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CREFC Responds to Proposed Risk-Retention Rules

Trade Group Ready to Work with Regulators to Find Risk Retention Solutions

WASHINGTON—July 19, 2011—Today, The CRE Finance Council (CREFC) submitted comments to the joint regulatory proposal for credit risk retention for asset backed securities.

The proposal generally requires the securitizer of asset-backed securities to retain not less than five percent of the credit risk of the assets collateralizing the asset-backed securities. It includes a variety of exclusions from these requirements, including an exemption for commercial mortgage-backed securities (CMBS) that meet certain conditions. CREFC's comments identify those key issues affecting CMBS and provide recommendations to the federal agencies.

“CREFC recognizes that an extraordinary amount of effort went into the development of the proposed rule. We particularly appreciate the Agencies' efforts to craft provisions that seek to address the unique characteristics of the CMBS market,” stated Jack Cohen, CREFC President. “However, we are concerned that elements of the proposal, such as the Premium Cash Capture Reserve Account extend beyond the statutory requirements for risk retention and others, such as the operating advisor construct; are overly restrictive. These proposals could disincentivize CMBS issuance and disrupt the efficient execution of the securitization markets and ultimately the entire commercial real estate industry; including banks, life insurance companies and the government sponsored enterprises.”

Specifically, the letter offers recommendations to improve upon several provisions in the risk-retention proposal that are of most concern to participants in the securitization market, namely: the ability of a B-piece buyer to fulfill risk retention requirements; the role of an independent operating advisor when a B-piece buyer holds the retained risk, transferability of the B-piece position; an exception for qualified commercial loans; and the Premium Capture Cash Reserve Account.

In such cases, CREFC's letter offers practical solutions that meet both the intent of Dodd-Frank and work well in the marketplace. “Our consensus recommendations in response to these concerns reflect hundreds of hours of debate amongst our membership and other CRE related associations,” stated Cohen.

“We look forward to working with the Agencies on a regulatory model that achieves appropriate alignment of risk through risk retention. However, we caution against restrictions that would hinder the securitization market's ability to effectively provide the capital and liquidity that commercial real estate requires,” stated Steve Renna, CREFC's CEO.

Failure to achieve a balanced and workable set of risk retention rules could lead to increased costs for CRE borrowers and ultimately damage economic and job growth.

“We encourage regulators to engage thoughtfully and deliberatively with industry and legislators in the development of the final risk retention rules,” added Renna.

To obtain a copy of CRE Finance Council's response letter, please click [here](#). For more information on CRE Finance Council's ongoing work with respect to Risk Retention, please click [here](#).

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