

Congress of the United States
Washington, DC 20515

April 26, 2010

The Honorable Tim Geithner
Secretary
Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Dear Secretary Geithner:

We are writing to you in your capacity as Chairman of the President's Working Group on Financial Markets, to express our concerns with the overall lack of coordination and thoughtful consideration related to the various legislative, regulatory and accounting proposals aimed at the asset-backed securities ("ABS") market and how these proposals will work in the aggregate. Let us begin by stressing that we share your desire to improve financial regulation and believe that financial institutions having "skin-in-the-game" is an important component in reaching that goal. It is essential, however, that reforms to these markets are carried out in a coordinated fashion that will not have significant negative and unintended consequences which could substantially reduce credit availability and hinder job creation. We have concerns that the current approaches to reform have not been carefully reviewed for all types of loans and markets to which they will apply (including residential and commercial mortgages, student loans, auto loans, and small business loans, among others), and that they would reduce access to credit and impede job creation.

Specifically, the growing number of proposals directed toward the ABS market should not be drafted in a vacuum. It is incumbent upon all regulators and policymakers to examine and consider the impacts of all proposals and how they will interact with one another and other ongoing changes to law or regulation. As you know, Congress is currently engaged in an extensive debate over the restructuring of the regulatory apparatus that oversees our financial system. There are a number of proposed changes that members in both bodies are still examining. We caution the regulators, in crafting new rules, to not presuppose the final outcome of Congressional action and base new regulations on that expected outcome.

Over the last several months, we have seen a number of specific policy proposals from a variety of different agencies and government officials intended to address numerous issues within the ABS market. These proposals include:

- Financial Accounting Statements No. 166 and No. 167, which modified accounting principles related to securitization

- Capital requirements issued by the bank regulators
- 5% risk-retention requirement set forth in the “Wall Street Reform and Consumer Protection Act of 2009” (H.R. 4173)
- 5% risk-retention requirement set forth in the “Restoring American Financial Stability Act of 2010” (S. 3217)
- SEC’s proposed rules on asset-backed securities, which contain numerous reforms including 5% risk retention
- FDIC’s Advance Notice of Proposed Rulemaking regarding its securitization safe harbor, which contains numerous reforms including 5% risk retention
- Competing international initiatives being undertaken by the International Accounting Standards Board

While all of these proposals may have some merit, taken collectively, they could negatively affect our nation’s credit markets during a time of continued economic uncertainty. In fact, these actions represent significant changes that will impact U.S. financial institutions of all sizes and their ability to provide liquidity, lend, or invest. For institutions that decide to no longer securitize, the amount of funding available for consumers and businesses that have traditionally been funded through private investment and securitization will be substantially limited, resulting in a significant reduction in available credit for consumers. The combination of each of these changes without consideration of how they will work in unison could severely choke off credit and stifle an economic recovery.

Because of concerns relating to the potential cumulative effects resulting from securitization accounting changes, new bank capital rules, and a risk-retention mandate for all ABS, the Financial Services Committee included an amendment in H.R. 4173, the “Wall Street Reform and Consumer Protection Act of 2009 that would direct the Federal Reserve Board, in conjunction with the other banking and securities regulators, to study and then report “statutory and regulatory recommendations for eliminating any negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending” within 90 days of enactment of the legislation. Since some of the securitization initiatives listed above have already begun to be implemented, it is our hope that the appropriate regulators would also begin examining these issues now, prior to adoption of new rules or statutes requiring these changes.

When considering the varying policy proposals to address the problems that lead to the financial crisis, the best and most appropriate solutions are the ones that address the actual problems

directly rather than search for unrelated problems. It is widely accepted that the main asset class at the center of the financial crisis was subprime residential mortgage backed securities (RMBS). Therefore, we believe that proposed solutions to the issues experienced in the securitization market should be directed to subprime RMBS, rather than at other asset classes such as student loans, auto loans, commercial mortgages and small business loans that have inherently different structures and characteristics than the subprime market where the main problems occurred.

In conclusion, we support your efforts to ensure greater accountability and transparency for all parties involved in the asset-backed securitization process, including issuers, underwriters, originators and investors. But applying policies universally to a very broad and diverse \$9 trillion market could have significant unintended consequences. We therefore recommend that all new policies affecting the asset-backed securitization market be fully examined, studied, and coordinated to mitigate the possible negative impact these new rules could have on credit availability and the broader economy.

Sincerely,



Scott Garrett
Member of Congress



Spencer Bachus
Member of Congress

Cc: The Honorable Ben Bernanke
The Honorable Mary Schapiro
The Honorable Gary Gensler
The Honorable Sheila Bair
The Honorable John Dugan