SPENCER BACHUS, AL, CHAIRMAN

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

BARNEY FRANK, MA, RANKING MEMBER

April 30, 2012

The Honorable Ben S. Bernanke
Chairman
Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

The Honorable Thomas Curry
Comptroller of the Currency
Office of Comptroller of the Currency
250 E Street, S.W.
Washington, DC 20219

The Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Dear Messrs. Bernanke, Curry, and Gruenberg:

As you know, Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) requires your agencies to "remove any reference to or requirement of reliance on credit ratings and substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations." While we recognize your agencies' diligent work in addressing this complex issue, we are writing to identify the key principles that we believe should guide your agencies as you move forward with the proposed rule promulgated to implement Section 939A. We believe adherence to these principles is important to ensure that the rule does not have unintended and adverse consequences for manufacturers, consumers, and businesses of all sizes throughout the United States.

The purpose of Section 939A of the Dodd-Frank Act was two-fold. First, it was intended to eliminate the "government seal of approval" for credit ratings and thereby require investors to conduct independent analysis and due diligence of the assets they purchased rather than blindly rely on a credit rating. Of course, if an entity wishes to use a credit rating as part of its independent analysis, it will do so at its own peril and will be unable to claim that there is any government imprimatur. Second, it was intended to encourage regulators to develop frameworks that more precisely calibrate the credit-worthiness of assets with the risks those assets present. Consistent with this Congressional intent, we believe it is very important that any alternative to credit ratings developed for regulatory capital purposes appropriately reflect the differences in the risk profile of different types of securitization exposures.

Unfortunately, the proposed rule does not adequately ensure that capital requirements are aligned with actual risk. For example, assuming that different collateral pools (e.g., subprime and prime auto loans), or senior and subordinated interests in a given pool of assets, present the same risk of loss is illogical and could unintentionally create incentives for banks to invest in riskier, rather than safer, assets. Moreover, such rules could also negatively affect both the availability and price of credit for the millions of creditworthy consumers, municipalities and businesses that rely directly or indirectly on securitizations to obtain necessary short and long-term funding. This is particularly true for the auto finance industry where the proposed rule will drastically increase securitization funding costs by including a provision that could subject a senior bond in a prime auto loan securitization to more than five times the capital charge as a senior bond in a subprime auto loan securitization.

Because the proposed rule will have wide-ranging implications for the entire U.S. economy, we expect you to appropriately calibrate the rule to avoid disrupting well-functioning securitization markets and harming thriving asset classes such as auto asset-backed securitizations, while also ensuring that private capital may once again support our nation's residential mortgage market. To ensure such an outcome, any final rule to implement Section 939A of the Dodd-Frank Act must ensure that capital requirements are closely aligned with actual risk, thereby promoting the safety and soundness of financial institutions.

Thank you for your attention to this important matter.

Sincerely,

SPENCER BACHUS
Chairman

SCOTT GARRETT
Chairman
Subcommittee on Capital Markets and Government Sponsored Enterprises

JEB HENSARLING
Vice Chairman

JUDY BIGGERT
Chairman
Subcommittee on Insurance, Housing, and Community Opportunity

SHELLEY MOORE CAPITO
Chairman
Subcommittee on Financial Institutions and Consumer Credit

GARY MILLER
Chairman
Subcommittee on International Monetary Policy and Trade

RANDY NEUGEBAUER
Chairman
Subcommittee on Oversight and Investigations