Consumer Federation of America

**For Immediate Release**

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**Statement of CFA Director of Investor Protection Barbara Roper**
**In Support of House Fiduciary Duty Provision**

If all goes according to schedule, the conference committee on financial regulatory reform will begin consideration tomorrow of the investor protection title of the regulatory reform bill. The biggest un-reconciled difference between the two investor protection titles also happens to be the legislation's most important provision to protect average, Main Street investors – the provision to hold brokers who give investment advice to the same obligation to act in the best interests of their customers that all other investment advisers must adhere to. The House bill has it; the Senate bill calls for more study.

The diverse groups represented on this call today have come together from our very different perspectives to urge Congress to adopt the House provision.

For those of you who haven't been following this issue closely, let me quickly explain the difference between the two bills.

- The House bill requires the SEC to adopt rules under the Securities Exchange Act holding brokers to the same fiduciary duty as applies to investment advisers under the Investment Advisers Act when they give personalized investment advice about securities to retail investors.

- In contrast, the Senate bill requires the SEC to study gaps and overlaps in regulation of brokers and investment advisers, and it requires the SEC to initiate a rulemaking at the end of that study, but it denies the agency the authority it would need to raise the standards for brokers when they give investment advice.

Unfortunately, because the Senate bill serves as the base text for conference, the legislation will need to be amended if the House's more pro-investor approach is to prevail. And Sen. Johnson, who is primary author of the Senate provision and a member of the conference committee, is in a position to cast a crucial vote on the issue.

Sen. Johnson has insisted that we need more time to study the issue, because he's concerned about the unintended consequences of raising the standard for brokers. In fact, however, the House bill goes out of its way to respond to concerns raised by industry. It makes clear that brokers would continue to be able to charge commissions, to sell proprietary products, to sell from a limited menu of products, and that one-time transaction based recommendations wouldn't incur an on-going duty to monitor the account. And the concerns Sen. Johnson raised about the original Senate proposal, which would have regulated brokers under the Advisers Act, are no longer relevant under the House approach.

More importantly, we know what the consequences of inaction are. If we wait to study again an issue that the SEC has been studying for years, unsophisticated investors will continue to be duped into believing they are in a relationship of trust by brokers who masquerade as financial advisers but refuse to acknowledge any obligation to act in their customers' best interests. While we wait to study the issue, brokers will remain free to recommend high-cost, poorly performing products that benefit their own bottom line rather than their customers'. And we know that, as a result, billions of dollars that could have gone toward retirement savings or college savings or toward the purchase of a home will go instead to line the pockets of these deceptive brokers, who won't even have to warn investors about the conflicts of interest that bias their recommendations.

These aren't issues where we need more study. These are issues where we need action. And the worst thing about the Senate language is that, at the end of all that study, it still doesn't even give the SEC the authority it would need to solve the problem. That simply must be fixed in the conference report. The average investors who did nothing to cause the financial crisis, but who bankrolled the bailout for the big banks, deserve at least this much: that, as Congress puts the finishing touches on financial regulatory reform legislation, it includes a provision to ensure that the financial professionals investors rely on for advice have to give advice that is in the customer's best interests.

Toward that end, we urge the Conference Committee to adopt the House language on fiduciary duty.

Thank you.