

Statement of Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation, Notice of Proposed Rulemaking: Proposed Amendment to Securitization Safe Harbor Rule

July 16, 2019

Today, we are considering a notice of proposed rulemaking that would make a narrow amendment to the FDIC's Securitization Safe Harbor Rule. This Safe Harbor Rule was first adopted in 2000 in response to industry requests for clarity as to whether the FDIC would use its repudiation powers to reclaim assets that were transferred to a securitization trust by an insured depository institution (IDI). In view of certain accounting changes, the FDIC amended the Securitization Safe Harbor Rule in 2010, requiring bank securitizers to comply with numerous conditions in order to obtain the benefits of the safe harbor.

The rule, as revised in 2010, imposes a number of disclosure requirements. One of the conditions added requires disclosure of information as to the securitized financial assets that at a minimum comply with the U.S. Securities and Exchange Commission's (SEC's) Regulation AB, even if the obligations are not themselves covered by Regulation AB, such as obligations issued in private placements. The result of this requirement is that the FDIC is applying an SEC disclosure rule in situations in which the SEC itself determined, after long deliberation, including an extensive rulemaking process, not to apply the disclosure rule. Because the SEC is the federal agency responsible for investor protections, it is prudent to defer to the SEC's judgment in deciding when to apply their rules mandating disclosures to investors.

Moreover, there is no parallel requirement for securitizations by institutions that are not IDIs. Investors in such securitizations do not

have the same concerns about whether a transaction would be subject to the reclamation of transferred assets in the event of a sponsor's insolvency and thus have been able to sponsor private placements of securitizations without concern as to whether the transactions comply with Regulation AB.

The proposal we are considering today would remove one potential obstacle that IDIs face in providing mortgage credit to homeowners. With respect to any concerns that this could lead to a repeat of practices that contributed to the financial crisis, regulatory requirements are dramatically different today than leading up to the crisis. Furthermore, as noted, concerns related to disclosures to investors are generally best addressed by the SEC, not the FDIC.

I support publication of the notice of proposed rulemaking with a 60-day comment period. I would like to thank the FDIC staff for their efforts on this important proposal and I look forward to reviewing the comments that we receive.