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IREM looks back on 2011 legislative and regulatory victories

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The Institute of Real Estate Management (IREM), strongly committed to legislative advocacy, participated in significant legislative and regulatory victories in 2011 of benefit to its members, other commercial real estate professionals and allied interest groups. Among the most notable of these victories, some achieved in collaboration with the National Association of Realtors (NAR), are these:

* Lease Accounting - IREM has strongly opposed proposed changes that would require businesses to recognize assets and liabilities arising from lease contracts, certain that they could lead to bloated balance sheets and a host of other potential problems. These changes differ from current regulations that allow leases to be considered operating expenses that do not appear on balance sheets.

In the spring of 2011, following IREM's submission to the Financial Accounting Standards Board and the International Accounting Standards Board of three letters of opposition to the proposed lease accounting changes, the boards opted to delay the changes due to considerable apprehension and criticism from many industries, particularly the real estate sector. The timeline extension will allow for further examination of the matter, with another comment period to follow during which IREM will support or oppose the changes that are finally proposed.

* Carried Interest - The carried interest issue has long been on IREM's radar screen. In 2011, IREM joined a coalition monitoring potential proposals on carried interest that might be generated by the Joint Select Committee on Deficit Reduction. While the Super Committee ultimately did not release any proposals, IREM helped to thwart any action that would increase the tax on carried interest through written correspondence directed to Senator Patty Murray and Representative Jeb Hensarling, the committee's co-chairs.

* Covered Bonds - On June 22, 2011 the House of Representatives Financial Services Committee approved the Covered Bonds bill. The legislation intends to establish a regulatory framework for covered bonds, which are securities issued by banks and backed by pools of loans.

IREM members took this issue to Capitol Hill on April 13, 2011, emphasizing the importance of a covered bond market in the U.S. The bill passed out of committee with a bipartisan vote of 44-7.

As of now, the White House supports the bill and in late 2011, Senator Kay Hagan introduced a companion bill in the U.S. Senate that has been referred to the Committee on Banking, Housing, and Urban Affairs.

Several economists believe that covered bonds in the U.S. have the potential to supplement securitization and form part of a well-diversified liquidity management program for financial institutions and other issuers. Covered bonds allow banks to raise funds by selling bonds to investors. The bonds are backed by the collateral of the asset and the banks' contract to repay. Investors like covered bonds because they have recourse against both the financial institution who issued them and the assets that back them. Consequently, banks who issue bonds have a stake in

assuring the long-term viability of the underlying mortgages.

* Lead Paint - In August 2011, the U.S. Environmental Protection Agency (EPA) released a Final Rule regarding Testing Requirements for the Renovation, Repair and Painting Program (RRP) as it relates to pre-1978 residential buildings. This Final Rule does not require a dust wipe test such as that originally proposed in 2010. Instead, a certified renovator must take a paint chip sample and send it to a recognized lab to determine whether or not any lead is present.

In 2010, IREM joined a coalition of industry partners in response to the Advance Notice of Proposed Rulemaking issued by the EPA concerning the Renovation, Repair and Painting Program (RRP) for pre-1978 buildings as it relates to lead-based paint. The coalition submitted comments to the EPA with respect to the RRP activities, strongly recommending elimination of the wipe-test language.

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