June 7, 2020

MEMORANDUM TO: Board of Directors

FROM: Doreen R. Eberley
Director
Division of Risk Management Supervision

DOREEN EBERLEY
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Date: 2020.06.09 13:51:25 -04'00'

SUBJECT: Extension of the Qualified Residential Mortgage Review Period under the Credit Risk Retention Rule

Summary and Recommendation

Staff recommends that the FDIC Board of Directors (the "Board") (i) approve a one-year extension of time for the FDIC, along with the other Agencies (as defined below), to complete the review of the definition of qualified residential mortgage ("QRM") and the review of certain exemptions relating to residential mortgage securitizations under the Credit Risk Retention Rule (as defined below); (ii) approve publication of notice of such extension in the *Federal Register* substantially in the form of Attachment 1; and (iii) delegate to the Director of the Division of Risk Management Supervision ("RMS"), or designee, the authority to approve one or more additional extensions of time, aggregating up to one additional year, to complete these reviews and one or more extensions of time, aggregating up to two years, to complete any future reviews, and to approve the publication of notice of any and all such extensions in the *Federal Register* or on other media satisfactory to the Director of RMS (or designee).

I. **Background**

In late 2014, six agencies (the FDIC; the Office of Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; the Securities and Exchange

Commission; the Federal Housing Finance Agency; and the Department of Housing and Urban Development (the "Agencies")) adopted the credit risk retention regulations (the "CRR Rule" or "Credit Risk Retention Rule"), which generally require that sponsors of securitization transactions retain a portion of the credit risk of the securitized assets. *See* 79 Fed. Reg. 77740 (Dec. 24, 2014).[1] The CRR Rule exempts securitizations consisting entirely of QRMs and certain related assets. The CRR Rule defines a QRM as a qualified mortgage ("QM") as defined by the Consumer Financial Protection Bureau ("CFPB") under the Truth in Lending Act.

The CRR Rule also exempts securitizations consisting entirely of community-focused residential mortgages (defined in the CRR Rule as residential mortgages exempt from the definition of "covered transaction" under certain provisions of the CFPB's Regulation Z) and certain related assets, and securitizations consisting entirely of three-to-four unit residential mortgage loans (as defined in the CRR Rule) together with, if desired, QRMs, and certain related assets.

Section _.22 of the CRR Rule requires the Agencies, not later than December 24, 2019, to commence a review of the definition of QRM and to commence a review of the exemptions for community-focused and three-to-four unit residential mortgage securitizations (collectively, the "Reviews"). The CRR Rule also requires the Agencies to review these provisions again five years following the completion of the initial review and every five years thereafter, and requires a review at any time an Agency requests (each, a "Future Review"). In accordance with this requirement, the Agencies began the Reviews in Fall, 2019. The CRR Rule also requires that the Agencies publish notice of the commencement of the Reviews in the *Federal Register* and, after

[1] The CRR Rule, as adopted by the FDIC, is codified at 12 C.F.R. Part 373.

completion of the Reviews, but not later than six months after the publication of the notice announcing commencement of the Reviews, unless extended by the Agencies, publish notice disclosing the determination of the Reviews. The Agencies published notice of the commencement of the Reviews on December 20, 2019 (the "Review Commencement Notice") and, accordingly, unless the review period is extended, are required to complete the Reviews by June 20, 2020 and publish notice of the results of the Reviews.

II. **Status of Agency Deliberations and Need for Extension**

Due to various factors, including the market disruptions precipitated by COVID 19, staff of each Agency agree that the Agencies should extend the June 20, 2020 deadline for one year and publish notice of the extension. In considering the length of time for the proposed extension, agency staff is recommending one year to June 20, 2021. Moreover, if additional time is needed, in order to avoid burdening the Board with consideration of additional extensions, FDIC staff proposes that the Board delegate to the Director of RMS (or designee) the authority to (i) approve one or more additional extensions of time, aggregating no more than one year, to complete the Reviews and (ii) publish notice of such extensions in the *Federal Register* or on other media satisfactory to the Director of RMS (or designee). Staff is also recommending that, in connection with each Future Review, the Board delegate to the Director of RMS (or designee) the authority to (i) approve one or more extensions of time, aggregating no more than two years, to complete the Future Review and (ii) publish notice of such extensions in the *Federal Register* or on other media satisfactory to the Director of RMS (or designee).

CONCUR:

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