February 17, 2009

Honorable Timothy Geithner
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Secretary:

The undersigned professional appraisal organizations, representing 35,000 professional real estate appraisers in the U.S., are writing in connection with the mortgage relief/foreclosure prevention plan you are developing on behalf of the President. A new plan is urgently needed because the government's current mortgage modification efforts are inadequate. They are inadequate for two reasons: First, because they lack uniformity with respect to borrower eligibility criteria and the type of mortgage relief available, making it extremely difficult for homeowners (and lenders) to decide which plan is "right" for them; and, Second, because some of the existing foreclosure prevention programs <u>needlessly</u> expose taxpayers to indeterminate but significant losses if modified mortgages go into default.

<u>Executive Summary</u>

We are writing to express <u>our strong sense of the importance of accurately establishing the current market values of properties collateralizing the millions of mortgages likely to be modified</u> under the Administration's foreclosure relief plan; <u>and our absolute belief that these values can only be reliably established by professional appraisers</u> whose valuation competency has been objectively demonstrated, whose appraisals adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) and whose work is supervised by appraiser licensing boards in the 50 states and territories. We hope you will share our conviction that America's taxpayers – who could face billions of dollars in unnecessary risk if collateral valuations are faulty – should not be forced to rely, for such valuations, on real estate agents who have no valuation training, who do not adhere to uniform valuation standards, who are accountable to no one for the broker price opinions they churn out in their spare time, and who may not be independent of the process. <u>Moreover, in many states it is a violation of state law for a real estate agent to perform a valuation for any purpose having to do with the financing, refinancing or modification of a residential or commercial mortgage</u>.

Valuations of residential properties can be performed, <u>by valuation professionals</u>, <u>as quickly as needed and in a highly cost-effective manner</u> under USPAP's scope of work rules. Any statements to the contrary are wrong. We respectfully urge your support for a provision in the foreclosure prevention plan which requires reliance on professional appraisers to determine the market values of properties collateralizing modified mortgages. America's taxpayers deserve no less.

Discussion

Our organizations can support a mortgage relief program which is both comprehensive in nature (i.e., provides assistance to the maximum number of eligible homeowners); and simultaneously protects American taxpayers from needless future risk (i.e., ensures that modifications are predicated on a knowledge of facts likely to produce a successful outcome or, if there is a default, minimizes losses). An accurate appraisal of the market value of collateral property at the time of modification is critical in either circumstance. Congress affirmed this conclusion when it enacted FHA's Hope For Homeowners Act, by incorporating a safety and soundness underwriting feature necessary to minimize taxpayer losses if modified loans fail – a requirement that the collateral properties be appraised by a professional, state certified or licensed real estate appraiser.

Our specific concern – which we hope you will share – is that many of the loans modified under foreclosure prevention plans established prior to the new Administration, lack competent appraisals of collateral properties. As a consequence, the government lacks a clear understanding in many cases of the likely collective losses to taxpayers if modified mortgages default and the collateral properties have to be sold.

As this letter is being transmitted, we do not know the particulars of the foreclosure prevention plan Treasury will propose to Congress. We are confident, however, that whatever form it takes reliable professional appraisals will be indispensable for several important reasons:

First, it is a given that a certain percentage of loans modified in the future will default (current statistics suggest a significant number, possibly as high as 25 to 50 percent of such loans). For loans guaranteed by the government, taxpayers deserve a reliable appraisal of the value of the collateral property at the time of modification in order to be able to gauge the potential for further losses. Only professional appraisers have the competency and independence necessary to provide this information;

Second, if the relief plan involves a reduction of the principal amount owing on the loan based on the property's current market value (i.e., a so-called "cramdown"), only an appraisal of current market value by a professional appraiser will result in the high level of accuracy and credibility needed to calculate this type of modification;

Third, the underwriting of some mortgage relief plans is premised on loan-to-value (LTV) ratios to establish borrower eligibility, in some cases, or the dollar value of such relief, in others. Again, a competent and impartial determination of the value of the collateral property is essential. Only a professional appraisal can assure needed reliability;

Fourth, even if the plan focuses exclusively or predominantly on a reduction in the borrower's interest rate or a stretch-out of years over which the loan can be repaid, government still will need a reliable understanding of the collateral values in order to know the potential losses to taxpayers. Only professional appraisals of the collateral properties for each modified loan will provide that information;

Fifth, in many states it is unlawful for an individual who does not hold an appraiser certification or license from the state to perform a valuation for any mortgage-related purpose. Real estate agents and brokers in these states are permitted to estimate a property's value only for the purpose of listing or selling that property;

Sixth, any plan to securitize refinanced or modified loans (or new loans originated in the future) will be greatly enhanced by utilizing appraisals prepared by qualified appraisers. Secondary market participants will want assurances on the market value of the collateral properties, and this only can be provided by professional appraisers; and,

Finally, even if the Administration's mortgage relief plan contemplates a temporary abandonment of mark-to-market accounting for valuing a bank's residential loan assets, reliable knowledge of the actual market value of individual collateral properties still is essential for prudent underwriting of the revised mortgages.

Our organizations hope and trust that the President's multi-billion dollar plan to assist distressed homeowners, will avoid the serious pitfalls found in the mortgage relief programs of some of the federal banking agencies. These programs permit collateral properties to be valued by real estate salespeople who have no valuation training; who do not adhere to any uniform standards for how properties are to be valued; who are not accountable to any governmental body, federal or state, for faulty or shoddy "valuation" work; and, who may have a direct or indirect economic stake in whether a mortgage is modified or whether it is foreclosed and the property put on the market to be sold to another buyer.

As you know, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) established a system for state certification and licensing of real estate appraisers and it mandated reliance on such appraisers to value collateral in important federally-related transactions. Individuals who become state licensed or certified appraisers must meet meaningful requirements involving valuation-specific training, education and experience; and, their conduct is regulated by appraiser licensing agencies in the 50 states and territories.

Regrettably – and we believe inexplicably – since enactment of Title XI, the federal banking agencies have greatly weakened the "safety and soundness" public policy purpose of Title XI. They have done so by exempting thirteen categories of real estate related financial transactions (involving millions of loans) from the law Congress enacted to ensure that real property collateralizing residential and commercial loans by federally insured financial institutions is reliably valued by professionals. Now, the FDIC and the Federal Reserve are using one of the 13 exemption categories (allowing an exemption from professional appraisal requirements when a "subsequent mortgage transaction" does not involve the advancement of new funds) to justify the use of broker price opinions and other unreliable valuation products in connection with their mortgage modification programs.

Although at this writing we do not know the specifics of the Administration's foreclosure prevention plan, we want to point out that if it involves the replacement of existing mortgages with new government guaranteed ones (and, thereby, the advancement of new funds), a professional appraisal of the collateral property would be required under the banking agencies' policies and regulations. Given the rapid and material changes in residential market conditions and the possible advancement of new funds, we believe it is imperative that the Administration's plan require that collateral valuations be performed by state certified and licensed appraisers in accordance with the Uniform Standards of Professional Appraisal Practice. We believe such a requirement is imperative both because existing banking agency policies mandate it and, equally important, because the safety and soundness of taxpayer guaranteed loans in today's tumultuous mortgage markets require it.

We strongly and respectfully urge the Obama Administration, when it sends its foreclosure prevention program to Congress, not to adopt the deregulatory mindset of the federal bank regulators with respect to collateral valuation. Valuations of residential properties prepared by professional appraisers can be performed just as quickly as, and far more accurately than, broker price opinions prepared by real estate salespeople. We hope you will agree that the cost of an appraisal is insignificant when compared to the safety and soundness needs of government guaranteed programs and the billions of dollars in losses to taxpayers if modified mortgages default in substantial numbers.

Our organizations would greatly appreciate an opportunity to discuss our concerns and recommendations with you or with other Treasury officials involved in developing the Administration's mortgage relief proposal. To arrange a meeting, please contact Peter Barash, the government relations representative of the American Society of Appraisers, at 202-466-2221 or by email at peter@barashassociates.com; or Bill Garber, Director of Government and External Relations for the Appraisal Institute, at 202-298-5586 or by email at bgarber@appraisalinstitute.com.

Sincerely,

American Society of Appraisers
Appraisal Institute
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers