To: HBA Members
From: Dave Nielsen, HBA CEO

Many of you have likely heard that the negotiated financial rescue package failed to make it through the House today. NAHB is keeping me updated on what happens next.

In the meantime, below is an email I received from NAHB (prior to the House vote) that discussed the details of the compromised package. HBA's National Directors and Officers carried our message and list of five key goals to the NAHB Fall Board meetings in San Diego last week. We also had support from many HBAs across the country. NAHB has been working on efforts that would address most of our goals, and we're hopeful that they will incorporate some of our additional points as they move forward. The biggest challenge they seem to have is in getting the Net Operating Loss carryback provision extended, but it is a priority for them and you can read below to see the efforts they are making to try and get this worked out.

We will continue to post updates as new developments occur.

Dave

Dear Executive Officers,

Shortly after midnight Sunday, the Treasury Department, Senate and House negotiators announced a tentative deal on the financial rescue package and have directed their staff to craft the legislative language before they officially sign off on the deal. The drafting process in on-going at this time. A summary of the package is outlined below. When the House and Senate will vote on the package is in flux. The Senate and House are trying to ensure that Members have ample time to review the final legislative language and also give certainty of a deal to the financial markets. NAHB staff will be evaluating the proposal once language becomes available.

Besides the critical goals of bringing stability to the financial markets and freeing-up business credit, the financial rescue package also has several benefits to builders: 1) the ability of the Treasury Department to rework mortgages that Treasury assumes so that homeowners can stay in their homes, thereby reducing foreclosures and keeping inventory down; 2) extension of the elimination of mortgage debt forgiveness tax consequences, which NAHB championed last year; and 3) no expansion of bankruptcy powers.

As you know, several NAHB priorities have had their fate tied to the rescue plan: reinstatement of downpayment assistance, renewal of the new homes energy efficiency tax credit and an expansion of the net operating loss (NOL) deduction. While legislation to reform and extend seller-financed downpayment assistance beyond the current expiration date of October 1, 2008, was not formally part of negotiations on the rescue package, House Financial Services Committee Chairman Barney Frank has been pushing for such a proposal in one of the final legislative vehicles this Congress, such as broader economic stimulus bill (stimulus II). Unfortunately, stimulus II legislation stalled over the weekend. NAHB will continue to seek legislative opportunities to reform and extend this valuable program.

At the close of last week, the House and Senate were locked in a battle of wills over the fate of energy/business tax extenders legislation and a one-year fix to the Alternative Minimum Tax (AMT). Senate Majority Leader Harry Reid (D-NV) stated in no uncertain terms that the Senate would not move from its compromise package (approved by a vote of 93-2) of energy extenders (including the 45L New Energy Efficient Homes Credit), business extenders and the AMT patch. The House did pass an AMT bill and "compromise" energy/business extenders legislation (without 45L), but these are non-starters in the Senate. There is a lot of pressure on the House from business and energy groups to accept the Senate legislation and NAHB continues to weigh in where appropriate as to the critical importance of 45L. However, the two sides are dug in and it is unclear how this will be resolved.

Finally, NAHB has continued to push for the inclusion of an expanded NOL deduction during the negotiations of the financial rescue package. While financial institutions also made a push for NOL in the last several days, the negotiated package contains only targeted tax provisions and does not include NOL carryback provisions.

Summary of financial rescue package

Expenditure of Funds

- $250 billion upon date of enactment.
- $100 billion upon Presidential certification of need.
- $350 billion upon Presidential certification of need, subject to Congressional Review Act (15 day period of review). If Congress is out of session or in recess, the Speaker and Majority Leader shall call the Congress into session.
- The authority will be "revolving" so that the proceeds of sales of assets can be used for additional purchases.
- Mandatory equity interest in all participating firms. Mandatory equity interests in total takeover scenario, and proportional equity interest based on percentage of assets sold if deemed appropriate by Treasury Secretary.
- After five years, if there is a shortfall to the federal government, the President must present a proposal to Congress to recoup losses from the entities that benefited from the program.
- Immediate replenishment of Exchange Stabilization Fund by reconstitution of the recently established money market fund guarantee program.

Insurance Guarantee Program

- Requires the establishment of an insurance guarantee program in lieu of purchasing assets with taxpayer funds.
- Costs would be fully paid for by participating companies.
- Assets insured by the program would count against the total funds the Secretary would otherwise have available to make purchases.

Definition of "Financial Institution"

- Covers financial institutions that are organized, regulated and have substantial operations in the United States, as well as "licensed," but not organized, in the United States.

Oversight and Transparency

- Creates a congressional oversight commission appointed by bipartisan leaders of Congress.
- Creates a financial stability oversight board.
- GAO presence at Treasury to oversee the program and conduct audits.
- Independent Inspector General to monitor the Treasury Secretary's decisions.
- Meaningful judicial review of the Treasury Secretary's actions.
- Requires a GAO study on mark-to-market.
- Restates existing SEC authority to suspend mark-to-market.
- Requires posting of transactions online.

Executive Compensation for participating companies

- Limits CEO compensation that encourages unnecessary risk-taking .
- For companies with equity participation over $300 million, total ban for top 5 executives on golden parachutes and tax deduction limit on compensation above $500,000.
- Recovers bonuses paid based on promised gains that later turn out to be false or inaccurate.

Foreclosure Prevention

- Treasury can use its power as the owner of mortgages and mortgage backed securities to facilitate loan modifications, such as reducing the principal or interest rate and lengthening the time to pay back the mortgage.
- Extends provision to remove tax liability on mortgage debt forgiveness.
- Allows community banks to deduct losses from investments in Fannie Mae and Freddie Mac stocks.

Not Included in the Final Negotiated Package

- Program will not divert revenues to the affordable housing fund.
- Program will not make foreclosed properties available at a discount to state and local governments receiving emergency assistance.
- Program will not require companies to adopt proxy access and advisory votes on executive compensation.
- Program will expand bankruptcy powers.
- Program will not include assets held as collateral for loans to failed banks by foreign authorities.

Please contact Joe Stanton at 800-368-5242 x8402 if you have any additional questions.