October 13, 2016

Federal Housing Finance Agency
Office of Financial Analysis and Modeling
400 7th Street, S.W., 9th floor
Washington, D.C., 20219

**Re: FHFA Front End CRT RFI**

Dear Sir/Madam,

The Association of Mortgage Investors, the National Association of Real Estate Investment Trusts ("NAREIT"), and the Securities Industry and Financial Markets Association[1] appreciate the FHFA's outreach[2] to industry and other stakeholders and are pleased to provide feedback on your June 29, 2016 request for information ("RFI"). Credit risk transfer has become a broadly accepted initiative, and we expect it will continue to be a component of our mortgage finance system regardless of if or when comprehensive GSE reform occurs.

We believe it is most important that FHFA not "pick winners and losers" in regards to specific forms of credit risk transfer ("CRT"). This market is still new and has a long road ahead before it could be considered mature. Accordingly, we recommend letting market interest and investment dictate the shape and format of CRT within the regulatory boundaries and in furtherance of the mandates set by FHFA for the GSEs to use CRT. However, the GSEs should be free to experiment within these boundaries.

It is also important to ensure that regulatory barriers do not inadvertently forestall flexibility in these programs. Critical to promoting a deep and liquid CRT market is addressing roadblocks to broad and diverse investor participation. As set forth below, we also believe it is critical to ensure that outmoded regulatory rules do not inadvertently favor—or disfavor—particular investor classes.

Our members believe that there is, and will continue to be, an important role for back-end CRT for the foreseeable future. The participation of mortgage credit investors in these markets is beneficial not only to these investors but also to the GSEs and taxpayers. This is because pricing in these markets signals broad market views on levels of risk and the appropriate pricing of that risk. Furthermore, and maybe most importantly, back-end CRT and front-end collateralized recourse are both fully funded – that is,

[1] See appendix 3 for descriptions of the submitting associations.
[2] http://www.fhfa.gov/PolicyProgramsResearch/Policy/Documents/SF-CRT-RFI-6292016.pdf

when the risk is sold in these markets it is truly, and irrevocably[3], removed from the GSEs, through sales of securities for cash, creation of recourse and security interests in cash or collateral, or otherwise.

We believe there is significant room for the back-end CRT markets to grow. There are a number of obstacles to improved liquidity in this market – in our appendix we have included a portion of a document developed by SIFMA in 2015 that outlines a number of these issues and potential solutions.

**Question A1: Are there credit risk transfer principles that FHFA should consider in evaluating front-end credit risk transfer transactions that are not listed in Section II? Similarly, are there significant risks that FHFA and the Enterprises should consider in evaluating credit risk transfers structures that are not included in Section III? Please also provide any comments or views about the principles and risks described in Section II and III.**

We believe FHFA has identified appropriate principles related to risk transfer on pages 3-5. We believe an additional principle should be added – liquidity. FHFA and the GSEs should place a primary importance on creating and maintaining the liquidity of CRT programs, much like FHFA and the GSEs have an interest in the TBA market remaining liquid. Indeed, liquidity is a component of the circular interconnectedness of a well-functioning market – i.e. "repeatable" and "scalable" transactions, a "broad investor base" and "liquidity" are all connected and cannot exist alone.

Regulatory rules which facilitate broad and diverse investor participation are a critical predicate to creating and maintaining a deep and liquid market in CRT securities. We believe that FHFA should prioritize initiatives to eliminate and reduce barriers to broad market participation, including revision of outdated regulations that constrain the ability of certain investors to participate in CRT issues. In this regard, we endorse the request made by thirteen Members of the House Financial Services Committee earlier this year that FHFA should work to address current regulatory barriers that limit the participation of residential Mortgage REITs (MREITs) [4] in CRT markets.[5] We discuss this further in Appendix 1.

We believe that FHFA should also prioritize improvements to the transparency of the economics of the CRT programs. The purpose of further transparency would be to allow the market and policymakers to be able to make apples-to-apples comparisons of various risk transfer strategies. Currently, we do not have clear or consistent insight into what are the ultimate costs or benefits of the various structures to the GSEs. Going forward, and as we move towards comprehensive GSE reform in the future, it will be important to be able to understand the economics of various alternatives, and be able to view a historical record of changes in these economics over time and through different market conditions.

**Question A2: How would proposed front-end credit risk transfer structures meet and balance the principles outlined in Section II and address the risks outlined in Section III?**

[3] Barring fraud or deficiencies in offering materials that lead to litigation that the GSEs lose, etc.
[4] Another category of MREITs, commercial MREITs, provide financing for commercial real estate, including multi-family housing. They may invest in commercial mortgages and commercial real estate loans, as well as both rated and unrated CMBS, mezzanine loans, subordinated securities or construction loans, and may participate in loan securitizations.
[5] Letter to SEC Chair Mary Joe White from 13 Members of the House Financial Services Committee, January 12, 2016.

The particular principles where FHFA will need to be most cautious as regards front-end programs such as deeper MI coverage will be those of "counterparty strength" and "stability through economic and housing cycles". The past is often the best predictor of the future, and many of our members experienced significant issues with monoline mortgage and bond insurance companies. We recognize that FHFA and the GSEs have implemented enhancements to capital requirements for these counterparties, and these enhancements should provide a degree of protection. However, as monoline entities engage in the same business as the GSEs, they will be in their weakest position when the GSEs (and taxpayers) can afford it the least. In the end, MI is not a funded form of risk transfer, so there will always be a risk that funding will not occur when called upon.

While an MI CRT transaction can be executed quickly, the actual realization of the risk transfer (when it is needed) may be delayed given the possibility of disputes and challenges to claims. So, while back-end CRT involves some period of risk exposure on the front end, MI-backed front-end risk transfer results in a similar kind of exposure on the back end. We also note that, given a limited supply of capital, deeper MI logically implies less broad MI. In other words, capital used to fund deeper MI coverage will reduce the capital available to fund new MI coverage. We are not in a position to estimate the effect of this, but it appears to be an issue for consideration.

We recognize that back-end risk transfer solutions such as STACR and CAS and front-end collateralized recourse may also encounter times of lower liquidity when economic conditions deteriorate. However, back-end CRT and front-end collateralized recourse are fully funded and once the risk is transferred it is permanently removed from the GSEs. This highlights our comment above that there should be a diversity of options available to the GSEs to ensure maximum flexibility when it is needed.

We agree with FHFA's statement that in difficult times, risk transfer requirements could be lessened or temporarily halted.

**Question A3: In considering proposed front-end credit risk transfer transaction structures, how should FHFA and the Enterprises manage the counterparty risk involved in these transactions?**

As regards MI, the GSEs should continue to ensure counterparties have robust capital reserves, sensible business plans, and expert staff and advisors. GSEs cannot control the lender's choice of MI provider (among the set of MIs that meet GSE qualification standards), and MI is not a funded form of risk transfer, so extra care needs to be taken to avoid situations where claim payments are delayed or not made at all. Delays, rejection of claims, or partially paid claims were common in the past, due to state regulators requiring MI companies to only pay partial claims, or for other reasons such as extended claim reviews, disputes, and similar issues. If claims are not fully paid in a timely manner, for whatever the reason, risk returns to the GSEs and taxpayers.

As regards front-end collateralized recourse and similar transactions, the GSEs need to ensure that the funding of reserves is complete, and that the structures are contractually sound so that situations where recourse is not available when it is expected to be do not occur.

**Question A4: In developing their credit risk transfer programs, the Enterprises have used pilot transactions to evaluate new credit risk transfer transaction structures. As FHFA considers proposed front-end credit risk transfer structures, one option is for the Enterprises to engage in pilot transactions. If approved by FHFA, what issues or characteristics should be tested in pilot transactions?**

Pilot programs are a wise approach to introducing new products. We believe all aspects of a product should be vetted and tested in real-world scenarios. We note, however, that the pricing on pilot programs should not be directly compared to the more established STACR and CAS programs, as pilot programs, by definition, are new and untested. Investors do not have experience with these programs, and it should not be surprising if a pilot program initially prices behind other more established products. Similarly, absolute pricing hurdles should be avoided.

We understand that the GSEs, FHFA, and others desire to shorten the timeframe from when a loan is acquired by a GSE and when that risk is sold in a back-end CRT transaction. We understand the rationale and agree that a more regimented, regular issuance of CRT on a shorter acquisition-to-sale timeline may have benefits. On the other hand, there are operational and other challenges related to these efforts for which solutions must be developed. The first regards diligence of the loans – from an underwriter's perspective, particularly given the experience of the last 8 years, it is critical that diligence on the underlying loans in a transaction is robust and involves a sufficient number of loans in that pool. We believe that for timeframes to be shortened, the GSEs will need to develop processes to enable more timely diligence of loans. The alternative, issuing CRT more quickly but with less robust diligence on the specific loans in the pool, places too much securities law and other risk onto underwriters who will likely be unwilling to bear it. Additionally, the GSEs and FHFA also need to consider that there may be an inner bound to the CRT issuance timeline, which if broken, may result in some investors having less interest in the transactions (because these investors value the brief period of seasoning before CRT is typically issued).

FHFA also should consider ways for the GSEs to ensure that their CRT programs remain attractive relative to other financial products that compete with the programs. I.e., can the GSEs economically develop programs or structures where higher-yielding assets are created for sale? Could new structures with expanded collateral included in the collateral pools provide an avenue to achieve this goal? Creating the most broadly attractive products will help sustain CRT for the longer term.

**Question B1: What credit risk transfer strategies work best for small lenders? Why?**

A number of options are available to smaller lenders. We believe the optimal solution, taking into account smaller lender desires as well as protection of the interests of the GSEs, is back end CRT. This method of risk transfer does not require any changes to a lender's business model and has the added benefit of transparency. On the front-end, enhanced MI coverage could be an appropriate product, but as we note above may increase risk to the GSEs as it is not funded.

We believe that FHFA should pilot a "small lender CRT program". We believe that smaller lenders could benefit from front end collateralized recourse programs similar in nature to those that have been executed by larger lenders. Such a program would involve the establishment of an SPV, recourse from the SPV to the GSE, and either the retention or sale of the credit risk instruments by the lender or an affiliate. Complexity and cost are primary barriers to these products at this point, and we believe the GSEs and FHFA could help in this regard. For one, the GSEs could establish standardized documentation, rules, and agreements to simplify the issuance process. This would help reduce operational costs. The GSEs would also need to relax pricing requirements, similar to what we discuss above, because a straight comparison of pricing of these new products to STACR, CAS, or large lender recourse transactions may not be appropriate.

There may, however, be another hurdle in the form of risk retention requirements to the extent that such requirements are applicable to front-end collateralized recourse transactions. Even if applicable, the hurdle for the small lender could be avoided if the smaller lender were not the sponsor of the securitization, e.g. if loans were sold to an aggregator acting as a bona fide sponsor. This could also be a way to create larger transactions that may price better.

**Question C1: How should FHFA and the Enterprises incorporate information learned through the pricing of credit risk transfer transactions into the practice of setting both the level of and frequency of changes in the Enterprises' guarantee fees?**

The GSEs should consider the levels of pricing in the various risk transfer markets when determining their G-Fees. However, we do not believe that risk transfer pricing should be a determinative factor at this time. These markets are too new, and lack the liquidity and maturity to serve as a primary indicator of appropriate G-Fee levels.

**Question C2: Should FHFA and the Enterprises maintain the policy of taking a longer-term view of setting guarantee fees in an effort to provide greater liquidity and stability in the housing finance market? Would a change in this practice impact market liquidity and borrower access to credit? If so, how?**

FHFA and the GSEs should take a long-term view when setting G-Fee pricing. Frequent changes to G-Fees will be confusing to lenders and could lead to uncertainty or difficulty in determining how to price a loan given the long timeframe needed to originate a loan. These effects would probably be pronounced for smaller lenders.

Similarly, frequent changes to G-Fees will likely be harmful to MBS investors in the TBA and specified pool markets. Changes to G-Fees correlate directly to changes in prepayment behavior, and as FHFA and the GSEs know well, prepayments are a key determinant of pricing in the TBA and pool markets. Frequent changes to G-Fees would make it harder to analyze, price, and invest in GSE MBS.

We believe that FHFA and the GSEs should continually monitor pricing signals from CRT markets, and utilize these signals in their pricing models. Indeed, a wide and sustained gap between CRT implied G-Fee pricing and the GSEs' pricing could indicate that a review or change is needed. However, this is not something that should be done with haste given the potentially significant impact of changes to G-Fee pricing.

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Please contact Chris Killian at 212-313-1126 or ckillian@sifma.org with questions or comments on this letter.

Sincerely,

Christopher B. Killian
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Association of Mortgage Investors

Victoria P. Rostow
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Policy & Regulatory Affairs

National Association of Real Estate Investment Trusts®

# Appendix I- Residential Mortgage REITs and Single Family CRT

**Residential MREITs and Single-Family Housing Finance**

REITs were established by Congress in 1960 to enable Americans from all walks of life gain the benefits of investment in real estate. There are two main types of REITs, equity REITs, which invest in real estate by acquiring leasing space in real properties and collecting rents from their tenants and mortgage REITs (MREITs), which typically concentrate on either the residential or commercial mortgage markets, although some do both, through investments in the debt required to finance real estate.

Residential MREITs[6] currently play a small but highly consequential role in the single-family mortgage sector and have considerable potential to expand this footprint. MREITs emerged from the financial crisis as well-capitalized and highly efficient vehicles to access and deploy private capital into the single-family residential mortgages. They stand today as one of the very few significant sources of private, permanent capital to the single family housing sector, contributing to housing affordability by originating mortgage loans, purchasing mortgage-backed securities, and providing first loss capital for new private label securitizations. However, due to current regulatory constraints, MREITs are at present limited in their ability to participate in GSE single-family credit risk transfer (CRT) issuances and constitute only 2% of the CRT investor base.  If these regulatory obstacles can be addressed the potential of residential MREITs to support the CRT market is much greater.

Residential MREITs originate, invest in and service residential mortgages and mortgage-related loans providing needed liquidity to the mortgage market. Today most residential MREITs primarily invest in “agency” RMBS, issued by Fannie Mae and Freddie Mae, although MREITs also may invest in RMBS issued by other financial institutions (non-agency or private-label RMBS) and residential mortgage loans.  At the end of 2015, Agency MREITs held just under four percent of Agency RMBS, with 26 percent held in banks and other depository institutions, 26 percent for the Federal Reserve, 9 percent by mutual funds and the remainder held by insurance firms, pensions and other entities.

Most residential MREITs are listed on the NYSE or NASDAQ, and because MREITs regularly access to public capital markets they are highly efficient source of private-sector capital to fund single-family housing. Mortgage REITs raised $84.8 billion in total equity offerings between 2005 and June 2016. As of June 30, 2016, there were 27 listed residential Mortgage REITs with a market capitalization of $41.7 billion.

The success of the residential MREITs sector today reflects years of developed expertise in the fundamentals of real estate debt markets, expertise combining rigorous research, valuation, data collection and technical analytics, together with a deep understanding of the fiscal, legal and regulatory frameworks within which RMBS markets operate. Today residential MREITs make use of highly sophisticated proprietary models to assess loan characteristics and likely performance, factoring in prepayment risk, structural risks, servicing risks, and other risks under a variety of scenarios. MREITs also employ both quantitative and qualitative tools to test performance projections against multiple scenarios of changing regulation, interest rate shifts and changing real estate market conditions.

[6] Another category of MREITs, commercial MREITs, provide financing for commercial real estate, including multi-family housing. They may invest in commercial mortgages and commercial real estate loans, as well as both rated and unrated CMBS, mezzanine loans, subordinated securities or construction loans, and may participate in loan securitizations.

**Regulatory Barriers to MREIT Participation in CRT**

Mortgage REITs are limited in their ability to participate in CRT markets by certain restrictions in the Investment Company Act of 1940 and the Internal Revenue Code that govern what are "eligible" investments for REITs.

***The Investment Company Act of 1940 ('40 Act)***

Section 3(c)(5)(C) of the '40 Act[7] exempts from regulation as an investment company any company that (i) "is not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type or periodic payment plan certificates"; and that (ii) is "primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate." Since the 1980s, SEC staff have generally held that a company is "primarily engaged" when at least 55% of the value of its assets are held in so called "qualifying interests" in real estate and the remaining 45% consist primarily of "real estate-type interests". This interpretation is set forth in a series of "no-action" letters issued by the staff of the SEC's Division of Investment Management.[3]

SEC staff guidance further provides that "qualifying interests" in real estate consist of loans or liens fully secured by real estate or actual interests in real estate; or (ii) assets that can be viewed as the functional and economic equivalent of such loans or liens or interests in real estate.[8] Most Agency CRT securities issued to date have generally been viewed as "real estate-type interests" but have not been viewed as "qualifying interests" under this framework, because they have been debt obligations of the GSEs with principal payments determined by the credit performance of a reference pool.

Single-family mortgage securitization markets and technology have evolved considerably since the 1980s when this SEC staff framework to evaluate "qualifying interests" emerged. NAREIT/SIFMA urges the FHFA to work with the SEC, other federal regulators, Members of Congress and industry to update this framework and to recognize GSE CRT securities as qualifying interests. In this regard, we note that the FHFA recently updated its own regulatory definition of a "home mortgage loan" to include "all types of MBS backed by qualifying assets and eliminate the current distinction that the rules draw between pass-through securities and other types of MBS," including "collateralized mortgage obligations (CMOs), real estate mortgage investment conduits (REMICs), and other non-pass-through MBS ...[t]he economic interest of all such instruments is much the same, and the forms of the respective instruments are more of a legal technicality that is neither decisive as to the nature of the economic interest that the owner holds nor the level of support for the mortgage market that the securities provide."[9] This is an example of an existing rule being updated to better reflect changes in the market that have occurred since it was initially promulgated. We urge the FHFA to work with other federal regulators to do likewise.

***Internal Revenue Code***

To maintain their REIT status, MREITs like all REITs, must satisfy certain rules set forth under the Internal Revenue Code of 1986, as amended, including rules that (i) require that at least 75 percent of the value of a REIT's total assets be represented by real estate assets, cash and cash items and government

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[7] 15 U.S.C. § 80a-3(c)(5)(C).
[8] *See, e.g.,* Securities and Exchange Commission. Salomon Brothers Inc., No-Action Letter (June 17, 1985);
Securities and Exchange Commission. Nottingham Realty Securities, Inc., No-Action Letter (April 19. 1984).
[9] ***Notice of Proposed Rulemaking regarding membership requirements in the Federal Home Loan Bank System,*** 79 Fed. Reg. 54848 at 28-29 (September 12, 2014).

securities (so-called “qualifying assets); and (ii) require that no less than 75 percent of an REIT’s income be derived from such qualifying assets. Currently, most CRT securities do not meet the definition of a “real estate asset” for purposes of the 75% test because they do not generally do not represent interests in real property or mortgages.  NAREIT/SIFMA similarly urges the FHFA to work with Treasury, the IRS, other federal regulators, Members of Congress and industry to address this problem.

# Appendix 2 – Selection of SIFMA Recommendations on Improving Liquidity for CRT Products (December 2015)

***<u>Back-End CRT -- Legal & Regulatory Impediments</u>***

### *1. REIT Eligibility*

Mortgage real estate investment trusts ("REITs") are important participants in agency and non-agency MBS markets, and have grown significantly since the mid-2000s, but remain limited participants in the CRT markets. According to FHFA, REITs make up 2% of the CRT investor base.[10] Their participation in the markets for CRT is limited due to restrictions in the Investment Company Act of 1940 and the Internal Revenue Code that govern what are eligible investments for REITs. All forms of CRT (including front-end CRT) should be fully REIT-eligible assets given their core nature as investments in residential mortgage credit, and mortgage REITs' important position as capital markets investors.

### *2. Capital Requirements and NAIC Evaluations*

As intermediaries, banks and broker dealers play a critical role in making markets and supporting the secondary trading of securities for capital market issuers and investors. Bank and broker dealers have capital requirements that are higher now than they were in the past. While this increase in capital is an important component of strengthening our banking system and increasing financial stability, at the granular level the capital treatment of CRT transactions creates a significant impediment to the participation of banks and broker dealers as market makers for CRT. The higher capital requirements effectively remove banks from the investor base for these transactions and make market making more capital-intensive than it needs to be. Almost all bonds issued to date attract a dollar-for-dollar capital charge (or more) for US banks who use the SSFA formula for calculating capital. Additionally, the Basel Committee is currently undertaking a review of its so-called "trading book" capital requirements that apply to banks' market making activities.[11] Based on industry analysis of data submitted to bank regulators, capital requirements for securitized products would more than double under the proposed requirements, and we expect capital requirements would also increase for CRT transactions. This, on top of other capital requirements, would serve to further decrease liquidity in this sector.

The National Association of Insurance Commissioners ("NAIC") provides a service that evaluates residential and commercial mortgage-backed securities.[12] These evaluations are used by state insurance regulators to determine risk-based capital requirements for holdings of regulated insurance companies.

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[10] See http://www.fhfa.gov/AboutUs/Reports/ReportDocuments/CRT-Overview-8-21-2015.pdf, at 14.

[11] See letter from SIFMA and six other groups to banking regulators, discussing the negative impact of the proposed revision to trading book capital requirements, and the need for significant amendment of the proposal, available here: http://www.sifma.org/comment-letters/2015/sifma-and-other-associations-submit-comments-to-bank-regulators-on-the-frtb/.

[12] As described by NAIC: *"In 2009 members of the National Association of Insurance Commissioners (NAIC) approved the recommendation of the Valuation of Securities (E) Task Force and Financial Condition (E) Committee to create a new modeling and assessment process for non-agency residential mortgage-backed securities (RMBS). This assessment process will assist state regulators in ultimately determining the Risk Based Capital (RBC) requirements for the non-agency RMBS/CMBS owned by U.S. insurers at the end of each year. For each of the RMBS/CMBS CUSIPs, the new model will produce prices based upon expected losses for each NAIC designation. Insurers will map the carrying value of each RMBS to these amounts to determine the appropriate NAIC designation and accompanying RBC requirements"*. Available here: http://www.naic.org/structured_securities/documents/STS_user_guide.pdf

However, most CRT securities are not NAIC evaluated, or the results of the NAIC evaluations are harsher than the prevailing market view of the risk of the securities. Since most of the securities have low or no NAIC evaluations and concomitant higher capital charges, insurance companies are not as active in this market as they otherwise would be. SIFMA encourages NAIC to include all CRTs in their annual evaluation to help support this important and emerging asset class and ensure evaluation results are in-line with the true risk of the securities.

### *3. Commodity Pool Regulation*

The current Connecticut Avenue Securitization ("CAS") and Structured Agency Credit Risk ("STACR") structures are non-guaranteed corporate debt of the GSEs – the nature of the issuance as 'debt' implicates concentration limits for some investors since they are limited in their allowable exposure to particular issuers.

The most efficient form of CRT that has been proposed involves the use of credit-linked notes ("CLN") to transfer risk from the GSEs to private investors. However, structures that use CLN would be considered "commodity pools" under the CTFC's rules, and bring with them various burdensome reporting and registration requirements. The CFTC has provided some limited relief from commodity pool status[13], but it does not provide all of the relief that is needed.

The current relief from the CFTC related to the status of CLN structures as commodity pools is limited to a specific synthetic structure and relates to whether or not the GSEs would need to register as commodity pool operators when they issue the CLN transactions. The relief maintains that the GSEs would not have to register as a commodity pool operator if they issued CLNs structured in accord with their relief letter.

However, the relief does not provide that the CLN structures themselves are not commodity pools which may cause problems for banks under the Volcker Rule as they may be considered covered funds.[14] Additionally, there is a lingering fund-of-funds question—i.e., that the investors in the CLN structure will need to treat their investments as investments in a commodity pool for purposes of their fund-of-funds analysis. The CFTC should issue a determination that these transactions are not commodity pools.[15]

### *4. Dodd Frank §621*

The SEC's proposed rules to implement DFA §621 (Conflicts of Interest Relating to Certain Securitizations - 15 U.S. Code § 77z–2a) would render impermissible synthetic transactions such as those proposed to be done as more efficient CRT transactions. The SEC's proposed rule specifically prohibits synthetic transactions where a securitization participant enters into a credit default swap to offset such participant's long exposure in the assets underlying the reference pool. This is exactly what some forms of synthetic CRT would do, and is exactly what the securities-based CRTs issued today do in a different, less efficient format. The impact of this proposed rule, if it were finalized without change, is unclear for STACR/CAS structures and requires further legal analysis. CRT in any form should be exempt from these prohibitions under the final rules.

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[13] See CFTC Letter 14-111, available here: http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/14-111.pdf
[14] The Volcker Rule includes strict limits on bank holdings of covered funds.
[15] This also applies to characterization of securitizations as commodity pools more broadly – they are also not commodity pools but must deal with various no-action letters that provide incomplete solutions.

## C. Back-End CRT -- Program Design and Other Issues

### *1. Disclosure*

While the GSEs have disclosed large datasets at the loan-level, this disclosure of loan-level information has been limited in certain important ways because of concerns regarding privacy laws. Today's network of connected databases of loan information, public records, and other information makes it far easier to determine specific information about an individual borrower than it has been in the past. Due to these concerns, the GSEs limit the disclosure of key information such as zip codes – in this case, only the first three digits are published (which is essentially county-level). An investor's ability to model transactions is limited because using county-level data does not provide the same ability to model local economic data and home price indices. Investors believe this granular analysis is very important in their analysis of credit risk. The private-label RMBS market has found a way to provide all five digits for new-issue Non-Agency RMBS and we encourage the GSEs to develop similar means to provide more robust data required by many investors in residential mortgage credit risk.[16]

### *2. Demand Can Exceed Supply; Selling More of the Capital Structure*

In spite of the issues with capital requirements described in section B.2., many of the existing transactions were oversubscribed at issuance, which indicates that demand was greater than supply of the bonds. At times, larger issuances would aid secondary market liquidity for the product. We believe the GSEs could be more sensitive to market demand and increase the size of offerings to the extent investors supported it. Furthermore, we believe there is an opportunity for GSEs to share more risk through selling securities at more senior levels in the capital structure.

### *3. Homogeneity*

It would be beneficial to liquidity if STACR and CAS structures were more aligned. Investor analysis and market making would be eased, and liquidity should improve. We note that the GSEs are currently working to align the structure of their single-family MBS issuances, and that a similar theoretical principal that homogeneity improves liquidity is applicable here.

For example, STACR's $250k minimum size requirement (compared to $10k in CAS) pushes some investors into CAS and away from STACR; this may be an early opportunity for alignment. On the other hand, securities issued in the CAS program are limited to qualified institutional buyers, which may have the opposite effect. These are areas that could be aligned.

[16] In part with this standard agreement, which we understand the GSEs use a variant of, but still do not disclose five digits: http://www.sifma.org/services/standard-forms-and-documentation/securitized-products/model-asset-level-disclosure-click-through-agreement/

## Appendix 3 - Descriptions of the Submitting Associations

- **The Association of Mortgage Investors (AMI)** is the industry voice for institutional investors and investment professionals with interests in mortgage securities ("RMBS"). Our members are mortgage investors entrusted with managing public and private pension funds, unions, endowments, and private investments. AMI represents these investors in the public policy debate on mortgage and housing finance issues. We work to ensure a transparent and functioning private mortgage market.

- **The National Association of Real Estate Investment Trusts (NAREIT)** is the worldwide representative voice for real estate investment trusts (REITs) and publicly-traded real estate companies with an interest in U.S. real estate and capital markets. NAREIT's members are REITs and other real estate businesses throughout the world that own, operate and finance residential and commercial real estate. NAREIT's Mortgage REIT (MREIT) Council ("MREIT Council" or "Council"), which includes both residential and commercial MREITs, advises NAREIT's leadership on MREIT matters.

- **SIFMA** is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over $2.5 trillion for businesses and municipalities in the U.S., serving clients with over $20 trillion in assets and managing more than $67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.