



March 27, 2008

Internal Revenue Service  
P.O. Box 7604  
Ben Franklin Station, Room 5203  
Washington, D.C. 20044  
Attention: CC:PA:LPD:PR (REG-127770-07)

Re: Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduit (REMIC)

To Whom It May Concern:

On behalf of the more than 30,000 members of our respective professional appraisal organizations, we are writing in response to the notice of proposed rulemaking (NPR) on Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduit (REMIC). Specifically, our comments are in response to a comment letter issued by the New York State Bar Association relative to the NPR providing suggestions on collateral issues and appraisal requirements. We understand the NYSBA has recommended that the proposed rule be modified to avoid using real estate appraisals performed by independent appraisers to value collateral in commercial loan modifications.

The NPR would permit a qualified mortgage to remain a qualified mortgage if it changes the nature of a mortgage loan from recourse to nonrecourse--but only if the loan continues to be principally secured by an interest in real property. In order for the mortgage loan to be principally secured by an interest in real property, the proposed regulations would require that, as of the modification date, the fair market value of the real property collateral securing the mortgage loan be at least 80 percent of the loan's adjusted issue price, as determined by an appraisal performed by an independent appraiser.

We agree with the proposed rule that a new appraisal should be obtained. The appraisal serves an important function in terms of risk management and due diligence. Common sense tells us that nonrecourse mortgages place a higher degree of importance on asset valuation than recourse mortgages, which are backed by the creditworthiness of the borrower. The proposed rule is also consistent with many state laws that require fair market value determinations to be made only by state licensed or certified appraisers. To eliminate the requirement for an independent appraisal may actually encourage violations of many state appraisal laws.

We note that recent changes to appraisal standards emphasize a scope of work be established by the appraiser in consultation with the client. The Uniform Standards of Professional Appraisal Practice allow a qualified appraiser to develop a scope of work appropriate to meet the needs of the valuation question; for instance, given the intended use of the appraisal, an appropriate scope of work might include only the income approach if the valuation is mostly dependent on changes in the rental structure of an income-producing property. Such a scope of work might be completely appropriate for such an appraisal assignment, and it may meet the needs of the intended users and concerns of clients ordering the appraisal.

For these reasons, our organizations strongly encourage the Internal Revenue Service to retain the existing collateral valuation and appraisal requirements as it proceeds with its rulemaking on

Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduits (REMICs).

Further, our organizations also strongly believe such appraisal assignments require the use of qualified appraisers – those competent to perform appraisals on such properties – in addition to being independent. Appraisals of this nature are complex and simply relying on appraiser licensing and certification is not sufficient. As such, use of the services of qualified independent appraisers, including appraisers who have earned professional appraisal designations from recognized professional appraisal organizations, should be encouraged.

Our organizations commit to work with the IRS should it require more information or have additional questions. Please contact Bill Garber, Director of Government and External Relations, Appraisal Institute, at 202-298-5586 or [bgarber@appraisalinstitute.org](mailto:bgarber@appraisalinstitute.org).

Sincerely,

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