United States Senate

WASHINGTON, DC 20510

May 14, 2012

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, D.C. 20410

Dear Secretary Donovan:

We have repeatedly expressed concerns about the potential impact that the federal and multistate "robo-signing" settlement would have on private mortgage first lien investors. As you are aware, first liens are predominately held by pension funds and retirement funds – those funds charged with protecting the savings of hard-working Americans. Because any settlement could dramatically affect these funds, their managers should have a seat at the table when solutions are developed. Furthermore, the officials overseeing the settlement should use all means within their authority to accommodate their needs.

In several communications with us, you have indicated that the settlement will not violate the terms of the HAMP program, and that the HAMP program has a net present value (NPV) model which requires that any loan modification be advantageous to the end investor. This is a valid approach, provided that the NPV methodology is not flawed. To that end, we have three concerns.

First, why does the NPV model not take into account the second lien when solving for a target debt-to-income (DTI) ratio? As we understand the model's mechanics, when solving for a DTI target, only the first lien's obligations are included.

Second, why would any first lien be modified until such time as the second lien is completely extinguished? In our view, the waterfall should be: term on the second; rate on the second; and principal on the second. Once the second lien has been taken to zero, if a target DTI has not been reached, then and only then should the first lien be modified.

Third, will you disclose, by loan owner and lien, the percentage of investor loans in which the bank owned the second lien and the average principal reduction on such second liens? This would clear up a great deal of the speculation regarding the conflicts of interest inherent in a servicer servicing a mortgage on a property for which they hold a second.

We thank you for your service and your dedication to helping the housing market That said, we feel very strongly that private investors must not pay the price for the mistakes of others. Again, these investors represent the savings of hard-working Americans. Furthermore, if we expect private capital to return to a housing finance market that is currently dominated by government-backed mortgages, this is the capital that we will need to step-in.

Sincerely,

Sherrod Brown
United States Senator

Bob Corker
United States Senator