Testimony of Bob Palmer, Policy Director, Housing Action Illinois
Field Hearing of the House Financial Services Committee
"Regulatory Reform: Examining How New Regulations are Impacting Financial Institutions, Small Businesses and Consumers in Illinois"
Chicago, Illinois
December 5, 2011

My name is Bob Palmer. I'm Policy Director for Housing Action Illinois. Thank you for inviting me to provide my perspective on how new regulations required under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 are impacting financial institutions, small businesses and consumers. Personally, I have over 20 years experience in affordable housing organizing, advocacy, training, and finance.

Housing Action Illinois is a statewide coalition formed to protect and expand the availability of quality, affordable housing throughout the state. One of our programs is to provide training and technical assistance to HUD-certified housing counseling agencies. Since the beginning of the foreclosure crisis we've also worked with counseling agencies and others to advocate for public policy responses to better assist homeowners facing foreclosure and return health to the housing market, one of the most important things needed to improve the economy and create jobs.

This work is far from done. More than 46% of all single-family homes with a mortgage in the Chicago area were underwater in this year's third quarter, far more than the nation as a whole. Nationally, 28.6% of homes with mortgages were underwater at the end of September; 43.4% of all homes sold in the Chicago area in the third quarter sold for a loss, compared to 34.4% nationally.[1]

A new report from the Center for Responsible Lending finds that we are not even halfway through the foreclosure crisis. Among homeowners who received loans between 2004 and 2008, 2.7 million households, or 6.4%, had already lost their homes to foreclosure as of February 2011. An additional 8.3%—3.6 million households—were still at immediate, serious risk of losing their homes.[2]

Supporting the case for more regulation of the mortgage market, the report also found that loan characteristics and foreclosures are strongly linked. The study examines outcomes on different loan types and finds a pattern of higher foreclosures and delinquencies associated with specific mortgage characteristics. Loans originated by brokers, hybrid adjustable-rate mortgages ("ARMs," such as 2/28s), option ARMs, loans with prepayment penalties, and loans with high interest rates (a proxy for subprime mortgages) all have much higher rates of completed foreclosures and are more likely to be seriously delinquent.

The Right Amount of Regulation

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[1] "Home Values Flat in Third Quarter on Slow Road to Housing Market Bottom." Zillow.com, 11/07/11
[2] "Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures." Center for Responsible Lending, November 2011.

A fundamental question which we know there is a great deal of disagreement about is whether the foreclosure crisis was the result of too much or too little regulation. Many people have unfairly tried to blame the Community Reinvestment Act for the crisis, but a February 2009 Federal Reserve Board study showed that 94% of the high cost subprime loans sold nationwide in 2006 were issued by lenders who were not covered by CRA regulation.[3]

We believe that if the regulatory provisions in the Dodd-Frank Act had been in place back in 2006, the housing market and the overall economy would be much healthier today. Some of these provisions to be implemented include:

- Require Lenders Ensure a Borrower's Ability to Repay: Establishes a simple federal standard for all home loans: institutions must ensure that borrowers can repay the loans they are sold.
- Prohibit Unfair Lending Practices: Prohibits the financial incentives for subprime loans that encourage lenders to steer borrowers into more costly loans, including the bonuses known as "yield spread premiums" that lenders pay to brokers to inflate the cost of loans. Prohibits pre-payment penalties that trapped so many borrowers into unaffordable loans.
- Establishes Penalties for Irresponsible Lending: Lenders and mortgage brokers who don't comply with new standards will be held accountable by consumers for as high as three-years of interest payments and damages plus attorney's fees (if any). Protects borrowers against foreclosure for violations of these standards.
- Expands Consumer Protections for High-Cost Mortgages: Expands the protections available under federal rules on high-cost loans—lowering the interest rate and the points and fee triggers that define high cost loans.
- Requires Additional Disclosures for Consumers on Mortgages: Lenders must disclose the maximum a consumer could pay on a variable rate mortgage, with a warning that payments will vary based on interest rate changes.
- Housing Counseling: Establishes an Office of Housing Counseling within HUD to boost homeownership and rental housing counseling.

One part of the Dodd-Frank law that the Consumer Financial Protection Bureau (CFPB) has begun to implement is "Know Before You Owe", an effort to combine two federally required mortgage disclosures into a single, simpler form that makes the costs and risks of the loan clear and allows consumers to comparison shop. Once this is completed, this will benefit both consumers and lenders.

In short, I think that it's hard to make the case that the new regulations will have a negative impact on job creation, put significant burdens on small financial institutions or lessen the ability of lenders to make mortgage loans. In the long-term, the new regulations should have a positive impact in all these areas, provide a more level playing field between different types of lenders, remove some of the problematic incentives in

[3] "Staff Analysis of the Relationship between the CRA and the Subprime Crisis." Board of Governors of The Federal Reserve System Division of Research and Statistics, 11/21/2008.

the mortgage market that led to the foreclosure crisis in the first place, and give consumers more tools to make informed decisions about taking out a mortgage loan.

Dodd Frank Regulations Level Playing Field for Small and Community-Based Lenders

The experience of HUD-certified housing counseling agencies in Illinois has been that the overwhelming majority of predatory loans were made by bigger banks and unregulated nonbank lenders. Moreover, it is the big banks that are generally much harder for borrowers to work with in the case of default. Before the housing bubble burst, the lack of regulation gave the big banks and unregulated nonbank lenders unfair competitive advantages against small and community-based lenders, which were generally more responsible in their lending.

The Dodd-Frank Act authorizes the CFPB to examine all sizes of nonbank mortgage companies, payday lenders, and private education lenders. However, the CFPB generally can supervise only "larger participants" in other markets for consumer financial products or services, and the CFPB must define such larger participants by rule before it can begin its nonbank supervision program in these other markets. Under the Dodd-Frank Act, the CFPB must issue an initial "larger participant" rule no later than July 21, 2012.

That CFPB will be able to examine companies that have never been subject to federal oversight to ensure that no one is gaining an unfair advantage by breaking the law. This will ultimately create more fair competition and more transparent markets for consumers.

We hope that the Senate will act quickly to confirm the President's nominee to lead the CFPB so that this important work can move forward.

United States House of Representatives
Committee on Financial Services

"TRUTH IN TESTIMONY" DISCLOSURE FORM

Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

1. Name:	2. Organization or organizations you are representing:
Bob Palmer, Policy Director	Housing Action Illinois
3. Business Address and telephone number: 11 E. Adams Street #1601 Chicago IL 60603 312-939-6074 x. 206 (tel) 312-939-6822 (fax)	
4. Have you received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?	5. Have any of the organizations you are representing received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?
☐ Yes ☑ No	☑ Yes ☐ No
6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.	
HUD CHDO TA Provider Contract: $100,000 (2008), $150,000 (2009), $120,000 (2010)	
7. Signature:	

Please attach a copy of this form to your written testimony.

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