PRESS RELEASE

Federal Deposit Insurance Corporation ● Each Depositor insured to at least $250,000

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FDIC Board Approves Advance Notice of Proposed Rulemaking Regarding Safe Harbor Protection for Securitizations

FOR IMMEDIATE RELEASE

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) today approved an Advance Notice of Proposed Rulemaking (ANPR) Regarding Safe Harbor Protection for Treatment by the FDIC as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation. Since 2000 and the adoption of 12 C.F.R. Part 360.6, the FDIC has provided important safe harbor protections to securitizations by confirming that in the event of a bank failure, the FDIC would not try to reclaim loans transferred into a securitization so long as an accounting sale had occurred. However, with the Financial Accounting Standards Board June 2009 changes in FAS 166 and 167, most securitizations will no longer meet the off-balance sheet standards for sale treatment when they take effect on January 1, 2010.

On November 12, the FDIC Board approved a transitional safe harbor that permanently grandfathered securitization or participations in process through March 31st, 2010. The ANPR will seek public comment on what standards should be applied to safe harbor treatment for transactions created after March 31st.

FDIC Chairman Bair said, "Today's ANPR will move the discussion forward to achieving a broad agreement on securitization reforms that can be implemented by all the regulatory agencies. As deposit insurer and receiver for failed insured banks and thrifts, the FDIC has a unique responsibility to control the risks to the Deposit Insurance Fund. The misalignment of incentives in securitizations has contributed to massive losses to insured institutions, to the DIF, and to our financial system. Fostering a sustainable securitization market that emphasizes transparency, loan quality, risk retention, and appropriate incentives and authorities for restructuring troubled loans will restore investor confidence and help banks diversify their funding sources while managing interest-rate risk for longer dated assets. The sample regulatory text for conditions to a FDIC safe harbor would, I believe, go far towards correcting the weaknesses in securitization that contributed to the crisis and is very consistent with the direction of legislation in the House and Senate."

The sample regulatory text for conditions to a FDIC safe harbor is included in the ANPR. The ANPR will be open to public comment for 45 days following publication in the *Federal Register*.

Attachment:
Rulemaking on Treatment by the FDIC as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection with a Securitization or Participation - PDF (PDF Help)