



Credit Union National Association

CUNA Issue Summary

SUBPRIME MORTGAGE LENDING

ISSUE: Congress has taken in keen interest in the housing market given the recent downturn in the industry. Home prices have fallen by 5-10% in many markets and are expected to fall even further. Without legislative or industry action, as many as three million American mortgages loans are expected to default in the next two years. Two-thirds of these loans are expected to end up in foreclosure. As a result, Congress and the Administration have taken action and put forth proposals designed not only to mitigate the effects of the current crisis, but also to prevent future such events from occurring.

Predatory lending practices in the subprime mortgage market are often blamed for the current crisis. A key distinction that must be made is that all lending to persons with subprime credit is not predatory in nature. For example, credit unions have a long and proud history of serving people of modest means. Often, these are the very people who have subprime credit and rely on lending products offered by credit unions. Credit union mortgage lending to members with subprime credit is not a significant contributor to the current woes in the housing sector of the economy. According to House Financial Services Committee Chairman Barney Frank (D-MA), "... reasonable regulation of mortgages by the bank and credit union regulators allowed the market to function in an efficient and constructive way, while mortgages made and sold in the unregulated sector led to the crisis." On April 30, 2008, Frank also stated that "If only regulated deposit taking institutions had been originating mortgage loans with funds from depositors, there would be no subprime crisis and there would be no recession ... It's simply a fact."

CUNA POSITION: CUNA condemns predatory home mortgage lending practices and supports the intent of *H.R. 1728 the Mortgage Reform and Anti-Predatory Lending Act of 2009*. However, CUNA believes that some of the provisions in the legislation are more appropriately tailored for the mortgage brokerage industry. CUNA is also concerned that the legislation will have unintended consequences, including additional paperwork burdens on financial institutions and drying up capital in the home mortgage market.

CUNA believes that credit union loan quality will continue to feel the strain from the turmoil in today's economy but remains strong by historical standards. A rise in delinquencies and charge-offs will likely occur, but nothing akin to what other sectors are experiencing. For example, the credit union delinquency rate remains under 1% and the net charge-off rate is still less than half a percent. CUNA supports legislation that reigns in predatory lending practices and deceptive underwriting standards. Although CUNA does have concerns with burdensome disclosures, we feel the underlying text of the bill is overall beneficial for lending purposes, consumers and the overall financial system.

STATUS/OUTLOOK: On March 26, 2009, the House of Representatives introduced *H.R. 1728 the Mortgage Reform and Anti-Predatory Lending Act of 2009*. This bipartisan legislation was introduced by Rep. Brad Miller (D-NC) and amends the *Truth in Lending Act* to alter consumer mortgage lending practices. Some of the key provisions included in H.R. 1728 are as follows:

- Establishes a licensing and registration system for all mortgage originators (bank and credit union employees would be subject to registration only)
- Subjects all mortgage originators to federal "duty of care" requirements
- Sets minimum standards for mortgages such as ensuring that borrowers have a reasonable ability to repay and also that they receive net tangible benefits from loans
- Prohibits compensation for steering borrowers into subprime loans
- Expands the scope of consumer protections provided for "high-cost loans" under the *Home Ownership Equity Protection Act (HOEPA)* by lowering points, fees and interest rate triggers, prohibiting balloon payments, and requiring pre-loan counseling before a borrower may obtain a "high-cost loan"
- Protects renters living in homes that are in foreclosure by making sure that they receive proper notification and are given time to relocate before the home they rent is foreclosed
- Qualified Mortgage safe harbor would provide that 30-year fixed –rate mortgage have no underlying negative amortization or interest-only features
- Furthers consumer protection by prohibiting; certain prepayment penalties, mandatory arbitration and requiring specific disclosures for loans that include negative amortization features

Most recently, H.R. 1728 was scheduled for "mark-up" in the House Financial Services Committee, but has now been pushed to a later date in the legislative year. The Senate has yet to introduce a similar bill, but we will watch both chambers carefully on any action regarding this issue area. CUNA will continue to closely monitor this rapidly changing situation to ensure that credit unions retain the ability to provide safe and affordable mortgage products to their members.

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RELATED DOCUMENTS:

[November 6, 2007: Letter to Financial Services Committee Chairman Barney Frank and Ranking Member Spencer Bachus Regarding Mortgage Reform and Anti-Predatory Lending](#)

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