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### **AFR STATEMENT ON CFPB MORTGAGE RULE**

With today's rule, the CFPB implements standards in the Dodd Frank Act that will move the housing market toward more sustainable loans. These provisions were written to prevent the reappearance of unaffordable home loans like those that fueled the housing crisis and financial meltdown. However, portions of today's rule should have been stronger, and the CFPB has put one very important question on the table for further comment, creating a risk of further slippage.

The statute calls on lenders to assess and verify borrowers' ability to repay. It creates a category of safer loans, known as Qualified Mortgage or QM loans, with limits on points and fees and prohibitions on abusive loan structures, and these loans enjoy a degree of special protection against legal claims based on evidence that they were unaffordable at the time of issuance. Industry sought absolute immunity from such claims for QM loans – a safe harbor, in other words. AFR and our member organizations argued for, and believe the statute calls for, a rebuttable presumption of lender compliance with affordability rules – that is, a presumption that leaves room for a homeowner to seek redress if a loan was in fact demonstrably unaffordable. In the CFPB's final rule, prime interest rate QM loans receive a full safe harbor, with the rebuttable presumption applying only to subprime QM loans. This provides protection on higher cost loans, but leaves other families who receive unaffordable loans with no ability to hold lenders accountable.

Other provisions of the rule set out the procedures and standards for homeowners to show that a loan was unaffordable. These provisions should have been clearer, eliminating unnecessary obstacles for homeowners seeking to show that loans were unaffordable.

While issuing the bulk of the rule today, the CFPB asked for further comment on the question of whether to count yield spread premiums (YSPs) when considering whether a loan satisfies the QM cap on total points and fees. In Dodd Frank, Congress explicitly required the setting of limits on YSP fees – broker fees that borrowers pay through higher

interest rates on their loans. Such fees were a major problem during the lending boom, encouraging brokers to push unaffordable and overly expensive loans. The CFPB must absolutely count YSPs in determining whether a loan exceeds the QM cost threshold.

The upcoming servicing rule will address another key factor in the continuing housing crisis – mortgage servicing practices that mistreat homeowners and lead to unnecessary foreclosures. The CFPB servicing rules must correct these abuses, making it possible for homeowners to get mortgage modifications that allow them to pay their bills and stay in their homes.