ARTICLE

Risk Retention: Throwing the Baby Out with The Bathwater

JULY 2010

This *article originally appeared in the July 2010 issue of The Corporate Counselor. Reprinted with permission from ALM.*

There is significant, ongoing debate in Congress, as well as among the industry's regulators, as to the direction and scope of financial reform measures designed to address the problems that were perceived to be the cause of the current economic crisis. Some form of risk retention in any final legislation and rules are to be expected and perhaps are inevitable. But it is important to understand at this still formative stage of the legislative process that the public outcry driving financial reform may unwittingly create risk retention levels in securitization transactions that will ultimately affect Main Street's credit costs, and severely limit access to credit.

The key, we believe, is to resist the temptation to adopt broad-based reforms that do not really address the underlying causes of the global financial meltdown but that, in the process, harm a market that significantly contributed to the growth of our economy over the last few decades. For instance, an exclusion from whatever rules are adopted could be carved out for various aspects of the commercial loan industry. Also, risk retention might not be applied where investment sponsors are required to be more transparent about the risks or conflicts involved in their products.

Perhaps a brief summary on how we got to where we are — and how we might be able to avoid a similar situation in the future — is worthwhile.

1 Min Read

Related Locations

Chicago

Related Topics

Securitization

Related Capabilities

Structured Finance

Capital Markets

Related Professionals

Michael Mullins