



April 29, 2011

**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** Proposed Credit Risk Retention Rules by Federal Agencies to Implement Section 941(b) of the Dodd-Frank Act – (76 FR 24090)

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In the above April 29, 2011 issue of the *Federal Register*, the following federal agencies (Agencies) - Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (FRB); Federal Deposit Insurance Corporation (FDIC); Securities and Exchange Commission (SEC); Federal Housing Finance Agency (FHFA); and Department of Housing and Urban Development (HUD) - published proposed common rules (proposed rule) to implement section 941(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Dodd-Frank Act generally requires the securitizer of asset-backed securities (ABS) to retain not less than five percent of the credit risk of the assets collateralizing the asset-backed securities and includes an exemption from this risk retention requirement for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as “qualified residential mortgages,” as such term is defined by the Agencies proposed rule.

**If you wish to submit written comments regarding this proposed rule, you must do so by no later than June 10, 2011.** The procedures for submitting written comments are located on pages 24090 - 24091 of the above issue of the *Federal Register*. As you read the preamble to the proposed rule, please pay particular attention to the requests for comment questions for which the Agencies specifically want comments.

The proposed rule prescribes rules to require that a securitizer retain an economic interest in a material portion of the credit risk for any asset that it transfers, sells, or conveys to a third party. The proposed rule includes a variety of exemptions from these requirements, including an exemption for U.S. government-guaranteed asset-backed securities and for mortgage-backed securities that are collateralized exclusively by residential mortgages that qualify as “qualified residential mortgages” (QRMs), as defined in the proposed rule. The proposed rule’s definition for QRMs incorporates such criteria as borrower credit history, payment terms, down payment for purchase mortgages (20%), and loan-to-value ratio (70%) designed to ensure they are of very high credit quality. The proposed rule would also allow Fannie Mae and Freddie Mac to satisfy their risk-retention requirements as sponsors of mortgage-backed securities through their 100 percent guarantees of principal and interest for as long as they are in conservatorship or receivership with capital support from the U.S. government.

Obviously, the above summary is not a complete description of the proposed rule, and for a full understanding you should read the entirety of the proposed rule and the Agencies preamble explanation published in the above issue of the *Federal Register* at: <http://www.gpo.gov/fdsys/pkg/FR-2011-04-29/pdf/2011-8364.pdf>.

Those clients who would be adversely affected by these proposed rules are urged to submit written comments on or before the June 10, 2011 deadline.