

CONCOMITANT CAPITAL LLC, CHARLES KASSOUF

Proposal and Comment Information

Title: Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-weighted Assets, R-1888

Comment ID: FR-2026-0008-01-C273

Submitter Information

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Organization Type: Company

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Thank you for the opportunity to comment. Please see our letter attached.



Concomitant Capital LLC

June 18, 2026

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Office of the Comptroller of the Currency
Chief Counsel's Office
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets (OCC Docket ID: OCC-2026-0034; Federal Reserve Docket No. R-1888, and RIN 7100-AH21; FDIC RIN 3064-AG23) (the "Proposal")

Dear Members of the Board, Comptroller, and Directors:

I. Introduction and Summary

Concomitant Capital LLC is pleased to submit these comments to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the "Agencies") on the Proposal's introduction of eligible prepaid credit protection arrangements as a recognized credit risk mitigant (Section III.D.3.) and the related synthetic securitization framework (Section III.E.), as those provisions apply to funded credit risk transfer ("CRT") transactions referencing portfolios of government-guaranteed loans.

Concomitant Capital LLC is a private credit manager developing a funded credit risk transfer platform for the retained unguaranteed portions of government-guaranteed commercial loan portfolios held by community and regional lenders. Its proposed platform is designed to allow participating lenders to transfer defined credit risk on retained unguaranteed exposures through fully funded, lender-specific CRT transactions while preserving lender-of-record status, servicing control, and the integrity of the applicable federal guaranty. Concomitant Capital LLC therefore has a direct commercial and practical interest in the treatment of funded credit protection, synthetic credit risk transfer, and standardized capital recognition under the Proposal.

Concomitant Capital LLC submits these comments solely on its own behalf and does not purport to speak for, represent, or state the views of the Small Business Administration, the U.S.



Department of Agriculture, or any other federal guaranty agency. These comments do not request any approval, waiver, eligibility determination, no-action position, interpretive guidance, or other assistance from any such agency with respect to any specific transaction or program.

The standardized approach, as proposed to be revised by the Proposal, governs the capital requirements of the community and regional lenders for whom funded CRT on government-guaranteed loan portfolios is most relevant: lenders holding SBA 7(a) loans, SBA 504 loans, USDA Business and Industry loans, and similar federally guaranteed commercial loan exposures. The Agencies' stated goal of improving risk sensitivity while retaining the simplicity of the standardized approach is best served by the clarifications and safe harbor requested in these comments.

In a funded CRT transaction of the type addressed here, the reference exposure is the participating lender's retained unguaranteed credit exposure on government-guaranteed commercial loans, after giving effect to the applicable federal guaranty and any separate sale of the guaranteed portion in an established secondary market. A lender-specific special purpose vehicle ("SPV") funded by institutional investors deposits cash onto the participating lender's balance sheet under a Credit-Linked Deposit Account Agreement. Simultaneously, the lender and SPV enter into a credit default swap ("CDS") under the ISDA Master Agreement, under which the lender pays a periodic protection premium and receives funded credit protection against losses on the retained unguaranteed reference exposure above a retained first-loss position. The lender retains lender-of-record status, ownership of the retained exposure, and servicing and liquidation authority over the reference loans. No loan, participation interest, or borrower relationship is sold or assigned to the SPV or to investors. Any separate sale of a federally guaranteed portion into an established secondary market remains outside the funded CRT and is unaffected by it.

A central feature of the structure is that the lender retains a first-loss position sized by reference to expected first loss on the retained unguaranteed exposure, using documented loan performance, underwriting history, and objective portfolio characteristics. The funded CRT therefore transfers only a defined mezzanine layer of credit risk after the lender's retained first-loss position has been exhausted. This approach is more targeted than a cash securitization structure in which subordination may be sized to satisfy rating-agency and investor credit-enhancement requirements rather than to isolate the lender's empirically derived expected first-loss exposure.

These comments request that the Agencies clarify the treatment of funded synthetic mezzanine CRT transactions under the synthetic securitization framework. In the structure addressed here, the participating lender retains a first-loss position on the retained unguaranteed reference exposure and transfers a defined mezzanine layer of credit risk to a fully funded SPV. Because losses are allocated by seniority rather than strictly pro rata, the transaction should be evaluated under the synthetic securitization framework. The Agencies should adopt a safe harbor for qualifying funded synthetic mezzanine CRT transactions referencing retained unguaranteed exposures on government-guaranteed commercial loans, under which the fully funded protected



tranche receives standardized capital recognition while the lender remains responsible for retained and uncovered risk.

Government-guaranteed loan programs are uniquely suited to a standardized funded CRT framework. Unlike conventional commercial loan portfolios, eligibility criteria, guaranty percentages, servicing requirements, liquidation procedures, and loss-settlement methodologies are established by federal program rules and administered through established government processes. These characteristics materially reduce transaction heterogeneity, operational uncertainty, and model risk, making government-guaranteed commercial loan portfolios particularly appropriate candidates for a regulatory safe harbor under the standardized approach and the parallel expanded risk-based approach rulemaking.

II. Responses to Specific Questions

A. Eligible Prepaid Credit Protection Arrangements (Questions 31-33)

***Question 31:** Under the definition of eligible prepaid credit protection arrangement, the proposal would require that a protection purchaser be able to reduce the outstanding balance due to the protection provider promptly upon realizing or otherwise recognizing a loss on the reference exposure, in the event that the obligor on one or more reference exposures fails to make a contractually required payment, or the occurrence of other credit events as described in the arrangement. What, if any, are the exposure types in respect of which, or circumstances when, a protection purchaser may be exposed to losses before such losses are manifested in a way that would permit a reduction in the protection purchaser's repayment obligation? For example, what would be the instances where nonpayment or other loss on the reference exposure may not always result in an accounting write-down of the eligible prepaid credit protection arrangement at the same time? What, if any, changes to the proposed definitions of prepaid credit protection arrangement and eligible prepaid credit protection arrangement should the agencies consider to further ensure that a protection purchaser would be able to reduce its repayment obligation on a prepaid credit protection arrangement as contemporaneously as possible with the manifestation of losses in respect of a reference exposure?*

For government-guaranteed loan portfolios, credit-event determination and loss measurement are capable of being tied to objective, auditable program processes. A lender's net economic loss is generally established through the applicable federal guaranty agency's or program administrator's purchase, repair, denial, charge-off, liquidation, or other loss-settlement process, depending on the program and the specific facts of the loan. The relevant point for regulatory capital purposes is not that every program eliminates all timing differences among delinquency, default, charge-off, guaranty payment, and recovery. Rather, it is that the transaction documents can define the credit event and settlement amount by reference to an externally administered federal guaranty process rather than by unilateral internal judgment.

The Agencies should confirm that, for government-guaranteed loan CRTs, the eligible prepaid credit protection definition may be satisfied where the Credit-Linked Deposit Account Agreement and related CDS permit the lender to reduce the outstanding deposit balance



promptly upon an objective credit-event or loss-settlement determination under the applicable federal guaranty program or by the applicable federal guaranty agency or program administrator. Such determinations may include, as applicable, a guaranty purchase determination, charge-off, repair or denial determination, liquidation loss calculation, or other program-specific loss determination. The arrangement should not require further discretionary consent from the SPV or investors after the credit event has occurred and the settlement amount has been determined under the agreed methodology.

This treatment would align the proposed rule with the economic substance of the protection. The lender has received cash when the covered reference exposure is added; the deposit balance is subject to contractual reduction when an objectively determined covered loss occurs; and the lender does not rely on future funding by the protection provider at the point of stress. In addition, the final rule should confirm that legal enforceability of the lender's set-off, recoupment, or contractual reduction rights may be supported by customary legal opinions and account-control provisions appropriate for a fully funded bank deposit arrangement.

Question 32: *The proposal would define the protection amount of an eligible prepaid credit protection arrangement to mean the effective notional amount of the prepaid credit protection. Certain credit-linked notes that may qualify as eligible prepaid credit protection under the proposal, are sometimes accounted for on a fair value basis. The fair value of such credit-linked notes may be affected by factors other than losses or credit events (for example, a change in interest rates) in respect of the reference exposure. As a result, at the time that credit losses in respect of the reference exposure are realized, the fair value of the credit-linked note, and the amount by which the covered banking organization may set off its losses in respect of the reference exposure, may be less than the notional amount of the note. What, if any, modifications to the proposal should the agencies consider to address the risk that a covered banking organization may not be able to set off losses on a reference exposure against the full notional amount of a prepaid credit protection instrument? What would be the advantages and disadvantages of defining the protection amount of an eligible prepaid credit protection instrument to be the instrument's carrying value (for example, the fair value if the covered banking organizations elects this accounting treatment)?*

Where CLNs are accounted for at fair value, the Agencies' concern about volatility in the instrument's carrying amount is legitimate, and a carrying-value floor, notional haircut, or similar approach may be appropriate for those instruments. A credit-linked deposit is materially different from a credit-linked note accounted for at fair value. The credit-linked deposit is a bank deposit carried at its outstanding principal balance - the initial amount deposited less pre-agreed reductions corresponding to amortization, prepayments, and credit-event settlements on the covered exposure - and does not fluctuate with interest rates or credit spreads. Because the deposit earns a contractually fixed or floating rate paid by the lender and is not traded or marked to a secondary market, its carrying value is not affected by movements in market interest rates or credit spreads applicable to the reference portfolio. The concern the Agencies identify regarding fair-value volatility of credit-linked notes therefore does not arise for deposit instruments of this type.



The Agencies should confirm two points. First, the protection amount of a credit-linked deposit is its outstanding principal balance, not its fair value, provided that the deposit is subject to enforceable contractual reduction upon covered credit losses and is not subject to withdrawal, release, or impairment inconsistent with its credit protection function. Scheduled reductions to the deposit balance for amortization, prepayments, and covered credit-event settlements are not impairments of the protection; they are pre-agreed mechanical adjustments that correspond to reductions in the protected reference exposure. This treatment eliminates any mismatch between the protection amount and the lender's ability to set off or otherwise apply the deposit at the time of a credit event. Second, this carrying-value treatment applies at the lender level regardless of whether the Fund or another platform-level vehicle has issued CLNs to institutional investors that those investors account for at fair value. The relevant protection amount for the lender's capital calculation is the deposit balance on the lender's balance sheet and the lender's enforceable right to reduce that balance in respect of covered losses.

Question 33: *The definition of prepaid credit protection requires that the protection purchaser is obligated to repay the initial principal amount to the protection provider on or before the maturity date of the transaction, less any losses that the protection purchaser realizes or otherwise recognizes due to nonpayment of all contractual payments due to be paid on the reference exposure by the obligors. The agencies seek comment as to whether the definition is sufficiently broad to capture the types of prepaid credit protection arrangements that covered banking organizations may enter into to transfer credit risk. For example, may prepaid credit protection arrangements be structured to allow for a reduction in the initial principal amount of the arrangement upon the recognition of losses on one or more reference exposures due to credit quality deterioration of the exposures, even in the absence of any nonpayment. If so, what if any changes to the definition of prepaid credit protection should the agencies consider?*

The Agencies should confirm that the existing definition - requiring nonpayment or other defined credit events - is appropriate and need not be expanded to cover credit quality deterioration alone. For government-guaranteed loans, the lender's economic loss is generally not realized merely because credit quality has deteriorated. It is realized when default, liquidation, guaranty treatment, recoveries, and other program-specific loss determinations establish the lender's net loss. A deterioration-based trigger would require deposit reduction before any actual loss has been incurred, producing a mismatch between regulatory capital treatment and economic reality.

For funded CRT on government-guaranteed loan portfolios, transaction-specific credit events including Failure to Pay, bankruptcy, charge-off, guaranty purchase, guaranty repair or denial, liquidation loss determination, or other program-specific settlement events should be permitted where tied to objective loss determination under the applicable federal guaranty program. This approach is consistent with the purpose of prepaid credit protection: the protection purchaser's repayment obligation is reduced when a covered loss has been realized or otherwise recognized under an objective and enforceable methodology.

These same principles apply with equal force to the funded synthetic mezzanine CRT structure, where three additional confirmations are warranted. First, where the lender retains a



meaningful first-loss position and transfers a defined mezzanine layer of credit risk to a fully funded SPV, the transaction should be evaluated under the synthetic securitization framework and should be eligible for the safe harbor requested in Section III. Second, because the protection is fully pre-funded and the credit-linked deposit is on the lender's balance sheet when the related reference exposure is added, the lender faces no counterparty credit risk with respect to the SPV's future performance obligation. The lender's right to reduce the deposit balance is self-executing upon credit-event determination and requires no affirmative act by the SPV. Accordingly, no counterparty credit risk capital charge should apply to the lender with respect to the SPV's performance obligation on the fully funded protected tranche. Third, scheduled amortization, prepayment, or covered credit-event reduction of the protected notional should not create a maturity mismatch where the related credit-linked deposit is reduced in the same manner as the covered reference exposure.

The Agencies should also clarify that scheduled amortization of the protected notional to match scheduled principal amortization of the reference pool does not create a maturity mismatch. In a loan-level funded CRT, the protection amount declines because the underlying covered exposure declines through scheduled amortization, prepayment, or covered credit-event settlement. That result is different from a transaction in which credit protection matures before the reference exposure and leaves the lender exposed to unprotected residual credit risk.

B. Synthetic Securitization Framework (Questions 39-42)

Although the lender-level transaction of a deposit plus CDS is a bilateral funded credit protection arrangement, a transaction in which the lender retains first-loss risk and transfers a mezzanine tranche may be treated as a synthetic securitization because losses are allocated by seniority rather than strictly pro rata. The Agencies should therefore clarify how the synthetic securitization framework applies to funded CRT transactions referencing closed-end government-guaranteed commercial loan portfolios. Three aspects of the framework require clarification.

Question 39: *What, if any, additional exceptions to the early amortization provision definition should the agencies consider and why, provided such exceptions would not incentivize a covered banking organization to provide implicit support to a securitization exposure? In particular, is the current rule's exception where early amortization "is triggered solely by events not directly related to the performance of the underlying exposures or the originating institution (such as material changes in tax laws or regulations)" sufficiently clear? What types of early termination events should qualify as events not directly related to either the performance of the underlying exposures or the originating banking organization? Should events not directly related to the performance of the underlying exposures or the originating banking organization include customary provisions designed to protect against non-performance of various contractual obligations by one of the parties facilitating the securitization (including the originating banking organization, if it has such a transaction facilitating role, for example by acting as a servicer)? Commenters are also asked to describe under what circumstances could a provision in a revolving loan securitization that, when triggered, causes investors in the securitization exposures to be repaid before the original stated maturity of the securitization exposures, leaves*



investors “fully exposed to future draws by borrowers on the underlying exposures even after the provision is triggered”, or otherwise should be deemed not to be an early amortization provision. What are the advantages and disadvantages of “fully exposed” encompassing only cash-funded exposures versus also including exposures in the form of contractual commitments to provide funding?

The early amortization requirements address the risk that wind-down of a securitization referencing revolving credit facilities could require the originating institution to fund future borrower draws after investors have been repaid or otherwise insulated. That policy concern does not apply to funded synthetic mezzanine CRT transactions referencing closed-end government-guaranteed commercial loan exposures, including exposures added from time to time under the transaction documents, where capital recognition is available only after the applicable exposure is supported by a corresponding credit-linked deposit. The covered reference exposures do not include revolving borrower commitments or future-draw obligations. Although the SPV or Fund may use a capital call facility or similar financing arrangement to fund credit-linked deposits for newly added loans, that funding arrangement is separate from the borrower’s loan exposure and does not create a future borrower draw that could be shifted back to the originating bank through an early amortization feature. Because no capital relief is recognized with respect to any reference exposure until the corresponding credit-linked deposit has been funded and placed, the loan-addition feature does not create the future-draw risk that early amortization provisions are designed to address.

The Agencies should confirm that funded CRT transactions referencing closed-end government-guaranteed commercial loan exposures are not subject to the early amortization capital requirements where the reference exposures have no revolving borrower commitment or future-draw feature, including where eligible exposures are added from time to time and each added exposure is supported by a corresponding credit-linked deposit. The Agencies should also confirm that customary termination events designed to protect against non-performance by transaction parties - including servicer replacement, tax, regulatory, illegality, or documentation-failure events - should not be treated as early amortization provisions where they do not reduce investor exposure to credit losses on future draws and do not create an incentive for the originating bank to provide implicit support. These events protect against non-performance by transaction parties and preserve the integrity of the structure; they are not designed to insulate investors from credit losses on the reference pool. To the extent the Agencies clarify the “fully exposed” standard, they should confirm that it applies only where investors retain meaningful exposure to future borrower draws, whether cash-funded or committed, and does not extend to transactions where no such draws exist.

Finally, the Agencies should confirm that a clean-up call exercisable when the outstanding reference pool or protected notional has amortized to a de minimis level, such as 10 percent of its original balance, is not an early amortization provision when it is consistent with customary clean-up call treatment and does not permit the originating bank to shield investors from credit deterioration before stated maturity. Such a clean-up call should be exercisable only after giving effect to all accrued premiums, covered credit-event settlements, pending loss determinations, deposit reductions, and other amounts then due under the transaction documents.



This treatment is consistent with securitization market convention and existing regulatory treatment of clean-up calls, and it prevents a clean-up call from functioning as implicit support.

Question 40: *What clarifications or modifications should the agencies consider for the above proposed definition of synthetic excess spread and why?*

Question 41: *What are the advantages and disadvantages of the proposed treatment of synthetic securitizations with synthetic excess spread? If the agencies were to permit a covered banking organization that is an originating banking organization to recognize the credit risk-mitigation benefits of securitizations with synthetic excess spread, how should the exposure amount of the synthetic excess spread be calculated, and what would be the appropriate capital requirement for synthetic excess spread?*

A fixed periodic CDS premium paid by the lender to the SPV in exchange for funded credit protection is not synthetic excess spread. It is compensation for the credit protection provided. It does not absorb losses before the protected tranche, does not create a reserve account, is not trapped or redirected based on reference pool performance, and does not change in amount or application based on credit losses in the reference pool except to the extent it is calculated on declining outstanding protected notional. The premium declines because the outstanding protected notional declines through scheduled amortization, prepayment, or covered credit-event settlement, the same mechanical reduction that reduces the deposit balance, not because credit losses are being redirected or trapped in a spread account.

The Agencies should confirm that a fixed periodic protection premium does not constitute synthetic excess spread and does not affect the lender's ability to recognize the risk-mitigation benefit of the funded CRT. The Agencies should also confirm that: (i) returning the unused deposit balance to the SPV at maturity does not constitute synthetic excess spread; (ii) scheduled amortization reductions to the deposit balance driven by scheduled principal payments on reference exposures do not constitute synthetic excess spread; and (iii) a clean-up call at a de minimis outstanding pool balance does not constitute synthetic excess spread where the call price is based on the remaining deposit balance and covered settlement mechanics, not on trapping future excess cash flow for loss absorption. Because the call price is limited to the remaining deposit balance after all pending credit-event settlements and accrued premiums have been applied, the originating bank receives no benefit from future reference pool performance and has no incentive to exercise the call to shield investors from incipient losses. To the extent the Agencies retain a synthetic excess spread framework for structures that do employ such mechanics, the exposure amount should reflect only the amount of spread contractually available to absorb losses before tranche allocation, not the total periodic protection payment stream. Capitalizing the full payment stream would overstate risk and conflate compensation for funded protection with first-loss credit enhancement.

If a separate platform-level CLN securitization uses excess spread, reserve-account mechanics, or other features designed to absorb losses before any tranche is allocated loss, that platform-level feature should be analyzed separately at the platform level. It should not alter the treatment of the lender-level credit-linked deposit and CDS where the lender-level premium is a



fixed contractual payment for funded credit protection and is not available to absorb credit losses.

Question 42: *What are the benefits and drawbacks of the proposed minimum payment threshold criterion? What, if any, additional criteria or clarifications should the agencies consider and why?*

The ISDA standard \$1,000,000 minimum payment threshold reflects market practice for large corporate and sovereign reference obligations. For funded CRT transactions referencing government-guaranteed commercial loan portfolios originated by community and regional lenders, individual reference exposures are frequently well below that threshold. Applying the large-corporate standard would prevent many individual credit events from triggering loss settlement, defeating the risk-transfer purpose of the structure and leaving the lender with capital relief that does not align with actual loss transfer.

Because covered losses under the funded CRT are defined by reference to objective credit-event and loss-settlement determinations under the applicable federal guaranty program, the transaction does not require a large minimum payment threshold to distinguish real credit losses from de minimis payment issues. For example, on a \$500,000 government-guaranteed commercial loan with a 75 percent guaranty, the lender's retained unguaranteed exposure is \$125,000. A \$1,000,000 minimum payment threshold would be eight times the total retained unguaranteed exposure on that loan, making it impossible for any credit event on that exposure to trigger protection regardless of loss severity. The Agencies should therefore confirm that, for funded CRT transactions referencing government-guaranteed commercial loan portfolios, no separate large-corporate ISDA-style payment threshold is required where covered losses are determined under objective federal guaranty program settlement mechanics. If the Agencies require a minimum payment threshold, the final rule should permit a nominal threshold, such as \$1, or another similarly calibrated threshold, provided that deposit reduction is available only upon a covered credit event and recognized loss under the applicable transaction documents.

III. Request for Safe Harbor

The Agencies should adopt a safe harbor in the final rule providing that a qualifying funded CRT transaction referencing government-guaranteed commercial loan exposures receives standardized capital recognition. Under the safe harbor, the fully funded protected tranche would receive capital recognition consistent with effective risk transfer, the lender would retain capital only for retained and uncovered risk, and the transaction would not be disqualified by early amortization or synthetic excess spread provisions that do not implicate the policy concerns underlying those rules.

The safe harbor should be available for funded CRT transactions satisfying the following structural criteria:

- **Retained unguaranteed reference exposures.** The reference pool consists of eligible SBA 7(a), USDA, or similar government-guaranteed commercial loans that do not include



revolving borrower commitments or future-draw exposure. The funded CRT covers only the lender's retained unguaranteed exposure on those loans and does not transfer or assign the federally guaranteed portion or related guaranty to the SPV or investors.

- **Full funding of each covered exposure.** The credit protection for each covered reference exposure is fully funded in the form of a credit-linked deposit on the lender's balance sheet when that exposure is added to the funded CRT. The lender should receive capital recognition only for covered exposures supported by a funded credit-linked deposit. Any capital call facility or similar financing arrangement used by the SPV or Fund to fund future credit-linked deposits is separate from the covered borrower exposure and does not create an unfunded credit protection benefit for the lender before the related deposit is made.

- **Enforceable deposit-reduction mechanics.** The Credit-Linked Deposit Account Agreement and related credit protection documentation provide the lender an enforceable right to reduce the applicable credit-linked deposit balance upon covered credit-event settlement, without requiring discretionary consent from the SPV or investors after the credit event has occurred and the settlement amount has been determined.

- **Meaningful first-loss retention.** The lender retains a contractually specified first-loss position on the retained unguaranteed exposure, sized by reference to expected first loss derived from documented loan performance, underwriting history, and objective portfolio characteristics. The funded CRT covers only a defined mezzanine layer above that retained first-loss position, ensuring that the lender remains aligned with credit outcomes before the protected tranche absorbs losses.

- **Retention of lender-of-record status and servicing authority.** The lender retains lender-of-record status and servicing and liquidation authority over the reference exposures throughout the life of the transaction. No loan, participation interest, borrower relationship, servicing right, or federal guaranty is sold, assigned, participated, or transferred to the SPV or investors by reason of the CRT.

- **Federal guaranty unaffected.** The applicable federal guaranty is calculated, administered, and applied in the ordinary course without modification, subordination, impairment, or assignment to the SPV or investors by reason of the CRT.

- **Maturity and amortization alignment.** The protected notional and related credit-linked deposit amortize in a manner that corresponds to scheduled principal amortization, prepayments, and covered credit-event settlements on the applicable reference exposure. The protection should not mature before the covered exposure in a manner that leaves the lender with unprotected residual credit risk.

- **Clean-up call.** The transaction may permit the lender to terminate the funded CRT once the outstanding reference pool balance or protected notional has amortized to a de minimis level, such as 10 percent or less of its original balance. The clean-up call should be exercisable only after giving effect to all accrued premiums, covered credit-event settlements, pending loss



determinations, deposit reductions, and other amounts then due under the transaction documents. A clean-up call structured in this manner should not be treated as an early amortization provision, synthetic excess spread, or implicit support mechanism because it is based on administrative efficiency at de minimis pool size and not on shielding investors from credit deterioration.

- **No synthetic excess spread.** The lender's premium is a fixed contractual protection payment and is not trapped, redirected, or otherwise used to absorb losses before allocation of losses to the protected tranche.

- **Documentation, reporting, and supporting protections.** The CDS or other credit protection arrangement is documented under the ISDA Master Agreement or other legally enforceable documentation appropriate for the reference asset class and the applicable federal guaranty program. The transaction includes objective reporting, calculation, and verification procedures sufficient to monitor reference exposure performance, loan additions, credit-event settlement, deposit reductions, and compliance with the transaction's eligibility criteria. The safe harbor should permit customary supporting protections that do not alter the risk-transfer analysis, including tax, regulatory, illegality, and documentation-failure termination events, independent calculation or verification agents, and servicing-continuity or replacement-servicing arrangements where consistent with applicable federal program rules. Such provisions should not be treated as early amortization provisions, synthetic excess spread, or implicit support mechanisms solely because they facilitate orderly administration of the funded CRT.

Community and regional banks holding retained unguaranteed exposures in government-guaranteed commercial loan portfolios bear the capital cost of those exposures with limited practical means of relief. Large banking organizations can achieve comparable capital reduction through cash securitization, a structurally more complex and operationally more burdensome transaction that transfers defined credit risk to private capital markets investors while allowing the originating institution to retain the customer relationship and servicing function. For community and regional lenders, funded CRT can provide a more targeted risk-transfer tool: the lender retains an expected first-loss position sized by reference to documented loan performance and underwriting history, while the funded SPV assumes a defined mezzanine layer of retained unguaranteed credit risk.

Without a safe harbor, community and regional lenders must absorb the individualized legal, accounting, and regulatory analysis costs that make bespoke risk transfer transactions economically inaccessible. The structural criteria above, including full funding, enforceable deposit-reduction rights, meaningful first-loss retention, no transfer of borrower relationships, loan-level funding of each covered exposure, no revolving borrower commitments or future-draw exposure, and objective reporting and calculation controls, ensure that capital recognition is available only where effective risk transfer has actually occurred, consistent with the Proposal's risk-sensitivity objectives.



IV. Conclusion

The Agencies should confirm in the final rule that: (1) funded synthetic mezzanine CRT transactions referencing retained unguaranteed exposures on government-guaranteed commercial loans should receive standardized capital recognition under a synthetic securitization safe harbor where the protected tranche is fully funded by a credit-linked deposit; (2) the protection amount of a credit-linked deposit is its outstanding principal balance, not fair value, and no counterparty credit risk charge should apply to the lender with respect to the SPV's future performance obligation given the fully pre-funded nature of the deposit; (3) funded CRT transactions referencing closed-end government-guaranteed commercial loan exposures with no revolving borrower commitment or future-draw feature, including exposures added from time to time where each added exposure is supported by a corresponding credit-linked deposit, should not be subject to early amortization capital requirements; (4) a fixed periodic CDS premium does not constitute synthetic excess spread; (5) the minimum payment threshold may be calibrated to actual reference pool exposure sizes rather than the large-corporate ISDA standard; (6) scheduled amortization of protected notional to match reference exposure amortization should not create a maturity mismatch; and (7) a clean-up call at a de minimis outstanding pool balance, such as 10 percent of original balance, should be treated consistently with customary clean-up call principles.

The same clarifications should apply consistently across both the standardized approach and the expanded risk-based approach rulemakings.

Concomitant Capital LLC welcomes the opportunity to provide additional information at the request of the Agencies.

Respectfully submitted,

Charles Kassouf

Charles Kassouf

Co-Founder and Managing Director

Concomitant Capital LLC