

**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 final rule 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 rule sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities. Section 15G of the Exchange Act also 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

The disclosure and recordkeeping requirements associated with the various forms of risk retention and exemptions from risk retention provide information necessary to ensure compliance with the rule.

The OCC submitted the information collection requirements contained in this rule to OMB in connection with the two proposals that preceded this final rule. OMB directed the OCC to examine public comment and resubmit the collections at the final rule stage. No comments were received on the collections of information.

2. Use of the information:

The rule sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities, as well as exemptions from the risk retention requirements, and contains requirements subject to the PRA. The information requirements in the joint

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).

regulations adopted by the three Federal banking agencies and the Commission are found in §§43.4, 43.5, 43.6, 43.7, 43.8, 43.9, 43.10, 43.11, 43.13, 43.15, 43.16, 43.17, 43.18, and 43.19(g). The agencies believe that the disclosure and recordkeeping requirements associated with the various forms of risk retention provide information necessary to ensure compliance with the rule and 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 is mandatory. Responses to the information collections will not be kept confidential and, except for the recordkeeping requirements set forth in §§43.4(d), 43.5(k)(3) and 43.15(d), there will be no mandatory retention period for the collections of information.

Section 43.4 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 43.4(c)(1) and 43.4(c)(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 disclose: the fair value (or a range of fair values and the method used to determine such range) of the eligible horizontal residual interest that the sponsor expects to retain at the closing of the securitization transaction (§43.4(c)(1)(i)(A)); the material terms of the eligible horizontal residual interest (§43.4(c)(1)(i)(B)); the methodology used to calculate the fair value (or range of fair values) of all classes of ABS interests (§43.4(c)(1)(i)(C)); the key inputs and assumptions used in measuring the estimated total fair value (or range of fair values) of all classes of ABS interests (§43.4(c)(1)(i)(D)); the reference data set or other historical information used to develop the key inputs and assumptions (§43.4(c)(1)(i)(G)); the fair value of the eligible horizontal residual interest retained by the sponsor (§43.4(c)(1)(ii)(A)); the fair value of the eligible horizontal residual interest required to be retained by the sponsor (§43.4(c)(1)(ii)(B)); description of any material differences between the methodology used in calculating the fair value disclosed prior to sale and the methodology used to calculate the fair value at the time of closing (§43.4(c)(1)(ii)(C)); 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 (§43.4(c)(1)(iii)).

For eligible vertical interests, the sponsor is required to disclose: the form of the eligible vertical interest (§43.4(c)(2)(i)(A)); the percentage that the sponsor is required to retain (§43.4(c)(2)(i)(B)); a description of the material terms of the vertical interest and the amount the sponsor expects to retain at closing (§43.4(c)(2)(i)(C)); and the amount of vertical interest retained by the sponsor at closing (§43.4(c)(2)(ii)).

Section 43.4(d) requires a sponsor to retain the certifications and disclosures required in paragraphs (a) and (c) of this section in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding.

Section 43.5 requires sponsors relying on the master trust (or revolving pool securitization) risk retention option to disclose: the material terms of the seller's interest and the percentage of the seller's interest that the sponsor expects to retain at the closing of the transaction (§43.5(k)(1)(i)); the percentage of the seller's interest that the sponsor retained at closing (§43.5(k)(1)(ii)); the material terms of any horizontal risk retention offsetting the seller's interest under §43.5(g), §43.5(h) and §43.5(i) (§43.5(k)(1)(iii)); and the fair value of any horizontal risk retention retained by the sponsor (§43.5(k)(1)(iv)). Additionally, a sponsor must retain the disclosures required in §43.5(k)(1) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§43.5(k)(3)).

Section 43.6 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 material terms 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 securitized assets, the standard industrial category code for each originator-seller that retains an interest in the securitization transaction, and a description of the percentage amount and form of interest retained by each originator-seller (§43.6(d)(1)). An ABCP conduit sponsor relying upon this section shall provide, upon request, to the Commission and the sponsor's appropriate Federal banking agency, if any, the information required under §43.6(d)(1), in addition to the name and form of organization of each originator-seller that retains an interest in the securitization transaction (§43.6(d)(2)).

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 (§43.6(f)(2)(i)). If the ABCP conduit sponsor determines that an originator-seller is no longer in compliance, the sponsor must promptly notify the holders of the ABCP, and upon request, the Commission and the sponsor's appropriate Federal banking agency, in writing of the name and form of organization of any originator-seller that fails to retain, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§43.6(f)(2)(ii)(A)(1)); the name and form of organization of any originator-seller that hedges, directly or indirectly through an intermediate SPV, its risk retention in violation of the rule, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§43.6(f)(2)(ii)(A)(2)); and any remedial actions taken by the ABCP conduit sponsor or other party with respect to such ABS interests (§43.6(f)(2)(ii)(A)(3)).

Section 43.7 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 initial third-party purchaser (§43.7(b)(7)(i)); each initial third-party purchaser's experience in investing in commercial mortgage-backed securities (§43.7(b)(7)(ii));

other material information (§43.7(b)(7)(iii)); the fair value and purchase price of the eligible horizontal residual interest retained by each third-party purchaser, 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 (§43.7(b)(7)(iv) and (v)); a description of the material terms of the eligible horizontal residual interest retained by each initial third-party purchaser, including the same information as is required to be disclosed by sponsors retaining horizontal interests pursuant to §43.4 (§43.7(b)(7)(vi)); the material terms of the applicable transaction documents with respect to the Operating Advisor (§43.7(b)(7)(vii)); 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 that such securitized assets should be included in the pool notwithstanding that they did not comply with the representations and warranties (§43.7(b)(7)(viii)). A sponsor relying on the commercial mortgage-backed securities risk retention option is also required to provide in the underlying securitization transaction documents certain provisions related to the Operating Advisor (§43.7(b)(6)), to maintain and adhere to policies and procedures to monitor compliance by third-party purchasers with regulatory requirements (§43.7(c)(2)(A)), and to notify the holders of the ABS interests in the event of noncompliance by a third-party purchaser with such regulatory requirements (§43.7(c)(2)(B)).

Section 43.8 requires that a sponsor relying on the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation risk retention option must disclose a description of the manner in which it has met the credit risk retention requirements (§43.8(c)).

Section 43.9 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 (§43.9(d)(1)), and the full legal name and form of organization of the CLO manager (§43.9(d)(2)).

Section 43.10 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, a description of the form and subordination features of the retained interest in accordance with the disclosure obligations in section 43.4(d), the fair value of any portion of the retained interest that is claimed by the sponsor as an eligible horizontal residual interest, and the percentage of ABS interests issued that is represented by any portion of the retained interest that is claimed by the sponsor as an eligible vertical interest (§43.10(e)(1)-(4)). In addition, to the extent any portion of the retained interest claimed by the sponsor is a municipal security held outside of the qualified tender option bond entity, the sponsor must disclose the name and form of organization of the qualified tender option bond entity, the identity of the issuer of the municipal securities, the face value of the municipal securities deposited into the qualified tender option bond entity, and the face value of the municipal securities retained outside of the qualified tender option bond entity by the sponsor or its majority-owned affiliates (§43.10(e)(5)).

Section 43.11 sets forth the conditions that apply when the sponsor of a securitization

allocates to originators of securitized assets a portion of the credit risk the sponsor 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 (§43.11(a)(2)). A sponsor relying on this section is required to maintain and adhere to policies and procedures that are reasonably designed to monitor originator compliance with retention amount and hedging, transferring and pledging requirements (§43.11(b)(2)(A)), and to promptly notify the holders of the ABS interests in the transaction in the event of originator non-compliance with such regulatory requirements (§43.11(b)(2)(B)).

Sections 43.13 and 43.19(g) provide exemptions from the risk retention requirements for qualified residential mortgages and qualifying 3-to-4 unit residential mortgage loans that meet certain specified criteria, including that the depositor with respect to the securitization transaction certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that the controls are effective (§§43.13(b)(4)(i) and 43.19(g)(2)), and that the sponsor provide a copy of the certification to potential investors prior to sale of asset-backed securities in the issuing entity (§§43.13(b)(4)(iii) and 43.19(g)(2)). In addition, §§43.13(c)(3) and 43.19(g)(3) provide that a sponsor that has relied upon the exemptions will not lose the exemptions if, after closing of the transaction, it is determined that one or more of the residential mortgage loans does not meet all of the criteria; provided that the depositor complies with certain specified requirements, including prompt notice to the holders of the asset-backed securities of any loan that is required to be repurchased by the sponsor, the amount of such repurchased loan, and the cause for such repurchase.

Section 43.15 provides exemptions from the risk retention requirements for qualifying commercial loans that meet the criteria specified in Section 43.16, qualifying CRE loans that meet the criteria specified in Section 43.17, and qualifying automobile loans that meet the criteria specified in Section 43.18. Section 43.15 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 0 percent risk retention (§43.15(a)(4)). In addition, the sponsor is required to disclose 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 (§43.15(b)(3)). Additionally, a sponsor must retain the disclosures required in §§43.15(a) and (b) in its records and must provide the disclosure upon request to the Commission and the sponsor’s appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§43.15(d)).

Sections 43.16, 43.17 and 43.18 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 (§§43.16(a)(8)(i), 43.17(a)(10)(i),

and 43.18(a)(8)(i)); the sponsor is required to provide a copy of the certification to potential investors prior to the sale of asset-backed securities in the issuing entity (§§43.16(a)(8)(iii), 43.17(a)(10)(iii), and 43.18(a)(8)(iii)); and the sponsor must promptly notify the holders of the asset-backed 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 and the cause for such cure or repurchase (§§43.16(b)(3), 43.17(b)(3), and 43.18(b)(3)). Additionally, a sponsor must retain the disclosures required in §§43.16(a)(8), 43.17(a)(10) and 43.18(a)(8) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§43.15(d)).

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 prevent the agencies from monitoring compliance with the risk retention rule and statute.

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 notices of proposed rulemaking in the *Federal Register* for comment on April 29, 2011 and September 20, 2013. No comments were received regarding the collections of information contained therein.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

There is no assurance of confidentiality.

11. Justification for questions of a sensitive nature:

Not applicable. No personally identifiable information is collected.

12. Burden estimate:

§43.4 - Standard risk retention: horizontal interests: recordkeeping – 0.5 hours, disclosures – 5.5 hours; vertical interests: recordkeeping – 0.5 hours, disclosures – 2.0 hours; combined horizontal and vertical interests: recordkeeping – 0.5 hours, disclosures – 7.5 hours.

§43.5 – Revolving master trusts: recordkeeping – 0.5 hours; disclosures – 7.0 hours.

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

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

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

§43.9 – Open market CLOs: disclosures – 20.25 hours.

§43.10 – Qualified tender option bonds: disclosures – 6.0 hours.

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

§§43.13 and 43.19(g) – Exemption for qualified residential mortgages and qualifying 3-to-4 unit residential mortgage loans: recordkeeping – 40.0 hours; disclosures 1.25 hours.

§43.15 – Exemption for qualifying commercial loans, commercial real estate loans, and automobile loans: disclosure – 20.0 hours; recordkeeping – 0.5 hour.

§43.16 – Underwriting standards for qualifying commercial loans: recordkeeping – 40.5 hours; disclosures – 1.25 hours.

§43.17– Underwriting standards for qualifying CRE loans: recordkeeping – 40.5 hours; disclosures – 1.25 hours.

§43.18 – Underwriting standards for qualifying automobile loans: recordkeeping – 40.5 hours; disclosures – 1.25 hours.

Estimated Number of Respondents: 39 sponsors; 166 annual offerings per year.

Total Estimated Annual Burden: 3,444 hours. (This number differs slightly from the 3,451 hours reflected in ROCIS due to automatic rounding done by ROCIS that cannot be overridden).

	<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	8
Disclosures	15	1	5.5	83
Payment Date Disclosures	0	0	0	0
Vertical Interest				
Recordkeeping	15	1	0.5	8
Disclosures	15	1	2.0	30
Combined Horizontal and Vertical Interests				
Recordkeeping	15	1	0.5	8
Disclosures	15	1	7.5	113
Payment Date Disclosures	0	0	0	0
§__5, Revolving Master Trusts				
Recordkeeping	15	1	0.5	8
Disclosures	15	1	7.0	105
§__6, Eligible ABCP Conduits				
Recordkeeping	15	1	20.0	300
Disclosures	15	1	3.0	45
§__7, Commercial MBS				
Recordkeeping	15	1	30.0	450
Disclosures	15	1	20.75	311
§__8, FNMA and FHLMC				
Disclosures	15	1	1.5	23
§__9, Open Market CLOs				
Disclosures	15	1	20.25	304
§__10, Qualified Tender Option Bonds				
Disclosures	15	1	6.0	90

§__.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	13	1	40.0	520
Disclosures	13	1	1.25	16
§__.15, Exemptions for Qualifying Commercial Loans, Commercial Real Estate Loans, and Automobile Loans				
Recordkeeping	16	1	0.5	8
Disclosures			20.0	320
§__.16, Underwriting Standards for Qualifying Commercial Loans				
Recordkeeping	5	1	40.5	202.5
Disclosures	5	1	1.25	6
§__.17, Underwriting Standards for Qualifying CRE Loans				
Recordkeeping	5	1	40.5	202.5
Disclosures	5	1	1.25	6
§__.18, Underwriting Standards for Qualifying Automobile Loans				
Recordkeeping	5	1	40.5	202.5
Disclosures	5	1	1.25	6
Total				3,443.5

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 3,444 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.