VIA E-MAIL **October 30, 2013**

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
File Number S7-14-11
RIN 3235-AK96

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, S.W., Suite 3E-218, Mail Stop
Washington, D.C. 20219
Docket Number OCC 2013-0010
RIN 1557-AD40

Mr. Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
Attention: Comments
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Docket Number R-1411
RIN 7100-AD70

Mr Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation.
550 17th Street, N.W.
Washington, D.C. 20429
RIN 3064-AD74

Mr. Alfred M. Pollard
General Counsel
Attention: Comments/RIN 2590-AA43
Constitution Center
(OGC) Eighth Floor
Federal Housing Finance Agency
1700 G Street, N.W., Fourth Floor
Washington, D.C. 20552

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, S.W., Room 10276
Washington, D.C. 20410-0500
RIN 2501-AD53

Re: Credit Risk Retention – OCC Docket ID OCC Docket Number -2013-0010; FRS Docket No. R-1411 and RIN 7100 AD70; FDIC RIN 3064-AD74; Federal Housing Finance Agency RIN 2590-AA43; HUD RIN 2501-AD53; and SEC Release No. 34-70277, RIN 3235-AK96 and File Number S7-14-11 (Proposed Rules)

Dear Sirs and Madams:

Eaton Vance Corp. (NYSE: EV), based in Boston, is one of the oldest investment management firms in the United States, with a history dating back to 1924. Eaton Vance and its affiliates managed $273.1 billion in assets as of September 30, 2013, offering individuals and institutions a broad array of investment strategies and wealth management solutions. Eaton Vance Corp.

conducts its investment management activities primarily through two subsidiaries, Eaton Vance Management and Boston Management and Research (collectively referred to herein as Eaton Vance), which provide investment advisory and/or administration services to various Eaton Vance clients including registered investment companies. Eaton Vance employs over 45 personnel in its municipal bond department, with teams in both Boston and New York, including 15 portfolio managers, 6 traders and 16 research analysts. Eaton Vance was one of the first advisory firms to manage a registered municipal bond investment company, and has done so continuously since 1978. Eaton Vance and certain of its subsidiaries on a combined basis currently manage separately managed municipal investment accounts, 15 national municipal investment companies, and 39 single state municipal investment companies, with combined assets of approximately $25 billion.

Eaton Vance appreciates the opportunity to comment on the Proposed Rules to implement Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) which adds the credit risk retention requirements of section 15G to the Securities Exchange Act of 1934, as amended (the "Exchange Act"). We recognize and support the efforts of the above-listed agencies and agree with the importance of regulatory oversight that will help ensure the integrity of financial markets, while fostering greater accountability and transparency throughout the financial system. After reviewing the Proposed Rules, we join those commenters who have expressed concerns about the adverse impact the Proposed Rules could have on financial markets,[1] and for the reasons set forth below, we respectfully request that the Proposed Rules be revised as follows:

- That tender option bond ("TOB") programs be expressly exempted from risk retention requirements under the Proposed Rules;

- In the event TOB programs are not expressly exempted from the Proposed Rules, that the Proposed Rules be revised to reflect the fact that investment companies are not sponsors of the TOB trusts; and

- That the Proposed Rules be revised to permit investment companies to satisfy risk retention responsibilities of sponsors of a TOB trust as third party purchasers by holding five percent of the residual interest of such TOB trusts across multiple investment companies within the same fund complex.

Background on TOB Programs

TOB programs are financing vehicles routinely utilized by registered investment companies that invest primarily in municipal obligations.[2] In a TOB transaction, an investment company proposes a municipal bond to a bank willing to create a TOB trust. If the bank approves the bond, it will establish the trust and then the investment company will sell the municipal bond to

[1] As a member firm of the Investment Company Institute (the ICI), we also support the ICI's efforts to represent the views of the investment company industry with respect to the Proposed Rule.

[2] Of the more than 50 registered investment companies managed by Eaton Vance which invest primarily in municipal securities, almost all are permitted to engage in TOB transactions. TOBs also have historically provided an important source of demand for high quality new issue municipal bonds (and helped lower financing costs for their issuers).

the trust, using the proceeds of the sale for investment purposes. The municipal bond held in the trust typically is of high quality (*i.e.,* generally rated AA or higher by a nationally recognized statistical rating organization). The source of funds used by the trust to purchase the bond from the investment company is primarily derived from the trust's issuance and sale of floating-rate notes typically to money market funds[3] and secondarily the sale of a residual interest in the trust to the investment company. A highly rated financial institution provides a liquidity backstop for the floating-rate notes issued by the TOB trust.[4] It is important to note that generally any losses incurred by the liquidity provider to the TOB trust are, by agreement, borne by the residual interest holder (being the investment company).[5]

TOB programs have played an important role in the management of registered investment companies for over 20 years. The total market for TOB programs is currently estimated to be $75 billion and has been as high as $175 billion in the past. Eaton Vance's open-end and closed-end investment companies have utilized TOB programs since the early 1990s. TOB programs were used by many closed-end investment companies (including those sponsored by Eaton Vance) to replace auction rate preferred securities, the market for which collapsed in February 2008, and also are used by both open-end and closed-end investment companies to seek to generate incremental income for shareholders. Notably, when bank lending activity significantly declined beginning in 2008 and credit became scarce, TOB programs continued to be available in the market.

Exemption of TOB Programs from Risk Retention Requirements under the Proposed Rules

Eaton Vance views TOB programs, and we believe that most market participants view TOB programs, as being economically equivalent to repurchase agreements or securities lending transactions.[6] We further believe that TOB programs are factually distinct from conventional asset-backed security ("ABS")in the following ways:

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[3] TOB floating-rate notes are often eligible investments for money market funds and are attractive because of the strength of their collateral (being the high quality bond held by the trust) and the creditworthiness of liquidity provided by the sponsor.

[4] The presence of the liquidity backstop is essential to money market fund investors in TOB floating-rate notes because it allows them to rely on the creditworthiness of the liquidity backstop provider rather than the creditworthiness of the issuer of the municipal obligation underlying the TOB trust. Absent the liquidity backstop, prior to investing in floating-rate notes money market funds would be required to perform a credit analysis of the bonds underlying each TOB trust. This would likely be impractical given the numerous issuers in the municipal market and the expertise required to analyze them.

[5] Pursuant to generally accepted accounting principles for transfers and servicing of financial assets and extinguishment of liabilities, investment companies account for TOB transactions as secured borrowings by including the bond in the Portfolio of Investments and the floating rate notes as a liability under the caption "Payable for floating rate notes issued" in their Statement of Assets and Liabilities of their semi-annual and annual reports.

[6] TOBs are accounted for pursuant to FASB ASC 860 *(Transfers and Servicing of Financial Assets and Extinguishment of Liabilities)* where the investment company accounts for the transaction as a secured borrowing.

(i) the collateral in a TOB trust is limited to municipal bonds and such bonds are very different from the obligations that serve as collateral for many types of ABS (*e.g.* car loans, mortgages, etc.);
(ii) the municipal bonds which serve as collateral of a TOB trust are generally of high quality;
(iii) a TOB trust typically holds securities of only one municipal issuer for which information is publicly available, resulting in more transparency than in a typical ABS securitization; and
(iv) TOB trusts are not organized in tranches and are structured in a simpler and more transparent format than ABS.

Because TOB programs are factually distinct from ABS, we believe that sponsors of TOB programs should be exempted from the risk retention requirements under the Proposed Rules. Additionally, we do not believe that a broad application of credit risk retention requirements to securitizations backed by municipal obligations aligns with the intent of Congress in enacting Section 15G of the Exchange Act. For the reasons set forth above, we request that TOB programs be expressly exempted from the credit risk retention requirements of the Proposed Rules.

In the event that TOB programs are not exempted from the Proposed Rules, we request that such Rules be revised as described below.

Modify Rules to Clarify that Investment Companies are not the Sponsor of a TOB Trust

The Proposed Rules define "sponsor" as "a person who organizes and initiates a securitization transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuing entity." While an investment company seemingly meets the technical definition of sponsor because it ultimately sells a municipal bond to a TOB trust, it only does so after the bank willing to establish the TOB trust has approved the bond for the trust. The bank controls the size of the TOB trust by determining the amount of municipal bonds necessary for re-sale and establishes guidelines regarding the credit quality of the municipal bonds selected to establish the TOB trust. The bank also performs all of the administrative activities for the TOB trust. In light of the fact that banks create TOB trusts, approve the municipal bonds to be held in the trusts[7] and perform administrative services for the TOB trust, we believe they clearly are the sponsors of the TOB trusts. Accordingly, we request that the Proposed Rules be revised to reflect that the bank creating the TOB trust is the sponsor of that trust.

Allow Investment Companies to Satisfy Risk Retention Responsibilities as Third Party Purchases by Holding Five Percent of Residual Interests across Multiple Investment Companies Within the Same Fund Complex

The Proposed Rules limit a "qualified tender option bond entity" to "a single residual equity interest that is entitled to all remaining income of the TOB issuing entity." This approach does not align with existing market practice of investors in TOB transactions. Currently residual interests in a TOB trust often are held by multiple investment companies, all within a single fund complex advised or administered by a common adviser or administrator. The reason for this practice is that, as discussed above, banks set the parameters for the size of TOB trusts and

[7] We are aware of instances when a bank rejected a municipal bond selected by an investment company to establish a TOB trust.

generally require that the value of the municipal bond used to establish a TOB trust meet a minimum threshold. In order to meet that threshold, multiple investment companies may sell the municipal bond to the trust. If the residual interest in a TOB trust can only be held by one investment company, smaller investment companies will be precluded from participating in TOB transactions if they are unable to meet the minimum value for securities to be contributed to the trust in compliance with applicable issuer diversification requirements. This would be a significant change in the current market practice for investment companies that engage in TOB transactions. We believe that the definition of "qualified tender option bond entity" should be refined to allow a sponsor of a TOB trust to satisfy its risk retention obligation by allowing one or more investment company in the fund complex to hold the residual interest of a TOB trust. Such refinement would align the Proposed Rules with existing market practice.

Moreover, we believe that the concept of a "third party purchaser," which the Proposed Rules consider in relation to commercial mortgage-backed securities, aligns with existing market practices of banks and investment companies with respect to TOB trusts. We therefore request that the Proposed Rules be revised to allow multiple investment companies to satisfy the credit risk retention requirements of sponsor banks by acting as third party purchasers of TOB trusts and holding a portion of the residual interests of TOB trusts. We also ask that the Agencies confirm that multiple investment companies which collectively hold 5% or more of the residual interests of a TOB trust would satisfy the credit risk retention requirements of bank sponsors by holding such residual interests.[8] We strongly believe that permitting multiple investment companies in a single fund complex to hold residual interests in a TOB trust is fully consistent with the regulatory objectives of the Proposed Rules, as investment company residual holders would still hold interests in a single class of securities, and having several investment company holders would not change the alignment of interests of trust holders.

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Eaton Vance appreciates the opportunity to comment on the Proposed Rules. If you have any questions or wish to discuss the above comments further, please feel free to contact me at 617.482.8260.

Sincerely,

/s/ Payson F. Swaffield
Payson F. Swaffield, CFA
Chief Income Investment Officer
Eaton Vance Management

[8] Currently, Eaton Vance's municipal investment companies participate in many TOB trusts in which multiple Eaton Vance affiliated investment companies hold the residuals interests of one TOB trust.