Docket No. 2011-1411);
FHFA (RIN 2590-AA43); HUD (RIN 2501-AD53)

Ladies and Gentlemen:

The Loan Syndications and Trading Association ("LSTA")[1] hereby requests a 40-day extension of the deadline for filing comments in the credit risk retention rulemaking proceedings noted above. The LSTA appreciates the agencies' decision to issue a revised proposed rule concerning risk retention and the implementation of Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"). As the agencies have recognized, this new proposal should give the public "the opportunity to review and provide comment on the agencies' revised design of the risk retention regulatory framework and assist

[1] The LSTA, founded in 1995, is the trade association for the syndicated corporate loan market and is dedicated to advancing the interests of the market as a whole. The LSTA is active on a wide variety of activities intended to foster the development of policies and market practices designed to promote a liquid and transparent marketplace. More information about the LSTA is available at www.lsta.org.

the agencies in determining whether the revised framework is appropriately structured." Proposed Rule, Aug. 28, 2013 at 28. The proposal currently calls for public comments to be submitted by October 30, 2013. The LSTA respectfully requests that the agencies extend the period for the public to comment on this revised proposed rule to December 9, 2013 to allow sufficient time to assess the new aspects of the proposed rule and to prepare meaningful and well-informed comments to the proposal.

A 40-day extension of the comment period is amply warranted in light of the significant new components of the proposed rule first announced in the revised proposal, particularly with regard to the treatment of Open Market Collateralized Loan Obligations ("CLOs"). Most significantly, the revised proposed rule introduces a completely new risk retention option for CLOs that would allow the risk retention requirement to be met for Open Market CLOs if the lead arranger for each loan purchased by the CLO retains at least five percent of the face amount of the term loan tranche purchased by the CLO. Proposed Rule, Aug. 28, 2013 at 146-147. Over the course of the past two years, the LSTA and numerous other organizations have provided multiple comments on the agencies' original proposal for regulating CLOs, including suggesting various alternative methods to enable CLOs to meet the risk retention requirement.[2] The new risk retention option proposed in the revised rule, however, departs significantly from these comments and suggested alternatives and, as a result, raises new and distinct questions regarding whether such an option is workable in practice and whether it would alleviate any of the adverse affects on the market threatened by the original proposed rule.

The LSTA believes that to respond adequately to this new proposal, interested parties need sufficient time to consult with industry participants, collect relevant data to assess the practical implications and workability of the new proposal, and analyze how the new proposal would affect the CLO market. Allowing only a 60-day comment period as envisioned in the re-proposal would unduly impair interested parties' ability to provide a meaningful and well-informed response to the significant changes introduced in the revised draft rule.

A longer comment period is particularly required by the nature of the proposed alternative approach to regulating Open Market CLOs. To be effective, the proposed additional approach requires conforming behavior not only by Open Market CLO Managers, but principally by the lead loan arrangers that are not directly subject to any regulatory requirements. In order for interested parties to provide reasoned comments, a component of the market that has not heretofore been involved in the risk retention dialogue – namely, the loan lead arrangers – must become familiar with the proposed rules, test them internally and come to a consensus on whether they are workable. This process will inevitably take longer than the proposed 60 days.

A longer comment period also is essential to the integrity of the agencies' notice and comment rulemaking process. There is currently no record support – absolutely none – for the agencies' proposed additional approach to the requirements to be imposed on Open Market CLO Managers. At the same time, the agencies now acknowledge that the previously proposed rules pose significant risks to the continued viability of the CLO market (and the public interest benefits it produces). *See* Proposed Rule, at 145 ("The agencies also recognize that the standard forms of risk retention in the original proposal could, if applied to open market CLO managers,

[2] *See, e.g.*, LSTA Letter Comments of Aug. 1, 2011; Sept. 2, 2011; Mar. 9, 2012; Apr 1, 2013; and July 26, 2013.

result in fewer CLO issuances and less competition in this sector."). This acknowledgement underscores the necessity and importance of the proposed additional approach, requiring that it be grounded in evidence in the record, sufficient to establish that this now-essential portion of the proposed regulatory regime is not arbitrary and capricious. As the LSTA and other parties illustrated, previously proposed components of the rule are unworkable and would lead to the likely implosion of Open Market CLOs. In turn, the LSTA and other parties require sufficient time to determine whether the new proposal is potentially viable. Only by permitting an adequate period to assess and test the implications of the proposed rule will the LSTA and other commenters be able to provide a basis in the record that will enable the agencies to weigh the risks and potential benefits of proceeding with either the proposed approach or a modified version of it.

In extending the comment period for the original proposed rule, the agencies recognized that "it is important for interested persons to have additional time to fully review the provisions of the proposed rule and the questions posed by the Agencies, and to conduct appropriate data collection and analysis on the potential impact of the Credit Risk NPR prior to submitting comment." *See* Credit Risk Retention Rulemaking, Extension of Comment Period, June 3, 2011. The same remains true with regard to the new proposed rule. The LSTA recognizes that the agencies have already invested a significant amount of time in developing a rule to implement the credit risk retention requirement. But particularly given the long history of this rulemaking and the significant potential impact of the newly proposed rule on the credit market, the LSTA urges the agencies to provide the public with adequate time to develop meaningful comments on the newly proposed aspects of the agencies' rules.

The LSTA appreciates the agencies' consideration of this request for an extension of the comment period to December 9, 2013 and looks forward to continuing to provide the agencies with information that will assist their efforts to develop a rule to implement the Dodd-Frank Act's credit risk retention requirement.

Sincerely,

R Bram Smith

R. Bram Smith
Executive Director, LSTA