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July 21, 2011

Office of the Comptroller of the Currency
Via email: regs.comments@occ.treas.gov
Docket No. OCC-2011-0002; RIN 1557-AD40

Board of Governors of the Federal Reserve System
Via email: regs.comments@federalreserve.gov
Docket No. 2011-1411; RIN 7100-AD 70

Federal Deposit Insurance Corporation
Via email: Comments@FDIC.gov
RIN 3064-AD74

Securities and Exchange Commission
Via email: rule-comments@sec.gov
Release No. 34-64603; File No. S7-14-11; RIN 3235-AK96

Federal Housing Finance Agency
Via email: RegComments@fhfa.gov
RIN 2590-AA43

Department of Housing and Urban Development
Via electronic submission at www.regulations.gov
RIN 2501-AD53

Re: Credit Risk Retention – Proposed Rule

Ladies and Gentlemen:

The Independent Bankers Association of Texas ("IBAT"), a trade association representing approximately 500 community banks domiciled in Texas, offers these comments regarding the proposed rule on Credit Risk Retention (the "Proposal"). Most of IBAT's member banks are family owned or closely held and several are publicly traded. IBAT member banks make a substantial number of residential mortgage loans and so will be greatly affected by the Proposal.

IBAT and its members understand that the recent housing and financial crisis requires renewed attention on improving underwriting and halting unscrupulous lending practices. However, we must be extremely careful that efforts to eliminate harmful lending practices do not inflict irreparable harm on legitimate lending operations, which are the lifeblood of local communities in Texas and all over the country. Unfortunately, the Proposal, and specifically the strict definition of Qualified Residential Mortgage ("QRM"), will severely choke off the flow of credit to legitimately qualified borrowers, at the very moment that our country needs good credit to strengthen the still weak economy. The Proposal has the potential to create a system in which

high income, sterling credit borrowers have easy access to securitized loans with low interest rates, while the majority of borrowers are offered only high interest loans that banks are forced to retain in their own portfolios.

IBAT understands that Section 15G of the Dodd-Frank Act imposed certain limitations on your ability to craft these regulations. However, the Proposal goes significantly beyond Dodd-Frank in four critical areas: borrower's credit history, loan-to-value ratio, down payment, and loss mitigation. The Proposal unnecessarily imposes onerous requirements in each of these areas.

Borrower's Credit History

The Proposal requires that in order for a loan to qualify as a QRM, the lender must verify that the borrower (i) is not currently 30 or more days delinquent on any debt, (ii) has not been 60 days or more delinquent on any debt in the previous two years, and (iii) has not been in bankruptcy or had any property repossessed, foreclosed on or subject to a short sale in the previous three years. We strongly agree with the U.S. House of Representatives Committee on Financial Services, who wrote in their letter dated April 15, 2011, that these provisions are "far too strict" to meet the intended purpose of the Dodd-Frank Act. The economic crisis has forced millions of hard working Americans into personal debt problems due to a loss of job and other causes that are often temporary. To deny these citizens the right to a reasonably priced home loan because of circumstances that are beyond their control and temporary serves no purpose other than to punish.

Lenders always take a borrower's credit history into account when making prudent underwriting decisions, but certain factors should weigh more heavily than others. For instance, Professor Elizabeth Warren, Special Advisor to the Secretary of the Treasury, once estimated that medical debts cause close to half of all personal bankruptcies. Lenders often discount the importance of medical debts because they understand that those debts do not reflect on a debtor's character. Therefore, IBAT strongly recommends amending the Proposal to lengthen the number of days past due for debts that would disqualify a borrower, and medical debts should be excluded entirely from the definition of debts under the QRM eligibility rules.

Loan-to-Value Ratio and Down Payment

While we agree that certain down payment requirements are necessary to induce a personal commitment on the part of borrowers to repay their debts, the 20% down payment requirement and the 80% loan-to-value limit on mortgages to purchase a home would exclude far too many qualified borrowers. The median price of a home in Texas in 2009 was $145,800, which would require a down payment of $29,160. The median household income at that time was $48,259, which would mean that a typical family would require a cash payment of more than half of one year's salary.

New Section 129C of the Truth in Lending Act, added by Dodd-Frank, instructs the banking agencies to prescribe regulations that are "necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers." The 20% down payment requirement and the 80% LTV limit will virtually guarantee that "responsible, affordable mortgage credit" will be denied to hundreds of thousands of credit worthy homeowners.

Loss Mitigation

IBAT strongly disagrees with the proposed loss mitigation requirements, which would dictate the time and manner in which lenders must conduct "loss mitigation activities" in the event of a borrower default. This rule, not required by Dodd Frank, goes far beyond the legislation's purpose of mitigating risks in the MBS market.

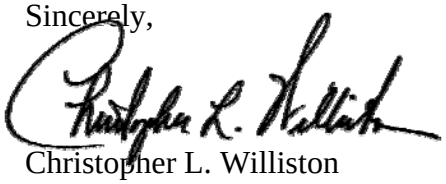
IBAT's member banks continually work with borrowers before resorting to foreclosure, because targeted loan modifications can work to the advantage of both borrower and lender. However, the decision of whether to modify a loan is a highly complicated, fact specific endeavor. To dictate that banks must always conduct loan modifications based solely on whether the net present value of the proceeds realized by such activities would exceed the value of a recovery through foreclosure is a gross interference in a private loan transaction and an unworkable standard. Specifically, the term "loss mitigation activities" is a broadly encompassing term that is not defined in the rules. This will lead to widely varying levels of compliance and encourage litigation.

Finally, please remember that there are extensive state laws governing the rights and remedies of parties to a residential loan transaction in Texas. By imposing federal rules in this area, the proposal takes the extraordinary step of preempting state real property law. This is a highly unusual and potentially unlawful result that should be avoided, especially considering that the original reason for the Proposal—the risks inherent in the mortgage-backed securities market—would not be improved by dictating loss mitigation strategies.

IBAT supports the agencies' efforts to draft strong regulations for the mortgage-backed securities market. But we implore you to adhere to Dodd-Frank's statutory language by removing or limiting the requirements for borrower's credit history, LTV and down payment requirements, and the loss mitigation rules. Each of these proposals has the potential to drastically reduce credit for middle class and low-income borrowers and deal a crushing blow to an already shaky economic recovery.

Thank you for the opportunity to comment.

Sincerely,



Christopher L. Williston
President and CEO