

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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February 23, 2016

The Honorable Scott Garrett  
Chairman  
Subcommittee on Capital Markets and  
Government Sponsored Entities  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Carolyn Maloney  
Ranking Member  
Subcommittee on Capital Markets and  
Government Sponsored Entities  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Garrett and Ranking Member Maloney:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, supports the discussion draft legislation to amend the Securities Exchange Act of 1934 to exempt certain commercial real estate loans from risk retention requirements, H.R. 4096, the "Investor Clarity and Bank Parity Act," and H.R. 4166, the "Expanding Proven Financing for American Employers Act."

The Chamber believes that it is critically important for the Subcommittee to examine the impact of the Volcker Rule and Risk Retention rules on the American economy. The American economy has the most innovative and diverse financing system in the world. This efficiency makes it easier for businesses to obtain the resources needed to grow and operate, launch new companies, go public, manage risk more affordably, and promote greater availability of consumer credit. However, the Volcker Rule and Risk Retention rules are threatening the ability of the American financing system to provide businesses with the resources to grow, particularly with respect to the health of the securitization markets. This also comes at a time when certain sectors, such as the commercial mortgage-backed securities (CMBS) market, are experiencing increased volatility due to global economic certainty.

The Chamber supports these bills and the Subcommittee's focus on the liquidity and functionality of the fixed income market and securitizations. More broadly, the Chamber also supports increased oversight over the Basel Committee on Banking Supervision, and domestic implementation of these standards by the Federal Reserve and other banking regulators, that may threaten the proper functioning of the American financial system. The Chamber has repeatedly expressed serious concerns that the Federal Reserve and other regulators have failed to take into account the impact of the Volcker Rule and Risk Retention rules upon the capital formation of

Main Street businesses, especially with respect to collateralized loan obligations (CLOs).<sup>1</sup> Consequently, the Chamber also believes that the discussion draft legislation should include a requirement that a comprehensive study of Dodd-Frank rules be conducted to better understand the interaction of various regulatory initiatives and their impacts upon Main Street businesses.

### **H.R. \_\_\_\_\_ to amend the Securities Exchange Act of 1934 to exempt certain commercial real estate loans from risk retention requirements**

The Chamber supports the discussion draft introduced legislation by Rep. Hill to exempt single loan commercial real estate securitizations and qualified commercial real estate loans from risk retention requirements. Broadly, this bill would create a new exemption for certain qualified commercial real estate loans and make the risk retention requirements applicable to third-party purchasers of commercial real estate loans less onerous. These changes would encourage continued investment in the CMBS market after the Risk Retention rule becomes effective later this year while also diversifying any potential risk among multiple third-party purchasers of commercial real estate loans. These changes would help ensure the vibrancy of the CMBS market without undermining the goal of the Risk Retention rule.

### **H.R. 4096, the “Investor Clarity and Bank Parity Act”**

The Chamber supports H.R. 4096, the “Investor Clarity and Bank Parity Act,” introduced by Rep. Capuano. One significant consequence of the Volcker Rule is the prohibition of any covered fund’s name sharing the same name or a variation of the same name as a banking entity, or an affiliate or subsidiary thereof, as well a prohibition on the word “bank” in the name. While well-intentioned, this prohibition is unnecessary for sophisticated investors in hedge funds and private equity funds. Moreover, the prohibition has been rendered inappropriate given the inability of banking entities to guarantee obligations or performance of a covered fund under the Volcker Rule, in addition to required disclosures stating that risk of loss is borne entirely by investors, and not a banking entity. H.R. 4096 would rectify this issue and provide bank-affiliated investment managers the flexibility to name their funds freely without creating any additional risks to an investor or affiliated bank.

### **H.R. 4166, the “Expanding Proven Financing for American Employers Act”**

The Chamber supports H.R. 4166, the “Expanding Proven Financing for American Employers Act,” introduced by Rep. Barr. The Chamber has previously noted the importance of CLOs to the American economy. CLOs provide business financing to companies in 47 states and the District of Columbia that collectively employ over five million Americans. CLOs are primarily used as a non-investment grade vehicle and give small-, midsize-, or challenged-businesses a stream of capital formation. A broad swath of corporate America participates in this market, including companies from the health care, energy, retail, entertainment, and telecommunications sectors.

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<sup>1</sup> See testimony given before the Subcommittee on Capital Markets and Government Sponsored Enterprises for the February 26, 2014 hearing entitled: The Dodd-Frank Act’s Impact on Asset-Backed Securities, *available at* <http://financialservices.house.gov/uploadedfiles/hhrg-113-ba16-wstate-tquaadman-20140226.pdf>.

H.R. 4166 recognizes the importance of CLOs to growing the American economy and the fact that investment grade CLOs experienced very few aggregate losses during the financial crisis. H.R. 4166 would create a “qualifying CLO” exemption to the Risk Retention rules, similar to the current exemption for Qualified Residential Mortgages, which would reduce the amount of capital to be held to five percent of the equity tranche of a CLO, rather than five percent of the face value of a portfolio. This meaningful change would support continued investment in CLOs, while still ensuring adequate safeguards through standards on the quality of assets, portfolio diversification, minimum capital structure, alignment of interests, and proper reporting and disclosure and manager regulation.

Passage of these bills would help to provide the regulatory oversight and initiative needed to protect investors, while providing businesses with the resources needed to grow and create jobs. Accordingly, the Chamber urges the Committee to mark up and then report these bills to the full House of Representatives as expeditiously as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and "B".

R. Bruce Josten

cc: Members of the Committee on Financial Services