

**Supporting Statement
Credit Risk Retention
OMB Control No. 1557-0249**

A. Justification.

1. Circumstances that make the collection necessary:

This information collection request relates to a joint notice of proposed rulemaking issued to implement section 941(b) of the Dodd-Frank Act.¹ Section 941(b) of Dodd-Frank requires the OCC, FRB, FDIC, SEC, and, in the case of the securitization of any residential mortgage asset, the FHFA and HUD to issue rules that, subject to certain exemptions: (a) require a securitizer to retain not less than 5% of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; and (b) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under the statute and implementing regulations.

The proposed rule sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities. The disclosure and recordkeeping requirements associated with the various forms of risk retention will enhance market discipline, help ensure the quality of the assets underlying a securitization transaction, and provide the information necessary for investors to adequately evaluate transactions.

Section 15G of the Exchange Act exempts certain types of securitization transactions from these risk retention requirements and authorizes the agencies to exempt or establish a lower risk retention requirement for other types of securitization transactions. In addition, section 15G states that the agencies must permit a securitizer to retain less than five percent of the credit risk of commercial mortgages, commercial loans, and automobile loans that are transferred, sold, or conveyed through the issuance of ABS by the securitizer if the loans meet underwriting standards established by the Federal banking agencies.²

In April 2011, the agencies published a joint notice of proposed rulemaking that proposed to implement section 15G of the Exchange Act.³ The proposed rule amends and replaces, in its entirety, the 2011 proposal.

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010)).

² 15 U.S.C. § 78o-11(c)(1)(B)(ii) and (2).

³ 76 FR 24090 (April 29, 2011).

2. Use of the information:

The information requirements in the joint regulations proposed by the three Federal banking agencies and the Commission are found in sections __.4, __.5, __.6, __.7, __.8, __.9, __.10, __.11, __.13, __.15, __.16, __.17, and __.18. The agencies believe that the disclosure and recordkeeping requirements associated with the various forms of risk retention will enhance market discipline, help ensure the quality of the assets underlying a securitization transaction, and assist investors in evaluating transactions. Compliance with the information collections would be mandatory. Responses to the information collections would not be kept confidential and, except for the recordkeeping requirements set forth in sections __.4(e) and __.5(g)(2), there would be no mandatory retention period for the proposed collections of information.

Section-by-Section Analysis

Section __.4 sets forth the conditions that must be met by sponsors electing to use the standard risk retention option, which may consist of an eligible vertical interest or an eligible horizontal residual interest, or any combination thereof. Sections __.4(d)(1) and __.4(d)(2) specify the disclosures required with respect to eligible horizontal residual interests and eligible vertical interests, respectively.

A sponsor retaining any eligible horizontal residual interest (or funding a horizontal cash reserve account) is required to calculate the Closing Date Projected Cash Flow Rate and Closing Date Projected Principal Repayment Rate for each payment date, and certify to investors that it has performed such calculations and that the Closing Date Projected Cash Flow Rate on any payment date does not exceed the Closing Date Projected Principal Repayment Rate on such payment date (§__4(b)(2)).

Additionally, the sponsor is required to disclose: the fair value of the eligible horizontal residual interest retained by the sponsor and the fair value of the eligible horizontal residual interest required to be retained (§__4(d)(1)(i)); the material terms of the eligible horizontal residual interest (§__4(d)(1)(ii)); the methodology used to calculate the fair value of all classes of ABS interests (§__4(d)(1)(iii)); the key inputs and assumptions used in measuring the total fair value of all classes of ABS interests, and the fair value of the eligible horizontal residual interest retained by the sponsor (§__4(d)(1)(iv)); the reference data set or other historical information used to develop the key inputs and assumptions (§__4(d)(1)(v)); the number of securitization transactions securitized by the sponsor during the previous five-year period in which the sponsor retained an eligible horizontal residual interest pursuant to this section, and the number (if any) of payment dates in each such securitization on which actual payments to the sponsor with respect to the eligible horizontal residual interest exceeded the cash flow projected to be paid to the sponsor on such payment date in determining the Closing Date Projected Cash Flow Rate (§__4(d)(1)(vi)); and the amount placed by the sponsor in the horizontal cash reserve account at closing, the fair value of the eligible horizontal residual interest that the sponsor is required to fund through such account, and a description of such account (§__4(d)(1)(vii)).

For eligible vertical interests, the sponsor is required to disclose: whether the sponsor retains the eligible vertical interest as a single vertical security or as a separate proportional interest in each class of ABS interests in the issuing entity issued as part of the securitization transaction (§__4(d)(2)(i)); for eligible vertical interests retained as a single vertical security, the fair value amount of the single vertical security retained at the closing of the securitization transaction and the fair value amount required to be retained, and the percentage of each class of ABS interests in the issuing entity underlying the single vertical security at the closing of the securitization transaction and the percentage of each class of ABS interests in the issuing entity that would have been required to be retained if the eligible vertical interest was held as a separate proportional interest (§__4(d)(2)(ii)); for eligible vertical interests retained as a separate proportional interest in each class of ABS interests in the issuing entity, the percentage of each class of ABS interests in the issuing entity retained at the closing of the securitization transaction and the percentage of each class of ABS interests required to be retained (§__4(d)(2)(iii)); and information with respect to the measurement of the fair value of the ABS interests in the issuing entity (§__4(d)(2)(iv)).

Section __.4(e) requires a sponsor to retain the certifications and disclosures required in paragraphs (b) and (d) of this section in written form in its records and must provide the disclosure upon request to the Commission and its appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding.

Section __.5 requires sponsors relying on the revolving master trust risk retention option to disclose: the value of the seller's interest retained by the sponsor, the fair value of any horizontal risk retention retained by the sponsor under §__5(f), and the unpaid principal balance value or fair value, as applicable, the sponsor is required to retain (§__5(g)(1)(i)); the material terms of the seller's interest and of any horizontal risk retention retained by the sponsor under §__5(f) (§__5(g)(1)(ii)); and if the sponsor retains any horizontal risk retention under §__5(f), the same information as is required to be disclosed by sponsors retaining horizontal interests (§__5(g)(1)(iii)). Additionally, a sponsor must retain the disclosures required in §__5(g)(1) in written form in its records and must provide the disclosure upon request to the Commission and its appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§__5(g)(2)).

Section __.6 addresses the requirements for sponsors utilizing the eligible ABCP conduit risk retention option. The requirements for the eligible ABCP conduit risk retention option include disclosure to each purchaser of ABCP and periodically to each holder of commercial paper issued by the ABCP conduit of the name and form of organization of the regulated liquidity provider that provides liquidity coverage to the eligible ABCP conduit, including a description of the form, amount, and nature of such liquidity coverage, and notice of any failure to fund; and with respect to each ABS interest held by the ABCP conduit, the asset class or brief description of the underlying receivables, the standard industrial category code for the originator-seller or majority-owned OS affiliate that retains an interest in the securitization transaction, and a description of the form, fair value, and nature of such interest (§__6(d)). An ABCP conduit sponsor relying upon this section shall provide, upon request, to the Commission and its

appropriate Federal banking agency, if any, the information required under §__.6(d), in addition to the name and form of organization of each originator-seller or majority-owned OS affiliate that retains an interest in the securitization transaction (§__.6(e)).

A sponsor relying on the eligible ABCP conduit risk retention option shall maintain and adhere to policies and procedures to monitor compliance by each originator-seller or majority-owned OS affiliate (§__.6(f)(2)(i)). If the ABCP conduit sponsor determines that an originator-seller or majority-owned OS affiliate is no longer in compliance, the sponsor must promptly notify the holders of the ABCP, the Commission and its appropriate Federal banking agency, in writing of the name and form of organization of any originator-seller or majority-owned OS affiliate that fails to retain and the amount of asset-backed securities issued by an intermediate SPV of such originator-seller and held by the ABCP conduit, the name and form of organization of any originator-seller or majority-owned OS affiliate that hedges, directly or indirectly through an intermediate SPV, their risk retention in violation and the amount of asset-backed securities issued by an intermediate SPV of such originator-seller or majority-owned OS affiliate and held by the ABCP conduit, and any remedial actions taken by the ABCP conduit sponsor or other party with respect to such asset-backed securities (§__.6(f)(2)(ii)).

Section __.7 sets forth the requirements for sponsors relying on the commercial mortgage-backed securities risk retention option, and includes disclosures of: the name and form of organization of each third-party purchaser (§__.7(a)(7)(i)); each initial third-party purchaser's experience in investing in commercial mortgage-backed securities (§__.7(a)(7)(ii)); other material information (§__.7(a)(7)(iii)); the fair value of the eligible horizontal residual interest retained by each third-party purchaser, the purchase price paid, and the fair value of the eligible horizontal residual interest that the sponsor would have retained if the sponsor had relied on retaining an eligible horizontal residual interest under the standard risk retention option (§__.7(a)(7)(iv) and (v)); a description of the material terms of the eligible horizontal residual interest retained by each third-party purchaser (§__.7(a)(7)(vi)); the material assumptions and methodology used to determine the aggregate amount of ABS interests issued by the issuing entity (§__.7(a)(7)(vii)); the material terms of the applicable transaction documents with respect to the Operating Advisor (§__.7(a)(7)(viii)); and representations and warranties concerning the securitized assets, a schedule of any securitized assets that are determined not to comply with such representations and warranties, and the factors used to determine such securitized assets should be included in the pool notwithstanding that they did not comply with the representations and warranties (§__.7(a)(7)(ix)). A sponsor relying on the commercial mortgage-backed securities risk retention option shall provide in the underlying securitization transaction documents certain provisions related to the Operating Advisor (§__.7(a)(6)), maintain and adhere to policies and procedures to monitor compliance by third-party purchasers with regulatory requirements (§__.7(b)(2)(A)), and notify the holders of the ABS interests in the event of noncompliance by a third-party purchaser with such regulatory requirements (§__.7(b)(2)(B)).

Section __.8 requires that a sponsor relying on the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation ABS risk retention option must

disclose a description of the manner in which it has met the credit risk retention requirements (§__.8(c)).

Section __.9 sets forth the requirements for sponsors relying on the open market CLO risk retention option, and includes disclosures of a complete list of, and certain information related to, every asset held by an open market CLO (§__.9(d)(1)), and the full legal name and form of organization of the CLO manager (§__.9(d)(2)).

Section __.10 sets forth the requirements for sponsors relying on the qualified tender option bond risk retention option, and includes disclosures of the name and form of organization of the Qualified Tender Option Bond Entity, and a description of the form, fair value (expressed as a percentage of the fair value of all of the ABS interests issued in the securitization transaction and as a dollar amount), and nature of such interest in accordance with the disclosure obligations in section __.4(d) (§__.10(e)).

Section __.11 sets forth the conditions that apply when the sponsor of a securitization allocates to originators of securitized assets a portion of the credit risk it is required to retain, including disclosure of the name and form of organization of any originator that acquires and retains an interest in the transaction, a description of the form, amount and nature of such interest, and the method of payment for such interest (§__.11(a)(2)). A sponsor relying on this section shall maintain and adhere to policies and procedures that are reasonably designed to monitor originator compliance with retention amount and hedging, transferring and pledging requirements (§__.11(b)(2)(A)) and shall promptly notify the holders of the ABS interests in the transaction in the event of originator noncompliance with such regulatory requirements (§__.11(b)(2)(B)).

Section __.13 provides an exemption from the risk retention requirements for qualified residential mortgages that meet certain specified criteria, including that the depositor of the asset-backed security certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that the controls are effective (§__.13(b)(4)(i)), and that the sponsor provide a copy of the certification to potential investors prior to sale of asset-backed securities (§__.13(b)(4)(iii)). In addition, §__.13(c)(3) provides that a sponsor that has relied upon the exemption shall not lose the exemption if it complies with certain specified requirements, including prompt notice to the holders of the asset-backed securities of any loan repurchased by the sponsor.

Section __.15 provides exemptions from the risk retention requirements for qualifying commercial loans that meet the criteria specified in Section __.16, qualifying CRE loans that meet the criteria specified in Section __.17, and qualifying automobile loans that meet the criteria specified in Section __.18. Section __.15 also requires the sponsor to disclose a description of the manner in which the sponsor determined the aggregate risk retention requirement for the securitization transaction after including qualifying commercial loans, qualifying CRE loans, or qualifying automobile loans with zero percent risk retention, and descriptions of the qualifying commercial loans, qualifying CRE loans, and qualifying automobile loans (“qualifying assets”) and descriptions of the assets that are not qualifying

assets, and the material differences between the group of qualifying assets and the group of assets that are not qualifying assets with respect to the composition of each group's loan balances, loan terms, interest rates, borrower credit information, and characteristics of any loan collateral (§__.15(a)(4)).

Sections __.16, __.17 and __.18 each require that: the depositor of the asset-backed security certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that its internal supervisory controls are effective (§§__.16(b)(8)(i), __.17(b)(10)(i), and __.18(b)(8)(i)); the sponsor provide a copy of the certification to potential investors prior to the sale of asset-backed securities (§§__.16(b)(8)(iii), __.17(b)(10)(iii), and __.18(b)(8)(iii)); and the sponsor promptly notify the holders of the securities of any loan included in the transaction that is required to be cured or repurchased by the sponsor, including the principal amount of such loan(s) and the cause for such cure or repurchase (§§__.16(c)(3), __.17(c)(3), and __.18(c)(3)).

3. Consideration of the use of improved information technology:

National banks and Federal savings associations may use any information technology that permits review by OCC examiners.

4. Efforts to identify duplication:

The information required is unique. It is not duplicated elsewhere.

5. Methods used to minimize burden if the collection has an impact on a substantial number of small entities:

Not applicable.

6. Consequences to the Federal program if the collection were conducted less frequently:

Conducting the collection less frequently would present safety and soundness risks.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

The agencies published a notice of proposed rulemaking in the *Federal Register* for comment on September 20, 2013.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

There is no assurance of confidentiality.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature.

12. Burden estimate:

§__.4 - Standard risk retention: horizontal interests: recordkeeping – 0.5 hours, disclosures – 3.0 hours, payment data disclosures – 1.0 hour with a monthly frequency; vertical interests: recordkeeping – 0.5 hours, disclosures – 2.5 hours; combined horizontal and vertical interests: recordkeeping – 0.5 hours, disclosures – 4.0 hours, payment data disclosures – 1.0 hour with a monthly frequency.

§__.5 – Revolving master trusts: recordkeeping – 0.5 hours; disclosures – 4.0 hours.

§__.6 – Eligible ABCP conduits: recordkeeping – 20.0 hours; disclosures – 3.0 hours.

§__.7 – Commercial mortgage-backed securities: recordkeeping – 30.0 hours; disclosures – 20.75 hours.

§__.8 – Federal National Mortgage Association and Federal Home Loan Mortgage Corporation ABS: disclosures - 1.5 hours.

§__.9 – Open market CLOs: disclosures – 20.25 hours.

§__.10 – Qualified tender option bonds: disclosures – 4.0 hours.

§__.11 – Allocation of risk retention to an originator: recordkeeping 20.0 hours; disclosures 2.5 hours.

§__.13 – Exemption for qualified residential mortgages: recordkeeping – 40.0 hours; disclosures 1.25 hours.

§__.15 – Exemption for qualifying commercial loans, commercial real estate loans, and automobile loans: disclosure – 20.0 hours.

§__.16 – Underwriting standards for qualifying commercial loans: recordkeeping – 40.0 hours; disclosures – 1.25 hours.

§__.17– Underwriting standards for qualifying CRE loans: recordkeeping – 40.0 hours; disclosures – 1.25 hours.

§__.18 – Underwriting standards for qualifying automobile loans: recordkeeping – 40.0 hours; disclosures – 1.25 hours.

	<i>Estimated number of offerings</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
§__.4, Standard Risk Retention				
Horizontal Interest				
Recordkeeping	15	1	0.5	0
Disclosures	15	1	3.0	0
Payment Date Disclosures	15	12	1.0	0
Vertical Interest				
Recordkeeping	15	1	0.5	0
Disclosures	15	1	2.5	0
Combined Horizontal and Vertical Interests				
Recordkeeping	15	1	0.5	0
Disclosures	15	1	4.0	0
Payment Date Disclosures	15	12	1.0	0
§__.5, Revolving Master Trusts				
Recordkeeping	15	1	0.5	0
Disclosures	15	1	4.0	0
§__.6, Eligible ABCP Conduits				
Recordkeeping	15	1	20.0	0
Disclosures	15	1	3.0	0
§__.7, Commercial MBS				
Recordkeeping	15	1	30.0	0
Disclosures	15	1	20.75	0
§__.8, FNMA and FHLMC				
Disclosures	15	1	1.5	0
§__.9, Open Market CLOs				
Disclosures	15	1	20.25	0
§__.10, Qualified Tender Option Bonds				
Disclosures	15	1	4.0	0
§__.11, Allocation of Risk Retention to an Originator				
Recordkeeping	3	1	20.0	0
Disclosures	3	1	2.5	0

§__.13, Exemption for Qualified Residential Mortgages				
Recordkeeping	12	1	40.0	0
Disclosures	12	1	1.25	0
§__.15, Exemptions for Qualifying Commercial Loans, Commercial Real Estate Loans, and Automobile Loans				
Disclosures	14	1	20.0	0
§__.16, Underwriting Standards for Qualifying Commercial Loans				
Recordkeeping	5	1	40.0	0
Disclosures	5	1	1.25	0
§__.17, Underwriting Standards for Qualifying CRE Loans				
Recordkeeping	5	1	40.0	0
Disclosures	5	1	1.25	0
§__.18, Underwriting Standards for Qualifying Automobile Loans				
Recordkeeping	5	1	40.0	0
Disclosures	5	1	1.25	0
Total				** Expression is faulty **

Estimated Number of Respondents: 30 sponsors; 160 annual offerings per year.

Total Estimated Annual Burden: 3,549 hours.

13. Estimate of annualized costs to respondents (excluding cost of hour burden in Item #12):

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

The burden increased by 3,549 hours due the fact that this is a new collection.

16. Information regarding collections whose results are planned to be published for statistical use:

No publication for statistical use is contemplated.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.