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March 11, 2011

Phyllis C. Borzi  
Assistant Secretary, Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

**Re: Definition of “Fiduciary” Proposed Rule**

Dear Ms. Borzi:

The Royal Institution of Chartered Surveyors (RICS) represents a significant number of real estate appraisers in the Americas. We are writing this letter in response to the recent proposal by Employee Benefits Security Administration (EBSA) entitled - Definition of the Term “Fiduciary”, (29 CFR Part 2510, RIN 1210-AB32). The document contains a proposed rule that EBSA apparently believes, upon adoption, would protect beneficiaries of pension plans and individual retirement accounts by more broadly defining the circumstances under which a person is considered to be a “Fiduciary” by reason of giving investment advice to an employee benefit plan or a plan’s participants.

There are several references written into the proposal defining real estate appraisers as being scoped in this standard as Fiduciaries in the course of their work. We believe this is not appropriate.

We know that several other professional bodies representing individuals and firms in the real estate appraisal space have already commented and provided sufficient evidence as to why appraisers should not be included. Without repeating the reasons already provided in great detail, we would like to concur with the statements provided by NCREIF, ASFMRA, ASA and others. As real estate professionals, we have standards that we abide by in creating appraisals, in providing advice and upholding our independence in the process. While we have sufficient insight into the risks and rewards of certain business actions, we serve the clients’ interest only from a valuer’s perspective, one obligated to be impartial and objective, and not from that of a Fiduciary.

We welcome the opportunity to discuss this with you further and can provide substantial insight into the real estate appraisal process, including the development and enforcement of standards. Also, as a global professional body, we can offer best practices from around the world that would enhance the body of knowledge on this topic and provide additional clarity in the development of your proposal.

Thank you for the opportunity to provide this response. Please do not hesitate to contact me so that we can discuss this issue further.

Respectfully submitted,

Chairman, Valuation Council, RICS Americas

Cc: RICS Americas Valuation Council Leadership Committee

**Royal Institution  
of Chartered Surveyors**

60 East 42nd Street  
Suite 2918  
New York, NY 10165  
USA

t +1 212 847 7400  
f +1 212 847 7401  
e [ricsamericas@rics.org](mailto:ricsamericas@rics.org)

[ricsamericas.org](http://ricsamericas.org)



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