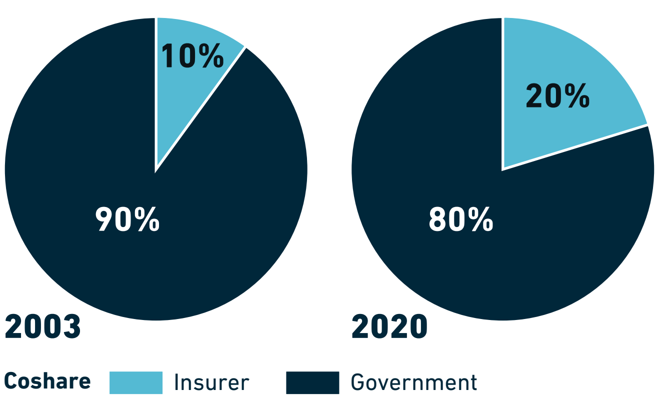
Capital & Credit

The Real Estate Roundtable leads and supports efforts to maintain appropriate levels of credit capacity and capital market liquidity for the commercial and multifamily real estate industry, while reflecting sound underwriting and rational pricing of economic risk. The Roundtable is actively engaged with policymakers to encourage the essential elements of a reliable credit system, such as measures that promote stable valuations, appropriate transparency, appropriate systemic safeguards and risk management tools that maintain liquidity.

TRIA

The Terrorism Risk Insurance Act (TRIA) was created as a response to the inability of insurance markets to appropriately quantify the risks associated with terrorism and to offer coverage to commercial policyholders. TRIA was enacted in 2002 and reauthorized in 2005, 2007 and again in 2015. In December 2019, the House and Senate approved a seven-year reauthorization of TRIA. The Roundtable actively pushed for a clean reauthorization of TRIA—a feat achieved a full year before the legislation was supposed to sunset. TRIA is essential for commercial real estate as lenders require "all risk" insurance coverage, including terrorism coverage, to cover the risk of loss to collateral. TRIA continues to be extremely effective in achieving its primary purposes: to stabilize the market following 9/11 and to ensure the continued availability of terrorism coverage for commercial policyholders in the future.

Terrorism Risk Insurance Act Loss Sharing Changes



Source: GAO analysis of Terrorism Risk Insurance Act (TRIA), its reauthorizations, and Department of the Treasury data. GAO-20-348

GSEs

Nearly a dozen years after government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac were put into conservatorship, the GSEs have not been reformed. Last year, The Roundtable engaged the Senate Committee on Banking, Housing, and Urban Affairs to advocate for the reform of the nation's house finance system. The Roundtable urged the Treasury and the Federal Housing Finance Agency (FHFA) to work with Congress to end conservatorship through comprehensive, bipartisan legislative reforms. GSE reform has been a top priority for the Trump Administration, Senate Banking Committee Chair Mike Crapo (R-ID), and House Financial Services Committee Chairwoman Maxine Waters (D-CA). The Roundtable is actively engaged with senior staff and elected officials to ensure sensible, data-based reform.

Beneficial Ownership

Last year, the U.S. House of Representatives passed the Corporate Transparency Act of 2019, which requires certain corporations and limited liability companies (LLCs) to disclose information about their beneficial owners to the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Although the bill

(L-R) Roundtable member William Walker (Walker & Dunlop), Federal Housing Finance Agency Director Mark Calabria, and House Financial Services Committee Ranking Member Rep. Patrick McHenry (R-NC) discuss the oversight of Fannie Mae and Freddie Mac – the Government Sponsored Enterprises (GSEs) – who own or guarantee $5.6 trillion in single and multifamily mortgages.

reflects Congress' support for law enforcement investigations into shell companies engaged in money laundering, tax evasion, and terrorism financing, it places many costs and legal burdens on small businesses, especially those in the real estate industry.

The Senate introduced its own bills addressing beneficial ownership—the True Incorporation Transparency for Law Enforcement (TITLE) Act and the Corporate Transparency Act of 2019. The Roundtable engaged the House Financial Services Committee senior leadership and the Senate Committee on Judiciary to share—in coalition with other organizations—the reasons why the proposed legislation would impose burdensome, duplicative reporting burdens on approximately 4.9 million small businesses in the United States and threaten the privacy of law-abiding, legitimate small business owners. The Roundtable continues to work with lawmakers in support of a balanced approach to the issue that would inhibit illicit money laundering activity without the imposition of additional and costly reporting requirements on non-bank businesses, especially those in the real estate industry.

Committee on Foreign Investment in U.S. (CIFIUS) Reform

The Foreign Investment Risk Review Modernization Act (FIRRMA) reforms and modernizes the Committee on Foreign Investment in the United States (CFIUS) review process and represents the first update to the CFIUS statute in more than a decade. On February 13, 2020, two sets of enhanced regulations governing the CFIUS became effective, implementing FIRRMA—one covering certain real estate transactions and one covering other investments involving U.S. businesses. The real estate regulation permits the CFIUS to review certain purchases, leases and concessions of real estate by foreign persons—including REITs—irrespective of whether such transactions involve a U.S. business. Their authority to review real estate transactions is limited to those transactions involving property near sensitive U.S. locations, such as airports, maritime ports, and military installations, and that afford the foreign investor with certain rights related to the property. The Roundtable submitted comments to the Treasury regarding the proposed regulations and held follow-up meetings with

House Financial Services Committee Chairwoman Maxine Waters (D-CA) played a key role in the reauthorization of the Terrorism Risk Insurance Program.

Treasury staff. While the Roundtable praised efforts by CFIUS and the U.S. Treasury to protect and safeguard investment in U.S. markets, it raised concerns about the need for regulatory flexibility and certain aspects of the rules that are not only unnecessarily complex but undermine predictability and transparency from the standpoint of investors.

CECL

At the beginning of 2020, the Financial Accounting Standards Board (FASB) began to require that banks estimate and report loan losses. This accounting rule was issued by the FASB in 2016 as a result of the 2008 financial crisis. Current Expected Credit Loss (CECL) standards impact the way banks calculate reserves on assets and expected loss over the life of a loan. The new CECL standard changes the way banks calculate reserves on assets, requiring certain financial institutions to estimate expected loss over the life of a loan. Real estate stakeholders worry that banks may reduce lending volumes as they build up additional capital reserves to comply with CECL. The Roundtable continues to work with the FASB and the SEC to ensure that credit capacity is not impaired.

In light of the COVID-19 crisis, The Coronavirus Aid, Relief, and Economic Security (CARES) Act permits an insured depository institution, bank holding company, or any affiliate thereof to temporarily delay measuring credit losses on financial instruments using the new Current Expected Credit Losses (CECL) accounting standard until December 31, 2020, or the date on which the coronavirus-related national emergency declaration terminates.

Restoring Liquidity in Real Estate Credit and Capital Markets

The Roundtable has been working to develop and enact measures to address the COVID-19 crisis, restore credit capacity and capital market liquidity. Consistent with Roundtable recommendations, the U.S. government and the Federal Reserve have taken unprecedented steps to address the COVID-19 crisis. The Fed cut its target for the federal funds rate, the rate banks pay to borrow from each other overnight, by a total of 1.5 percentage points since March 3, bringing it down to a range of 0 percent to 0.25 percent. The Fed has also resumed purchasing massive amounts of securities—including mortgage backed securities—a key tool employed during the Great Recession, when the Fed bought trillions of long-term securities.

In addition, Title IV of the Coronavirus Aid, Relief and Economy Security Act (CARES Act)—*Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy*—allocates $454 billion through the Treasury to support some nine Federal Reserve credit facilities, established under Section 13(3) of the Federal Reserve Act, to boost lending to distressed sectors of the economy. This can be levered by the Federal Reserve to support $4.5 trillion in lending. One of the nine credit facilities is the Term Asset-Backed Securities Lending Facility (TALF), which now includes AAA-rated legacy agency and non-agency commercial mortgage-backed securities (CMBS) and commercial mortgages as eligible collateral. Another credit facility—the Main Street Lending Program (MSLP)—aims to support businesses too large for the Small Business Administration's Paycheck Protection Program (PPP) and too small for the Fed's two corporate credit facilities. The Roundtable continues to encourage policymakers to refine the TALF and MSLP to provide essential liquidity for the commercial real estate sector.

Regulatory Forbearance

Importantly, the financial regulatory agencies issued a *Revised Interagency Statement on Loan*

Modifications by Financial Institutions Working with Customers Affected by the Coronavirus, which encourages financial institutions to work constructively with borrowers affected by COVID-19 and views prudent loan modification programs to financial institution customers affected by COVID-19 as positive actions that can effectively manage or mitigate adverse impacts on borrowers, and lead to improved loan performance and reduced credit risk. Additionally, under Sections 4013 of the CARES Act—*Temporary Relief From Troubled Debt Restructurings*—provides banks the option to temporarily suspend certain requirements under U.S. GAAP related to troubled debt restructurings (TDR) for a limited period of time to account for the effects of COVID-19. Section 4022 grants up to 180 days of forbearance to borrowers with federally-backed residential mortgage loans. Section 4023 permits a multifamily borrower (5+ units) with a federally-backed multifamily mortgage loan to request forbearance for a 30-day period, with up to two 30-day extensions.

The Roundtable, along with a broad coalition of industry organizations, continues to urge policymakers to accommodate the present economic reality and enact measures that provide vital liquidity to distressed sectors of the economy impacted by COVID-19. The Roundtable's Real Estate Capital and Credit Policy Advisory Committee (RECPAC) continues to provide constructive recommendations to policymakers while communicating the industry's ongoing concerns about the crisis.

Development of A Federal Pandemic Risk-Business Continuity Program

The COVID-19 crisis has highlighted the lack of insurance availability for catastrophic pandemic events. Most business interruption (BI) insurance policies fail to cover pandemic risk related claims. The lack of commercial pandemic risk/business continuity insurance availability raises concerns for policyholders, so it is important to enact an effective federal program to address these gaps. Working with industry partners, The Roundtable has assembled a coalition to develop and enact an effective program. As policymakers consider additional stimulus measures, it is important to enact measures that provide liquidity to put American workplaces in a position to reopen and rehire. Looking forward, a Federal business continuity insurance program should be put into place before there is a recurrence of pandemic or government-ordered shutdown in response to other phenomena. To address this dilemma, there are a number of preliminary legislative proposals being developed—some prospective and some both retrospective and prospective—including the Workplace Recovery Act and the Pandemic Risk Insurance Act. The Roundtable is working with policymakers and stakeholders to help develop an effective pandemic risk, business continuity insurance program that addresses the current crisis and provides the economy with the coverage it needs to address future pandemics.

Paycheck Protection Program (PPP)

The PPP is one of the key CARES Act programs to help small businesses through the economic fallout from COVID-19. While the program's roll-out has been hampered by questions of what kinds of businesses are eligible for forgivable PPP loans, The Roundtable supports the platform primarily as a means to help small establishments and business tenants stay afloat and keep their workers on payroll. Elements of The Roundtable's "8-Point Plan to Reform the PPP" sent to policy makers shortly after the CARES Act's passage have been adopted – such as extension of the loan forgiveness period and more flexibility to allow PPP proceeds to be used for ordinary business expenses like monthly payments on rent, mortgage interest, and utility bills.