



For Immediate Release
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National Standards for Mortgage Lending Gain Momentum; Industry Outlines 'Reasonable Compromise Proposals'

Washington, DC - Only days after a Congressional hearing marked the first public signs of significant bipartisan movement toward uniform federal standards for mortgage lending, a leading industry group offered specific compromise proposals on how to resolve many key policy issues pertaining to such national standards.

Wright Andrews, executive director of the Coalition for Fair and Affordable Lending (CFAL), announced "12 Key Proposals for Reasonable Compromise" at a major mortgage lending conference in Las Vegas.

"CFAL committed at a congressional hearing on November 5th that we would work with consumer advocates and lawmakers on both sides of the aisle to develop workable legislative compromises that prevents abusive lending practices while maintaining consumer access to credit," Andrews said. "Now it's time to go to work on specific issues."

According to Andrews, the recent joint hearing by the House Financial Services Subcommittees on Financial Institutions and Housing revealed many areas where consumer advocates, industry and Committee members on both sides of the aisle already agree.

"We saw that all parties want to stop predatory lending, without unduly limiting the availability of credit," Andrews said.

Specific issues of agreement included, for example, the need to forbid all profiting from foreclosures; prohibiting single premium credit life insurance and lending without regard to repayment ability; and stopping refinancing of below-market, low interest rate loans.

But there are a number of unresolved key issues on which all parties, including industry, must be willing to compromise, Andrews explained. He noted, *"Lenders believe that today's nationwide mortgage lending market needs to be governed by uniform national standards. But, we agree with consumer advocates that Congress should first focus on crafting proper standards for regulating specific inappropriate or potentially abusive practices. Most of the discussion really must involve how to restrict certain practices, not whether the practices should be regulated."*

Accordingly, CFAL is now proposing that Congress and interested parties begin working together to reach reasonable compromises on how to effectively regulate particular lending practices. To move this consensus building process forward, CFAL is proposing new "middle ground" solutions on unresolved major policy questions involved in this debate.

"Instead of just calling for national standards and complaining that many of the state and advocacy groups' approaches do not work, it's time for industry to offer constructive specific proposals aimed at effectively regulating specific practices," said Andrews. "By stepping up to the table with many very progressive and tough proposals, CFAL is showing that we 'walk the walk' instead of just 'talking the talk'."

about supporting effective legislative solutions. We are ready to work with other parties to refine these proposals, and others, into legislative language that works.”

CFAL’s proposals are as follow:

“12 Key Proposals for Reasonable Compromise”

1. **Restricting Prepayment Penalties** – The borrower should be given the choice of a loan without a prepayment penalty, and any penalty should be clearly disclosed, for a duration of no longer than three years (or, of less, the first rate adjustment period), and, as restricted in California’s statute, in an amount not exceeding 6 months interest on 80% of the outstanding loan balance.
2. **Prohibiting Loan “Flipping”** – Consumer advocates and lenders agree that loan “flipping” is abusive and should be prohibited. Responsible lenders support a flipping test but say “any test should offer clear statutory guidance so that lenders can know with reasonable certainty what they are required to do.” CFAL suggests using the best parts of the tests from the California and North Carolina laws: California’s “identifiable benefit” test wording qualified by North Carolina’s “knowing or intentional” requirement and its limitation on attorney’s fees, supplemented by a specific list of “safe harbor” provisions that identify circumstances where an acceptable benefit will be deemed to exist.
3. **Limited Financing of Points and Fees** – Borrowers, both prime and nonprime, should continue to have the right to finance reasonable loan closing costs. However, to stop excessive costs from being charged, CFAL suggests setting a reasonable limit on the amount of such costs that could be financed (e.g., at least 5%, depending on what is included in the “points and fees” definition).
4. **Mandatory Arbitration** – CFAL suggests using the compromise approach from the New York law, which provides that arbitration clauses need to require that the proceeding be conducted in accordance with the standards set forth by a recognized national arbitration association, be held in the federal judicial district where the loan property is located, and mandate the lender pay all reasonable costs of the first two days of the arbitration.
5. **Prohibiting Both Single Premium Credit Life Insurance and Comparable “Non-Insurance” Products** – A strong consensus appears to exist that single premium credit life insurance should be prohibited in connection with mortgage transactions. CFAL supports having such a prohibition, but believes that it should be expanded to cover comparable products, such as debt cancellation agreements, that may not technically be deemed to be “insurance” under state laws.
6. **Rulemaking for Additional Protections** – An effective administrative procedure should be provided so that new prohibitions or further refinements can be made promptly, as needed, based on subsequent experience. Regulators must be able to move quickly to stop new types of abusive practices without having to wait for new legislative authority.
7. **Meaningful Right to Cure** – Lenders need to be given a reasonable time (e.g., 90 days) to correct an unintentional error after they learn of it either through their own actions, from the borrower or during a regulatory audit. Correction should entail whatever is required to make the borrower whole, including full restitution and payment for any loss or actual damages caused by the error. This right to cure should not apply, however, if the violation is considered willful or intentional.
8. **Balanced Penalties** – CFAL proposes that extreme penalties, as some states have enacted, not be adopted. Instead, penalties should be graduated or proportional to the harm done, and very tough penalties should be imposed on the truly “bad actors” who intentionally engage in inappropriate practices.

9. **Limited Assignee Liability** – Experience has already shown that strict assignee liability cuts off essential secondary market funding and forces lenders to restrict mortgage credit for many consumers who need, want and can afford nonprime loans. CFAL proposes that any assignee liability damages should be quite limited and liability should apply only if the assignee failed to exercise reasonable due diligence concerning whether a loan violated the law.
10. **Expanding HOEPA to Cover More Types of Loans** – Currently, HOEPA only applies to certain “closed-end” loans involving refinancing an existing mortgage. It does not cover either “open-end” loans, such as home equity lines of credit, or loans for the purchase of a home. CFAL’s members propose expanding the federal law so that its protections cover both purchase money and open-end loans.
11. **Re-evaluating HOEPA’s APR and “Points and Fees” Triggers** – HOEPA only currently applies to a relatively small part of the nonprime market (i.e., some of the very highest cost loans where the APR or points and fees exceed specified threshold levels). CFAL proposes that a modest further reduction be made in the trigger levels, such as reducing the “points and fees” trigger to 5%, assuming the current law’s fee definition applied, or 6% if yield spread premiums are added to the definition. Moreover, if the present federal law is restructured, as it should be, into a truly balanced and workable statute that reasonably regulates lending “practices” instead of operating as a de facto product limitation, Congress should reevaluate whether any trigger approach to coverage is even appropriate.
12. **Enforcement and Consumer Education** – CFAL’s members believe that significantly more enforcement of legal requirements is needed, as are enhanced consumer education and counseling opportunities. Moreover, we recognize that federal, state and local budgetary limitations often make it difficult, if not impossible, to provide adequate funding for enforcement and education programs. Therefore, CFAL is proposing that Congress consider providing that nonprime lenders be required to pay a reasonable fee into a central fund when they originate a mortgage. This fee could be used as a significant supplementary funding mechanism for additional state enforcement programs and for state and community based education programs. (The amount of the fee and how this program is administered can be worked out during the legislative process.)

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8 Out of 10 Americans Support a Uniform National Lending Standard for All Mortgage Lenders

Washington, D.C. - A non-partisan national survey released today shows that more than 80 percent of Americans believe Congress should pass a strong national law that gets rid of unscrupulous lending practices and creates uniform lending standards for all types of mortgage lenders.

The poll was released by the Coalition for Fair and Affordable Lending (CFAL) as the House Financial Services Housing and Financial Institutions Subcommittees are set to hold a joint subcommittee hearing on "Protecting Homeowners: Preventing Abusive Lending While Preserving Access to Credit" on Wednesday, November 5 at 10:00 a.m.

CFAL Chairman Steve Nadon, who will testify on behalf of CFAL at Wednesday's hearing, will urge Congress to work with the mortgage lending industry on behalf of consumers to ensure the availability of much needed access to credit for consumers that need it most. "This research confirms that America views the housing market as a driving force in our economy," said Nadon who also serves as Chief Operating Officer of Option One Mortgage. "We are grateful that Congress is being responsive to public opinion and providing the necessary leadership to ensure the continued vibrancy of the entire housing sector."

The Ipsos Group, a leading bi-partisan survey-based marketing research company, conducted the poll of 1000 Americans nationwide over the November 1-2 weekend. Other findings include:

- Nearly 70% of Americans think that having different laws in all parts of the country creates confusion for borrowers and does not effectively get rid of predatory, or fraudulent lending.
- More than 80% of Americans believe that when deciding on a new national law to regulate all types of mortgage lending, Congress needs to strike a balance between strong lending requirements and making sure that all consumers – even those with lower incomes and less-than-perfect credit retain the ability to get a mortgage.
- 6 out of 10 Americans believe that federal regulation is needed for all types of mortgage lending to take the place of the current patchwork of inconsistent and ineffective state and local laws.
- 95% of American families believe that Congress should update inadequate regulations on mortgage loans so that all consumers are provided adequate protections from unscrupulous lenders.
- 8 out of 10 people believe that the housing market is a strong indicator of economic security, job growth and consumer confidence.

- 71% of Americans consider the housing market as a driving force for our country's economic security and Congress should take steps to ensure that its growth continues and is not disrupted.
- 65% of Americans want Congress to work to ensure that all consumers – even those with low incomes, debt, or poor credit histories – have access to credit, even if they pay a somewhat higher interest rates than people with good credit.
- More than half of Americans feel that restricting access to mortgage loans to some consumers will have a negative impact on the nation's economy.

This poll contains a +/- margin of error of 3.1%.

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