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MetLife

June 27, 2011

By Electronic Submission

Department of the Treasury
Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 2-3
Washington, DC 20219
Docket Number OCC-2011-0002

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn.: Elizabeth M. Murphy, Secretary
File Number S7-14-11

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attn.: Jennifer J. Johnson, Secretary
Docket Number R-1411

Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552
Attn.: Alfred M. Pollard, General Counsel
RIN 2590-AA43

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn.: Comments, Robert E. Feldman, Executive Secretary
RIN 3064-AD74

Department of Housing and Urban Development
Regulations Division
Office of General Counsel
451 7th Street, SW
Room 10276
Washington, DC 20410-0500
Docket Number FR-5504-P-01

Re: Credit Risk Retention, Proposed Rule
OCC Docket Number OCC-2011-0002; Federal Reserve Docket Number R-1411; FDIC RIN 3064-AD74; SEC File Number S7-14-11; FHFA RIN 2590-AA43; HUD Docket Number FR-5504-P-01

Dear Ladies and Gentlemen:

We are encouraged by the standards set forth in the proposed rule on credit risk retention (the "Risk Retention Rule"), which was issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Securities and Exchange Commission and the Department of Housing and Urban Development (collectively, the "Agencies") pursuant to Section 941(b) of the Dodd-Frank Wall Street

Reform and Consumer Protection Act of 2010 ("Dodd-Frank"). In our opinion, the Risk Retention Rule addresses key issues in the United States securitization market. We believe that, by improving the alignment of incentives between issuers and investors, we are likely to see a more fundamentally sound and sustainable market for securitizations in the future. We also applaud the efforts of the Agencies to enhance transparency and governance in structured finance transactions, as reflected in the Risk Retention Rule.

We are pleased to submit this comment letter (this "Comment Letter") in response to your request for comments as one of the largest investors in the securitization market in the United States. MetLife, Inc. and its insurance affiliates invest in structured finance securities primarily to fund core insurance products, which provide critical financial protection for over 90 million customers worldwide. MetLife Bank (collectively referred to herein with MetLife, Inc. and its insurance affiliates as "MetLife") also participates in the securitization market both as an originator and servicer of conforming and non-conforming mortgage and reverse mortgage loans. As of December 31, 2010, the general accounts of MetLife's insurance companies held approximately $79 billion of structured finance securities comprising $44 billion of RMBS, $20 billion of CMBS and $15 billion of ABS. Given the relevance of structured finance securities in our overall investments portfolio, MetLife has a vested interest in the long-term soundness of this market.

We are also responding to your request for comments as one of the largest holders and originators of real estate loans in the United States. As of December 31, 2010, MetLife's real estate loan portfolio totaled $54 billion, comprised of $39 billion of commercial mortgages, $13 billion of agricultural mortgages, and $2 billion of residential loans.

In the sections below, we will discuss overriding themes that MetLife believes are relevant and appropriate for all structured finance asset classes. We will then discuss in more detail specific recommendations as they apply individually to RMBS, CMBS, and ABS. We will also discuss our concerns and recommendations with respect to the rules as they apply to originators of mortgage loans and to sponsors of securitizations involving collateral consisting of the securitizer's own unsecured obligations, rather than obligations of third parties. As on prior occasions, we truly appreciate the opportunity to provide our comments.

Overriding themes on risk retention

Set forth below are our recommendations regarding the Risk Retention Rule that apply generally to all structured finance asset classes:

<u>Need for effective enforcement framework</u>

Throughout our review of the Risk Retention Rule, we were concerned that a complicated retention mechanism with multiple exceptions will make it more difficult for the Agencies to enforce the regulation. More importantly, from an investor's standpoint, we are concerned that non-compliance with the Risk Retention Rule can have significant negative effects on investors in structured finance securities.

Specifically, the failure of a sponsor to fully comply with the retention requirements at any time could result in all securities in a transaction receiving unfavorable treatment in a manner that is materially adverse to investors. Examples of such unfavorable treatment could include:

- The transaction's ineligibility for the FDIC securitization safe harbor
- Securities receiving a ratings downgrade
- Securities losing market value
- Regulated investors becoming subjected to higher risk-based capital charges

This problem is further compounded when additional parties are required to play a role in complying with the retention requirement, or if complicated exemptions are made available. A poignant example would be if the retaining party in a transaction is an unregulated entity, and such entity violates the credit hedging prohibition at some point during the life of the transaction. A situation like this will be very difficult to monitor, and when it is discovered it could have significant negative effects for parties that did not have control over the breach (e.g. sponsors, investors, etc.)

Our recommendation is for the Agencies to (a) simplify the retention mechanism options, (b) reduce the number of parties obligated to comply with the Risk Retention Rule, (c) set clear and effective paths to resolve cases of non-compliance, and (d) shield innocent participants from potentially adverse consequences.

<u>Support for vertical slice retention</u>

The vertical slice is our preferred form of risk retention for several reasons:

1. *Provides better alignment with bondholders:* By owning a slice of every class of securities, sponsors will be incentivized to underwrite and service assets (when the sponsor acts as servicer) with the long-term best interest of all bondholders in mind.

2. *Reduces consolidation concerns:* Because sponsors would own only a fractional amount of the riskiest bonds in a transaction, they will be less likely to be impacted by accounting requirements to consolidate a trust's balance sheet with their own.
3. *Reduces capital requirement concerns:* Given that sponsors are typically regulated entities, the vertical slice retention requirement should minimize any risk based capital concerns versus the horizontal slice and L-shaped retention alternatives.

4. *Does not alienate sophisticated investors that have traditionally purchased the more junior securities in a transaction:* Junior investors play a critical role in the efficient pricing of risk assets, and their absence could create market imbalances.

We encourage the Agencies to further explore making the vertical slice retention option (including variations that would result in the same economic effects for all participants, such as the "seller's interest" model used in credit card ABS) the main risk retention alternative across all structured finance asset classes.

MetLife believes that the horizontal slice and the L-shaped retention options have the potential to create substantial conflicts of interest between sponsors and investors, which would require the addition of complex governance arrangements to the transactions so that such conflicts could be managed appropriately. In our opinion, the representative sample option poses serious compliance monitoring challenges and is simply not workable in key asset classes, such as CMBS and CDOs.

Retention amount

MetLife believes that the retention amount should be measured as no less than 5% of securitization proceeds or par, whichever is greater. Furthermore, while we fully agree with and support the concept behind the proposed Premium Capture Cash Reserve Account (PCCRA), we believe it will be very difficult to implement in practice.

As a simplified alternative to the proposed PCCRA, MetLife would recommend defining the retention amount as 5% of par plus the value of any premium or interest-only tranches. Additionally, as part of this simplified approach, we recommend that the Agencies consider instances when bonds are issued with below market coupons, or where loan interest is supplemented by non-customary fees in an attempt to evade the retention requirement.

We believe that adopting the above definition would eliminate the need for the PCCRA mechanism to maintain the economic relevance of the retention requirement. Given some of the complexity with implementing and monitoring the PCCRA, we encourage the Agencies to evaluate alternatives like the one proposed above when considering the PCCRA requirement.

Sponsors should be the retaining party

MetLife believes that a transaction's sponsor or sponsors should be the retaining party in any credit risk retention framework. We understand the sponsor to be the party that actively organizes and initiates an ABS securities transaction by selling or transferring assets, either directly or indirectly, to the issuing entity.

As indicated earlier, we fear that expanding the options to fulfill the retention requirements to other parties such as third-party purchasers will make compliance enforcement difficult and could result in negative consequences for other transaction participants.

For transactions with multiple sponsors MetLife believes that allowing all sponsors with meaningful participation in a transaction to satisfy the retention requirement individually or jointly, as proposed, is reasonable.

Proposed holding period is reasonable

The selling and hedging prohibition contained in the Risk Retention Rule effectively ensures that risk must be retained as long as investors are exposed to credit risk in the transaction. MetLife believes this implied holding period is reasonable, and would recommend that any final determination by the Agencies on this requirement takes into account the length of time during a transaction's life when substantially all credit losses on the underlying assets have historically taken place for each asset class.

Clarify Responsibilities of Originators

As indicated above, MetLife believes that sponsors should bear responsibility for issues and claims relating to credit risk retention in their transactions. Accordingly, we request clarification from the Agencies that an "originator" under the Risk Retention Rule does not include originating lenders or creditors that do not directly transfer the subject loans to an issuer, or lenders or creditors that originate loans that are not intended to be securitized. Further, we request that the Agencies clarify that an originator cannot be held responsible or liable for issues or claims relating to the Risk Retention Rule unless it expressly agrees to be bound by any of the Rule's requirements.

To the extent that an originating lender sells a loan to a third party, responsibility for risk retention can be allocated between the parties by matter of contract. However, a broad definition of "originator" would create significant operational and compliance problems with allocating risk retention to an originator. A loan may be transferred several times between origination and securitization, and the originator may not know when a loan it has originated is included in a securitization. In our view, allocating risk retention to the originating lender when the loan is subsequently securitized would not serve the purpose of aligning the originating lender's incentives with those of unknown and unanticipated ABS investors. However, this would be unduly burdensome and would dramatically inhibit the origination of loans by any lender not holding its own loans through maturity.

Recommendations for RMBS

Vertical slice preference

Consistent with our general recommendation set forth above, MetLife believes that the vertical slice retention option is the most effective alternative for RMBS. Aside from better alignment of incentives between issuers and investors, this alternative reduces the possibility of minimizing the economic significance of the retention requirement. It also avoids situations where the sponsor, acting as servicer, may have conflicting interest with investors due to their position in the capital structure.

View on Horizontal slice and L-shaped retention options

In contrast to the vertical slice, MetLife believes that the horizontal slice and the L-shaped retention options create conflicting incentives between investors and sponsors/servicers. For example, if a sponsor retains risk through the horizontal or L-shaped options, it may own deeply discounted first loss pieces, and if the sponsor acts as servicer or directs servicing decisions, it may be inclined to favor interest cash flow generation to enhance the economic value of its holdings, potentially at the expense of other bondholders.

View on PCCRA

The PCCRA requirement may improve the alignment of interests related to loan underwriting, especially when combined with the horizontal slice and the L-shaped retention options. This feature, however, does not address – and could potentially exacerbate – the conflicts related to servicing loans when sponsors and investors own different parts of the capital structure.

Qualified Residential Mortgages (QRM)

If a QRM exemption is included in the final rule, MetLife believes such QRM definition should ensure that risk retention is required for higher risk mortgage loans. This definition should also balance the need for private capital to easily flow to low-risk mortgage loans.

MetLife strongly believes that servicing standards are inappropriate as part of the QRM definition. In particular, we believe that servicing standards should not be included within residential mortgage documents. Including servicing standards in the definition of QRM would result in the safest, lowest risk loans having certain safeguards that the higher risk loans may not have. Further, including servicing standards in the mortgage documents creates the potential for inconsistent rules being applied to servicers because the contractual obligations of the servicer might be different than the standards imposed by applicable law and regulation, as well as regulatory enforcement actions. In order to promote the application of consistent servicing standards, MetLife believes the development of such standards should instead be part of a separate federal regulatory effort so that uniform servicing standards would apply to all servicers and all residential mortgages independent of the loan type.

Recommendations for CMBS

Vertical slice preference

In addition to the reasons outlined in our general comments and in the RMBS section, MetLife believes that the vertical slice retention option is the least disruptive for CMBS because it allows for the co-existence of the standard B-piece model. We believe this is a key consideration, as the subsistence of this model will help to continue the recovery of the CMBS market in the short term.

Under a vertical slice framework, the sponsor would retain a small fraction of each bond class while the B-piece buyer could buy 95% of the junior-most classes and maintain its current business model without the restrictions of other risk retention forms. Under this alternative the B-piece buyer could namely:

- Buy as high or low up the capital structure as it may desire
- Sell, hedge, or leverage its holdings at will
- Participate in the transaction alongside other B-piece buyers

Given how embedded the B-piece model is in the CMBS industry, we believe the vertical slice option provides the best balance of (a) alignment of interest, (b) minimum capital impact from retention, and (c) no disruption to other industry practices (i.e. B-piece model).

One aspect we would encourage the Agencies to address, regardless of the retention option, is the governance structure in CMBS transactions. This is partially addressed in the Agencies' proposal through the requirement of an Operating Advisor, but this is only applied when a third-party purchaser satisfies the retention requirement under the horizontal slice option. We believe this requirement provides a much-needed enhancement in transaction governance, but request that the Agencies extend this critical enhancement to all forms of risk retention for CMBS. For reference purposes, we have included an Appendix at the end of this document discussing our views on the subject.

View on Retention by a Third-Party Purchaser

As the Agencies may be aware, some market participants and trade associations have argued that the losses in the CMBS market have been very low, and that this sector should not receive the same treatment as other sectors (such as RMBS) with respect to risk retention. These participants have further argued that the role currently played by B-piece buyers in CMBS transactions should be deemed to satisfy risk retention requirements. In other words, these market participants are suggesting that the status quo should be maintained for CMBS. MetLife believes these views conflict with reality, and that, if such recommendations are adopted by the Agencies, we may miss an important opportunity to improve the soundness and sustainability of this important structured finance market sector.

While realized losses in CMBS to date have been relatively low, MetLife believes this is a function of the long-term nature of the underlying assets and the time it takes to resolve workout situations. In reality, the market has already seen numerous alarming signs that have led experts to predict losses in the low to mid-teens for loans originated between 2006 and 2008 (when more than half of the CMBS collateral was originated)[1]. Some of these alarming signs include:

- Delinquencies in all-time high territory
- Interest shortfalls sustained by multiple bonds that were originally AAA and AA-rated
- Tens of billions of dollars of originally investment grade bonds downgraded to junk – including many bonds that were originally AAA-rated

We believe the examples set forth above create cause for serious concern regarding the sustainability of the current CMBS model. Moreover, we caution the Agencies that allowing a weakened version of the third-party purchaser option to satisfy risk retention in CMBS is likely to result in a repeat of the questionable behaviors that occurred in the CMBS market prior to the onset of the financial crisis.

If the Agencies want to maintain the option of risk retention by a B-piece buyer, we would recommend considering the following:

- Requirements should make economic incentives comparable to those of any other form of horizontal risk retention in structured finance, including the implied holding period as proposed
- Given the faulty governance structure where B-piece buyers have direct or indirect control of special servicing decisions, bonds retained should be in principal-only form to provide a better alignment of interests with senior investors
- The requirement for the use of an "Operating Advisor", as previously indicated, is a good governance practice regardless of the form of risk retention. We would only suggest changing the voting for the replacement of the special servicer to be the affirmative vote of the simple majority of bondholders casting a vote

As we indicated earlier, we do not believe that a horizontal slice or an L-shaped risk retention option are adequate alternatives for CMBS, and recommend that the Agencies establish the vertical slice as the risk retention choice for CMBS and other structured finance asset classes.

[1] See 12/8/2010 Morgan Stanley report titled "2011 Global Securitized Products Outlook" on page 28, Exhibit 2, in section titled "CMBS: Diamonds and Rust".

Qualified CRE loan exemption

In MetLife's opinion, a qualified loan exemption will be very difficult to implement for CMBS because of the institutional nature of borrowers and lenders, and the resulting complex nature of CRE loans. If a qualified CRE loan exemption is to be adopted, MetLife believes the underwriting standards should be set exceptionally high – as they generally are in the proposed rules.

If a Qualified CRE exemption is adopted, one area we feel requires adjustment is the amortization term for Qualified CRE loans. Given the standard CRE (not just CMBS) market practice to use 30 year amortization schedules, we would recommend raising the term for Qualified CRE loans from 20 to 30 years so that this exemption would provide practical value. With a 20-year amortization schedule, as proposed in the Risk Retention Rule, there will be a negligible amount of loans that would ever qualify for the exemption, which would effectively eliminate the need for the exemption.

Aside from the adjustment recommended above, MetLife encourages the Agencies to maintain high standards like the ones proposed. In particular, we would recommend addressing leverage limitations that consider additional debt placed on the properties but that is not securitized, regardless of the seniority of this additional debt. Given the rights subordinate lenders have, there can be instances where these lenders may limit the servicer's ability to exercise workout options that would otherwise be more beneficial to the trust as a senior lender.

Having said all of the above, we would like to express our deep concern with certain aspects of this exemption, as well as counterproposals being recommended by certain market participants.

- *Compliance enforcement:* We recommend that the Agencies define and establish a practical mechanism to audit loan compliance and cures of instances of non-compliance. In all cases, the resolution should be the sole responsibility of the transaction sponsor, and there should be no negative regulatory consequences for bondholders in cases where the sponsor fails to cure a non-compliance event.
- *Representations and warranties should not be a basis for the exemption:* As the Agencies may be aware, several market participants have suggested that the adoption of standard representations and warranties should suffice as the basis for a risk retention exemption. MetLife believes this is completely inappropriate. While strong representations and warranties are part of sound underwriting practices, they are not the only aspect (or even the most important one) of sound underwriting. Additionally, we could envision a scenario where a transaction uses standard representations and warranties, only to include numerous exceptions to these representations and warranties, making this proposed alternative useless for all practical purposes.
- *Concern over potential originator liability:* The rules should clearly specify that originators shall not be responsible in connection with any of the provisions of the

Risk Retention Rule, including satisfaction and/or compliance with the conditions of the Qualified CRE loan exemption, unless they expressly agree to bear that liability. In addition, an originator that does not transfer its loan into a securitization transaction or that is not involved or does not have any interest in the subject securitization transaction should not have responsibility or liability for applying the underwriting standards required for the exemption (or if such underwriting standards were not applied) at loan origination, nor should it have responsibility or liability for providing evidence or verification of the underwriting standards that were applied, in the event the loan is ultimately securitized.

Recommendations for ABS

Vertical slice preference

For the same reasons we highlighted above, we believe that the vertical slice is the more appropriate form of risk retention for the ABS market. We believe this to be true while acknowledging the various ABS asset classes and the different structures employed by these sectors. Below we highlight several ABS sectors:

Credit Cards:

As the Agencies correctly illustrated, sponsors of credit card ABS transactions maintain credit risk of the underlying loans through the use of the “seller’s interest”, which is a vertical form of risk retention. We believe this to be one of the reasons why these transactions have held up through the credit cycle.

Automobile Loans:

The vertical slice not only aligns the interest of all parties, but also benefits the sponsors both from a credit loss and a capital release perspective[2]. For Auto ABS, the vertical retention option will release cash through the waterfall faster than the horizontal slice, thereby allowing the sponsor to redeploy capital back into its business more efficiently.

CDOs:

The vertical form of risk retention is the only option that incentivizes managers to act for the benefit of all investors. In managed transactions, such as CDOs, the correct alignment of interest is extremely critical because managers have the ability to constantly change the risk profile of the transaction. Currently, CDO managers are already incentivized by a transaction’s compensation structure to select riskier, higher yielding assets to maximize return and equity cashflows. Requiring CDO sponsors to hold a vertical slice of the

[2] See 5/3/11 S&P report titled “Not All Risk Retention Options Are Created Equal For U.S. Non-revolving Consumer ABS” for a detailed discussion of the different impact the various risk retention options would have.

capital structure would ensure that the manager's interest is perfectly aligned with all investors and would encourage more prudent asset selection by the manager.

<u>View on Horizontal slice and L-shaped retention options</u>

Further to our point regarding the inherent conflict of interest that exists with the horizontal and L-shaped risk retention options, MetLife is concerned that the horizontal slice option may eliminate the ability to issue subordinate notes in ABS transactions. With rating agencies continuing to lower loss expectation and the required level of credit enhancement, horizontal risk retention amounts may represent a significant part of the subordinate notes. In the absence of subordinate note investors, we fear that a predominantly AAA investor base will once again become overly reliant on ratings at the expense of independent credit analysis.

If, however, the Agencies include the horizontal option in the final Risk Retention Rule, we request the Agencies to provide clarification on the following items related to Auto ABS, as well as consider the concerns under the CDO subsection below:

Auto ABS

Under-collateralization at issuance: Certain prime Auto ABS transactions issue a larger dollar amount of bonds than the collateral available at issuance. While this structuring nuance is acceptable, because excess spread quickly builds credit enhancement, it is a form of monetizing excess spread.

Yield Supplemental Over-Collateralization: This feature is more commonly found in prime Auto ABS, where interest rates are subvented. As a result, the feature is a necessity to raise the weighted-average coupon of the collateral pool. In isolation, it may also be viewed as a monetization of excess spread.

CDO

In managed transactions, such as CDOs, the horizontal slice and L-shaped retention options may cause unintended behavior that is contrary to the purpose of risk retention. Currently, managers are already aligned with equity investors due to the payment structure of the subordinated manager fee and incentive fee. MetLife believes that, if managers are given the horizontal slice or the L-shaped retention options, they would be even more economically incentivized to add higher risk assets to maximize upfront equity flows and to increase their potential upside, all at the expense of long-term senior investors.

Equity returns are dependent upon the excess yield earned on the underlying portfolio over the coupon paid to bondholders. Greater returns are often earned by taking greater risk in asset selection to the detriment of bondholders. Equity investors are paid the excess return starting at the beginning of the transaction. As the portfolio deteriorates over time from these riskier assets, bondholders are hurt by the defaults on such assets, while equity holders have already realized their return.

Managers are tasked with balancing the risk/return profile of the underlying portfolio. By giving the managers the option to only hold equity (horizontal slice) or to be heavily invested in equity (L-shaped) for their required risk retention, there is a much greater incentive for them to prioritize return over risk. As a senior debtholder in CDOs, MetLife believes that the horizontal slice and L-shaped retention options introduce more conflicts than those already present with no risk retention at all. In our view, it is likely to induce risky behavior by managers, which is at odds with the intended goal of risk retention – alignment of incentives between managers and investors.

If, however, the Agencies decide to include a horizontal retention option in the final Risk Retention Rule, MetLife would recommend that equity (i.e. horizontal slice) cashflows be distributed only after all bondholders are paid off.

<u>Qualified automobile loan exemption</u>

MetLife appreciates the thoughtfulness of the Agencies and is encouraged by the high standards for qualified automobile loans contained in the Risk Retention Rule. We fully recognize that the proposed standards may not reflect current production trends. However, we believe the Agencies approached the proposal in the correct fashion. The fundamental purpose of defining a qualified automobile loan is to establish a benchmark of high-quality assets away from current market practice. For autos, this will certainly mean an elevated set of underwriting standards, which we support.

Below we note a few observations for the Qualified Automobile Loan ("QAL") exemption:

- We believe that sponsors are likely to benefit from reduced levels of required credit enhancement with the qualified auto loan exemption – in addition to the benefit of avoiding the risk retention requirement. Taken together, these two economic incentives may compel sponsors to originate to the proposed standards.

- We recognize the value of consistency with other asset classes. However, if the Agencies are contemplating any relaxation of the QAL, the required LTV standard is the only instance where we feel it would be appropriate to do so.

- As the Agencies may be aware, certain market participants have made a counterproposal to apply the standards on a pool-level basis, rather than on a loan-level basis. We believe the pool level proposal can be misleading because it will be based on weighted averages, rather than compliance with underwriting standards on a loan-level basis. As such, we are opposed to the pool-level concept.

Exemption for Securitizations Involving Collateral Consisting of the Securitizer's Own Unsecured Obligations

MetLife fully supports the intent of the proposed Risk Retention Rule as it relates to the ABS, CMBS and RMBS markets. We note, however, that the Risk Retention Rule may unintentionally capture certain transactions that are not part of the ABS market as conventionally defined. These transactions, which do not involve the securitization of an interest in any assets other than an obligation created by the securitizer itself, are commonly utilized by insurance enterprises, and include the issuance of trust preferred securities, as well as securities backed by obligations uniquely issued by insurance companies such as funding agreements and surplus notes. MetLife supports an exemption from the Risk Retention Rule for such transactions.

Such transactions generally involve the issuance of securities to investors by a special purpose vehicle ("SPV") and the use of the proceeds to acquire direct, unsecured obligations of the securitizer itself or its affiliates that have terms similar to those of the securities issued by the SPV. In such cases, the investor does not acquire an indirect interest in receivables or other assets of a third party the quality of which can be monitored by the securitizer. Applied in these circumstances, the Risk Retention Rule would not address in any way the goal of providing securitizers with an incentive to monitor and ensure the quality of third party assets underlying a securitization transaction and thereby align the interests of the securitizers with the interests of investors.

Like other insurance enterprises, MetLife utilizes, to the benefit of its policyholders and other stakeholders, financing structures that would be unnecessarily burdened under the proposed Risk Retention Rule. These financing structures do not serve to transfer third party risk accumulated by the enterprise to investors by bundling obligations and selling them. Instead, the risk they represent is recognizable to investors as a risk related directly to the enterprise.

Based on these considerations, MetLife supports the addition of a general exemption to §___.21(a) of the Risk Retention Rule to exempt from the application of the rules any securitization transaction in which the Collateral, as defined in §___.2, consists primarily of unsecured direct obligations of the Securitizer, as defined in §___.2, or its affiliates, in structures such as those described above.

*   *   *

Thank you in advance for providing MetLife with the opportunity to comment on the Risk Retention Rule. If you have any questions concerning the views or recommendations that MetLife has expressed in this Comment Letter, please feel free to contact Jonathan Rosenthal of our Investments Department (at 973.355.4777; jrosenthal@metlife.com), Terry McCoy of MetLife Bank (at 214.441.5415; tmccoy@metlife.com) or James Donnellan of our Government and Industry Relations Department (at 212.578.3968; jfdonnellan@metlife.com).

Respectfully submitted,

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APPENDIX I – CMBS Governance

A unique characteristic of the CMBS market is the pervasive use of a junior-most debt investor that has the right to direct the workout actions of a transaction's special servicer. This investor, known as the B-piece buyer, purchases the first-loss bonds (B-piece) at deeply discounted prices through a privately negotiated agreement.

While the B-piece buyer, like junior investors in other asset classes, performs a key function in the efficient functioning of the CMBS market, its capacity to control servicing actions results in an uneven playing field for market participants. B-piece buyers are compensated (as they should be) for the comparatively higher risk they take, but the right to be consulted on and direct servicing actions creates substantial information asymmetry and significant conflicts of interest. This is particularly concerning in light of the limited information that senior investors receive regarding the actions of the special servicer.

In MetLife's opinion, a framework that would substantially improve the governance shortcomings of the current model should include the following:

1. *Independence of Special Servicer:* The special servicer in a transaction should not be affiliated in any form with the transaction's B-piece buyer, or be in any other way conflicted from making objective decisions that are in the best interest of all bondholders.

2. *Operating Advisor (OA):* This should be a completely independent entity that is not in anyway conflicted to objectively represent all bondholders. The tasks of the OA should include those outlined below, and there should be a clear mechanism for OA replacement in case of non-compliance:

    a. Review detailed information regarding loan level workout strategies.
    b. Present objections if proposed workout strategies run counter to the collective best interest of all bondholders.
    c. Report to investors on its continuous assessment of servicing actions.
    d. Recommend the termination of the special servicer if it fails to act in the collective best interest of all bondholders.
    e. Assist in the selection of and transition to a new special servicer if a termination takes place.

3. *Enhanced voting mechanism:* Current voting mechanisms set thresholds that are unattainable given: (a) the difficulty of identifying current bondholders (primarily because of the inherent limitations of bonds being held in "street name" through Depository Trust Company), and (b) the inability or unwillingness that many investors have to vote. An effective voting mechanism to be employed to decide the replacement of the special servicer, operating advisor, or other service providers in the transaction would work as follows:

a. Voting should be on an affirmative basis only.
b. A minimum 5% of all bondholders based on par dollar value of holdings should be required to call a vote.
c. Decisions would be adopted with the support of a simple majority of the dollar value of par represented by voting bondholders.

We believe weaknesses in voting mechanisms currently exist throughout the structured finance market (not only CMBS). We strongly encourage the Agencies to address these weaknesses in order to improve governance practices in the various structured finance sectors.

4. *Enhanced transparency:* Investors that identify themselves as bondholders of a transaction should have access to information describing the workout strategy employed for any trouble loan with the supporting analysis justifying the selection of such workout strategy.

MetLife believes that adopting parameters like the ones described above will significantly enhance the current governance practices in CMBS transactions. This will result in greater investor confidence and a smoother recovery of the sector.