Financial Reform Conference: Sensible Standards and Accountability are Crucial for Home Loans

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Today's financial troubles were triggered by a massive failure of home loans—a foreclosure epidemic that will continue to cost all homeowners billions of dollars each year. To avoid repeating this crisis, the final financial reform legislation must include three major elements:

- **Better lending standards**: Both the House and Senate bills (H.R. 4173 and S. 3217, respectively) include crucial minimum mortgage lending standards.
- **Accountability for illegal lending:** The provisions must contain adequate remedies to protect homeowners and deter violations. The Senate bill contains better remedies.
- **Foreclosure prevention**: The House bill contains important foreclosure prevention measures that should be included in the final reform.

Both the House and Senate bills contain these crucial provisions:

- **Ability to Repay Requirement:** Both bills permit lenders to make only those mortgages that consumers can afford to repay based on verified income. The bills also discourage risky mortgages such as "pick a payment" loans in which the minimum payment does not cover the interest owed.
- **Anti-Steering Protections:** Both bills prohibit lenders from paying independent brokers and retail loan officers more money to steer people into more expensive and riskier loans than they qualify for based on their income and credit history. This type of steering – which often targets communities of color – remains one of the most troubling and destabilizing aspects of the mortgage crisis. The House bill also give regulators authority to write rules preventing other forms of discriminatory steering.
- **Limits on Prepayment Penalties:** Both bills would prohibit prepayment penalties (which serve to lock people into bad loans) for adjustable rate, subprime, and other risky mortgage loans. For traditional fixed-rate mortgages, any prepayment penalties could not last longer than 3 years or exceed 3% of the total loan amount.
- **Risk Retention:** Both bills lenders and Wall Street firms to keep "skin in the game" by retaining a portion of the risk of any loans that they make or bundle into investments, which will discourage them from making riskier mortgages.

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H.R. 4173 Contains Additional Provisions that Should Remain in the Final Legislation:

- **Foreclosure Prevention:** The House bill contains several anti-foreclosure provisions, including the $3 billion fund to assist homeowners facing foreclosure due to unemployment or medical debt, the authorization of funding for nonprofit lawyers assisting homeowners facing foreclosure, support for the Neighborhood Stabilization Program, and crucial "fixes" to the HAMP foreclosure prevention program. There are currently more than six million people at risk of losing their homes. Time is of the essence if we want to prevent further unnecessary foreclosures, particularly for people experiencing job loss. The Senate bill contains no anti-foreclosure provisions.

- **Equity Stripping Protection:** The House bill would require lenders to provide the homeowner with a "net tangible benefit" in refinancing mortgage loans (meaning that overall they are getting into a better loan product relative to the loan they are refinancing out of). The Senate bill does not have a net tangible benefit requirement.

- **Additional Protections:** The House bill contains other additional protections as well, such as prohibitions on residential mortgage arbitration and single premium credit insurance; the subtitle improving protections for very high-cost (HOEPA) loans; the establishment of the Office of Housing Counseling, which would provide support to community organizations that assist homeowners facing foreclosure as well as future homeowners; and the subtitles on mortgage servicing and appraisal reforms,

However, the Senate Bill Holds Lenders More Accountable for Violations:

- The House bill gives lenders 90 days to "fix" a loan originated illegally after a consumer notifies them of the violation, no matter how long ago the loan was originated, *without any penalties*. As a result, lenders have very little incentive to meet the new standards until someone complains. The Senate bill does not have this provision.

- Except for mortgages already in foreclosure, the House bill also provides a special shield from liability for mortgages that have been bundled into mortgage-backed securities – the very mortgages that are proving most problematic to fix as we try to address the foreclosure crisis. The Senate does not treat securitized mortgages differently from mortgages purchased whole, although liability for anyone beyond the original lender may be more limited than is necessary.

- The House bill prohibits states from enacting stronger remedies against Wall Street than the weak remedies in the bill. The Senate bill would make the new rules a floor, not a ceiling, for protection.

- The House permits FHFA, HUD, VA, and other regulators of government-backed loans to make their own rules concerning the House "qualified mortgage" definition. The Senate bill applies to all loans but permits certain exceptions as necessary to meet specialized program requirements.

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