



## Summary of the Credit Risk Retention Provisions of Senator Dodd's Financial Services Regulatory Reform Draft Legislation Released on March 15, 2010

This section of the bill requires securitizers and/or originators to retain a portion of the credit risk of loans that are securitized. Key provisions include:

- The bill distinguishes a *securitizer* as a party who issues or initiates an asset-backed security versus an *originator* who is the party who sells an asset to a securitizer.
- The requirements apply only to assets that are securitized. *Note: This is an improvement to the risk retention provisions of H.R. 4173 which, in addition to securitizations, applies to assets that are sold, transferred or otherwise conveyed, regardless of whether they are securitized.*
- The bill requires securitizers to hold at least five percent of the credit risk of a securitized asset. *Note: This is an improvement from Dodd's earlier discussion draft which had a 10 percent risk retention requirement.*
- The OCC, FDIC and SEC can set lower risk retention requirements for loan types with reduced credit risk characteristics such as strong underwriting standards. *Note: This provision gives a nod to MBA's assertion that prudently underwritten, low-risk loan types merit no additional risk retention requirements. MBA will continue to advocate for a specific zero risk retention provision for "qualified" residential, multifamily and commercial mortgages.*
- In setting risk retention requirements, the regulators must consider the impact of such requirements on the availability and cost of consumer credit. *Note: This provision reflects MBA's assertion that risk retention requirements above and beyond those already in existence for qualified mortgages will severely restrict, or increase the cost of, housing finance credit.*
- The rules will also establish the allocation of risk retention between the securitizer and originators.
- *Note: This version of the Dodd bill omits the specific exemption for securities or assets insured or guaranteed by the government or a government-related entity. MBA will advocate for this provision to be reinserted.*
- Credit risk may not be hedged.

- The risk retention by the securitizer will be reduced by risk retained by the originator.
- Regulations must be issued within 270 days from the law's enactment. The regulations become effective for residential mortgage-backed securities (MBS) within one year after final rules are issued. The rules apply within two years of finalization for all other classes of asset-backed securities. *Note: MBA will advocate for parity – in this case a two-year effective date for MBS.*