CFA

Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

June 8, 2010

RE: Urge Support for Consumer Priorities in the Financial Regulatory Reform Conference

Dear Senator:

Now that both Houses of Congress have passed financial reform legislation, we urge you to meld the best provisions from each bill to ensure that the final bill better protects consumers from abusive practices, closes dangerous regulatory gaps and makes our financial system safer and more stable. Our top priorities for the Conference include:

CFPA Structure and Funding

CFA supports an independent Consumer Financial Protection regulator with independent funding and a Presidentially-appointed, Senate-approved director, as proposed in the Senate bill. If the conferees agree on independent funding and a director for the agency, then CFA strongly supports the creation of an independent agency (as passed by the House) over the Senate provision for a bureau within the Federal Reserve.

CFPA Rule-writing Authority

The agency must have authority over all lenders, including auto dealers, as in the Senate bill. We also urge conferees not to adopt the Senate provision that requires the agency to share proposed rules first with small businesses, including those that offer abusive financial products, before getting input from the public.

CFPA Enforcement Authority

CFA supports the provision in the House bill giving the agency authority over small nonbanks, including payday lenders. The agency also should have back-up enforcement authority over small banks, as in the House bill. Both the Senate and House bills include provisions on the critical issues of federal preemption and state enforcement of CFPA rules. CFA urges conferees to adopt the House provision, which ensures that the federal bank regulators cannot preempt a state law as it applies to national banks on consumer financial issues unless federal law has standards in place.

Other Consumer Protection Provisions

CFA supports the House bill's language providing for enhanced rulemaking authority for the Federal Trade Commission. The House language allows the Federal Trade Commission to use the Administrative Procedures Act for rulemaking, rather than the extremely cumbersome Magnusson-Moss rulemaking procedures.

CFA also recommends that the conferees retain the Senate-passed provision requiring credit reporting companies to supply a credit score along with a credit report to a consumer who has been denied credit or charged more for it.

Mortgage and Foreclosure Protections

Both bills offer significant improvements over the current situation, which enabled the mortgage crisis and subsequent financial meltdown. The Senate anti-steering provision is stronger in curtailing lender payments to "steer" borrowers into higher cost and riskier loans than they qualify for, while the House bill contains additional anti-steering regulatory authority. The House bill would also improve protections for very high-cost (HOEPA) loans; authorize needed changes to the Administration's mortgage modification program; create a new HUD Office of Housing Counseling; provide funding for attorneys helping homeowners facing foreclosure; and create a new fund using TARP dollars to assist homeowners facing foreclosure due to unemployment or medical debt. We recommend the Senate remedies for non-compliance with the bill's requirements.

Investor Protections

It is imperative that the conferees adopt the House provision holding brokers to a fiduciary duty to act in the best interest of their clients when they give investment advice. In addition, the conferees should adopt the Senate language providing for an Office of Investor Advocate at the SEC, on pre-sale disclosures, and on a study of investor financial literacy and information needs. Finally, the House bill includes a number of provisions giving the SEC expanded oversight and enforcement powers, including with regard to aiding and abetting authority and extraterritorial jurisdiction, for example, that should be included in the final bill.

Credit Rating Agencies

In order to ensure that the best of both bills makes it into the final legislation, CFA supports including the Senate language strengthening independence requirements for credit rating agency board of directors and reducing conflicts of interest by creating a new board to assign initial ratings for structured finance products. CFA also supports inclusion of the House language eliminating special protections from Securities Act liability for credit rating agencies.

Derivatives

CFA generally supports the stronger Senate language on derivatives regulation, in particular with regard to clearing and exchange-trading requirements and a heightened standard of care for swaps dealers in their dealings with government entities, endowments, and pension funds. We also encourage the conferees to close the enforcement loophole identified by Sen. Cantwell during Senate consideration.

We appreciate your attention to these critical consumer and investor protection issues. Please contact Travis Plunkett tplunkett@consumerfed.org or 202-387-6121 if you have any questions.

Sincerely,

Travis Plunkett   Barbara Roper