

20100223 SIFMA Securitization Group Stresses Need for Coordinated, Comprehensive and Measured Regulation

Source: SIFMA

In a comment letter filed today with the Federal Deposit Insurance Corporation (FDIC), the Securities Industry and Financial Markets Association's Securitization Group (SSG) expresses its support for coordinated, comprehensive and measured regulation to improve the safety and soundness of the securitization market and for an insolvency safe harbor to provide certainty to market participants and investors. However, SIFMA stresses the need for regulation to be coordinated within the broader context of regulatory reform, and to base criteria for a safe harbor on the legal principles of isolation of assets in insolvency.

"We support reasonable efforts to restore and reshape the securitization market, but we do not believe the proposed safe harbor is an appropriate means of regulation," said Chris Killian, vice president at SIFMA. "Securitization is a key component to ensuring credit availability to consumers and businesses, and therefore plays a critically important role in the economic recovery. Changes to regulation of the securitization market must be done in a coordinated manner which incorporates the views of various market participants, regulators and policymakers, and is mindful of the impact of the sum total of the changes on the ability of institutions to utilize securitization to fund credit creation."

The comment letter was filed in response to the Federal Deposit Insurance Corporation's (FDIC) advance notice of proposed rulemaking, which would amend the current safe harbor treatment. SIFMA does not believe the proposed safe harbor is the appropriate means to regulate the securitization market for two reasons:

- Regulation of the securitization market must be undertaken on a coordinated basis in consideration of on-going legislative reform efforts in Congress and in consultation with other relevant regulators. The unilateral imposition of broad-based conditions on insured depository institutions (IDIs) by the FDIC is premature. It poses an undue burden on IDIs and would front-run the large-scale, coordinated financial regulatory reform initiative currently being undertaken by Congress and other relevant regulators.
- An insolvency safe harbor should be based on insolvency principles and should not impose requirements unrelated to insolvency. Well-developed legal principles govern the treatment of securitized assets in insolvency. The ANPR eclipses those principles, first, by using the Proposed Safe Harbor to introduce market regulation unrelated to insolvency, and second, by suggesting that the treatment of assets under GAAP determines the treatment of assets in insolvency. SIFMA also requests that the FDIC extend the interim period for the effectiveness of the 2000 Safe Harbor for at least six months beyond March 31, 2010 and that it work with industry participants during that time to outline safe harbor criteria that are based on the legal principles of isolation of assets in insolvency.

The full letter is available [here](#).

NovaRes Team