SpiritBank

October 30, 2013

The Honorable Ben S. Bernanke
Chairman of the Board of Governors
Of the Federal Reserve System
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman of the Federal Deposit
Insurance Corporation (FDIC)
Washington, DC 20429

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency (FHFA)
Washington, DC 20552

The Honorable Mary Jo White
Chair of the Securities and
Exchange Commission (SEC)
Washington, DC 20549

The Honorable Shaun Donovan
Secretary of the Department of
Housing and Urban Development (HUD)
Washington, DC 20410

Mr. Thomas J. Curry
Comptroller
Office of the Comptroller of the
Currency (OCC)
Washington, DC 20219

Re: *Statement of Support for Position Held by Coalition for Sensible Housing Policy in respect to the Credit Risk Retention Notice of Proposed Rulemaking under Section 941 of the Dodd-Frank Act*

OCC Docket No. OCC-2013-0010-0001
FDIC: RIN 3064-AD74
FHFA: RIN 2590-AA43
Federal Reserve Docket No. R-1411
SEC: File Number S7-14-11
HUD: RIN 2501-AD-53

Ladies and Gentlemen:

We appreciate this opportunity to speak to the request made by the assembled aforementioned banking agencies (hereafter "banking agencies") in its re-proposed rule related to Credit Risk Retention as mandated by Title IX, Subtitle D of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (hereafter "Dodd-Frank Act")[1].

We would like to state from the onset that the sheer scale and size of the NPR itself is one of such depth that it is not possible to fully address all those points in a single letter and we would respectfully notify the banking agencies that we may wish to submit further comments related to the NPR after the comment period ends October 30, 2013.

The original rule when originally published on August 28 of this year was of extensive length and was "shrunk" to 122 pages upon its publication in the Federal Register on September 20, 2013.[2] However it is still of sufficient amount that time and space does not allow for our full address of each individual issue as we would have preferred. Thus we have limited the scope of

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[1] Public Law 111-203 July 21, 2010 specifically pages 516-524 of 849 as found at http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf
[2] Federal Register Vol.78, No. 183 Friday September 20, 2013 Pages 57928-58048

this commentary to that of the most discussed portion of the NPR, which relates to Credit Risk Retention for residential home mortgages that are securitized.

Given that, our statement herein is one of support for the Comment Letter filed by the Coalition for Sensible Housing Policy (CSHP) on October 30, 2013 with respect to the re-proposed NPR related to Credit Risk Retention.[3]

The CHSP is a diverse association of 51 different organizations spanning civil rights groups, consumer advocacy groups, housing organizations, lenders, real estate professionals and insurers. SpiritBank is an active member of both the American Bankers Association and Mortgage Bankers Association, who are members themselves of the Coalition.

We support fully the position taken by the CHSP as outlined in their own commentary and their most updated white paper entitled *"Updated QRM Proposal Strikes Balance: Preserves Access While Safeguarding Consumers and Market"*.[4] In the white paper, CHSP presents the argument as to why alignment of the Qualified Residential Mortgage (QRM) to the Qualified Mortgage (QM) as promulgated by the Consumer Financial Protection Bureau (CFPB or "the Bureau") provides the most workable form of credit risk retention.

That workable form of credit risk retention is one that must strike a necessary balance between keeping consumer access to housing credit free and open while at the same time effectuating the goals of Sections 941-945 of the Dodd-Frank Act. QRM = QM is the approach we believe best prevents unnecessary economic shocks to the housing sector of the economy which is still too fragile to face further restrictions in credit.

Finally, we would also voice our strong support for the position of CHSP that the banking agencies would reject in full and whole the alternative 30 percent down payment requirement known as "QM-Plus". Even more restrictive than the originally proposed QRM from 2011, QM-Plus would only serve to add further frustration to this fragile housing economy as many borrowers, perhaps as many as 92% of first time buyers and 77% of repeat buyers according to data on page 11 of the white paper, between 2006 and 2012 had less than 30% down payment.

Page 10 of the white paper from CHSP also shows compelling data as to the deleterious impacts of the QM-Plus which that while delinquency is reduced with QM-Plus it also slashes the eligible market share by 83% for purchase mortgage loans. Page 10 also goes on to give very disconcerting information as provided in a January 2012 report from the UNC Center for Community Capital. This report shows the disparate impact of such a high down payment requirement on persons of color.

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[3] Coalition for Sensible Housing Policy http://www.sensiblehousingpolicy.org/

[4] Coalition for Sensible Housing Policy http://sensiblehousingpolicy.org/uploads/White_Paper.pdf

With housing being such an important foundation of the "wealth effect" that is the American Dream, to make affordable credit access available based largely upon a 30% down payment is to hang a millstone about the necks of millions of Americans aspiring to create a better life for themselves and their families.

We would respectfully remind the banking agencies that the intent of Congress in Section 941 of Dodd-Frank ***is not and was not*** to make securitization itself such a difficult practice by erecting massive economic disincentives to that market. Rather the intent was to keep securitization from being a mode of spreading very "bad credit risk" throughout the capital markets.

If a water supply was found to be poisoned by nefarious actors would a concerted effort to destroy the supply and completely rebuild the entire infrastructure and system be one of sound public policy? Of course such a move would not be sound. What would be sound public policy is to work to prevent the nefarious actors from placing the toxins in the water supply in the first place. The approach of QRM=QM assures that only good quality, well underwritten mortgage loans are placed into securitization and if they fail the QM test then risk retention will apply so as to provide substantive economic and capital incentive to securitizers to keep poorly underwritten mortgage loans from the system.

As a community bank, our daily focus is on our customers and the communities in which they live and work. We take seriously the role of a community bank in their market's economy realizing the fundamental part we play in being a provider of credit is not one to be taken lightly. Part of our mission is met through providing secondary market lending.

The providing of housing finance through properly functioning secondary markets in which responsible securitization practices flourish is one in which all of America wins. The equation of QRM with QM or the "QRM=QM" approach is the one which will most likely bring about a robust and healthy market of housing finance securitization.

Finally we would be remiss if we did not offer our compliments and commend all the agencies and their staffs for the incredible amount of time and work that has gone into the re-proposing of this rule. This has obviously been a task of monumental effort and determination. We appreciate the agencies listening to the concerns raised during the previous notice of proposed rulemaking in 2011 in which a more restrictive QRM was proposed which would have had similar impacts to the QM-Plus approach.

We believe that the banking agencies have struck the most appropriate balance by the QRM=QM approach and we applaud the agencies for their very sincere and conscientious efforts to engage with all stakeholders in the American housing finance system in relation to this and other related proposals.

We state again our support for the Coalition for Sensible Housing Policy positions as elucidated upon in their updated white paper referenced in our comments above.

We appreciate this opportunity and please do not hesitate to contact us if we may provide further information and/or commentary.

With every best wish I remain—

Cordially,

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