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Appraisal Institute Calls on Bank Regulators to Revisit Appraisal Regulations

The Appraisal Institute issued a public comment letter on the proposed Interagency Appraisal and Evaluation Guidelines January 20, calling on the federal bank regulatory agencies to revisit the underlying appraisal regulations, while advancing the importance of competency to the appraisal process and expressing concern regarding ongoing misuse of broker opinions of price.

"The Interagency guidelines originally were developed at a time when there was concern by the lending industry over the availability of appraisal services, thus, the regulations and guidelines accepted low appraisal requirements and exempted a significant percentage of transactions, which time has proven to be problematic," the letter states. "While it may not work correctly all the time, the appraisal system of today has been built and is now firmly established. The bank regulatory agencies should turn their attention to providing solutions to help our economy recover. We believe that this requires increased emphasis on the quality of the appraisal process and the inclusion of properties that have proved to be problematic, yet fall under exemptions to the original regulations."

The Appraisal Institute firmly advanced provisions that would promote the greater emphasis on the competency of appraisers hired by federally regulated financial institutions. Specifically, the letter urged the bank regulators to provide expanded guidance on ways in which lenders can verify education and experience of appraisers, including references similar to those already found in the Fannie Mae Selling Guides that make clear that designations can be helpful to lenders in evaluating an appraiser's qualifications, particularly when the designation is from a nationally recognized organizations that has formal experience, education and ethics requirements that are strongly administered. The Institute also encourage language be carried over from previous guidance to lenders that made clear that lenders should not allow lower cost or reduced delivery time to compromise the determination of an appropriate scope of work.

The letter also expressed concern over several exemptions found in appraisal regulations, specifically, appraisal exemptions for refinancing or modifications. "We believe that the Agencies should be stronger in their encouragement for obtaining current appraisals in renewals and refinancings, particularly in light of current market conditions and investor concerns about transparency and the uncertainty of underlying asset values in the securitization market," the letter stated. "Specifically, we strongly encourage the Agencies to clarify that it is "generally prudent" or "nearly always prudent" to obtain well-supported appraisals any time there have been obvious and material changes in market conditions." The Appraisal Institute also expressed concern over ongoing misuse of broker opinions of price as appraisal alternatives, particularly in the 24 states that strictly prohibit their performance for anything beyond a listing if it is provided for compensation.

The comment letter provides many technical suggestions to the proposed guidelines, as well. The comment letter can be found on the AI Web site at www.appraisalinstitute.org/newsadvocacy/letrs_tstimny.aspx.

Questions can be sent to Brian Rodgers, Director of Federal Affairs, at 202-298-5597, brodgers@appraisalinstitute.org.

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HUD Delays Affiliated-Lender Rule Implementation

The Department of Housing and Urban Development's ban on builders from offering discounts to homebuyers that use their affiliated mortgage companies has been pushed back to April 16 after the National Association of Home Builders filed a complaint with the U.S. District Court in Alexandria, Va., seeking to block the rule's implementation, originally set for January 16.

Builders have argued that the tie-in to their affiliated lenders ensures a smooth transaction and lessens the chance of a delayed closing date. HUD, however, claims that by tying incentives to the use a specified lender or title company, home buyers are left with few alternatives and could end up paying more for the home by using the builder's affiliated companies.

Although HUD has agreed to delay the implementation of its incentives rule for 90-days, there has been no evidence to suggest that HUD plans to make any changes to the language of the rule itself. HUD's incentives rule is part of the overhauled Real Estate Settlement Procedures Act, which was officially amended on November 17, 2008.

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Appraisal Institute's HVCC Webinar Now Available Online

More than 650 appraisers participated in the Appraisal Institute's January 16 webinar, *The Real Impact of the Home Valuation Code of Conduct*, during which they voiced concern that the upcoming implementation of the Home Valuation Code of Conduct will jeopardize the quality of residential valuations as intermediaries, or "middle-men," are added to the appraisal management process.

Among specific concerns voiced are worries that AMCs demand turnaround times on assignments that leave little room for thorough analysis. Appraisers are also concerned that lenders using AMCs will inadvertently sacrifice the best interests of the consumer, as there is a general belief that appraisers willing to work for lower fees and on tighter deadlines often are the least experienced appraisers in their markets.

The Appraisal Institute's HVCC webinar, which highlighted the day-to-day, "real-life" impact of the HVCC on appraisers and their businesses, brought together panelists from across the appraisal profession to discuss how the HVCC will affect various types of appraisal work.

The HVCC establishes appraiser independence requirements for lenders selling loans to Fannie Mae and Freddie. Beginning May 1, 2009, Fannie and Freddie will not buy or guarantee loans that do not comply with the HVCC.

This was the first of several webinars the Appraisal Institute intends to offer to professional appraisers to discuss the implementation processes of the HVCC on the real estate industry and mortgage lending practices.

To access the Appraisal Institute's 60-minute *The Real Impact of the Home Valuation Code of Conduct* webinar, visit www.appraisalinstitute.org/store/p-143-the-real-implications-of-the-hvcc-on-appraisers-and-lenders.aspx. The webinar is free for Appraisal Institute members and $45 for nonmembers.

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FDIC Wants Bailout Usage Reports

Amid strong opposition from critics regarding how the first $350 billion of the Troubled Asset Relief Program funds had been spent, a divided Senate voted January 15 to approve President Barack Obama's request for the remaining $350 billion. The 52–42 vote marked Obama's first legislative victory, a few days before he assumed office. The program, which was established this past fall to combat the nation's financial crisis, was structured so that the president has access to the funds unless Congress actively prevents its release.

However, many Republicans argue that the first $350 billion was largely wasted with no indications that the funding worked. "There's been mistake after mistake, embarrassment after embarrassment and a complete lack of accountability in the TARP program," said Sen. David Vitter, R-La. To track how future funds are used to help boost prudent lending as well as to help at-risk borrowers avoid foreclosures, the Federal Deposit Insurance Corp. recently issued a directive to roughly 5,100 state-chartered banks and savings and loans requiring them to track how TARP funds are allocated, summarizing the information in periodic reports and financial statements. The directive comes after a congressional panel overseeing the TARP program reported that the FDIC failed to answer many questions relating to the government's overall strategy to rescue the economy and how the funds are being used by financial institutions.

"I'm gratified that a majority of the U.S. Senate, both Democrats and Republicans, voted … to give me the authority to implement the rest of the financial rescue plan in a new and responsible way," Obama said. "My pledge is to change the way this plan is implemented and keep faith with the American tax payer." Obama plans to use the money to relieve credit markets and extend loans to consumers, small businesses and municipalities. In addition, Obama plans to use $50–$100 billion of the money to reduce the number of foreclosures.

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Bair, Paulson Propose Aggregator Bank for Toxic Debt

With increased pressure on the government to help unfreeze lending, the Obama administration is said to be considering the creation of a new government-backed "aggregator" bank to remove toxic assets from lenders' balance sheets. The news comes just days after the U.S. Federal Reserve, Treasury and Federal Deposit Insurance Corp held talks to discuss ways to ease the nation's deepening banking crisis. Last week both FDIC Chairwoman Sheila Bair and former Treasury Secretary Henry Paulson indicated that their agencies had been in discussions about how an "aggregator bank" could potentially work. With the Senate voting to release the second half of the $350 billion of TARP funds, the government now has access to the money that would be necessary to buy up illiquid assets.

It is widely believed that the continually grave economic and housing market outlooks for 2009 are weighing heavily on President Obama and that the new administration may take dramatic actions to spark fresh lending and spur economic growth.

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Additional Agencies Added to Combat Mortgage Fraud

Six new agencies have been added to the President's Corporate Fraud Task Force to help with its continuing focus to crack down on mortgage fraud cases. The expanded roster includes the Federal Housing Finance Agency, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve, the Department of Housing and Urban Development and the Special Inspector General for the Troubled Asset Relief Program. Chair of the Task Force, Deputy Attorney General Mark Filip said, "The Task Force is uniquely suited to providing the kind of thoughtfulness and collaboration that can be invaluable in tackling mortgage fraud at the corporate level, and in trying to analyze whether and when law enforcement action is appropriate. These new members reflect the breadth and depth of the mortgage crisis that we are now confronting, and the urgency of the task before us."

To restore public and investor confidence in corporations following a wave of major scandal, former President Bush created the task force in July 2002. Since its inception, the task force has brought forth nearly 1,300 convictions to date. For more information on the task force, visit www.usdoj.gov/dag/cftf.

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FHFA Announces New Mortgage Data Requirements

For mortgage applications taken on or after January 1, 2010, Fannie Mae and Freddie Mac will be required to obtain loan-level identifiers for loan originators, loan origination companies, field appraisers and supervisory appraisers. The new requirement is consistent with the SAFE Mortgage Licensing Act, a key component of the Housing and Economic Recovery Act of 2008, which requires the creation of a nationwide mortgage licensing system and registry. "This represents a major industry change. Requiring identifiers allows the enterprises to identify loan originators and appraisers at the loan-level, and to monitor performance and trends of their loans," said James Lockhart, director of the Federal Housing Finance Agency. "If originators or appraisers have contributed to the incidences of mortgage fraud, these identifiers allow the enterprises to get to the root of the problem and address the issues."

In addition to restoring confidence and transparency in the credit markets, the new requirement is designed to ensure that mortgages owned and guaranteed by Fannie Mae and Freddie Mac are originated by individuals who have complied with SAFE Mortgage Licensing Act licensing and education requirements. Moreover, the two agencies will use the data to monitor and control risks related to both originator and appraiser performance and fraud. Both Fannie Mae and Freddie Mac will be issuing implementation guidance for the new requirement within the next 30 days.

The change in policy more directly effects mortgage originators than it does appraisers, says Bill Garber, Director of Government and External Relations for the Appraisal Institute. “Until the past few months, the mortgage origination community has operated in the Wild West, without meaningful oversight and scrutiny. Thankfully, that is changing quickly.”

For appraisers, this change means that Fannie Mae and Freddie Mac will be able to monitor performance of specific appraisers far easier than they are today. “If you are an honest and ethical appraiser, you have nothing to worry about with this change,” said Garber.

See following related story for information on the Department of Housing and Urban Development’s mortgage licensing guidance on the SAFE act.

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HUD Gives Guidance on Mortgage Licensing Legislation

To help states preparing to introduce laws and regulations based on the SAFE Mortgage Licensing Act, the Department of Housing and Urban Development has released guidelines on how to meet minimum requirements set forward in recently reviewed (and approved) model legislation. Among the guidance issued is an approval of the definition of the term “loan originator,” which HUD defines as:

“[A]ny individual who, for compensation or gain, offers or negotiates pursuant to a request from and based on the information provided by the borrower. Such an individual would be included in the definition of loan originator, regardless of whether the individual takes the request from the borrower for an offer (or positive response to an offer) of residential mortgage loan terms directly or indirectly from the borrower.”

The model legislation HUD reviewed was jointly developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators to assist states in meeting the minimum requirements of the Secure and Fair Enforcement Mortgage Licensing Act of 2008, known as the SAFE Act. The law directs the establishment of a nationwide mortgage licensing system and registry, to be developed and maintained by CSBS and AARMR. Under the law, states are charged with enacting licensing standards that meet the requirements of the SAFE Act, while HUD has responsibility for interpretation, implementation and compliance with the SAFE Act.

HUD reviewed the drafted model legislation and said states that adopt the model law will be in compliance with the SAFE Act. The model legislation is available on HUD's Web site at www.hud.gov/offices/hsg/sfh/mps/modellaw.pdf.

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TAVMA Responds to AI's Model AMC Legislation

“AMCs are not appraisers, nor do they perform appraisals.” That is the response from the Title/Appraisal Vendor Management Association regarding model legislation drafted by the Appraisal Institute that would give state appraiser boards the statutory authority they need to develop and implement registration requirements for appraisal management companies operating in their states.

The Appraisal Institute – in conjunction with the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, and the National Association of Independent Fee Appraisers – issued the model legislation for industry feedback on Nov. 3, 2008.

TAVMA, while recognizing the need for appraiser independence, took issue with several of the provisions included in the model legislation. As currently drafted, the appraisal organization’s model legislation, available at www.appraisalinstitute.org/newsadvocacy/downloads/modelprovisionsAMC.pdf:

- Requires the registration of AMCs operating in the state that orders residential appraisals from independent appraisers (exemptions are provided for “in-house” appraisal departments, AMCs that order less than 10 appraisals in a state in a year, and for appraisers that subcontract to other appraisers on an incidental basis);
- Prohibits AMCs from being owned by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked;
- Requires the identification of a “controlling person” for each AMC;
- Requires AMCs to have systems in place to verify that they use only licensed or certified appraisers, and that all appraisals are in compliance with USPAP;
- Enacts requirements that ensure that appraisers are free from coercion or inappropriate influence from AMCs; and
- Provides for the adjudication of disputes between AMCs and independent appraisers.

In particular, TAVMA balked at the idea of state appraiser boards having regulatory control over AMCs, stating in their response that “it would be inappropriate and a clear conflict of interest for state appraisal boards, which consist mainly of appraisers, to regulate AMCs.”

Rather TAVMA would prefer that any such registration of AMCs would occur at the federal level and with assistance from an industry watchdog (TAVMA suggested itself). The group went on to recommend that its leadership develop a clear position about AMC registration so that they could meet with the appraisal organizations as well as regulators and legislators to discuss the issue.

The Appraisal Institute’s Government Relations Committee is reviewing the TAVMA statement and will recommend the most appropriate response, according to Bill Garber, Director of Government and External Relations for the Appraisal Institute.

To read TAVMA’s full response to the appraisal organization’s AMC Registration and Regulation Proposal, visit http://appraisalnewsonline.typepad.com/files/tavma-position-paper---amc-regulation-2.pdf.

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Countrywide, Wells Fargo under Investigation for Appraisal Skimming

Countrywide has been served a class-action lawsuit for allegedly forcing borrowers to use its subsidiary, LandSafe, for appraisals. The lawsuit claims that LandSafe subcontracted much of its appraisals to a network of independent appraisers offering them rates as low as $140 per assignment and then invoiced homeowners as high as $410. The suit also contends that independent appraisers who do not accept Countrywide's fee structure or appraisal guidelines risked being blacklisted.

Filed in the U.S. District Court in Seattle, Wash., under the Racketeering Influenced and Corrupt Organizations Act, the suit seeks to represent the state's homeowners who purchased or refinanced their home through Countrywide and LandSafe. According to the law firm, hundreds of thousands of homeowners may have fallen prey to the alleged scheme. "As we investigated Countrywide for our clients, it was immediately obvious that Countrywide is a well-oiled operation," said Steve Berman, managing partner and lead attorney at Hagens Berman Sobol Shapiro. "Unfortunately, the company's efficiencies are focused on soaking every penny from consumers and independent appraisers in ways we believe violate the law."

In a similar case, Hagens Berman is investigating Wells Fargo and its appraisal subsidiary. Based on reports, Wells Fargo forces borrowers to use its appraisal firm, Rels Valuation, which then subcontracts the work to independent appraisers while charging homeowners inflated fees. "The real estate industry and lending practices in this country put homeowners at the mercy of companies like Well Fargo and others controlling the marketplace," said Berman. The firm is investigating additional claims against Wells Fargo, including blacklisting appraisers who do not agree with the lender's fee structure.

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Appraisal Institute Establishes State Regulatory Clearinghouse

As a new service for its members, the Appraisal Institute Web site now includes a State Regulatory Clearinghouse that lists all of the state regulatory proposals that have been made affecting the appraisal profession.

Each day, the organization's Washington, D.C., office uses a sophisticated commercial program to track proposed regulations on a number of important issues, including licensing, brokers' price opinions, appraisal management companies, etc. These proposals are tracked online and placed into a chart which is available for all Appraisal Institute members to see. Included in the chart are: the state in which the proposal was made, the date, whether it is a proposed or final regulation, and the general nature of the regulatory proposal. Members also have the ability to link to the actual text of each proposed regulation so that they can read the specifics of the proposal, and the process by which members and chapters can provide input on the proposal. The State Regulatory Clearinghouse is updated online on a weekly basis.

Scott Dibiasio, manager of State and Industry Affairs for the Appraisal Institute states, "Keeping abreast of the regulatory changes in your state can be a cumbersome task. The AI State Regulatory Clearinghouse is the one place where individual members and chapters can now find out what proposals have been made in their state and how the industry can provide its input."

To see if regulations affecting the appraisal industry have been proposed recently in your state, visit the AI State Regulatory Clearinghouse at www.appraisalinstitute.org/newsadvocacy/reg_clearinghouse.aspx.

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Fed's "Beige Book" Details Bleak Economic Picture

The completion of current construction projects (office buildings, apartments, shopping centers) signals the end of an era; developers will now have a difficult time obtaining funding for new developments from cash-strapped lenders, according to a Federal Reserve report released on January 14. The Federal Reserve's "Beige Book," a compilation of anecdotes about business conditions across a range of regions and industries that paints a bleak economic picture as 2009 gets under way, hardly took analysts or economists by surprise. Across the country banks have been reluctant to lend money, sales figures have been weak, and unemployment rates have continued to rise. On the commercial real estate side, there are also concerns from developers that they will be unable to find tenants once their retail projects under construction are completed.

The "Beige Book" is published eight times annually by the Federal Reserve. To access the latest "Beige Book" report visit www.federalreserve.gov/fomc/beigebook/2009/20090114/default.htm.

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Standard & Poor's Index Services Looks at 2008 Housing Market

The news coming out of Standard & Poor's 2008 Year in Review Home Price Indices is in keeping with the current state of affairs: with the housing market in a two-year recession, home price appreciation, housing sales and housing starts either hit, or were close to, record lows and inventories of unsold homes and mortgage delinquency rates approached record highs in 2008. Although all mortgage types have been affected by the housing crisis, the percentage behind payment or in foreclosure is higher for subprime loans. Both the 10-city and 20-city composites were back to early 2004 levels as of October 2008, with record annual declines of 19.1 percent and 18.0 percent, respectively. Housing starts are at their lowest in at least 30 years and existing home sales are at a 10-year low.

Overall, home prices have been in a sharp annual decline since January 2007, with the 10-city and 20-city composites reporting 169.78 and 158.16, respectively, as of October 2008. After peaking in 2006, home prices have been declining on average 20 percent annually. Although the Sun Belt states experienced the largest price increases since 2000, they also have been the hardest hit during the economic downturn. In 2004, Las Vegas' annual growth rate peaked at 53.2 percent and Phoenix peaked at 49.3 percent. During this time, Los Angeles, Miami, San Diego, San Francisco and Tampa all reported annual growth rates peaking above 30 percent, according to S&P.

While experiencing fairly healthy growth patterns between 2004 through 2006, New York and Washington, D.C., have not decreased nearly as much as the Sun Belt. New York's index level is the highest at 190.04, with home prices still 90 percent above 2000 levels. With an index of 184.92, Washington, D.C., home prices are about 85 percent above 2000 levels. Detroit is the only market below its 2000 level with an index of 86.1. None of the indices have yet signaled a bottom in the market.

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Valuation of Conservation Easements Offered Nationwide in 2009

The Appraisal Institute's *Valuation of Conservation Easements* certificate program is already slated for five offerings in 2009, including a March 23 offering in Milwaukee, Wis. Other locations include Baltimore, Boston, Casper, Wyo., and Portland, Ore.

The program – developed in conjunction with the American Society of Farm Managers and Rural Appraisers, American Society of Appraisers and Land Trust Alliance – is geared toward general certified appraisers who already have an understanding of the methodology in the approaches to value.

All Appraisal Institute members successfully completing and passing the examination for *Valuation of Conservation Easements* will be listed in the Certificate Registry in the AI's "Find an Appraiser" directory. Designated members' listings include a direct link to their Member Profile.

Registration fee is $795 for members; $955 for non-members. This course has been approved for 33 hours of Appraisal Institute continuing education credit. For more information and to register for an upcoming offering, visit www.appraisalinstitute.org/education/seminar_descrb/Default.aspx?sem_nbr=797&key_type=S.

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Ginnie Mae, FHA Grow as Freddie, Fannie Fade

With Fannie Mae and Freddie Mac faltering and coming under government control, the Government National Mortgage Association has recently become a much bigger player in mortgage-backed securities. Additionally, the Federal Housing Administration has increased its role in mortgages. Ginnie Mae accounted for 32 percent of new mortgage bonds last month while Fannie and Freddie have fallen to 46 percent and 22 percent, respectively. In December 2007, Ginnie Mae accounted for just 10 percent of new mortgage-backed securities. Fannie Mae held 58 percent and Freddie Mac held 32 percent.

Ginnie has increased its MBS issuances in the last year, going from about $9 billion in October 2007 to $24 billion in December 2008. By contrast, in the last eight months, Fannie Mae issuance has fallen from $63 billion to $34 billion and Freddie Mac has declined from $47 billion to about $16 billion.

"I don't want people to get the idea that Ginnie Mae is back in vogue because we are the last girl at the dance," said Joseph Murin, president of Ginnie Mae. "The government mortgage business is a good foundation for the market to build off of. At times like this, we're there."

Unlike Freddie and Fannie, Ginnie Mae is fully government-owned. Ginnie guarantees mortgage-backed securities, and is backed by the full faith and credit of the U.S. government. Investors in Ginnie Mae securities would still receive the principal and interest even if the loans were to default.

The biggest threat of default may come from FHA loans. "The FHA has been required to fill in for the subprime market in the last year," said Guy Cecala, president of Inside Mortgage Finance. "It has helped borrowers who are marginal, and many of its loans require only a 3 percent down payment. With home prices still declining, a lot of those mortgages could be underwater by next year."

Of course, that might not happen. Lemar Wooley, a spokesperson for the FHA, notes that the agency is protected "by its usual underwriting requirements based on the family's ability to repay the mortgage — backed up by complete financial records including documenting the family income."

New FHA mortgages swelled 182 percent in the last fiscal year, going from about 49,916 in October 2007 to 140,884 in September 2008. Alex Pollack, a resident fellow at the conservative American Enterprise Institute and former CEO of the Chicago Federal Home Loan Bank, says this could be due to the FHA "entering the lower quality part of the market as the subprime market collapsed. The FHA is on a big growth pattern right now. It will take a while to see how it will perform from a credit point of view."

In the third quarter, 12.9 percent of FHA mortgages were delinquent, though that's still much lower than the 21.3 percent of subprime loans.

Meanwhile, it's not clear if Ginnie will continue to hold its MBS market share. The Fed has embarked on its plan to buy up to $500 billion in such securities from Fannie, Freddie and Ginnie. Less than 5 percent of the initial buys were for Ginnie-backed bonds.

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$825b Recovery Plan Includes Bonus Depreciation, Net Operating Loss Carry-Back Provisions

The $825 billion economic stimulus package proposed on January 15 by House Democrats includes bonus depreciation, net operating loss carry-back, and energy efficiency provisions of importance to real estate. Once the Senate drafts its own bill (S. 1), the two chambers and the Obama Administration are expected to negotiate toward a final package.

Obama has stated stimulus legislation needs to be approved by mid-February and that he will hold a "fiscal responsibility summit" next month with members of Congress. Congressional Democratic leaders added that if a stimulus bill is not completed by Feb. 13, policymakers will stay in town rather than leaving for a planned one-week recess.

The proposed House stimulus package, titled the American Recovery and Reinvestment Act – available at http://appropriations.house.gov/pdf/RecoveryBill01-15-09.pdf -- contains $275 billion in tax cuts, including a one-year bonus depreciation extension. Additionally, the bill includes a provision allowing companies to carry back net operating losses for five years, up from the two-year period in current law. Fannie Mae, Freddie Mac, and any companies receiving money under the Treasury Department's Troubled Asset Relief Program would be excluded from taking advantage of the NOL provision.

Text of H.R. 598, the stimulus package's tax portion, is available at http://waysandmeans.house.gov/media/pdf/110/sbill.pdf. For a synopsis of the 328-page document by House Ways and Means Committee Chairman Charles B. Rangel, D-N.Y., visit http://waysandmeans.house.gov/news.asp?formmode=release&id=846.

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Appraisal Dictionary Opened up to Online Scrutiny, Input

The Appraisal Institute is calling on its designated members to help refine the definitions for a new edition of *The Dictionary of Real Estate Appraisal* to be released by early 2010. The review and revision process for the forthcoming fifth edition of the dictionary will allow all designated members of the Appraisal Institute the opportunity to log onto the Dictionary Development

Database and make changes directly to individual definitions in the dictionary. The database, available as of January 23, will act like “a Wikipedia of the terms and definitions used in the practice of appraisal, where users can set the record straight by editing individual dictionary entries,” according to Appraisal Institute Senior Technical Writer Michael McKinley.

On the Dictionary Development Database page, you will be able to:

- Change the wording of an existing definition
- Add a new definition to an existing term
- Add a new term and definition for consideration
- Comment on the changes you make to the wording of a definition

Users should log onto their “My Appraisal Institute” page of www.appraisalinstitute.org and follow the Dictionary Development link in the lefthand navigation bar.

McKinley advises all users that the Dictionary Development Database “functions solely as a development tool [and that] *The Dictionary of Real Estate Appraisal*, 4th edition, remains the appropriate source for definitions of technical terms while the new edition of the dictionary is under development.”

Access to the Dictionary Development Database ends on April 30, when all suggested changes must be posted. In May, the dictionary development project team will begin its review of the revised dictionary content in preparation for the publication of the fifth edition of the book at the end of 2009 or in early 2010, according to McKinley.

For questions and information, e-mail dictionary@appraisalinstitute.org.

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Hanley Wood: Declining Mortgage Rates Spark Buying Activity

Mortgage rates declined for the eleventh week in a row according to Freddie Mac’s January 15 Primary Mortgage Market Survey, which sparked buying activity. Rates ended the week at 4.96 percent, their lowest level since tracking began in 1971. The Federal Reserve started to buy back mortgage-backed securities from Fannie Mae, Freddie Mac and Ginnie Mae, and the Federal Bank of New York purchased $10.2 billion mortgage-backed securities from the two agencies. The Mortgage Bankers Association’s seasonally adjusted Purchase Index for the week ending January 16 dropped 14.06 percent to 295.8 from 344.2 the previous week, a 35.86 percent decline from the same period last year.

Both new and existing home sales posted drops in November. New home sales declined 2.9 percent to a seasonally adjusted annual pace of 407,000 units, the lowest level since January 1991. Annualized sales of total existing homes dropped 8.6 percent in November to 4.490 million units. Sales of existing homes have declined 10.6 percent from the 5.020 million units reported in November 2007.

The seasonally adjusted inventory of new homes declined for the nineteenth straight month to 374,000 units while the number of existing homes on the market increased slightly in November to a preliminary 4.203 million units from October’s figure of 4.198 million units. Median new home prices increased in November to $220,400, while median existing home prices declined in November to $181,300, the lowest level since February 2004. Because of falling prices and lower interest rates, the existing home affordability ratio increased in November to 59.0 percent, the highest it has been since tracking began in 1990.

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Rates Fall, but Refis Limited

The Mortgage Bankers Association reports a drop in the 30-year fixed mortgage rate to 4.89 percent during the week ended Jan. 9 from 5.07 percent the prior week, marking a five-decade low. Though many homeowners hope to take advantage of these low rates and refinance, Fannie Mae chief economist Doug Duncan says just 33 percent or so of outstanding mortgage debt is eligible for refinancing. He notes that most borrowers will not qualify because of poor credit, a lack of home equity, a current mortgage with a balance higher than the home's worth or a current mortgage above the conforming loan limit.

"The refinance boom is mostly impacting the people who need help the least," said Scott Stern, chief executive of Lenders One, an alliance of mortgage bankers. "These are people who have good credit, who have had been in their homes a long time, people who already have conforming fixed-rate loans or government financing."

Fannie said in May that it planned to make it possible for some underwater borrowers to refinance into loans totaling as much as 120 percent of the current property value. But a Fannie spokesman said that program hasn't yet taken effect. The company is looking into ways to finance such loans in some cases in the meantime, he said.

Lenders say that the "pull through" rate – the percentage of loan applications that result in loans – has declined as the housing market and economy have weakened and credit standards have tightened.

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Number of Homes for Sale Dipped in December

The supply of homes available for sale in 29 major metropolitan areas in December was down 6.4 percent from a month earlier, according to figures compiled by ZipRealty Inc., a real-estate brokerage firm based in Emeryville, Calif. The ZipRealty data cover all single-family homes, condominiums and town houses listed on local multiple-listing services in metro areas where the firm operates.

On a national basis, inventories typically fall sharply in December from November because fewer people want to show their homes during the holidays. Over the past 25 years, the average decrease in December from the prior month has been 11 percent, according to Zelman & Associates, a research firm. Compared with a year earlier, the December inventory in the 29 metropolitan areas was down about 9.5 percent.

Nationwide, about 4.2 million existing homes, an 11-month supply, were listed for sale at the end of November, according to the National Association of Realtors. The housing market is considered roughly in balance between supply and demand when the inventory is around six months.

New construction and foreclosed homes, a large part of the supply, aren't always included in Realtors' multiple-listing services. In addition, many people have taken their houses off the market, hoping to get a better price later.

The ZipRealty data don't cover New York City. However, Miller Samuel Inc., an appraisal firm there, says there were 9,081 cooperative apartments and condominiums on the market in Manhattan at the end of December. That was down 2.9 percent from November but up 41 percent from December 2007.

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Hotel Investors' Sentiment 'Negative' Across Americas

The overall national and global economy, deteriorating economic fundamentals and liquidity restrictions have caused hotel investor sentiment to turn significantly negative, according to a survey by Jones Lang LaSalle Hotels, Chicago. JLL's bi-annual Hotel Investor Sentiment Survey said 51.1 percent of respondents indicated their intention is to "sit tight" with their current assets during the next six months, a jump of 13 percentage points from the previous survey.

Across the Americas, the net balance of investor's short term (six month) trading performance expectations dropped to an even lower negative rating to -47.8 percent, a level just above the low point recorded in Jones Lang LaSalle Hotels' December 2001 survey, said Arthur Adler, managing director and CEO for Jones Lang LaSalle Hotels.

"Buy" sentiment declined to 32.3 percent, reaching its second-lowest point since the survey's inception, while markets still attracting the most attention for acquisitions are San Francisco at 46.8 percent and Boston at 46.2 percent. Hawaii and the Caribbean marked one of the region's largest declines as airlines reduced capacity, discretionary travel came under pressure, and corporate groups avoided resort destinations, the survey said.

Spurred by the dearth of construction financing and weakening fundamentals, the "build" sentiment decreased for the third consecutive survey, narrowing to 7.9 percent, JLL said.

However, Adler noted South American markets saw an increase in the proportion of investors seeking to build. Investors active in Rio de Janeiro and São Paulo, Brazil; Buenos Aires, Argentina; and Santiago, Chile all indicated equal or higher interest in building new supply than acquiring existing assets.

"The 'sell' sentiment at 8.6 percent decreased by a third, evidencing that investors are reluctant to set the benchmark of a sale at a lower transaction price," Adler said.

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Appraisal Foundation Establishes University Graduate Degree Review Program

The Appraiser Qualifications Board of The Appraisal Foundation has established a review program for university graduate degrees in real estate to determine how the education completed to obtain a graduate degree can be applied to the qualifying education Required Core Curriculum in the *Real Property Appraiser Qualification Criteria*. The AQB intends to perform these analyses on "current" graduate programs, publishing the results for state appraiser regulatory agencies to use when reviewing the educational qualifications of applicants that hold such degrees.

The program came about as the AQB, which is responsible for setting the minimum education, experience and examination criteria for real property appraisers in the United States, became aware that individuals obtaining graduate degrees in real estate from accredited institutions of higher learning have invested significant post-baccalaureate effort to become educated in core real estate and appraisal subject matter.

According to the AQB, the review program will benefit both state appraiser regulatory agencies in their review of an applicant's qualifications, as well graduate degree applicants looking to obtain a real property appraiser credential. According to Gary Taylor, 2009 Chair of the AQB, the new program will "also facilitate bringing some of the best and brightest into the profession."

Individuals holding a graduate degree from a properly accredited college or university that was obtained in the distant past may need to contact their state appraiser regulatory agency to inquire about having their particular degree program analyzed.

Colleges and Universities that wish to apply for this program should visit the Foundation's web site at www.appraisalfoundation.org/ for a copy of the application. For more information on the program, contact Magdalene Vasquez, Appraiser Qualifications Administrator at 202-624-3074 or magdalene@appraisalfoundation.org.

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Patrick Murphy, SRA, Appointed Army Corps Chief Appraiser

Patrick Murphy, SRA, of Baltimore, Md., has been promoted to National Chief Appraiser, for the U.S. Army Corps of Engineers. In his prior position as the Corps' North Atlantic Division Chief Appraiser, Murphy oversaw the appraisal/valuation functions of the Corps in a 13-state region from Maine to Virginia; he will now oversee the Corps' appraisal functions worldwide.

The U.S. Army is the largest landowner in the United States, having over 24 million acres of land, 33,000 buildings, 7000 recruiting facilities, and 60,000 leases. In addition to their standard acquisition, disposal, management, and leasing actions, the Corps provides real estate services in programs such as base realignment and closure (BRAC), enhanced use leasing (EUL), real property exchanges (RPX), residential community initiatives (RCI), armed forces recruiting centers, the Army Reserves, the U.S. National Guard, contingency operations, disaster support, the Defense National Relocation Program, Homeowners Assistance Program, environmental remediation, and overseas support of war efforts.

In addition to providing services to all Department of Defense Agencies, the Corps provides realty services to NSA, the Department of Energy, NASA, The Department of Justice, the Environmental Protection Agency, the Department of Homeland Security, and many others. The worldwide staff of Corps real estate specialists performs or contracts for all real estate services in these programs.

Murphy was the 2007 President of the Appraisal Institute's Maryland Chapter, and served for many years as the chapter's Education Chair. He is an AQB Certified USPAP Instructor as well as a member of the Instructor Panel of the Appraisal Institute. He also serves as a Commissioner of the Maryland State Board of Real Estate Appraisers. Prior to joining the Corps, Murphy was employed as a Senior Appraiser at the Internal Revenue Service, where he specialized in the valuation of conservation and façade easements.

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IVSC Issues Guide Notes on its Global Intangible Assets Project

The International Valuation Standards Council has issued two exposure drafts on the valuation of intangible assets and invites public responses to be submitted by the end of April.

Revised Guidance Note 4, *Valuation of Intangible Assets*, identifies and defines the principal approaches and methods used in intangible asset valuation, with the objective of reducing the diversity of terminology, and making valuation reports more comprehensible to users worldwide. The new Guidance Note 16, *Valuation of Intangible Assets for IFRS Reporting Purposes*, draws the attention of valuers, and those commissioning valuations for use in financial statements, to the principal accounting requirements of the International Financial Reporting Standards under which the valuations are prepared and provides guidance on the appropriate valuation response.

The new drafts represent a major revision of the IVSC's earlier guidance which dates to the late 1990s. The introduction of International Financial Reporting Standard 3 on Business Combinations in 2004 led to an increased demand for intangible asset valuation. In 2007 the IVSC issued a discussion paper, *Determination of Fair Value of Intangible Assets for IFRS Reporting Purposes*, for public comment which led to the development of the two recent exposure drafts.

Chris Thorne, Chairman of the International Valuation Standards Board said, "Intangible asset valuation has grown into a truly international discipline over recent years, but is still little understood and seen as a 'black art' by some. These two exposure drafts are aimed at improving the consistency and transparency of the valuation process. Raising the awareness and understanding of best practice should in turn lead to investors and others gaining greater confidence in the values attached to business assets such as brands or intellectual property."

The IVSC is charged with developing robust and transparent procedures for performing international valuations through a single set of globally recognized valuation standards, acceptable to the world's capital markets organizations and regulators, and meeting the challenges of a fast-changing global economy.

Comments, due by April 30, 2009, should be e-mailed to CommentLetters@ivsc.org, or mailed to International Valuation Standards Board, 12 Great George Street, Parliament Square, LONDON SW1P 3AD, United Kingdom.

For more information, including the IVSC Exposure Drafts, visit www.ivsc.org.

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Media Touts AI Designated Members as Best Qualified for Tax Appeal Assignments

Appraisers looking to expand their clientele in the down economy would do well marketing to the growing number of property owners who are appealing county assessors for a reduction in the market value of their property. A recent article in REJournals.com geared toward property owners have singled out designated Appraisal Institute members as the most qualified for this type of work.

The article "Angling for a Tax Break on Appeal", available at www.rejournals.com/markets/212024-angling-for-a-tax-break-on-appeal, states, "Credentials to look for include educational background, state certification, experience with your specific property type and professional designations." According to the article, designated members of the Appraisal Institute are the most qualified appraisers to act as expert witnesses, represent clients at hearings and provide well-researched appraisals. In addition, designated appraisers are the most qualified to question the appraisal methodology used by an assessor, the article said.

Furthermore, the ability to cross examine an assessor by a real estate appraisal expert can oftentimes make the difference of whether a tax assessment appeal is successful or not. As mentioned in *REJournals.com*, the key to challenging a real property assessment is to provide well-documented evidence as well as having the representation needed to refute inaccurate technical valuation claims.

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Cushman & Wakefield, EPA Sign MOU for Commercial Sector

Cushman & Wakefield signed a Memorandum of Understanding with the Environmental Protection Agency aimed at addressing environmental issues in the commercial real estate sector. The MOU sets out environmental best practices designed to enhance energy efficiency and reduce carbon footprint, promote water conservation and minimize waste within Cushman & Wakefield's corporate offices and in properties under management.

Energy consumption in commercial buildings accounts for 17 percent of U.S. greenhouse gas emissions and such buildings draw significantly on fresh water resources and raw materials and generate large amounts of waste, according to John Santora, president and CEO of the Americas for Cushman & Wakefield. He called the partnership with EPA an "important step in promoting environmentally responsible business practices throughout the commercial real estate industry."

For its U.S. offices, Cushman & Wakefield said it will consider environmental criteria in site selection for new leased space and implement best practices in office operations. Santora said Cushman & Wakefield will also work in partnership with its clients to enhance environmental performance of the firm's portfolio of managed properties in the U.S. by implementing environmentally responsible operations and maintenance practices.

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FHA Appraiser Roster Requirements Revised

In a mortgagee letter issued in December 2008, the U.S. Department of Housing and Urban Development revised the eligibility requirements for appraisers to qualify for placement and retention on the Federal Housing Administration Appraiser Roster.

Commencing October 1, 2009, all FHA-approved lenders will be required to use state certified appraisers for FHA-insured mortgages. This follows action taken in October to accept new applications for placement on the FHA Appraiser Roster only from certified appraisers.

The Mortgagee Letter (08-39) implements provisions enacted by Congress last year in the Housing and Economic Recovery Act (H.R. 3221). The appraisal provisions were enacted in light of current market conditions, whereby complex appraisal assignments are common, and in response to several actions taken by FHA in recent years lowering its appraisal requirements.

In the Mortgage Letter, the October 1, 2009, allowance for licensed appraisers to upgrade their credentials implements suggestions made by the Appraisal Institute in October. The AI, along with the ASA, ASFMRA, and NAIFA, strongly urged the FHA to grant a reasonable period of time for appraisers to obtain certification.

The FHA has temporarily sidestepped the issue of verifiable education for FHA appraisers by classifying the Appraisal Foundation as a “nationally recognized professional appraisal organization” within the meaning of the law, despite it not being classified as such under IRS tax rules. It further determined that appraisers meeting Appraiser Qualifications Board requirements, as required by the FHA Appraiser Roster regulations, as having “demonstrated verifiable education in the appraisal requirements established by FHA” under the new law. The problem here is that AQB requirements do not specifically address FHA appraisal requirements found in 4150.2 or in Appendix D. Finally, FHA announced that it would publish a notice in the Federal Register inviting public comment on additional nationally recognized professional appraisal organizations that it should consider as meeting the new statutory requirements.

The Appraisal Institute Government Relations Committee is reviewing the Mortgagee Letter and intends to issue a response to the appropriate parties.

All FHA Mortgagee Letters, including Mortgagee Letter 08-39, can be found on the FHA Web site at www.hud.gov/offices/adm/hudclips/letters/mortgagee/.

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Amorin Calls for Use of Designated Members in WSJ Article

“The downturn in the subprime mortgage lending market is a wake-up call to lenders, borrowers and investors that more stringent lending practices must be employed to protect the best interests of all parties involved in mortgage lending transactions,” wrote 2009 Appraisal Institute President Jim Amorin, MAI, SRA. In a January 9 letter to the *Wall Street Journal*, Amorin promoted the use of designated appraisers, saying that “appraisers who have earned professional appraisal designations from the Appraisal Institute have met stringent peer review and education and experience requirements that set them apart from others in the industry.”

Amorin pointed out that in 2008, state agencies were six times more likely to level sanctions against individuals who are not members of the Appraisal Institute. The difference, we believe, is that by joining the Appraisal Institute, appraisers demonstrate a commitment to professionalism, to obtain higher levels of training and qualifications, and to adhere to stricter professional practice requirements. Every member of the Appraisal Institute agrees to conduct his or her professional activities in accordance with the association's Code of Professional Ethics and the Uniform Standards of Professional Appraisal Practice. Additionally, the Appraisal Institute rigorously enforces and upholds its professional ethics and standards of practice through an intensive peer review system.

Now is the time to go back to basics, which includes sound underwriting and risk management. Lenders can avoid problem loans by conducting proper due diligence, and hiring qualified real estate appraisers – individuals with advanced education and experience requirements such as those who have earned professional designations from the Appraisal Institute.

The letter came in response to a January 5 article, “Would You Pay $103,000 for this Arizona Fixer-Upper,” which explored questionable due diligence and underwriting practices for a particular Arizona home mortgage transaction.

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Obama to Refocus TARP on Housing, Small Firms

President-elect Barack Obama has said if granted access to it, he will use the remaining $350 billion of the $700 billion financial industry bailout package on housing foreclosures and small businesses, a shift from President Bush's use of the first half of the money. Obama's explanation came Monday, January 12, when he requested access to the second half of the money.

"It is clear that the financial system, although improved from where it was in September, is still fragile," Obama told reporters, when explaining why he had sought the second half of the bailout package now. "I felt that it would be irresponsible for me, with the first $350 billion already spent, to enter into the administration without any potential ammunition should there be some sort of emergency or a weakening of the financial system."

Obama said he shared the concern of Congressional leaders about how the first half of the package had been spent in terms of "the absence of clarity, the lack of transparency, the failure to track how the money's been spent, and the failure to take bold action with respect to areas like housing."

The Troubled Asset Relief Program was approved last October to bolster the financial industry and unfreeze credit as the sector reeled under the stress of toxic mortgage-related assets. It has chiefly been used to give banks fresh capital so they can return to normal lending after a credit squeeze triggered by toxic mortgage-related assets. But Obama and his fellow Democrats want more of the money to go directly to consumers struggling with a wave of home foreclosures and stricter limits to be imposed on those who receive the aid.

A bill authored by Rep. Barney Frank, D-Mass., which among other things would require some of the funds be used for mortgage foreclosure relief, is expected to come to a vote on the floor of the House on January 14 or 15 (see related story). The results of the bill's progress were not available at press time.

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Frank Introduces TARP Reform and Accountability Legislation

House Financial Services Committee Chairman Barney Frank, D-Mass., has introduced legislation to strengthen accountability, close loopholes, increase transparency and require Treasury to take significant steps on foreclosure mitigation. The bill, H.R. 384, the TARP Reform and Accountability Act, will amend the Troubled Assets Relief Program provisions of the Emergency Economic Stabilization Act of 2008.

H.R. 384 includes a provision that grants authority to the Treasury Secretary to take any action “to establish or support facilities to support the availability of commercial real estate loans, including through purchase of asset-backed securities, directly or through the Board of Governors of the Federal Reserve System or any Federal reserve bank.” The bill comes as Congress begins to consider authorization of additional funds for the Treasury Department's economic recovery program.

In a related development, the House Financial Services Committee held a hearing on January 13 to address economic priorities for the next Administration and the use of TARP Funds under the Emergency Economic Stabilization Act of 2008. The results of that hearing were not available at press time.

For the full bill, visit www.house.gov/apps/list/press/financialsvcs_dem/hr384.pdf.

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Obama's STOP FRAUD Act Part of Stimulus Package

President-Elect Barack Obama and Vice President-Elect Joe Biden have introduced the Obama-Biden Plan, a stimulus package aimed at revitalizing the economy that, among other things, seeks to ensure more accountability in the mortgage lending industry, including “crack[ing] down on fraudulent brokers and lenders.”

To that end, the Plan calls for the adoption of legislation that President-Elect Obama first introduced as Senator from Illinois in 2007. The STOP FRAUD Act, which is aimed at protecting consumers and financial institutions by curbing abusive mortgage transactions, is unique in that it provides the first federal definition of mortgage fraud, creates new criminal penalties for mortgage professionals found guilty of fraud, and requires industry insiders to report suspicious activity.

In addition, the STOP FRAUD Act includes provisions that will make greater resources available to state and local law enforcement to conduct investigations and prosecutions, thus enabling states to proactively go after – and take to court – unscrupulous loan originators and lenders. The Act also includes provisions granting funding to the Appraisal Subcommittee, which is the agency responsible for oversight of The Appraisal Foundation (the body that regulates the appraisal profession within the United States).

The Obama-Biden Plan will be presented to the 11^{th} Congress shortly after President-Elect Obama takes office. To view the Obama-Biden Plan in its entirety, visit http://change.gov/agenda/economy_agenda/.

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Senate Dems Want “Cramdown” Compromise in Stimulus Package

Senior Democrats continue to push for legislation allowing judges to alter the terms of mortgages in bankruptcy proceedings to avoid foreclosures. Their latest push is to include in recently proposed legislation a clause that echoes the deal they recently reached with Citigroup. Under current law, the terms of mortgages on a principal residence cannot be modified by bankruptcy judges — although mortgages on second homes can be. The new bill would allow bankruptcy judges to alter the interest rate, reduce the principal or extend the term of an existing mortgage on a primary residence.

Senate Majority Whip Richard Durbin, D-Ill., sponsor of the original legislation, and Sen. Charles Schumer, D-N.Y., said they want the compromise “cramdown” provision agreed to by Citigroup to be included in the economic stimulus bill that Democratic leaders plan to clear by mid-February.

“Citigroup has joined us in an effort to change this bill in a way they can support,” Durbin said, adding that he hopes the industry compromise will create a new bipartisan consensus for the bill in the Senate, where it stalled last year.

Durbin said Citigroup has agreed to support cramdown legislation as long as the provision applies only to mortgages issued before the measure’s enactment; it requires that homeowners certify that they attempted to contact their lender about modifying their loan before they filed for bankruptcy; and it stipulates that only “major” violations of the Truth in Lending law would invalidate claims from creditors in bankruptcy court.

The bankruptcy proposal has long triggered stiff opposition from the financial services industry. Banks and other lenders have claimed it would drive up mortgage rates for all borrowers and prompt a rush into bankruptcy court by homeowners looking for mortgage relief.

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Fannie Mae and Freddie Mac Release Lender Letters and FAQs on HVCC Implementation

With the Appraisal Code – the newly revised Home Valuation Code of Conduct – set to take effect on or after May 1, 2009, for single-family mortgage loans delivered to Fannie Mae and Freddie Mac, the government-sponsored enterprises have released lender letters introducing lenders and originators to the language of the HVCC and providing these parties with implementation details as well as an overview of amendments made to the HVCC since its initial introduction in March of 2008.

In addition, Fannie Mae and Freddie Mac have put together a FAQ sheets answering questions the mortgage giant anticipates commonly receiving from lenders.

To read Fannie Mae’s Lender Letter and FAQ sheet, or to review the HVCC, visit www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/. To view Freddie Mac’s FAQ sheet, visit http://www.freddiemac.com/sell/guide/bulletins/pdf/bll010709.pdf.

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Paulson: Fannie, Freddie Mac Could Be Run Like Public Utility

At a speech before the Economic Club of Washington on January 7, 2009, outgoing Treasury Secretary Henry Paulson suggested that the best option for Fannie Mae and Freddie Mac might be to run them like public utilities. “We must have some degree of private sector involvement in the evaluation of credit risk if we are going to have a mortgage market that allocates resources with efficiency,” said Paulson.

Paulson’s comments sparked debate about the future of the two mortgage giants. Karen Shaw Petrou, managing director of Federal Financial Analytics, Inc., called it “the easiest way out of the public-private conundrum” while David Shulman, senior economist at UCLA Anderson Forecast, said “it solves some of the public-private issues (if) you retain Fannie or Freddie as a private entity and it’s run more as an insurance company, which is more like what the original function was.”

Others disagree with Paulson. “We have public utilities because of economies of scale in power and utility production and distribution, and because everyone needs it,” said Jim Vogel, head of fixed-income research at First Horizon National Corp.’s First Financial Capital Markets Corp. “So you need a common capital pool to produce utilities. I’m not sure how mortgages fit into any of those economic categories unless we’ve just changed the whole nation’s housing system.”

Under Paulson’s model, Fannie and Freddie would be replaced with one or two private sector entities that would be responsible for purchasing and securitizing mortgages with government-backed credit guarantees. The new entity or entities would be privately owned, but be regulated by a rate-setting commission. Moreover, a public utility-like mortgage credit guarantor would be created to resolve conflicts between public purpose and private gain. According to Paulson, the Obama administration, along with Congress, must decide how government should support homeownership in light of the economic hardship imposed on the country as a result of the housing market downturn.

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Non-Credentialed Valuations Raise Concerns with Nebraska Real Property Appraiser Board

A recent article appearing in the Nebraska Realtors Association’s October/November 2008 newsletter has sparked concerns with the Nebraska Real Property Appraiser Board about non-credentialed individuals providing fee-based valuation services for lenders. According to the Realtors’ article, brokers may perform fee-based broker price opinions and comparative market analyses for lenders as long as they are provided in writing and contain a disclosure. The disclosure references that the opinion or analysis is not an appraisal or to be used for lending purposes and that it is governed by the Nebraska Real Estate License Act, not the Nebraska Real Property Appraiser Act.

However, the Nebraska Real Estate License Act states that broker price opinions and comparative market analyses can only be performed for listing, purchase and sale purposes. Moreover, the Act prohibits compensation for such service other than a real estate commission or brokerage fee. The law was intended to allow brokers to perform broker price opinions and comparative market analyses to assist individual buyers and sellers in determining a purchase or selling price, not for use by lenders as part of loan modifications, short sales or foreclosures.

The NRPAB disagrees with the Realtors’ contention that broker price opinions and comparative market analyses can be performed for lenders for a separate fee. According to the Real Property Appraiser Act, it is unlawful for anyone to act as a real property appraiser in Nebraska without first obtaining proper credentialing. The NRPAB defines appraisal practice as a valuation service performed by an individual acting as an appraiser, including, but not limited to, appraisal, appraisal review or appraisal consulting. The definition does not exempt broker price opinions or comparative market analyses. Moreover, the Real Property Appraiser Act defines broker price opinions and comparative market analyses as analyses, opinions or conclusions prepared by a person licensed under the Nebraska Real Estate License Act.

As stipulated by the Real Property Appraiser Act, any person who engages in real property appraisal activity in Nebraska without obtaining proper credentialing is subject to a Class III misdemeanor. Credentialed appraisers in Nebraska who suspect a non-credentialed individual engaging in real property appraisal activities may file a complaint at www.appraiser.ne.gov/disciplinary.html. As the debate between the NRPAB and the Nebraska Realtors Association progresses, both the Nebraska Chapter of the Appraisal Institute and the Appraisal Institute’s Government Affairs Department will monitor and report developments.

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Proposed Rule Language Eliminates Utah’s Use of Real Estate Broker’s Estimate of Values

In early January, the Utah Department of Natural Resources issued proposed rules that would eliminate the use of broker’s estimates of value for real property transactions conducted by the Division of Wildlife Resources. Prior to this proposed change to Rule 657-61, Valuation of Real Property Interests for Purposes of Acquisition or Disposal, the Division of Wildlife Resources required either an appraisal report or a real estate broker’s estimate of value on all real property it acquires or disposes, not including real property with an estimated value below $100,000. The updated proposal to Rule 657-61 eliminates the ability of brokers and agents to perform a real estate broker’s estimate of value for these purposes. The updated proposal also requires that only certified general appraisers, rather than registered, licensed or certified appraisers, perform these appraisals.

The updated proposal is the result of legislation passed in May 2008 that was spearheaded by state Rep. Jack Draxler, who is a certified general appraiser and a member of the Appraisal Institute. The legislation, H.B. 354, requires that various land-owning state agencies establish procedures for determining value when acquiring or disposing real property. H.B. 354 further requires that a state-certified general appraiser complete appraisals for the agencies. “Though the Utah Association of Appraisers was helpful in getting support for the legislation when it was lacking, the truth of the matter is that Jack [Draxler] did the heavy lifting on this one. It certainly will be a benefit to the citizens of the state, but also to all of us in the appraisal industry,” said Rick Lifferth, MAI, SRA. “I suppose the lesson for all is that much good can be done at the state level if we just pay attention.”

The updated proposal to Rule 657-61 may become effective as early as February 9. Interested persons may present their views on this rule by submitting written comments to stacicoons@utah.gov no later than February 2. To view the rule, visit www.rules.utah.gov/publicat/bulletin/2009/20090101/32210.htm. To view H.B 354, visit http://le.utah.gov/~2008/htmdoc/hbillhtm/HB0354s01.htm.

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GAO: Financial Regulatory System Urgently Need Significant Reforms

"The current [financial regulatory] system has important weaknesses that, if not addressed, will continue to expose the nation's financial system to serious risks," according to recent findings by the Government Accountability Office. The GAO called for significant reforms to the system, which it found fragmented and outdated, including the fact that currently, responsibilities for overseeing the financial services industry are shared among almost a dozen federal banking, securities, futures and other regulatory agencies as well as numerous self-regulatory organizations and hundreds of state agencies.

The GAO did not recommend a specific structure or changes, but offered high-level principles to guide Congress as it considers how to modernize the system. They include, among other things, clearly defined regulatory goals; the flexibility to adapt to market changes; consistent consumer and investor protections; and the ability to identify and manage systemic risk, regardless of source.

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Ernst & Young Survey Shows Hesitancy to Embrace International Standards

Participants in the U.S. real estate industry have been hesitant to embrace a detailed analysis of what the International Financial Reporting Standards will mean according to a recent survey released by Ernst & Young. The global firm's report, titled "Taking Account: U.S. real estate sector views on IFRS," surveyed industry leaders at home and abroad in order to gain a perspective on how IFRS and the anticipated 2014 Securities and Exchange Commission requirement for U.S. companies to adopt IFRS are being received. The report finds that in the U.S. the movement toward IFRS has been slower when compared to Asian and European counterparts, but that momentum is clearly building.

Among the key findings of the survey:

- Almost all industry leaders believe the U.S. will convert to IFRS. Only 1 percent of respondents did not believe the U.S. would convert.
- While 70 percent of respondents are closely monitoring IFRS developments in the U.S., less than 15 percent have started analyzing the potential impact on their businesses.
- Nearly 50 percent of total respondents agreed or strongly agreed that the adoption of IFRS in the U.S. would be a positive for the industry in the long-run.

Questions remain in the minds of industry leaders at home, however, about the necessity of an accounting standards switch. According to the survey report, many leaders in the U.S. real estate industry recognize the potential of IFRS, yet do not see any overriding benefit to the adoption of such standards.

Ernst & Young have urged the SEC to commit unequivocally to IFRS. To view the complete results of the "Taking Account" survey, visit www.ey.com/Global/assets.nsf/International/Industry_Real_Estate_Taking_account/$file/Industry_Real_Estate_Taking_account.pdf.

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FASB Allows for "Expected Cash Flows"

The Financial Accounting Standards Board voted to change guidance for accounting for impaired securities so that preparers of financial statements may rely more on expected cash flows, rather than the current distressed market values, when assessing the fair market value for their investments.

The move will help corporate credit unions, banks and other large holders of financial instruments who are struggling with whether to mark some of their investments to "other-than-temporarily impaired," and thus have to take a charge for impaired securities. The action comes as corporates are working to decide when to realize some of an estimated $18 billion of unrealized losses, representing the loss of market value, on their books.

The five-member panel approved the changes to the Emerging Issues Task Force statement 99-20 on a narrow, three-to-two vote.

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Senate Votes to Proceed to Lands Bill

The Senate cleared a procedural hurdle toward passing an omnibus bill that would designate large tracts of new wilderness nationwide. Senators voted 66-12 to invoke cloture on a motion to proceed to the bill (S. 22), seven more than the 59 votes needed.

Sponsors have been trying to pass similar legislation for the past several months. The major obstacle to passage has been procedural tactics used by Tom Coburn, R-Okla., to block or delay votes. The package combines more than 160 public lands bills introduced in the 110th Congress, and is sponsored by Energy and Natural Resources Chairman Jeff Bingaman, D-N.M.

Coburn said the bill would authorize wasteful spending and block energy production on some federal lands. He also objected to what he said was a larger trend for Democrats to block the minority from offering any amendments. "What is a priority for us here in terms of political benefit at home is going to trump doing what's in the best interest, the long-term interest of the country," Coburn said.

Bingaman said many of the underlying bills were the result of a "lengthy public process" that allowed local jurisdictions to reach consensus on land use. "Many of the bills in this package resolve major land and water policy issues that have been contested for years, and in some cases for decades," he said.

Coburn said he will continue to throw up procedural hurdles every step of the way. He added that he planned to go to the floor to talk about amendments that he would like — but is not being allowed to — offer.

Coburn said he was not discouraged that his GOP colleagues didn't stand with him in opposition. Minority Leader Mitch McConnell, R-Ky., was not present for the vote. "Sen. McConnell is disappointed this parks bill restricts development of energy resources at a time when we should be doing much more to become energy independent," he said.

The bill would designate more than two million acres of new wilderness areas, in addition to scenic rivers, historic sites and expansions of national parks. It would authorize new water projects and allow three water settlements in Western states.

John Barrasso, R-Wyo., is backing a provision that would withdraw about 1.2 million acres in his state from oil and gas development. He said this action will be a legacy for the late Sen. Craig Thomas, who occupied Barrasso's seat until he died in 2007. The bill would also codify a National Landscape Conservation System that President Bill Clinton established by executive order. The goal is to improve management of federal land that is already protected. A number of Republicans say this will lead to new restrictions on land use, though supporters say this is not their intent.

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New York Fed Begins Buying Mortgage Securities

The Federal Reserve Bank of New York has started buying fixed-rate mortgage-backed securities guaranteed by Fannie Mae, Freddie Mac and Ginnie Mae as part of a $500-billion program to support the U.S. housing market, according to an e-mailed statement by the Fed bank. "Selected private investment managers are acting as agents of the New York Fed in these purchases," it wrote.

The Fed previously said the purchases will include securities with maturities of 30, 20 and 15 years, and will exclude riskier securities such as interest-only bonds. The securities are considered investment grade and are not the packages of loans responsible in part for igniting the current credit market turmoil.

The Fed's program is intended to lower rates by reducing the supply of outstanding agency mortgage bonds, boosting their prices and thus lowering their yields. Lower yields in turn reduce the interest rates banks need to charge on new mortgages to ensure profitable sales of the securities.

The Fed chose BlackRock Inc., Goldman Sachs Asset Management, Pacific Investment Management Co. and Wellington Management Co. to manage the $500-billion purchase of mortgage-backed securities it plans to complete by June.

The central bank didn't disclose the amount of the purchases, saying such details will be updated each Thursday on the New York Fed's Web site, located at www.newyorkfed.org/research/index.html.

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Fed Bank of Dallas: Commercial Market Echoing Residential Woes

The Federal Reserve Bank of Dallas has cautioned economists that increasingly ominous parallels for commercial real estate markets have been appearing to mirror those in the tumultuous residential market. In an article published in December, Roland Meeks, an economist in the Research Department of the Federal Reserve Bank of Dallas, said that deteriorating market factors, limited available credit and the severe drop off in commercial investment could spell troubling times ahead for commercial real estate and the economy, at least for the short term.

Though his prognosis pointed to a bleak future for the commercial real estate industry, Meeks was quick to note that his forecast was intended for the short-term. According to Meeks:

“In short, tougher times appear to lie ahead. Worsening macroeconomic conditions, particularly in the retail and other service sectors, are hurting CRE fundamentals. Meanwhile the intensification of the credit crunch is dampening market activity. And if commercial property’s situation does grow worse, banks are likely to face further losses. One factor that might limit these risks is that the commercial real estate sector wasn’t as grossly overbuilt heading into the current economic slowdown as it had been in the early 1990s.”

To read Roland Meeks’ full analysis of the commercial real estate sector, visit www.dallasfed.org/research/eclett/2008/el0812.pdf.

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Fitch Ratings: November Commercial Delinquencies Increase

According to Fitch Ratings, commercial mortgage-backed securities delinquencies increased 13 basis points in November, representing 29 newly delinquent retail loans worth $397 million. The increased raised Fitch’s U.S. CMBS loan delinquency index to 0.64 percent. The increase reflects Fitch’s expectations that delinquencies will approach 2 percent by the end of 2009. “Fitch anticipates that the deepening recession will lead to declining fundamentals across property types for 2009,” said Susan Merrick, managing director and U.S. CMBS group head. “However, performance deterioration corresponding to retail and hotel properties continues to be of greatest concern going forward, due to those sectors' heavy dependence on consumer spending and confidence, which have fallen off sharply in recent months.”

Retail delinquencies represented a net increase of 64 percent in the sector. Of the 29 new delinquencies, the average loan size was $5.8 million with 10 greater than $10 million. The most significant delinquencies included a $137.2 million portfolio secured by two mall properties and a $73.6 million portfolio secured by four anchored retail properties. “The November defaults underscored the increasing impact of significantly worsened economic conditions on commercial real estate performance,” said Merrick. “Unlike previous retail delinquencies year-to-date, which were typically smaller in size and frequently attributable to maturity default, last month's defaults came primarily as a result of performance declines.”

As rent and vacancy levels erode portfolios, Fitch expects that borrowers with highly leveraged loans will find it more difficult to meet obligations. Moreover, because of the recent weak holiday season, the ratings agency anticipates a greater number of bankruptcies and consolidations in the retail sector, as well as a decline in hotel fundamentals due to decreases in business and leisure travel. For a detailed sector-by-sector overview of Fitch's performance expectations, visit www.fitchratings.com.

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Commercial Property Loses Shelter as Delinquencies Surge in $3.4 Trillion Market

Delinquencies on mortgages for hotels, shopping malls and office buildings were sharply higher in the fourth quarter, as the weaker economy hit landlords and threatens to cause losses for investors in the $3.4 trillion market.

New data from Deutsche Bank show that delinquencies on commercial mortgages packaged and sold as bonds, which represent nearly a third of the commercial real-estate debt market, nearly doubled during the past three months, to about 1.2 percent. The figure includes mortgages that are 30 days or more past due and in foreclosure.

The delinquency rate will likely hit 3 percent by the end of 2009, its highest point in more than a decade, says Richard Parkus Deutsche Bank's head of research on commercial-mortgage-backed securities.

Delinquencies on commercial real estate loans held by banks and thrifts, which are big holders of this debt, also have risen strongly. According to research firm Foresight Analytics, soured commercial mortgages on banks' books jumped to 2.2 percent as of the third quarter of last year, from 1.5 percent at the end of 2007. The research firm estimates that the rate could rise to 2.6 percent in the fourth quarter of 2008.

Prices of securities tied to commercial mortgages have fallen sharply in recent months to the point that prices reflect a downturn even greater than the early 1990s, when default rates exceeded

30 percent. The $3.4 trillion of commercial mortgages in circulation is small compared with the $11.2 trillion of residential-mortgage debt outstanding, but it is still more than numerous other debt categories. Consumer credit, for instance, totals about $2.6 trillion. However, commercial-mortgage delinquencies are much lower than subprime residential mortgages, about 30 percent of which are at least 90 days past due.

Banks and thrifts would suffer in a commercial real-estate downturn because they own nearly 50 percent of all commercial mortgages outstanding. According to Foresight Analytics, as of Sept. 30, 2008, some 1,400 commercial banks and savings institutions had more than 300 percent of their Tier 1 capital in commercial mortgages. Tier 1 capital is a key indicator of a bank's ability to absorb losses. Regulators consider anything over 300 percent to be excessive.

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Office Rents Slide on Drop in Demand

Office rents declined throughout the U.S. as business slowed and landlords grappled with a growing expanse of empty space. Rents for office space dropped 1.2 percent in the fourth quarter nationwide when such landlord concessions as free rent were taken into account, according to Reis Inc., a New York real-estate research firm. It was the largest one-quarter decline since 2003, and came after rents rose 10.6 percent in 2007. Effective rents fell in 65 out of the 79 markets tracked by Reis.

The new data was another sign of the stress faced by many commercial-property investors who paid top dollar for office buildings in recent years, relying on easy credit and projections of continued rent growth. In many cases, the expected rent increases weren't justified by demand, said Chris Ludeman, president of brokerage in the Americas for commercial broker CB Richard Ellis.

Lately, rising vacancies have caused problems for owners of hotels, office buildings, stores, warehouses and other income properties. Industry executives have asked the federal government to help spur commercial real-estate lending, fearing owners will be unable to refinance properties as their debt comes due.

Brokers and office-property owners say most business tenants are giving up space or are sticking with what they have as they retrench. Chuck Schreiber, chief executive of Newport Beach, Calif. based KBS Realty Advisors, which manages $6.5 billion in real-estate assets through affiliated companies, said that only 5 percent to 10 percent of tenants with leases expiring are interested in taking on more space, down from 20 percent in normal times.

In 2008, office tenants vacated 42 million square feet more of office space than they took. According to Reis, that brought the U.S. vacancy rate up to 14.4 percent from 12.6 percent a year ago. Reis research director Victor Calanog said he expected vacancy rates to rise through 2010, likely pushing rents down further.

Markets hit hardest by the crises in finance and the housing markets saw some of the biggest declines. Rents in California's Orange County decreased the most, by 3.6 percent in the fourth quarter. In New York City, rents were off 2.1 percent.

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Free Marketing Seminar Set for January 28

How to make your business more visible, differentiate it from competitors, and make it more relevant to potential clients are among the topics in a free Webinar for Appraisal Institute members. The Webinar, “Branding in the Age of Findability,” is the latest in a string of offerings from the Appraisal Institute on how members can grow their businesses and achieve new levels of success by actively marketing their services.

“Branding in the Age of Findability” will be held January 28 from noon to 1 p.m. (CST) and will be led by Bob Killian, branding guru, consultant, creative director, graphic designer and Web designer for more than 30 years The webinar is available to all members who have fully paid their 2009 dues, which can be done online at www.appraisalinstitute.org/myappraisalinstitute/my_dues.aspx. To register for the webinar, visit www.appraisalinstitute.org/education/findability.

In addition to the webinar, two of the most effective self-promotion tools are the AI Web site’s “Find an Appraiser” online member directory and the Career Center section, each of which generate approximately 25,000 visits per month, among the top five most visited pages.

To maximize exposure in the Find an Appraiser directory, designated members should complete and/or update their member profiles. Accurate profiles will increase members’ chances of landing their next appraisal assignment. To update their profile, designated members need to log into the “My Appraisal Institute” section of www.appraisalinstitute.org and select “My Member Profile” on the left sidebar.

All members can create an “Appraiser Available” profile in the Career Center to help generate more leads by visiting the Career Center at www.appraisalinstitute.org/profession/career_center.aspx.

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13th Edition Student Handbook Available Now

The Appraisal Institute recently released *The Student Handbook to ‘The Appraisal of Real Estate*, *13th Edition*,’ as a complement to *The Appraisal of Real Estate*, thirteenth edition. This new student handbook, authored by Mark R. Rattermann, MAI, SRA, provides a simple framework for understanding real estate appraisals. Practitioners and students can rely on the handbook to understand the appraisal profession and prepare for state licensing exams.

This new handbook summarizes the topics addressed in each chapter of *The Appraisal of Real Estate*, thirteenth edition, explains and illustrates the nuances of valuation and practice through real world examples, and presents sample problems to test valuation knowledge.

Member price is $45; non-member price is $55 plus shipping & handling. For more information or to order, visit www.appraisalinstitute.org/13thstudenthandbook. Use promotion code APRSH09E when ordering.

Save more than 10 percent on *The Appraisal of Real Estate*: Textbook and Student Handbook combination package. Member price is $100, regularly $115; non-member price is $125, regularly

$140, plus shipping & handling. For more information or to order, visit www.appraisalinstitute.org/13thpackage. Use promotion code APRPK09E when ordering.

Orders can also be placed by calling 800-504-7440 (8 a.m.–5 p.m. ET).

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Two New Commercial Appraising Seminars Debuting in March

Two new seminars, *Commercial Appraisal Engagement and Review Seminar for Bankers and Appraisers* and *Appraising Distressed Commercial Real Estate: Here We Go Again,* are premiering March 2 in Portland, Oregon, and March 5 in New Orleans, respectively.

Designed for staff in financial institutions who order or review commercial real estate appraisals as well as appraisers who prepare these reports, *Commercial Appraisal Engagement* examines how the tasks of each group fit into financial institutions' regulatory scheme and what happens to an appraisal once it leaves the appraiser's hand. The seminar addresses the latest terminology, changing regulations, proper procedures and relevant approaches to value.

Appraising Distressed Commercial Real Estate provides critical insights on how appraisers, lenders and investors analyze distressed development properties and improve commercial real estate in present market conditions. Participants will find out how the current economic downturn affects capital markets and how to conduct market analyses.

Each seminar is approved for seven continuing education hours. Cost is $139 for members, $239 for non-members. For more information and to register, visit file:///C:/Documents%20and%20Settings/adamw/Local%20Settings/Temporary%20Internet%20Files/Content.Outlook/OLH96NQ6/www.appraisalinstitute.org/education/course_descrb/Default.aspx?prgrm_nbr=N400G&key_type=C or call National Programs at 312-335-4140.

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Inside the Beltway - What's Ahead for 2009?

If you thought 2008 was a busy year, just wait for 2009! Where 2008 brought us the Home Valuation Code of Conduct, TARP, Regulation Z, new Interagency Appraisal and Evaluation Guidelines, 2009 is likely to usher in a new era of regulation of the mortgage sector, including potential changes to the appraisal regulatory structure, economic stimulus – and the good news is – a plethora of opportunity for professional real estate appraisers. What specifically will be on the minds of the Obama Administration and the 111th Congress starting later this month? Here are a few items likely to be high on their agenda.

Mortgage Relief
Current loan modification programs by loan servicers are having some impact with homeowners, but Congress and the Administration may not think it's enough, particular when none of the money set aside for TARP has been used directly for mortgage relief for homeowners. As a result, Congress is expected to advance bankruptcy legislation that would grant authority to judges to write down loan principal. The question for appraisers – will judges use brokers price opinions or appraisals to determine market value? You know what the Appraisal Institute will be advocating for.

Mortgage Regulation
The Bernie Madoff scandal has thrust the role of the Securities and Exchange Commission in financial oversight into the spotlight. Coming on the heels of TARP and the credit crisis, we expect serious discussions about the proper makeup and functions of federal financial institutions regulatory agencies. For many years, the banking industry has argued in favor of consolidation of the bank regulatory functions. Recent problems with many thrift institutions have raised questions about the viability of the Office of Thrift Supervision. With all of this, should there be one "prudential" financial regulatory overseeing all financial institutions? Would that entity also carry with it the day-to-day responsibilities of bank examinations of institutions? These and other questions are likely to be near the top of the priority list of the House and Senate banking committees this year.

Troubled Asset Relief Program
Congress will undoubtedly attempt to review the Treasury's program to unfreeze credit in the primary and secondary markets, with particular emphasis paid to industries that have strong economic impacts, such as the auto and financial sectors. Much concern has been expressed about the health of the commercial real estate market in recent months, given credit availability concerns and the structure of many commercial real estate loans. But now, commercial real estate is competing with virtually every industry on the block for TARP consideration, including the student loan and retail industries. Will $700 billion be enough, or is it just a "down payment" to an even bigger bailout?

Mortgage Fraud/Predatory Lending
A major anti-predatory lending bill passed the House in 2007, only to stall in the Senate as the market meltdown occurred. That legislation included tangible reforms to Title XI of the FIRREA. As Congress looks as mortgage industry regulation, virtually every industry will receive some inspection, including the appraisal profession. The good news here is that much work has been done on this issue already, and we expect Congress to use the legislation found in HR 3915 as a starting point of their inspection of the appraisal process. The result, we hope, is a modernization of the appraisal regulatory structure, giving federal and state regulators the tools and resources they need to conduct more aggressive and effective enforcement. Interestingly, President-elect Obama has included provisions from his previously introduced STOP FRAUD Act as part of his economic stimulus plan. That legislation, which has been introduced in past sessions of Congress but not seen action, would define mortgage fraud as a federal crime and provide financial resources to state and federal enforcement agencies, including money for state appraisal boards. With this proposal being part of the stimulus package, resources for state appraiser boards are squarely on the table. Other issues that were prevalent in 2008, such as appraisal independence, the Home Valuation Code of Conduct, and the role of appraisal exemptions are also likely to see some review during the upcoming session of Congress, and the Appraisal Institute will be active on all of these fronts.

Overall, many are concerned about the health of real estate markets and the overall economy. The upcoming year will undoubtedly be a wild ride given the current economic circumstances, change of administration and new expanded majorities in Congress. The good news is that much attention is being paid by policymakers on real estate-related issues. The bad news, of course, is the same. The appraisal profession has many challenges and opportunities ahead this year, and the Appraisal Institute intends to help policy makers make sound public policy decisions as they impact real estate generally and the real estate appraisal profession in particular.

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HVCC Implications Webinar Debuts January 16

The Appraisal Institute's third webinar, *The Real Implications of the HVCC on Appraisers and Lenders,* will premiere January 16. Industry peers will address how the dynamics of mortgage lending are changing and the impact they will have on the residential appraisal process.

Panelists include Kenneth R. Harney, Managing Director, National Real Estate Development Center and Columnist of "The Nation's Housing"; Alan Hummel, SRA, Senior Vice President and Chief Appraiser, Forsythe Appraisals, LLC; Gerhard Morell, Principal, Northern Colorado Valuations; and Jim Park, SRA, Chief Valuation Officer, Interthinx. They will discuss the day-to-day, real life impact of HVCC on appraisers and their business. They will offer suggestions on how appraisers should position themselves to be successful when the HVCC takes effect.

The 60-minute webinar will be presented at 11 a.m. (Pacific Time) on January 16. It is free for members; $75 for non-members. For more information and to register, visit www.appraisalinstitute.org/education/more_info.aspx?id=12680.

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AI Members Express Concern about Appraisal Quality Post HVCC

The newly announced "Appraisal Code" – the revision of the original version of the home-valuation standards that Fannie Mae and Freddie Mac agreed to adopt under a March 2008 deal with New York Attorney General Andrew Cuomo – has raised speculation that the use of appraisal-management companies of some kind, whether or not they are owned by the lender, will increase. Real estate appraisers nationwide are reporting already that they are being asked to do more for less, and they report something has to give. The concern is that quality is being jeopardized further by unintended consequences from the revised Code.

Beginning May 1, Fannie and Freddie will not buy or guarantee loans that do not comply with the code. According to *American Banker*, since the two government-sponsored enterprises are among the few remaining secondary-market buyers, the code will effectively apply industrywide. The revised code retains the original version's ban on appraisals ordered by mortgage brokers. This might sound like good news for appraisers, who have long complained about pressure from lenders and brokers to inflate valuations so that loans will go through. However, several appraisers told *American Banker* that, as revised, the code would worsen a different problem. Many appraisers argue that management companies put too much emphasis on minimizing costs and turnaround times for valuations, at the expense of quality. Since local salespeople could no longer order appraisals, these appraisers reasoned, lenders would have to use some kind of appraisal management company, either one they owned or a third party.

Among those interviewed, Appraisal Institute members weighed in heavily.

"This would further commoditize appraisers and is counterproductive to solving the problem of collateral valuation," said Richard Maloy, MAI, SRA, chair of the government relations committee. There are "safety issues" when a mortgage lender uses an appraisal management company "as a profit center that is held captive," he said.

Immediate Past President R. Wayne Pugh, MAI, said that if a standard appraisal fee is $300, then an appraisal management company will charge that amount but hire an appraiser who has less experience and will do the work for "significantly less."

"The consumer suffers because they're not necessarily getting the best appraisers in their market area," he said.

Maloy said Cuomo and the FHFA may have agreed to "back away from the original" agreement because many large banks have in-house appraisal departments or affiliated appraisal companies. Separating those employees, who also have retirement and health-care plans, "would have created quite an upheaval."

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SEC Clears Fair Value Accounting Rules

As reported in the December 30 *Appraiser News Online*, the Securities and Exchange Commission has found that fair value accounting rules did not appear to play a meaningful role in the bank failures that occurred in 2008. The SEC expands upon its findings in an in-depth 211-page report issued to Congress. The report, which studied the impact of mark-to-market reporting on the economy, was released under the directive of the Emergency Economic Stabilization Act of 2008.

While the SEC concluded that fair value was not to blame for the financial crisis and, therefore, should not be dropped, the agency was quick to point out that the Financial Accounting Standards Board should look at reassessing current impairment accounting models for financial instruments**.**

Among the SEC's recommended accounting model improvements are:

- Reducing the number of models utilized for determining and reporting impairments
- Looking at whether the utility of information available to investors could be improved by providing additional information regarding value declines and company expectations of underlying credit quality
- Reconsidering current restrictions on the ability to record increases in value

By clearing fair value accounting rules, the SEC has opened the door for U.S. standard setters when it comes to the future development of accounting regulations.

Yet the question remains: If fair value accounting standards did not play a significant role in the U.S. bank failures of 2008 then what did?

According to the SEC report, bank failures appeared to be the result of growing probable credit losses, concerns about asset quality, and in certain cases, eroding lender and investor confidence. To read the SEC's full report, visit www.sec.gov/news/studies/2008/marktomarket123008.pdf.

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ASB Issues Second USPAP Exposure Draft

Included in the Appraisal Standards Board's second Exposure Draft on Revisions to the 2010-2011 edition of the *Uniform Standards of Professional Appraisal Practice*are: definition of a signature, definition of Jurisdictional Exception and the Jurisdictional Exception Rule, the Ethics Rule, the Competency Rule, Standard 3, Appraisal Review, Development and Reporting.

The ASB is accepting comments on the Exposure Draft through January 16. Those interested in submitting, should do so via e-mail to comments@appraisalfoundation.org. Comments will also be accepted at the ASB's next public meeting on January 23 in Fort Lauderdale, Fla. Any questions on the Exposure Draft or the work of the ASB can be directed to Carrie Composto at carrie@appraisalfoundation.org.

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Holiday Sales Drop to Force Bankruptcies, Closings

U.S. retailers face a wave of store closings, bankruptcies and takeovers as holiday sales signaled the worst in 40 years. Retailers may close 73,000 stores in the first half of 2009, according to the International Council of Shopping Centers.

More than a dozen retailers, including Circuit City Stores Inc., Linens 'n Things Inc., Sharper Image Corp. and Steve & Barry's LLC, have sought bankruptcy protection this year as the credit squeeze and recession drained sales (see related story). Investors will start seeing a wide variety of chains seeking bankruptcy protection in February when they file financial reports, Burt Flickinger, managing director of Strategic Resource Group, a retail-industry consulting firm in New York, said in a recent Bloomberg Radio interview.

"You'll see department stores, specialty stores, discount stores, grocery stores, drugstores, major chains either multi-regionally or nationally go out," Flickinger said.

Sales at stores open for at least a year probably dropped as much as two percent in November and December, more than the previously projected one percent decline, according to the ISC. That would be the largest drop since at least 1969, when the New York-based trade group started tracking data.

Probably 50,000 stores could close without any effect on consumer choice, Gregory Segall, a managing partner at buyout firm Versa Capital Management Inc., said during a panel discussion held at Bloomberg LP's New York offices. The total number of retail establishments will decline by about three percent this year, ICSC Chief Economist Michael Niemira said.

"If you're going to be in retail right now, the discount space is where you want to be," Patrick McKeever, a senior equity analyst at MKM Partners LLC, said.

But retail bankruptcies may help the industry in the long run. "We'll be going from a Dickens-esque worst of times this December to the best of times in future Decembers because we'll rationalize out all the redundant retailers and retail space in shopping centers," Flickinger said.

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Failed Circuit City Auction Signals Larger Real Estate Problems

Circuit City's decision to cancel a planned auction of 154 leases due to lack of bidders could be another troublesome milestone for the rapidly deteriorating retail real estate industry. The market for excess space, once seen as a potential bright spot amid troubles in the sector, may already be becoming oversaturated.

The Richmond, Va.-based retailer, which filed for Chapter 11 bankruptcy protection on November 10, instead signaled it may break the leases on 155 stores (one lease was not part of the auction) in all, representing 22 percent of the 715 domestic locations the chain operated as of November 30. The auction had been slated for December 18, but the company canceled the auction on the night before, after bankruptcy administrators informed it that there was not enough interest in the leases.

But the issue is much bigger than Circuit City's leases. Many retailers are suffering sales declines, closing stores and slowing the pace of expansion. That's creating a lot of excess space along with a shortage of potential replacements. While some segments of the retail industry are still growing—most notably discounters and grocers—there isn't enough overall demand to absorb the space that's coming to the market right now. As a result, failed auctions of excess retail space could become a common occurrence next year, according to Andy Graiser co-president of DJM Realty, a Melville, N.Y.-based real estate disposition and restructuring firm.

U.S. retailers announced 8,117 store closings in 2008, according to J.P. Morgan. In 2009, there could be twice as many store closings, according to Excess Space Retail Services, Inc, a Huntington Beach, Ca.-based real estate disposition and restructuring firm.

One of the issues that will affect the success of excess space auctions will be the rents the retailer vacating the space is paying. By year-end, retail rents nationally will have declined 3.6 percent from the same period in 2007, cites Property & Portfolio Research, a Boston-based real estate research and portfolio strategy firm. The fall will likely continue into 2009, when rents could drop an additional 5.6 percent, according to PPR. And, the firm predicts vacancies will rise to 17.3 percent. Its projections are culled from data for retail properties of all formats greater than 30,000 square feet in size across 54 markets in the United States.

The upshot of all this is that as retailers vacate space, much of it will revert back to landlords. When retailers shut stores in a booming market, they battled with landlords for control over the vacant space. Landlords wanted control of the vacant space so as to potentially re-lease it at a higher rent, while the retailer wanted to subleasing or sell vacant real estate to generate some ancillary income. Today, however, neither party seems to want to deal with excess space.

As a result, landlords would be well-advised to hold onto existing tenants for as long as possible, says Al Williams, principal with Excess Space Retail Services. To help struggling tenants survive and prevent a rise in vacancies at their centers, landlords have already become much more open to granting rent concessions and modifying lease terms, note both Williams and Graiser.

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Ohio Loan Mods Result from Multistate Settlement with Countrywide Financial

Up to 8,000 Ohio homeowners may have an opportunity to modify their loan agreement under a recent settlement agreement with mortgage lender Countrywide Financial Corp. In the loan modifications, market value will be applied, which may be based on an appraisal report, a broker price opinion or an automated valuation model. Countrywide Financial will be responsible for ensuring that the values used in automated valuation model systems to generate electronic appraisals are accurate and up-to-date. The Ohioans are part of the 400,000 homeowners nationwide affected by the settlement, which may provide up to $8 billion in aid.

While Ohio is a "voluntary" appraisal licensing state, allowing the use of broker price opinions beyond listing purposes, the settlement establishes a potential conflict with state laws in 24 states that strictly prohibited the performance of broker price opinions for purposes beyond a listing function for a fee. Unlicensed appraisal activity by brokers is an issue that has been highlighted recently by the Appraisal Institute to federal bank regulatory agencies, state regulatory agencies, and lenders and loan servicers themselves.

The settlement resolves allegations that Countrywide Financial used unfair and deceptive tactics in originating and servicing loans and that borrowers were often obligated to unfair and unaffordable loans. As part of the settlement, Countrywide Financial agreed to stop offering pay-option adjustable rate mortgages and to work with nonprofits, federal agencies and state attorney general offices on ways of using properties for community development. In addition, the lender agreed to launch a program that would contact borrowers who are having trouble making payments in an attempt to avoid foreclosure.

Ohio will receive $4.39 million of the multistate statement and will provide about 8,000 Ohioans the opportunity to modify their mortgages. Eligible subprime borrowers will be offered options designed to make monthly mortgage payments more affordable, including a freeze or reduction in interest rates, conversion to a fixed-rate loan or a reduction in the principal balance. An additional 4,000 homeowners in the state who have foreclosed on their homes will be eligible for relief payments ranging between $500 and $1,500.

Countrywide Financial customers will receive letters in the mail notifying them of their options. “This systematic, streamlined approach to loan modification is a critical first step and a win for everyone,” said Ohio Attorney General Nancy H. Rogers. While the final judgment resolves allegations that Countrywide used unfair and deceptive practices, the agreement does not constitute an admission of wrongdoing on the part of the company.

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Colorado Presses Charges against Two Brokers for Inflated Appraisals

Colorado's Division of Real Estate has sent "notices of charges" to two brokers the agency claims are the masterminds behind a $45 million Front Range mortgage fraud scheme. Director Erin Toll alleges that Jerrold Minney and Steven Scott Werner would sell homes at inflated values based on an inflated appraisal. Then, at closing, a large sum of money would be given to a management company with the understanding that they would improve the home. Instead, the management company would return the money to the buyer, minus a commission. No payments were made on the house, and banks ended up footing the bill in a foreclosure.

Werner's attorney, Robert McAllister, said his client has not engaged in fraud. "The charges are overstated and there is a fundamental misunderstanding of how Ms. Toll's office views Mr. Werner," McAllister said. "He certainly is not a mastermind.” McAllister said everything Werner did was fully disclosed to all parties.

"It sounds to me that Ms. Toll's allegations and conclusions are based upon over-inflated appraisals," McAllister said. He said that Werner played no role in the appraisals. Also, because homes are worth less now than they were two years ago, does not mean they were over-appraised in 2006, he said.

A recording on Werner’s extension at the company where he was listed as a broker, Kingdom Building Advocates LLC, said the number has been temporarily disconnected.

According to Colorado Real Estate Commission’s Web site, Minney’s real estate license expired December 16.

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FASB Issues Proposed Amendment to Statement 141’s Guidance on Contingencies

On December 15, the Financial Accounting Standards Board issued a proposed amendment to FASB Statement 141, which requires that an asset or a liability arising from a contingency in a business combination be recognized at fair value if fair value can be reasonably determined. The amendment – FASB Staff Position FAS 141(R)-a, Accounting for Assets Acquired and Liabilities Assumed in a Business Combination that Arise from Contingencies – is intended to address concerns about the application of Statement No. 141(R) relating to the initial and subsequent recognition, measurement and disclosure of assets and liabilities arising from contingencies in a business combination. FASB is accepting comments on the proposal through January 15.

Concerns cited in the proposed FSP include the ability to determine the fair value of litigation-related contingencies and the availability of evidence to support the recognition and measurement of liabilities arising from legal contingencies when supporting information may be prejudicial. In addition, the amendment addresses the ability to distinguish between contractual and noncontractual contingencies and the potential inclusion of prejudicial information in financial statements.

“While the FASB believes that fair value is the most relevant measurement attribute for assets acquired and liabilities assumed in a business combination, the Board also acknowledges concerns raised by preparers, auditors and members of the legal profession,” said FASB member Larry Smith. “The proposed FSP addresses those concerns by requiring the use of fair value to value assets and liabilities arising from contingencies only when fair value is reasonably determinable.”

As outlined in the proposal, if the fair value cannot be reasonably determined, the asset or liability should be measured at the amount recognized in accordance with FASB Statement No. 5, Accounting for Contingencies, and FASB Interpretation No. 14, Reasonable Estimation of the Amount of a Loss. Moreover, the FSP would amend the measurement and accounting guidance, as well as disclosure requirements, for assets and liabilities arising from contingencies in a business combination.

FASB is accepting comments from individuals and organizations regarding the proposed FSP until January 15. Comments should be e-mailed to director@fasb.org. To view the proposed amendment, visit www.fasb.org.

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Investors Agree to Buy Failed Lender IndyMac

The Federal Deposit Insurance Corp. announced that a seven-member group of investors has formed to buy failed lender IndyMac Bank for nearly $14 billion in a deal expected to close by March 31. Lead investor Steven T. Mnuchin, co-chief executive of Dune Capital Management, said the group “will inject significant private capital into IndyMac so that it can once again effectively serve its customers and communities.” The partnership, called IMB Management Holdings, also includes investors J.C. Flowers & Co., Paulson & Co., MSD Capital LP, Stone Point Capital, SSP Offshore LLC and an affiliate of Silar Advisors LP.

The sale will include IndyMac’s 33 bank branches, which have about $6.5 billion in deposits. Other assets include IndyMac’s loan servicing business valued at $157.7 billion and its reversemortgage company Financial Freedom. As part of the sale, the FDIC agreed to assume losses on some of IndyMac's loans.

"The FDIC and IndyMac staff accomplished a tremendous amount of work in a short period of time to help thousands of struggling homeowners stay in their homes and maximize value for both the Deposit Insurance Fund and mortgage investors," said John Bovenzi, CEO of IndyMac Federal and the FDIC's chief operating officer.

IndyMac, which had $32 billion in assets and specialized in loans made with little down payment or proof of assets, was seized by the federal government this past summer after it ran into financial trouble resulting from the real estate bubble collapse. The failure of IndyMac was the second-largest last year, behind Washington Mutual. Losses to the FDIC's insurance fund are expected to range from $8.5 billion to $9.4 billion.

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Hanley Wood: November Home Sales Continue to Struggle

As the economy stumbles and unemployment increases, sales of both new and existing homes continue to struggle. Furthermore, with builders cutting back production, new homes for sale continue to decrease with November's seasonally adjusted inventory of new homes declining to 374,000 units. However, on the plus side, the November median new home prices increased to $220,400 from a revised October figure of $214,600.

November new home sales were at their lowest level in nearly 18 years, declining 2.9 percent to a seasonally adjusted annual rate of 407,000 units. November existing home sales were at their lowest level in 11 years, dropping 8.6 percent from October to 4.490 million units, a 10.6 percent decline from the same time last year. The number of existing homes for sale increased for the first time in four months by 0.1 percent to a preliminary 4.203 million units. For the fifth month in a row, November median existing home prices declined to $181,300, the lowest figure since February 2004. November's existing home affordability ratio increased to its highest level since January 1990 to 59.0 percent due to lower rates and falling prices.

According to Freddie Mac's December 24 Primary Mortgage Market Survey, national average mortgage rates dropped to 5.14 percent, the lowest average recorded since the survey began in 1971. However, the majority of mortgage applications continue to be refinances, which made up approximately 83.2 percent of total mortgage activity. Because of low fixed mortgage rates, adjustable-rate mortgage activity fell to a record-low level reporting 0.8 percent of total mortgage applications.

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S&P/Case-Shiller U.S. Housing Market Update

According to the Standard & Poor's/Case-Shiller Home Price Indices released in December 2008, home prices dropped by the sharpest annual rate on record this past October with the 20-city housing index reporting a decrease of 18 percent from October last year and the 10-city index reporting a 19.1 percent decrease. Both indices have recorded year-over-year declines for 22 months in a row. "The bear market continues; home prices are back to their March 2004 levels." said David M. Blitzer, Chairman of the Index Committee at Standard & Poor's. "Both composite indices and 14 of the 20 metro areas are reporting new record rates of decline. As of October 2008, the 10-city composite is down 25.0 percent from its mid-2006 peak and the 20-city composite is down 23.4 percent."

Three new markets entered double-digit territory with Atlanta, Seattle and Portland reporting annual rates of decline of 10.5 percent, 10.2 percent and 10.1 percent, respectively. Three markets recorded annual declines of more than 30 percent. Phoenix home values lost 32.7 percent, Las Vegas prices fell 31.7 percent and San Francisco prices dropped 31.0 percent. Miami, Los Angeles and San Diego are close behind with annual declines of 29.0 percent, 27.9 percent and 26.7 percent, respectively. Atlanta, Charlotte, Detroit, Minneapolis, Tampa and Washington recorded their largest monthly declines on record. Dallas and Charlotte faired the best in October with their year-over-year returns remaining low with declines of 3.0 percent and 4.4 percent, respectively. Cleveland and Denver were the only markets with year-over-year improvements compared to last month's report.

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AI Members Elected to Serve on Foundation Boards

At the Board of Trustees' annual Fall Meeting, Appraisal Institute members were named as Chair of the Appraisal Standards Board and Appraiser Qualifications Board, as well as many other members appointed and elected to serve on the Foundation's various boards. The meeting was held on November 1 in Newport, R.I.

Past Appraisal Institute President Gary Taylor, MAI, SRA, of Brooksville, Fla., was appointed as the 2009 Chair of the Appraiser Qualifications Board, while Rick Baumgardner, MAI, SRA, of Elizabethtown, Ky., and associate member Jeffrey Lagrew of Versailles, Ky., were reappointed to three-year terms all commencing January 1, 2009.

Sandra Guilfoil of Olympia, Wash. was appointed as the 2009 Chair of the Appraisal Standards Board while J. Carl Schultz, MAI, SRA, of Atlanta, Ga., was appointed as the 2009 Vice Chair of the Board. Alan Hummel, SRA, of St. Paul, Minn., was named as 2009 Treasurer of the Foundation's Board of Trustees, while Jim Park, SRA, of Larkspur, Colo., was named Assistant Secretary and Shawn McGowan, SRA, of Germantown, Tenn., was honored as Immediate Past Chair. Earlier this year, Alyce DeJong, MAI, of Newark, N.J., was appointed by the Advisory Councils (the Industry Advisory Council and The Appraisal Foundation Advisory Council, respectively) to a three-year term on the Board of Trustees.

Also at the November 1 meeting, The Instituto de Evaluadores de Puerto Rico was admitted as the new Appraisal Sponsor as of January 1, 2009, and a revised strategic plan – including a vision statement, mission statement and various long-term goals – was adopted by the Board of Trustees. . To view the complete strategic plan, visit www.appraisalfoundation.org/s_appraisal/bin.asp?CID=5&DID=1264&DOC=FILE.PDF.

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Appraisal Institute Member Appointed to OSCRE Americas Board

The Open Standards Consortium for Real Estate Americas, whose mission is to deliver industry standards for exchanging electronic real estate property information, recently announced the appointment of John Urubek, MAI, to its board of directors. Urubek, who will be responsible for setting the organization's direction to ensure its continued growth and success, will serve through 2011.

Urubek is the founder and president of Appraiser's Paradise, a Web-based service that aids real estate appraisers with narrative-style appraisal reports. For over 10 years, Urubek has taught Appraisal Institute advanced level courses. In addition to teaching, Urubek has served on the Appraisal Institute's national Curriculum Committee and is presently serving on its national Education Committee. Urubek is interested in processes, systems and standards that enable real estate appraisers and their clients to easily share market data via the Internet. By serving on the OSCRE's board of directors, Urubek looks forward to gaining a greater insight about the OSCRE benefits that can be applied to the appraisal community.

Urubek will join fellow Appraisal Institute member Bruce Kellogg, MAI, on the OSCRE board of directors. Other OSCRE executive members recently elected to the board include John Hall, Prudential Mortgage Capital Corp.; Andrew Millar, Brookfield Lepage Johnson Controls; Robert Toothaker, Institute of Real Estate Management; and Zhen Tao, Intuit Real Estate Solutions.

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Top 10 Home Décor Trends for 2009 Revealed

From eco-friendly products to color choice to hardwood floors, appraisers might do well to keep in mind the following top 10 home décor trends for 2009 as determined by Décor Place. Topping the list, eco-friendly products will continue to be in demand by today's energy-conscious and environmentally-aware consumers. McKinley Adams, Allied member of ASID, predicts consumers will be interested in sustainable building materials that may cost a bit more up front, but will save money in the long run.

Colors will span the spectrum this year. On their Web site, the Pantone Color Institute forecasts lively colors and sophisticated, grounded hues. Andrea Vollf, American Society of Interior Designers, believes that neutrals, especially warm and cool grays, will be in demand. Jan Hubbard, ASID, and Candice Mathers, Allied Member of ASID, also note a draw to spice, bisque, toast, green and gold tones to create a warm ambiance.

Bolder, more intense paint colors require greater illumination. According to Jeff Dross, senior product manager of Kichler Lighting, lighting manufacturers will introduce chandeliers with more arms or multiple lights per arm, as well as pendants and wall-mounted fixtures that accept higher-wattage bulbs.

Wall murals will continue to be in high demand, according to Todd Imholte, president of www.MuralsYourWay.com. "We recently introduced 90 new mural designs including bold graphic patterns, contemporary designs and murals inspired by nature such as birch trees and bamboo."
Patterns are being constantly updated and reinvented, Michelle Lamb, co-founder and chairman of Marketing Directions, Inc., stated. Some ways to keep them fresh include combining classic and contemporary styles in one piece; utilizing tiny, country patterns that include calico or patchwork; and trying distinctive materials, like foil, or embellishments that cluster and layer upon each other.

Vollf sees 2009 as being the year of comfort, with furniture that is comfortable and functional, yet still elegant. More and more people are interested in creating a personal refuge that is chic, peaceful, inviting and easy to maintain so that they can relax and unwind at the end of a busy day in an aesthetically pleasing environment.

According to Kathy Peterson, celebrity design expert and co-host of Lifetime TV's "The Balancing Act," wood flooring is blending into an eclectic mix of wood tones. She also forecasts hardwood wall coverings (wood, resin, metals) with seamless panels of custom designs becoming focal points of a room.

Metals will continue to shine next year, according to Lamb. She envisions them being translated into modern metallic finishes and textures that create a sense of visual excitement and high energy. Particularly noteworthy are platinum, dark silver, rose golds, copper and colorful metallics.

Carmen Natschke, editor of "The Decorating Diva," sees a revival of "Hollywood Regency." According to her Web site, this style is "glamorous, classy and elegant; composed of an eclectic mix of styles like Neo-Classic, Asian, Baroque and Art Deco; sumptuous and luxury fabrics, shimmering finishes, mirrored furniture, chinoiserie, bamboo and lacquered furniture; bold color; clean lines and beautiful symmetry."

Seamless transitions from indoor to outdoor space are envisioned by Pantaleo, who says the most successful outdoor spaces will be an extension of the home's interior style and color scheme. Using nature as a backdrop, she suggests pulling colors from adjacent rooms to maintain a visual connection.

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