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October 30, 2013

By Electronic Submission

Office of the Comptroller of the Currency
250 E Street, S.W.
Mail Stop 2–3
Washington, D.C. 20219

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., N.W.
Washington, D.C. 20551

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Alfred M. Pollard, Esq.
General Counsel
Federal Housing Finance Agency
1700 G Street, N.W.
Washington, D.C. 20552

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

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

Re: **Notice of Proposed Rulemaking, Credit Risk Retention**
SEC (File No. S7-14-11); FDIC (RIN 3064-AD74); OCC (Docket No. OCC-2013-0010); FRB (Docket No. R-1411);
FHFA (RIN 2590-AA43); HUD (RIN 2501-AD53)

Ladies and Gentlemen:

Invesco Senior Secured Management, Inc. a wholly owned subsidiary of Invesco, Ltd. ("Invesco") is pleased to submit these comments in response to the joint Further Notice of Proposed Rulemaking (the "Re-Proposal"), 78 Fed. Reg. 57928 (Sept. 20, 2013; originally released Aug. 28, 2013) ("FNPRM"), concerning risk retention and the implementation of Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the

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"Dodd-Frank Act").[1]

Invesco Ltd. is a leading independent global investment management firm with over $745 billion of assets currently under management. Invesco and its affiliates (collectively, "Invesco Entities") provide a wide range of investment strategies and vehicles, including Open Market CLOs, open-end and closed-end retail mutual funds (including mutual funds that invest substantially all of their assets in commercial bank loans ("Bank Loan Mutual Funds")), exchange-traded funds and institutional funds. Invesco was one of the earliest entrants in the bank loan management business back in 1990.

Invesco Entities currently manage over $24 billion of commercial bank loans ("Loans") on behalf of Open Market CLOs, Bank Loan Mutual Funds, private collective investment vehicles and other investment vehicles and accounts ("Bank Loan Entities" and, together with Open Market CLOs and Bank Loan Mutual Funds, "Bank Loan Clients"). The ultimate clients of Invesco Entities are retail investors, high net worth investors and institutional investors. The asset selection process employed by Invesco Entities is the same across our client base.

Our bank loan team consists of 38 professionals including 30 highly experienced investment professionals. Our analysts conduct thorough fundamental credit analysis of prospective Loans, and each and every Loan that is allocated to our Bank Loan Clients is first approved by our five person Senior Investment Committee. The same rigor of diligence and credit selection occurs regardless of the ultimate Bank Loan Client, and our process is independent of the initial credit underwriting performed by the arranging bank. If the result of the credit analysis is favorable, the Loan is typically acquired on behalf of multiple Bank Loan Clients. At any given time, there usually is substantial overlap among the Loans held by our various Bank Loan Clients. In fact, there generally are only minor differences between the Loans held by Open Market CLOs managed by Invesco Entities and the Bank Loan Mutual Funds managed by Invesco Entities. This focus on Loans, rather than the entities that acquire them, is a key element to our successful track record and is the cornerstone of our belief that Open Market CLOs should not be subject to the requirements of the Dodd-Frank Act or the Re-Proposal.[2]

The Dodd-Frank Act was enacted at a time when our country and its citizens were under extreme duress. Viewed in that light, one can understand why the provisions of the Dodd-Frank Act were so broad and viewed all securitizations as bad and in need of regulation. History

[1] An affiliate of Invesco is submitting a separate comment letter dated as of October 30, 2013 expressing its view that municipal tender option bonds should not be subject to the credit risk retention requirements under the Dodd-Frank Act or the Re-Proposal.

[2] If it is determined that Open Market CLOs are subject to such requirements, we believe they should be granted an exemption pursuant to the agencies' discretionary authority.

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teaches us, however, that decisions made under duress are often faulty and can have far reaching negative consequences. The Dodd-Frank Act was made under duress and the Re-Proposal is an echo of that duress. Let's not repeat history. It is time to push the stop button and recognize that the net cast by the Dodd Frank Act and the Re-Proposal should not include Open Market CLOs.

The performance of Open Market CLOs was positive before, during and after the credit crisis. That is because the underlying Loans were not a cause of the crisis, and the features of Open Market CLOs worked as designed to protect the holders of the rated debt. In addition, Open Market CLOs do not follow the originate-to-distribute model that Section 941 of the Dodd-Frank Act was designed to address. Similarly, collateral managers should not be construed as a "sponsor" under the meaning contemplated by the Dodd-Frank Act or the Re-Proposal. We are not the "sponsor" of Open Market CLOs. As a result, Open Market CLOs should not be subject to the requirements of the Dodd-Frank Act or the Re-Proposal.[3] If they are, the consequences would be dire. There would be a substantive long term reduction in Open Market CLO issuance and a much smaller Open Market CLO investor base. These reductions would in turn lead to higher financing costs and would cause corporate borrowers to (i) curtail capital spending (which would have negative economic consequences), (ii) cut costs (which could lead to substantial job losses and outsourcing of jobs overseas), and (iii) be less competitive with non-US corporations.

The agencies acknowledged in the Re-Proposal that the standard risk retention requirement contemplated by the Re-Proposal could result in fewer CLO issuances and less competition in the sector. This express acknowledgment must be based on a belief that another investment product in the bank loan space will fill the void that is left if the Open Market CLO business is substantially harmed by the Re-Proposal. We do not believe there is an alternative to Open Market CLOs.[4] Those that currently exist are subject to mark-to-market risk and as a result could never offer the stability and locked in long-term capital that is provided by Open Market CLOs.[5] In addition, Open Market CLOs provide capital that is essential to refinance

[3] Invesco reiterates the stance expressed in our August 2011 letter to the agencies that the requirements of the Dodd-Frank Act and the Re-Proposal should not apply to Open Market CLOs and strongly support the stance of the Loan Syndications and Trading Association ("LSTA") and Structured Finance Industry Group, Inc. ("SFIG") in their current submissions to the agencies that these requirements should not apply to Open Market CLOs.

[4] Open Market CLOs are critical buyers of institutional leveraged loans. Open Market CLOs currently represent 43% of the $664 billion institutional leveraged loan market and are the single largest investor group within the asset class.

[5] Open Market CLOs have a non-call period, a long reinvestment period (usually 4 years) and an 11 to 12 year life. As a result, they are long term holders of Loans and provide meaningful stability to the loan market. This fact stands in stark contrast to the potential short-term nature of public retail funds.

Public retail funds currently represent 22% ($151 billion) of the $664 billion institutional loan universe. This segment has nearly doubled in size over the past twelve months ($82 billion as of September 2013) as retail investors have sought floating rate investments in anticipation of rising rates. The stabilizing effect that Open Market CLOs have on the Loan market has helped fuel the growth of these public retail funds. If Open Market CLO issuance diminishes significantly, the stability afforded by

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outstanding Loans. In 2009, a significant amount of outstanding Loans were scheduled to mature within two to three years. Open Market CLOs played a leading and instrumental role in the successful refinancing of a substantial amount of these Loans. If the Re-Proposal is applied to Open Market CLOs, the capital traditionally provided by them for refinancings would be reduced or eliminated.[6] This scarcity of capital could result in an inability of corporate borrowers to refinance maturing Loans and could cause them to restructure or seek bankruptcy protection. These actions could lead to job losses and a loss of competitive positioning.

We believe affordable credit is essential for job creation and a healthy economy. Many of the companies that seek Loans do not have access to the capital markets. These companies typically use Loans for working capital and to fund expansion. Each of these uses is critical to job creation and growth. If the demand for Loans dries up because Open Market CLOs are subject to the requirements of the Dodd Frank Act and the Re-Proposal, the loss of affordable credit will have far reaching consequences. When access to affordable credit is shut off (as was the case during the depths of the financial crisis), there is chilling effect on the economy as a whole. This domino effect cannot be allowed to happen in light of the fact that the primary aim of the Dodd-Frank Act and the Re-Proposal (*i.e.*, sound underwriting practices) is already satisfied by the key components of Open Market CLOs – multiple credit underwritings and the presence of key features that are designed to protect the holders of rated debt.

In addition to the above, it is also critical to note that each of the three segments in which we conduct business (retail, institutional and Open Market CLOs) is intensely competitive. The success of our business is largely predicated on our performance track record and reputation. As a result, we have a tremendous incentive to choose those Loans that provide the optimal risk-reward relationship for our clients. We also have a powerful economic incentive to select quality Loans. A substantial portion of the asset management fees that we receive from Open Market CLOs are subordinated to the payment of interest and principal payments on the related rated notes and are received over time. If we fail to select quality Loans, income that would otherwise be available to pay the bulk of our on-going fees and to make payments to the related holders of subordinated debt would be diverted to make payments on the rated notes. As a result, these fees should be treated as substantial risk retention by us. The facts described in this paragraph demonstrate a strong alignment of interest between us and all of the investors in our Open

them could be lost, and the public retail funds, given their liquidity provisions, may face greater mark-to-market volatility, especially in a scenario characterized by weakening macroeconomic performance. Such volatility could negatively impact retail investors.

[6] The refinancing issue would be exacerbated if borrowers needed to refinance Loans during a recession. Without Open Market CLOs, the remaining potential lender base would consist primarily of daily and monthly liquidity funds (retail and institutional). During these times, such funds could be subject to substantial redemptions and a risk averse investor base. As a result, they should not be expected to provide meaningful capital to refinance Loans.

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Market CLOs. When this alignment of interest is combined with the structural features of Open Market CLOs, no additional requirements are needed to protect investors and the Loan market in general.

Open Market CLOs have collateral quality tests and concentration limits, which in essence serve as a third layer of underwriting on the Loans held by these entities and help ensure Loan quality and diversification. Open Market CLOs also have overcollateralization and interest coverage tests ("Coverage Tests"). Coverage Tests are unique features of Open Market CLOs and are powerful tools that are designed to drive quality Loan selection and to protect the holders of the rated debt. As described above, a failure to satisfy a Coverage Test will cause payments to be diverted from the collateral manager and the holders of the subordinated debt. As a result, quality Loan selection is essential.

Since the credit crisis, there have been adjustments to the key features of Open Market CLOs and their related components with the end result being there are only minor differences among Open Market CLOs. These features and the related adjustments, together with more rigorous reporting and transparency requirements, emphasize quality Loan selection over novel structural features that may have existed pre-credit crisis. In recognition of these adjustments, and the fact that these key features protected investors during the credit crisis and there have been virtually no defaults on the rated debt of Open Market CLOs, investor demand for issuances by Open Market CLOs have increased dramatically during 2012 and 2013. This level of issuance is sustainable and is necessary for a healthy Loan market. As a result, Open Market CLOs should not be subject to the requirements of the Dodd-Frank Act or the Re-Proposal.

If it is determined that Open Market CLOs are subject to such requirements, we believe they should be granted an exemption pursuant to the agencies' discretionary authority. If the agencies decline to exercise this authority, we request that the agencies adopt the alternative methods of risk retention proposed by the LSTA and SFIG in their current submissions to the agencies. We believe these alternative methods are reflective of the unique aspects of Loans and Open Market CLOs when compared to other types of ABS and satisfy the requirements of the Dodd-Frank Act and the Re-Proposal. Under no circumstances, however, should any form of risk retention adopted by the agencies for Open Market CLOs include the lead arranger option or the requirement that distributions to the holder of a horizontal position be limited in the manner contemplated under the Re-Proposal. These aspects of the Re-Proposal are not workable in any respect and should be abandoned. We note that the request to consider the alternative methods is borne out of necessity versus desire and should not be construed to undermine our view that Open Market CLOs should not be subject to the requirements of the Dodd-Frank Act or the Re-Proposal.

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Invesco appreciates the agencies' consideration of these comments and would be pleased to provide additional information or assessments that might assist the agencies' decision-making. Please feel free to contact Scott Baskind at 212-278-9441 or Gregory Stoeckle at 212-278-9208 in the event you have questions regarding these observations and conclusions.

Sincerely,

Scott Baskind