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ASSOCIATION of  
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August 11, 2011

The Honorable Shaun Donovan  
Secretary of Housing and Urban  
Development  
Washington, DC 20410

The Honorable Debbie Matz  
Chairman, Federal Financial  
Institutions Examination Council  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

The Honorable Eric K. Shinseki  
Secretary of Veterans Affairs  
Washington, DC 20420

Ed DeMarco  
Acting Director  
Federal Housing Finance Agency  
1700 G Street, NW  
4th Floor  
Washington, DC 20552

Dear Secretary Donovan, Secretary Shinseki, Chairman Matz, and Acting Director DeMarco:

I am writing on behalf of the 1.1 million members of the National Association of REALTORS® (NAR) to urge you to bar the use of indemnification clauses increasingly being used by appraisal management companies (AMCs). These indemnification clauses are becoming more common in service contracts used to engage AMC appraisers.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®. NAR has approximately 30,000 appraiser members from across the country and approximately 750 have earned our Residential Accredited Appraiser (RAA) and General Accredited Appraiser (GAA) designations.

Appraisers provide an independent and impartial analysis of the market, and a credible opinion of the value of real property. This analysis is a critical component of the mortgage transaction and, in recent months, has become the subject of unnecessary pressure. The mounting use of indemnification clauses by AMCs may be interfering with the appraiser's independence and objectivity. In many cases, appraisers are asked to sign contracts that include language to indemnify and hold harmless the AMC against any suit, threat, or claim on any work product or service provided as part of the contract agreement. In some instances, the appraiser is even required to indemnify the lender and the AMC for amounts equal to their costs in repurchasing a mortgage loan, regardless of any proof of culpability on the part of the appraiser. The AMC is free from any legal obligation and the appraiser bears all responsibility. As a result, some appraisers may be less than objective in their analysis, which causes them to be more conservative and report artificially lower values for real property.



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NAR strongly supports the independence of appraisers and the appraisal process. Appraisers are often asked to include distressed transactions as comparable sales, to complete the appraisal in an unreasonable and unrealistic short time span, and to comply with a broad scope of work not supported by the fee paid. In some situations appraisers are required to provide as many as eight comparable sales and/or listings. The practice of passing all liability on to the third party is causing unnecessary pressure on appraisers.

We believe these indemnification clauses pressure the appraiser, compromise their independence, and have a negative effect on the quality of appraisal reports. The increasing use of indemnification clauses by AMC's adds risk for both consumers and lenders, and diminishes the much needed public trust in the appraisal profession.

Thank you for your time and consideration of this matter. If you wish to further discuss this please do not hesitate to contact our Senior Regulatory Policy Representative, Jerry Nagy, at 202.383.1233 or [jnagy@realtors.org](mailto:jnagy@realtors.org).

Sincerely,



Ron Phipps, ABR, CRS, GRI, GREEN, e-PRO, SFR  
2011 President, National Association of REALTORS®

cc: John Walsh  
Acting Comptroller of the Currency

Jennifer J. Johnson  
Secretary, Board of Governors of the Federal Reserve System

Martin J. Gruenberg  
Acting Chairman, Federal Deposit Insurance Corporation

Raj Date  
Special Advisor to the Secretary of the Treasury on the Consumer Financial Protection Bureau

Carol Gallante  
Acting Assistant Secretary for Housing - Federal Housing Commissioner

Jim Park  
Executive Director, Appraisal Subcommittee

Michael J. Williams  
President and Chief Executive Officer, Fannie Mae

Charles E. Haldeman, Jr.  
Chief Executive Officer, Freddie Mac