

**AG Mortgage Investment Trust, Inc.**  
**245 Park Avenue, 26th Floor**  
**New York, NY 10167**

**VIA EMAIL**

November 7, 2011

Ms. Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: Release No. IC-29778; File No. S7-34-11;  
Companies Engaged in the Business of Acquiring Mortgages and Mortgage-Related Instruments

Dear Ms. Murphy:

AG Mortgage Investment Trust, Inc. (the "Company") appreciates the opportunity to provide input to the Securities and Exchange Commission (the "SEC") regarding the interpretive issues discussed in the above concept release, in particular, the status under the Investment Act of 1940 (the "Act") of companies that rely on certain long-standing interpretations of Section 3(c)(5)(C) of the Act for their exemption from registration under the Act.

The Company is a real estate investment trust ("REIT") that invests in, acquires and manages a diversified portfolio of residential mortgage related assets. It is externally managed and advised by AG REIT Management, LLC, a subsidiary of Angelo, Gordon & Co., L.P. ("Angelo, Gordon"), an SEC-registered investment adviser. As described in the Company's prospectus dated June 29, 2011 for its initial offering of common stock (the "IPO Prospectus"), over time, we expect the Company's portfolio to focus on residential mortgage-backed securities that are not issued or backed by a U.S. government agency or a U.S. government-sponsored entity such as Fannie Mae or Freddie Mac. Initially, however, the risk-reward profile of recent market opportunities led the Company to invest a significant amount of the proceeds of its IPO and borrowed funds in securities issued by Fannie Mae, Freddie Mac and Ginnie Mae. To a lesser extent, the Company has also invested initially in other target assets such as commercial mortgage-backed securities and asset-backed securities.

For the future, we disclosed in the IPO prospectus that we believe that the Obama Administration's proposals to encourage more private capital to enter the housing finance sector will open new opportunities for the Company and allow it to capitalize on available investments in newly originated residential-mortgage assets.

**Events Following the Company's IPO**

The Company established and structured its business earlier this year in reasonable reliance on Section 3(c)(5)(C) interpretations that have been in effect for decades. On March 7, 2011, the Company filed its

registration statement on Form S-11 (File No. 333-172656) for up to an aggregate of \$300 million in common stock. On April 1, 2011, it received an SEC comment letter with 19 questions. In that letter, the SEC expressly noted that the Company disclosed its intention to operate its business in a manner that will permit it to maintain an exemption from registration under the Act. The SEC asked to be provided with a detailed analysis of the exemption that the Company intended to rely on and how the Company's investment strategy will support that exemption. The SEC noted that it intended to refer the Company's response to the Division of Investment Management for further review. In response to that comment letter, the Company filed amendment No. 1 to its registration statement on April 5, 2011, and as part of that filing included a letter from its counsel in which it provided the detailed analysis requested by the SEC. As requested, the Company revised the disclosure in the IPO Prospectus about its planned compliance with the Section 3(c)(5)(C) exemption.

On April 15, 2011, the Company received a new comment letter with 9 questions; on April 26, 2011, it received a new letter with 1 question; and on June 28, 2011, it received a new letter with 4 questions. None of those letters included requests from the Division of Corporation Finance or the Division of Investment Management for additional or revised disclosure with respect to the Section 3(c)(5)(C) exemption or the Company's plans to comply with the exemption. Close to the time of our receipt on June 29, 2011 of the Notice of Effectiveness, outside counsel to the Company spoke by telephone to a person in the Division of Investment Management, and in response to that conversation, several changes were made to the language in the IPO Prospectus about Section 3(c)(5)(C). On July 6, 2011, the Company successfully completed its IPO.

On August 31, 2011, exactly eight weeks after the completion of the IPO, the concept release was published. The release immediately gave rise to investor concern and uncertainty over mortgage REITs such as the Company. Newspaper stories appeared the next day, September 1, 2011, with headlines such as "The End of Mortgage REITs?" in The Wall Street Journal. Although the concept release may have been primarily intended by the SEC to solicit public comment about the interpretation of the Section 3(c)(5)(C) exemption, the release has given rise to significant and unwarranted negative publicity and legal uncertainty surrounding an entire market segment. We had stated in the IPO Prospectus that the Company's business risks included actions of the U.S. government, but we had not expected that such governmental risks would come about through actions such as the publication of the concept release.

### **Current Regulation**

Mortgage REITs, such as the Company, that are listed on a national exchange are already highly regulated and subject to many forms of investor protection. Those protections include corporate governance rules relating to independent directors, independent committees and independent auditors. Further, there is broad adoption and disclosure by mortgage REITs in connection with related party transaction policies and corporate governance guidelines.

In light of these existing regulations and investor protections, we question why mortgage REITs relying on the Section 3(c)(5)(C) exemption require additional regulations or whether the SEC needs new tools to further regulate these types of companies. Full disclosure and transparency already exist for mortgage

REITs, and there is currently an extensive financial regulatory framework in place that applies to such companies and can be enforced by the SEC.

### **Private Capital's Role in Housing Finance**

Mortgage investors and others believe that the U.S. needs more private capital to flow into mortgage markets. The February 2011 report to Congress on "Reforming America's Housing Market," issued jointly by the U.S. Treasury and Department of Housing and Urban Development, recommended using a combination of policy levers to shrink the government's footprint in housing finance and help bring private capital back to the mortgage market. The report states that the Obama Administration believes that, under normal market conditions, the private sector – subject to stronger oversight and standards for consumer and investor protection – should be the primary source of mortgage credit and bear the burden for losses. Central to the Obama Administration's plan is a transformation of the roles of government and private capital in the housing market.

The Company believes that the actions contemplated by the report will accelerate the demand for private capital in the housing finance sector from companies such as mortgage REITs. If private markets over time are to become the primary source of mortgage credit and bear the burden for losses, than we urge the SEC to make any changes to the existing legal and regulatory structure relating to mortgage REITs, including the interpretation of the Section 3(c)(5)(C) exemption, gradually and with genuine consideration of the economic benefits and burdens of the changes.


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The Company fully supports the goals of full disclosure, greater transparency, a strong housing market and safe capital markets. We are concerned, however, that a major reconsideration at this time of the long-standing interpretations of the Section 3(c)(5)(C) exemption under which the Company structured and currently operates its business will result in more, and not less, uncertainty with respect to the legal status of mortgage REITs and their role in capital formation for residential housing.

As discussed above, in light of the current extensive regulatory and disclosure regimes that control the Company's operations and business, we respectfully suggest that additional regulation at this time would be counterproductive to the goal of increasing the flow of private capital to the U.S. housing finance sector.

The Company greatly appreciates the opportunity to comment to the SEC on the concept release. Any questions about this letter may be directed to the undersigned at [akrinsman@angelogordon.com](mailto:akrinsman@angelogordon.com); telephone 212-883-4180.

Very truly yours,



Allan Krinsman  
General Counsel