The Real Estate Roundtable

March 30, 2020

The Honorable Jerome H. Powell
Chairman
Board of Governors
The Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jay Clayton
Chairman
Securities & Exchange Commission
100 F Street, NE
Washington, DC 20549

Mr. Russell G. Golden
Chairman
Financial Accounting Standards Board
401 Merritt 7, P.O. Box 5116
Norwalk, CT 06856-5116

Dear Sirs:

Due to the COVID-19 crisis, major segments of our nation's GDP have shut down. As a result, the cash flow from these businesses has declined, and liquidity in credit and capital markets has dried up.

As the economy shuts down and American workers face massive layoffs, it is now clear that many tenants will not be able to meet their debt obligations. This will soon cascade through the over $4 trillion commercial real estate debt market and exponentially increase the pressure on the financial system.

As revenues rapidly decline, commercial and multifamily real estate now faces its worst liquidity challenge since the Great Financial Crisis. Compounding the problem, commercial real estate is now feeling the impact of the economic downturn and related job losses.

In light of these events, it is important for the Financial Accounting Standards Board (FASB) to take action to immediately suspend mark-to-market accounting. It is simply not possible to properly value assets in illiquid and non-functioning markets. The rationale for this view follows. We are concerned that the "mark to market" or "fair value" (FAS 157) accounting rules will further exacerbate the growing financial crisis. As liquidity diminishes, the value of asset-backed securities (ABS) collateral (including commercial mortgage-backed securities, or CMBS) will continue to decline.

When the market-based measurement no longer accurately represents the underlying asset's true value, a company should not be forced to calculate the selling price of these assets or liabilities during unfavorable or volatile times, such as today's COVID-19 crisis.

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During the financial crisis of 2008-2009, many securities held on bank balance sheets could not be valued efficiently as the markets had disappeared from them. During April 2009, however, the Financial Accounting Standards Board (FASB) voted on and approved new guidelines that would allow for the valuation to be based on a price that would be received in an orderly market rather than a forced liquidation, starting during the first quarter of 2009. We encourage the Board to take similar action now.

Among other measures that may be taken, a key element will be averting rushed and widespread margin calls and other "mark-to-market" measures for a period of time under the real estate whole loan and commercial mortgage-backed securities (CMBS) repurchase agreements that lenders rely on to provide liquidity in the market.

Values plummet, not because the underlying assets are not healthy (they are) but because there is a complete loss of confidence in these securities by the market. Plummeting ABS values means plummeting repurchase agreement (repo) collateral values, which means margin calls and repo foreclosures.

With no active market in many aspects of mortgage related securities, the use of mark-to-market accounting has caused pro-cyclical write-downs that may well overestimate probable losses. As a result, the rules have unfairly pushed valuations lower and forced companies to take big losses on the basis of market fluctuations that are temporary. Such write downs have led to a depletion of essential capital and diminished the lending capacity of many institutions.

Asset valuations should be based on market values, but if an active market no longer exists, it must be possible to exercise reasonable judgment in valuing assets. There's no doubt the accounting rules have exacerbated the current crisis. To help restore capacity to credit markets, it is important to alleviate the unintended consequences imposed by mark-to-market accounting in inactive markets.

We are encouraged by the steps taken by the Treasury and the Federal Reserve thus far, but more must be done to protect American workers, businesses and the scaffolding of our economy.

The March 20 Interagency Statement appropriately addressed the accounting issues associated with troubled debt restructurings (TDRs). One important provision in the CARES Act (H.R. 748) would allow banks and credit unions temporary relief from the current expected credit losses (CECL) accounting standard. We encourage the FASB to take action now to suspend mark to market accounting rules until this crisis is behind us.

We appreciate the opportunity to comment on this important issue.

Sincerely,

Jeffrey D. DeBoer
President and Chief Executive Officer