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FOR IMMEDIATE RELEASE:
Friday, June 25, 2010

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Consumer Federation Hails Financial Regulatory Reform Bill Passed by the Conference Committee as a Major Achievement

Washington, DC – Today, the Consumer Federation of America congratulated the House and Senate conferees on passage of landmark pro-consumer and pro-investor provisions in the financial regulatory reform bill.

"This bill marks the biggest transformation of financial regulation in this country since the Great Depression," said CFA Legislative Director Travis Plunkett. "The conferees are to be commended for provisions that will improve the marketplace for consumers and thereby improve the stability of our economy."

Consumer Protections

"A crucial component of the legislation is the creation of a new Consumer Financial Protection Bureau (CFPB) that will have as its sole mission the best interests of consumers," said Susan Weinstock, CFA's Financial Reform Campaign Director. "It's high time that consumers have a cop on the beat to rein in abusive and deceptive financial products and services. The bill sets up an autonomous consumer bureau with independent funding, which are key elements for an effective regulator."

CFA has been urging Congress to enact a consumer financial regulator for a number of years. Key elements of an effective regulator included in the conference report include:

- Autonomous bureau housed in the Federal Reserve;
- Independent funding, including increases so that inflation will not erode the bureau's budget over time;
- Single director, allowing the bureau to act quickly if problems arise;
- Enforcement authority over payday lenders of all sizes;
- State authority to go beyond CFPB rules so that a local problem can be stopped before it turns into a national disaster. Unfortunately, the bill does allow the Office of Comptroller of the Currency to block state consumer protections without ensuring that there is a similar federal protection in place.

- CFA is disappointed in the special interest "carve out" from the authority of the consumer bureau for auto dealers who sell or broker loans. However, in a positive development, the Conference Committee granted the Federal Trade Commission the authority to act much more quickly than the agency can under current law to write rules protecting consumers from unfair and deceptive acts and practices by auto dealer-lenders. The CFPB will cover banks and credit unions when they make auto loans, but the Federal Reserve will continue to have that jurisdiction under the current bill, without any mandate to coordinate their efforts to ensure a level playing field for auto loans.

- Unfortunately, the bill approved by the Conference Committee also retains a provision passed by the Senate that would allow abusive small lenders to receive a "sneak peek" at rules under consideration by the consumer bureau.

Investor Protection

After months of wrangling, the Conference Committee delivered on the issue identified as the top priority for Main Street investors – imposing a fiduciary duty on brokers when they give investment advice. The conference report combines a six-month study with full and unimpeded authority for the SEC to impose the same obligation on brokers to act in the best interests of their customers that all other investment advisers now face. "This is a good compromise and a major win for investors," said CFA Director of Investor Protection Barbara Roper. "Now it will be up to the SEC to deliver on this promise," she added, "but with strong statements from Chairman Schapiro, Commissioner Walter, and Commissioner Aguilar in favor of a fiduciary duty for brokers we are confident that progress on this long-delayed reform is finally on its way."

The Investor Protection title also includes additional measures to create a powerful new advocate for investors within the SEC, to eliminate or limit the use of pre-dispute binding arbitration clauses in brokerage and investment adviser contracts, to improve disclosures, to reform broker-dealer compensation practices, and to strengthen the SEC's enforcement tools. Unfortunately, it also includes two provisions that seriously erode investor protections. One weakens protections against accounting fraud at a majority of public companies – those with under $75 million in market capitalize – and the other prevents the SEC from regulating equity-indexed annuities, overturning a court decision that found them to be securities and deferring to weaker insurance rules.

"It is dispiriting to see members of the Conference Committee vote to weaken investor protections and undermine SEC authority in the very bill that is supposed to restore investor confidence and market integrity," Roper said. "It sends a sobering message to those who are counting on Congress and regulators to stand up to self-interested industry pleadings and insist on tough enforcement of the reforms it is preparing to adopt."

Credit Rating Agencies

The conference report includes a strong package of reforms to strengthen regulatory oversight of ratings agencies, increase rating agency accountability, and improve rating transparency. It also includes modest steps to reduce the conflicts of interest inherent in the rating agency business model and to improve corporate governance practices within rating agencies. On the other hand, the conference report takes what we view as a reckless approach to what we agree is a necessary goal – reducing the financial system's reliance on ratings. "The willingness of credit rating agencies to slap investment grade ratings on products whose risks they did not understand and could not measure enabled the sale of toxic securities that spread risk throughout the financial system," stated Roper. "We are hopeful that these reforms will simultaneously improve the reliability of ratings while reducing the financial system's vulnerability to ratings failures."

Derivatives

With many decisions made late in the process, it will take some time to fully digest the implications of changes to the derivatives provisions in the final conference report. However, it is clear from what we do know that, while the conference report is weaker than the Senate bill on certain high-profile issues, it is stronger than the legislation passed by the House last December in other areas that are essential to effective reform. Unfortunately, however, the conference report also significantly weakened provisions to push swaps dealing out of insured depository institutions and to impose a fiduciary duty on swaps dealers in their dealings with government entities, pension funds, retirement plans and endowments,

"The major Wall Street banks launched a well-financed, aggressive campaign to gut this title of the legislation. While they won a few battles, they lost the war," Roper said. "Overall, on the key issues of moving the majority of clearable swaps into central clearing, requiring exchange trading, increasing capital and margin requirements and other measures to improve the stability, transparency, and regulatory oversight of this market, the bill takes enormous strides," she added. "At long last, meaningful regulation has been imposed on this massive and potentially destabilizing market," Roper said.

"We applaud Chairmen Dodd and Frank for their exceptional efforts to move meaningful financial reform legislation through the conference committee. For the legislation to achieve its goals, regulators, including the CFPB, FTC and bank regulators will need to provide the kind of vigorous oversight of the financial services industry that was lacking in the years leading up to the crisis, and some Members of Congress will need to restrain their tendency to ride to the rescue of powerful industry players when regulators attempt to rein in abusive practices," Plunkett said. "In short, they will need to learn the true lesson of the crisis, that tough regulation cannot be sacrificed in the name of global competitiveness or financial innovation if the safety of the system is to be protected."

The Consumer Federation of American is a non-profit association of more than 280 groups that, since 1968, has sought to advance the consumer interest through advocacy and education.

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