

United States Senate

WASHINGTON, DC 20510

December 1, 2010

The Honorable Max Baucus
Chairman
Senate Finance Committee
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Senate Finance Committee
Washington, D.C. 20510

Dear Senators Baucus and Grassley:

We are writing to request that you consider reforms of the Foreign Investment in Real Property Tax Act (FIRPTA) rules with respect to foreign investment in U.S. commercial real estate as soon as possible. These are critical reforms needed to mitigate a looming equity crisis in the commercial real estate industry.

As communities across the country suffer through the effects of the current recession and falling property values, a severe equity crisis confronts commercial real estate properties throughout the nation. As demonstrated by hearings held by the Joint Economic Committee and as detailed by the Congressional Oversight Panel Report issued in February, the commercial real estate industry has suffered dramatic reductions in property values. As a result, many loans on these properties are underwater and will require more equity to be refinanced. More than \$1 trillion of such loans will be maturing in just the next few years. In fact, by 2018 more than \$2.4 trillion dollars of loans held by insurance companies, thrifts, banks, and in commercial mortgage-backed securities will mature.

Unfortunately, the FIRPTA rules – most of which were drafted 30 years ago, before the current crisis could be foreseen – impose significant penalties on foreign investments in domestic real estate that do not exist on other types of U.S. investments, including U.S. Treasury securities, or non-real estate corporate stocks and bonds. As a result, overseas investors are discouraged from investing in U.S. real estate at a time when their capital is sorely needed. If these rules are not reformed, it is a real possibility that hundreds of billions of dollars in debt would go into default, triggering massive foreclosures, concomitant decreases in property values and a severe constriction of capital available for U.S. consumers and businesses. Efficient and meaningful reform of the FIRPTA rules would encourage greater foreign equity investment in U.S. real estate, thereby helping to restart the credit markets and free up capital to create and save jobs and opportunities across the nation.

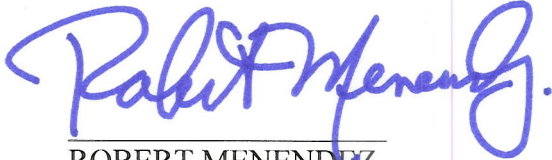
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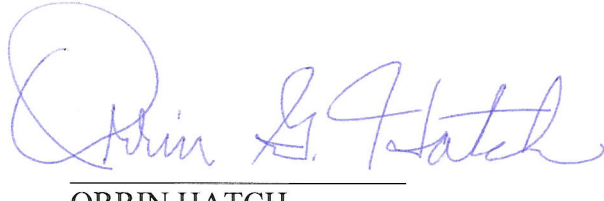
Simply put, the commercial real estate industry has an equity problem too large for domestic investment alone to solve. Foreign investment could be part of the solution by providing a significant source of much-needed additional equity.

We are eager to work with you in the coming months to enact meaningful reforms to FIRPTA.

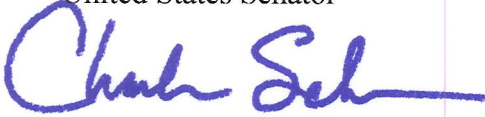
Sincerely,



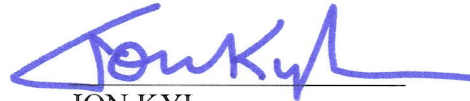
ROBERT MENENDEZ
United States Senator



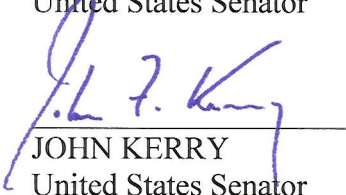
ORRIN HATCH
United States Senator



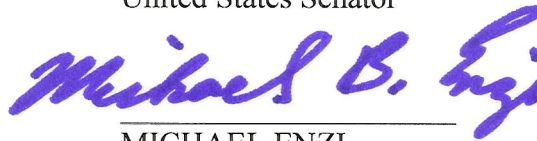
CHARLES SCHUMER
United States Senator



JON KYL
United States Senator



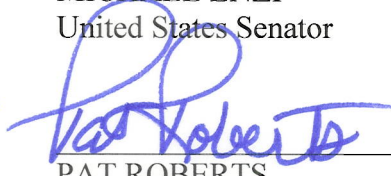
JOHN KERRY
United States Senator



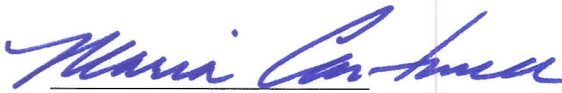
MICHAEL ENZI
United States Senator



DEBBIE STABENOW
United States Senator



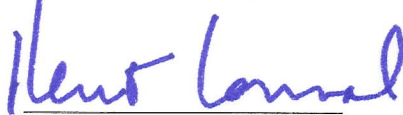
PAT ROBERTS
United States Senator



MARIA CANTWELL
United States Senator



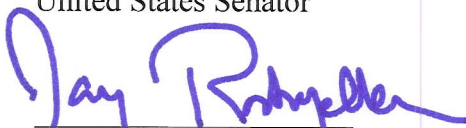
OLYMPIA SNOWE
United States Senator



KENT CONRAD
United States Senator



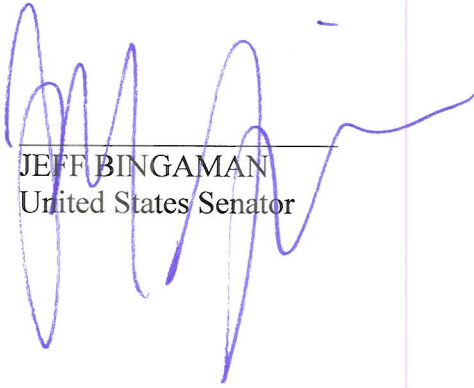
RON WYDEN
United States Senator



JOHN D. ROCKEFELLER IV
United States Senator

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JEFF BINGAMAN
United States Senator