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Memo

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Date: September 22, 2008

To: Members of the U.S. Senate and House of Representatives

From: Floyd E. Stoner, Executive Vice President, Congressional Relations & Public Policy

RE: Treasury Plan to Purchase Mortgage-Related Assets

I am writing on behalf of the members of the American Bankers Association (ABA) to urge you to focus on three critical areas as you consider legislation to authorize the Treasury Department's mortgage stabilization plan:

- **Loan Purchase:** Banks of all sizes must be allowed to participate in the loan purchase program, and it must permit the purchase of whole loans and not just mortgage-backed securities from those institutions. In addition, the statutory language must be as broad as possible to make it clear that the wide range of financial instruments connected to residential and commercial mortgages are covered.
- **Accounting:** It is important for Congress to consider how current and proposed "fair value" and other accounting rules are exacerbating the problems in the financial markets. For example, it is difficult, if not impossible, to determine "fair value" in an environment where the market is illiquid and there are very few participants. To remedy this situation, the Securities and Exchange Commission (SEC) should take action prior to September 30 to recognize that it is virtually impossible to establish fair value in this environment. Further, proposed changes requiring any additional fair value accounting and any further changes to accounting for securitizations should not be issued until the full impact on the marketplace can be assessed. These are complex issues that need to be considered carefully and with the oversight of Congress.
- **Bankruptcy:** Proposals to allow bankruptcy judges to reduce the balance owed on a mortgage ("cram down") and to rewrite the terms of mortgages should not be included in this legislation. Authorizing write-downs of mortgages by bankruptcy judges will increase the risks of mortgage lending at a time when the market is already struggling, and this will harm consumers by increasing the cost of credit and reducing its availability. Rather than adding counterproductive bankruptcy provisions, Congress should work with the Treasury Department to put in place an appropriate mechanism to provide foreclosure relief for borrowers whose mortgages are purchased by the government, similar to what was provided in the recently enacted "Hope for Homeowners Act." Permitting such modifications to take place for loans that are purchased by the government would provide a significant measure of relief for borrowers.

Thank you for considering our views on these important issues. We look forward to working with you as this legislation moves forward.