

October 25, 2021

Acting Director Sandra L. Thompson  
Federal Housing Finance Agency  
400 Seventh Street, SW  
10th Floor  
Washington, DC 20219

Re: Request for Input regarding the Enterprises' Equitable Housing Finance Plans

Dear Acting Director Thompson,

We the undersigned civil rights and consumer advocacy organizations are writing in response to the Federal Housing Finance Agency's ("FHFA") Request for Input ("RFI") for the Enterprises' Equitable Housing Finance Plans ("Equity Plans").<sup>1</sup> We applaud FHFA for seeking comment on the important topic of equitable housing finance. In many cases, our organizations have previously provided comments to FHFA specifying how FHFA can promote an equitable housing finance market.<sup>2</sup> Here, we focus on how the GSEs can take action themselves or support FHFA's actions or initiatives. Our organizations believe that the responses below will help inform the GSEs' Equity Plans.

### **Executive Summary**

In order to promote equitable housing finance, our organizations recommend that the GSEs take the following actions:

- I. The GSEs' Equitable Housing Finance Plans Are Critically Important at This Moment
  - A. Equitable Housing Finance Plans Are Critically Important to Addressing the Homeownership and Wealth Gaps
  - B. We Applaud FHFA's Initiative to Require Equitable Housing Finance Plans
  - C. The GSEs Should Engage in Comprehensive Consultations with Civil Rights and Consumer Advocates
  - D. The GSEs Should Work with FHFA to Develop a Publicly-Available Rating System That is Measurable and Meaningful

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<sup>1</sup> FHFA, *Enterprise Equitable Housing Finance Plans* (Sept. 2021), <https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Equitable-Housing-Finance-Plans-RFI.pdf>.

<sup>2</sup> See, e.g., National Fair Housing Alliance Press Release, *Leading Civil Rights, Consumer Advocacy, and Housing Policy Groups Urge the Federal Housing Finance Agency to Ensure Robust Fair Lending Oversight for Fannie Mae and Freddie Mac* (Sept. 7, 2021), <https://nationalfairhousing.org/2021/09/07/leading-civil-rights-consumer-advocacy-and-housing-policy-groups-urge-the-federal-housing-finance-agency-to-ensure-robust-fair-lending-oversight-for-fannie-mae-and-freddie-mac/>.

II. The GSEs' Equity Plans Should Address Barriers to Sustainable Homeownership and Provide Meaningful Plans for Action

A. Barrier: LTV/DTI

1. *The GSEs Should Support Eliminating Loan Level Price Adjustments*
2. *The GSEs Should Support Innovative Programs to Increase Access for Black and Brown Borrowers*
  - a. *First Generation Homebuyer Programs*
  - b. *Race-Conscious Special Purpose Credit Programs*
  - c. *Language Access*
  - d. *Artificial Intelligence/Technology*

B. Barrier: Credit Score: The GSEs Should Search for and Adopt Credit Score Models That Are Less Discriminatory Than Classic FICO

C. Barrier: Collateral

1. *The GSEs Should Ensure That Appraisal Guidelines Do Not Perpetuate Bias*
2. *The GSEs Should Create Programs to Provide Liquidity for Small Dollar Mortgages*
3. *The GSEs Should Ensure That Servicing and REO Policies Are Fair and Non-Discriminatory*

D. Barrier: Discrimination

1. *The GSEs Should Support Elevating the Office of Fair Lending Oversight to a Fully-Staffed Division*
2. *The GSEs Should Support Increased Transparency regarding the Fair Lending Examination Findings*

E. Other Actions

1. *Affirmatively Furthering Fair Housing*
2. *Duty to Serve Plans*
3. *Affordable Housing Goals*
4. *Personnel and Training*

III. FHFA Should Publicly Release an Equity Plan for the Agency

IV. Conclusion

## I. The GSEs' Equitable Housing Finance Plans Are Critically Important at This Moment

### A. Equitable Housing Finance Plans Are Critically Important to Addressing the Homeownership and Wealth Gaps

Homeownership has long been a path into the middle class and economic security for families in America. Unfortunately, America's long history of discriminatory housing policies has created distinct advantages for White families, leading to massive homeownership, credit, and wealth gaps that persist today. Since the Great Recession, the gap between the Black and White homeownership rates in the United States has increased to its highest level in 50 years, from 28.1 percentage points in 2010 to 30.1 percentage points in 2017.<sup>3</sup> Most alarmingly, this gap is wider than it was when race-based discrimination against homebuyers was legal. Similarly, White wealth has soared while Black wealth has remained stagnant. In 2019, White median family wealth was valued at \$188,200 while Black families' median net worth was only \$24,100.<sup>4</sup>

In order to grow America's middle class, FHFA and the GSEs must ensure access to mortgage credit on fair terms for all creditworthy borrowers, regardless of their race, national origin, gender, disability, familial status, or other protected characteristics. Such non-discrimination is required under existing statutes and regulations and is essential to closing the homeownership and wealth gaps that have long plagued America's housing finance system.

Ensuring a fair and equitable national housing finance market also makes good business sense. The demographics of the nation are undergoing a dramatic shift and the majority of new households formed over the next decade will be households of color.<sup>5</sup> Moreover, research has shown that homeownership overall is likely to drop in the next two decades.<sup>6</sup> This drop will be more pronounced for Black Americans, unless actions are taken to ensure that they have equitable access. In other words, future housing demand will be driven by people of color. A robust housing market, both for new homebuyers seeking to purchase homes and for existing homeowners seeking to refinance or sell their homes, cannot exist in the absence of access to mortgage credit on fair and equal terms for all creditworthy borrowers. Notably, the GSEs supported more lending to Black and Latino families prior to the Great Recession, although even those levels could be deemed inadequate. At a minimum, the GSEs should return to pre-Great Recession levels.

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<sup>3</sup> Jung Hyun Choi, *Breaking Down the Black-White Homeownership Gap*, Urban institute (Feb. 21, 2020), <https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap>.

<sup>4</sup> Neil Bhutta, Jesse Bricker, Andrew Chang, et al., *Changes in U.S. Family Finances from 2016 to 2019: Evidence from the Survey of Consumer Finances*, 106(5) Federal Reserve Bulletin (Sept. 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3716339](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3716339).

<sup>5</sup> See Laurie Goodman and Jun Zhu, *The Future of Headship and Homeownership*, Urban Institute (Jan. 2021), <https://www.urban.org/sites/default/files/publication/103501/the-future-of-headship-and-homeownership.pdf> (estimating that between 2020 and 2040, there will be 6.9 million net new homeowners comprised of 4.8 million more Latino homeowners, 2.7 million more Asian and other homeowners, and 1.2 million more Black homeowners but 1.8 million fewer White homeowners); Janie Boschma, et al., *Census Release Shows America Is More Diverse and More Multiracial Than Ever*, CNN (Aug. 12, 2021), <https://www.cnn.com/2021/08/12/politics/us-census-2020-data/index.html>.

<sup>6</sup> See *id.*

Actionable plans for a fair and equitable national housing finance market are critically important at this moment. The GSEs have long had an abysmal record of purchasing mortgages from Black and Brown borrowers, and even those that were purchased often had higher costs for these borrowers than the mortgages for White borrowers.<sup>7</sup> The GSEs can certainly do more to support borrowers and communities of color.

## B. We Applaud FHFA’s Initiative to Require Equitable Housing Finance Plans

We applaud FHFA for requiring Fannie Mae and Freddie Mac (the “Government-Sponsored Enterprises,” “Enterprises,” or “GSEs”) to prepare and implement three-year Equitable Housing Finance Plans (“Equity Plans”) that describe each Enterprise’s planned efforts to advance equity in housing finance.

According to FHFA, the GSEs’ first Equity Plans must address the following two Equity Objectives:<sup>8</sup>

- 1) Reducing the racial or ethnic **homeownership gap**; and
- 2) Reducing underinvestment or undervaluation in **formerly redlined areas** that remain racially or ethnically concentrated areas of poverty or otherwise underserved or undervalued.

Moreover, FHFA has stated that the Equity Plan for each Enterprise must include:

- A summary of **consultations** conducted by the Enterprises with underrepresented and affected groups and communities in preparing their plans;
- An identification and summary of **barriers** to sustainable housing opportunity that either:
  - Are directly related to the Enterprises’ actions, or
  - Can reasonably be influenced by the Enterprises’ actions;
- Objectives and specific measurable **goals** for Charter Act-compliant actions to address these barriers; and
- A plan of meaningful **actions** for the next three-year period to address these barriers.

Finally, FHFA has determined that the timeline for the Equity Plans will be as follows:

- December 31, 2021 - The Enterprises must submit their Equity Plans to FHFA.
- January 1, 2022 - The Equity Plans become effective.
- April 2023 - The Enterprises must report annually on their progress in implementing their Equity Plans, beginning in April 2023.

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<sup>7</sup> In 2019, 4.8% of Fannie Mae and 3.6% of Freddie Mac home purchase loans were from Black borrowers, and 4.1% and 3.7% of refinance loans. See FHFA Annual Housing Report at 11, Table 6 (October 2020), <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Housing-Report-2020.pdf>. See also Jung Hyun Choi *et al.*, *Explaining the Black-White Homeownership Gap*, at 33 (Oct. 2019). [https://www.urban.org/sites/default/files/publication/101160/explaining\\_the\\_black-white\\_homeownership\\_gap\\_a\\_closer\\_look\\_at\\_disparities\\_across\\_local\\_markets\\_0.pdf](https://www.urban.org/sites/default/files/publication/101160/explaining_the_black-white_homeownership_gap_a_closer_look_at_disparities_across_local_markets_0.pdf) (finding that the GSEs’ portfolio share of loans to Black borrowers has remained well below 5 percent of total mortgage acquisitions despite several decades of housing goals).

<sup>8</sup> FHFA’s optional objectives are listed in Appendix 1.

FHFA intends to publish the Equity Plans and progress reports for public awareness after they are submitted.

C. In Preparing the Equity Plans, The GSEs Should Engage in Comprehensive Consultations with Fair Housing, Civil Rights and Consumer Advocates

The GSEs should engage in comprehensive consultations with a diverse group of key stakeholders, including fair housing and civil rights organizations, consumer advocates, rural housing advocates, and other impacted communities in order to receive ongoing input and feedback on the Equity Plans. The proposed Equity Plans are likely to have significant implications for borrowers and communities of color as well as other vulnerable communities, such as individuals with disabilities, families, and borrowers with Limited English Proficiency. The GSEs should regularly engage with these communities and seek solutions that treat all borrowers and communities equitably.

D. The GSEs Should Work with FHFA to Develop a Publicly-Available Rating System That is Measurable and Meaningful

The GSEs should work with FHFA to develop a rating system for the Equity Plans. As with many supervisory and regulatory plans, using measurable and meaningful metrics helps the regulated entity to determine their level of success and whether there are any weaknesses that should be addressed. Moreover, providing these ratings to the public can provide transparency and ensure that key stakeholders are aware of the GSEs' efforts to achieve an equitable housing finance market.

**II. The GSEs' Equity Plans Should Address Barriers to Sustainable Homeownership and Provide Meaningful Plans for Action**

We commend FHFA for several recent actions to promote a fair and equitable national housing finance market and offer the following background and recommendations to enhance the Equity Plans. These recommendations consist of meaningful actions to address the homeownership gap for Black and Brown communities and formerly redlined areas, as well as other underserved groups.

A. Barrier: LTV/DTI

Many potential borrowers of color struggle to meet the standard loan-to-value ("LTV") ratios and/or debt-to-income ("DTI") ratios necessary for loan approval because discriminatory federal housing policies prevented access to homeownership and the wealth building benefits it offers. In addition to this exclusion, several factors, including the unaffordable cost of the loan and the lack of innovative programs to address the homeownership gap, remain as barriers.

## 1. *The GSEs Should Support Eliminating Loan Level Price Adjustments*

Loan Level Price Adjustments (“LLPAs”) unjustifiably increase mortgage costs and should be eliminated. In the wake of the Great Recession, FHFA required the GSEs to charge lenders upfront guarantee fees known as LLPAs, which are based on certain attributes of the borrower or the loans (e.g., LTV/credit-score grid, cash-out refinance, investor properties, secondary financing at origination, jumbo conforming loan).<sup>9</sup> Most lenders convert the LLPAs into the interest rate on the mortgage, which means that the borrowers must pay the increased cost over the entire life of the loan. As Black and Brown borrowers tend to have less wealth to apply to a down payment due to exclusionary housing policies, this type of pricing scheme tends to have a disparate impact on these borrowers. In some cases, the increased cost of LLPAs can affect the LTV and may price the potential borrower out of the mortgage market altogether.

Notably, the key business justifications for the LLPAs do not hold up under scrutiny. The factors upon which the LLPAs rely (loan-to-value ratio and credit score) are not related to the key risk features of the majority of the loans that experienced massive defaults in the foreclosure crisis. Those loans failed due to the combination of poor underwriting, little or no documentation, high fees, exploding interest rates, risk layering, and negative amortization. The Truth in Lending Act’s Ability to Pay/Qualified Mortgage rule already addresses most of these risks.<sup>10</sup>

The LLPAs are also flawed as a mechanism for shrinking the government’s footprint in the mortgage market. While they may reduce the number of loans sold to the GSEs, instead of encouraging the re-entry of private capital, they appear to be increasing the number of borrowers seeking loans insured by the Federal Housing Administration (“FHA”). Those loans expose the government and the taxpayer to 100% of the credit risk.

Moreover, the LPA pricing framework is inherently unfair as it places the burden of the GSEs’ financial recovery and future catastrophic risk on Black, Latino, Asian American and Pacific Islander, and Native American borrowers, even though they were the victims of the financial crisis, not the cause.<sup>11</sup> Notably, the GSEs needed a financial rescue from the federal government mostly due to Alt-A loans to borrowers who were wealthier and mostly White.<sup>12</sup> The failures of regulators, the GSEs, and lenders to identify risk and prevent foreclosures, even after repeated warnings from civil rights and consumer advocates, should not fall on the shoulders of the borrowers most burdened by the financial fallout and historic and current structural

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<sup>9</sup> See FHFA, Fact Sheet: Result of Fannie Mae and Freddie Mac Guarantee Fee Review (April 17, 2015), <https://www.fhfa.gov/media/publicaffairs/pages/results-of-fannie-mae-and-freddie-mac-guarantee-fee-review.aspx>. See also, Fannie Mae LPA Matrix, available at <https://www.fanniemae.com/content/pricing/lpa-matrix.pdf>.

<sup>10</sup> 12 C.F.R. § 1026.43.

<sup>11</sup> See Michelle Aronowitz, Edward L. Golding, and Jung Hyun Choi, *The Unequal Costs of Black Homeownership* (Oct. 1, 2020), <https://gcfp.mit.edu/wp-content/uploads/2020/10/Mortgage-Cost-for-Black-Homeowners-10.1.pdf>.

<sup>12</sup> See John Griffith, Seven Things You Need to Know about Fannie Mae and Freddie Mac, Center for American Progress (Sept. 6, 2012), <https://www.americanprogress.org/issues/economy/reports/2012/09/06/36736/7-things-you-need-to-know-about-fannie-mae-and-freddie-mac/>; Testimony of Nikitra Bailey, Executive Vice President, Center for Responsible Lending, Hearing: Sustainable Housing Finance: Private Sector Perspectives on Housing Finance Reform, Subcommittee on Housing and Insurance, U.S. House Committee on Financial Services (Oct. 25, 2017), <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-bailey-remarks-written-hfs-c-subcommittee-housinginsurance-oct2017.pdf>.

discrimination produced by federal housing policies. LLPAs are not necessary for safety and soundness reasons or to recoup the GSEs' lost capital. Now that the GSEs have fully repaid the government for the 2008 bailout, the GSEs should support eliminating the LLPAs as they are a barrier that unnecessarily increases the cost of homeownership.

2. *The GSEs Should Support Innovative Programs to Increase Access for Black and Brown Borrowers*

For decades, federally-sanctioned discrimination in the housing finance system largely denied borrowers of color access to homeownership and other wealth-building opportunities.<sup>13</sup> Moreover, the GSEs have long had a very disappointing record of purchasing mortgages from Black and Latino borrowers.<sup>14</sup> As a result, Black and Latinos families often have less intergenerational wealth for themselves and their children. According to consumer research conducted by Fannie Mae, the primary barrier to homeownership for first-time home buyers is saving money for the down payment and closing costs.<sup>15</sup> This is particularly true for borrowers of color who may not benefit from parental wealth transfers to cover down payment costs.<sup>16</sup> Accordingly, the GSEs should support innovative programs to increase access for Black and Brown borrowers.

a. *First Generation Homebuyer Programs*

The GSEs should support targeting loans and down payment assistance to first generation homebuyers. More specifically, the GSEs should ensure liquidity for first generation homebuyer loans similar to the liquidity provided for first time home buyer programs. The rationale for targeting first generation homebuyers is clear: those whose parents were the victims of exclusionary housing policies or otherwise unable to become homeowners are unlikely to have the benefit of intergenerational wealth and thus are most likely to be limited in their ability to purchase by the long-standing and massive racial wealth gap. An analysis by the National Fair Housing Alliance (“NFHA”) and the Center for Responsible Lending (“CRL”) shows that targeting down payment assistance to first-generation, first-time homebuyers with incomes at or below 120% of the Area Median Income has the potential to increase access to homeownership for 5 million new homebuyers, including 1.7 million Black homeowners, 1.3 million Latino

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<sup>13</sup> See Lisa Rice, “The Fair Housing Act: A Tool for Expanding Access to Quality Credit,” *The Fight for Fair Housing: Causes, Consequences, and Future Implications of the 1968 Federal Fair Housing Act* (Gregory Squires, 1st ed. 2017) (providing a detailed explanation of how federal race-based housing and credit policies promoted inequality). See also Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (2017).

<sup>14</sup> In 2019, 4.8% of Fannie Mae and 3.6% of Freddie Mac home purchase loans were from Black borrowers, and 4.1% and 3.7% of refinance loans. See FHFA Annual Housing Report at 11, Table 6 (October 2020), <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Housing-Report-2020.pdf>.

<sup>15</sup> Fannie Mae, *Expanded 97% LTV Options* (Oct. 29, 2020), <https://singlefamily.fanniemae.com/media/8381/display>.

<sup>16</sup> See Jung Hyun Choi, *Breaking Down the Black-White Homeownership Gap*, Urban Institute (Feb. 21, 2020), <https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap> (positing that the bigger racial homeownership gap in lower-income groups may be partly explained by differences in wealth and parental support, which are likely to be more crucial in helping low-income households attain homeownership).

homeowners, and 1.5 million White homeowners, which would help to close the homeownership gap.<sup>17</sup>

*b. Race-Conscious Special Purpose Credit Programs*

The GSEs should create purchase programs for race-conscious Special Purpose Credit Programs mortgages to ensure liquidity for this market. Unfortunately, the Black/White homeownership gap is as large today as it was in 1968, before passage of the Fair Housing Act.<sup>18</sup> Race-neutral remedies have failed to close that gap. The Equal Credit Opportunity Act (“ECOA”) and Regulation B have long contained a provision that allows lenders to offer race-conscious Special Purpose Credit Programs, but lenders have been reluctant to do so without clear guidance from the regulators and assurances of mortgage market liquidity.<sup>19</sup> In addition to creating purchase programs, the GSEs should encourage the U.S. Department of Housing and Urban Development (“HUD”) to issue guidance to clarify that the Fair Housing Act also permits special purpose credit programs.<sup>20</sup> Finally, the GSEs should encourage the Consumer Financial Protection Bureau (“CFPB”), and the other federal financial regulators to issue more practical guidance (such as a template) on what exactly a lender can put in a written plan to satisfy Regulation B and minimize legal risk. Although the CFPB has provided some guidance,<sup>21</sup> it is often difficult for all but the most sophisticated lenders to understand how to translate that type of guidance into a written plan and actionable program.,

*c. Language Access*

In 2017, FHFA required the GSEs to identify major obstacles for Limited English Proficient (“LEP”) borrowers in accessing mortgage credit, analyze potential solutions, and develop a multi-year plan to support improved access.<sup>22</sup> The GSEs can improve upon this effort by:

- Supporting efforts to add the language preference question back to the Uniform Residential Loan Application;
- Requiring loan originators to use the Supplemental Consumer Information Form, which contains the language preference question and also a question about housing counseling;
- Requiring that the language preference information to be made a part of the loan file that transfers with servicing rights; and

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<sup>17</sup> NFHA/CRL, *First Generation: Criteria for a Targeted Down Payment Assistance Program* (May 21, 2021), <https://nationalfairhousing.org/wp-content/uploads/2021/06/crl-nfha-first-generation-jun21.pdf>.

<sup>18</sup> See Jung Hyun Choi, *Breaking Down the Black-White Homeownership Gap*, Urban institute (Feb. 21, 2020), <https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap>.

<sup>19</sup> See Regulation B, 12 C.F.R. § 1002.8. See also Lisa Rice, *Using Special Purpose Credit Programs to Expand Equality*, National Fair Housing Alliance (Nov. 4, 2020), <https://nationalfairhousing.org/using-spcps-blog/>.

<sup>20</sup> See Letter from NFHA and the Mortgage Bankers Association to HUD regarding Special Purpose Credit Programs and the Fair Housing Act (May 10, 2021), [https://nationalfairhousing.org/wp-content/uploads/2021/05/HUD-SPCP-Letter\\_Final.pdf](https://nationalfairhousing.org/wp-content/uploads/2021/05/HUD-SPCP-Letter_Final.pdf); NFHA and Relman Colfax LLC, *Special Purpose Credit Programs: How a Powerful Tool for Addressing Lending Disparities Fits within the Antidiscrimination Law Ecosystem* (Nov. 2020), [https://nationalfairhousing.org/wp-content/uploads/2020/11/NFHA\\_Relman\\_SPCP\\_Article.pdf](https://nationalfairhousing.org/wp-content/uploads/2020/11/NFHA_Relman_SPCP_Article.pdf).

<sup>21</sup> CFPB, *Equal Credit Opportunity (Regulation B); Special Purpose Credit Programs*, 86 Fed. Reg. 3762 (Jan. 15, 2021).

<sup>22</sup> FHFA, *Language Access* (Sept. 2020), <https://www.fhfa.gov/PolicyProgramsResearch/Policy/Pages/Language-Access.aspx>.



- Requiring loan originators and servicers to provide translated documents when they are available.

*d. Artificial Intelligence/Technology*

The GSEs should embrace innovative technologies designed to significantly reduce, and ultimately eliminate, bias in algorithmic-based systems, including artificial intelligence (“AI”). We are at a critical crossroads in determining whether to develop equitable systems that serve and uplift the whole of the national financial services market, or systems that perpetuate, amplify, and even exacerbate existing discriminatory patterns. The GSEs should ensure that AI systems support non-discriminatory and equitable housing and finance markets.<sup>23</sup>

B. Barrier: Credit Score: *The GSEs Should Search for and Adopt Credit Score Models That Are Less Discriminatory Than Classic FICO*

The credit scoring system in many ways embeds and reflects the nation’s history of discrimination in financial services.<sup>24</sup> Because of the history of racial discrimination, segregated neighborhoods were created and people of color have had limited access to affordable, sustainable credit. Instead of accessing mainstream credit available to White borrowers, people of color have often been relegated to using fringe lenders and paying much more than they would have had to otherwise. The current credit-scoring systems work against the goal of moving qualified consumers into the financial mainstream as they reflect our broken dual credit market.

The GSEs have long required lenders to use the Classic FICO credit score model even though this model has a disparate impact and less discriminatory alternatives exist. Civil rights and consumer advocates have repeatedly sounded the alarm that the Classic FICO model is antiquated and has a disparate impact on borrowers of color and other protected groups.<sup>25</sup> Despite these urgent concerns, on November 10, 2020, FHFA announced that the GSEs validated and approved the Classic FICO credit score model for use, in accordance with FHFA’s final rule on credit score model approvals.<sup>26</sup> The GSEs should ensure that the process for validating and

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<sup>23</sup> For more details on equitable AI systems, see NFHA Press Release, *Leading Civil Rights, Consumer, and Technology Advocates Urge the Federal Financial Regulators to Promote Equitable Artificial Intelligence in Financial Services* (July 1, 2021), <https://nationalfairhousing.org/2021/07/01/leading-civil-rights-consumer-and-technology-advocates-urge-the-federal-financial-regulators-to-promote-equitable-artificial-intelligence-in-financial-services/>.

<sup>24</sup> See Sarah Ludwig, *Credit Scores in America Perpetuate Racial Injustice. Here's How*, The Guardian (Oct. 13, 2015), <https://www.theguardian.com/commentisfree/2015/oct/13/your-credit-score-is-racist-heres-why>; Lisa Rice and Deidre Swesnik, *Discriminatory Effects of Credit Scoring on Communities of Color*, 46 Suffolk U. L. Rev. 935, 952-959 (2013), [https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/3/1172/files/2014/01/Rice-Swesnik\\_Lead.pdf](https://cpb-us-e1.wpmucdn.com/sites.suffolk.edu/dist/3/1172/files/2014/01/Rice-Swesnik_Lead.pdf).

<sup>25</sup> See, e.g., Comment of National Consumer Law Center et al. to Request for Input on Fannie Mae and Freddie Mac Credit Score Requirement (March 30, 2018), <https://www.fhfa.gov/AboutUs/Contact/Pages/input-submission-detail.aspx?RFID=986> (describing the disparate impact of Classic FICO’s treatment of medical debt on borrowers of color).

<sup>26</sup> See FHFA, *Credit Scores*, <https://www.fhfa.gov/PolicyProgramsResearch/Policy/Pages/Credit-Scores.aspx>. FHFA’s final rule (12 C.F.R. Part 1254) implemented the requirements in Section 310 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which was enacted on May 24, 2018. The final rule requires credit score model developers to address in the application the model’s compliance with federal fair lending requirements

approving other less discriminatory credit score models moves as quickly as possible. In addition, the GSEs should ensure that the fair lending risk assessment required by FHFA's rule includes a rigorous analysis of less discriminatory alternatives with respect to each credit score model considered.

The GSEs should also support pilot mortgage programs that allow the use of nontraditional credit criteria like rental payment information,<sup>27</sup> residual income, and housing payment shock and that include consumer default-prevention mechanisms to expand affordable credit access to underserved borrowers (in conjunction with FHA). However, the use of nontraditional criteria, such as rental payment history, should not lead to increased pricing through LLPAs. Research has shown that people with on-time rental payments rarely default, so elevated LLPAs are unnecessary and inappropriate.<sup>28</sup>

### C. Barrier: Collateral

Another barrier is the collateral itself, which can raise various issues. Sometimes there is appraisal bias, where a home for a borrower of color or in a community of color is undervalued and may not support the contract price.<sup>29</sup> At other times in the past, appraisals were inflated to support subprime loans, resulting in homeowners being upside down in their mortgages. Also, low home values in communities of color may result in smaller mortgages that lenders may not want to originate. Finally, sometimes, there is discrimination in servicing and REO policies, which may lead to undervaluations and disinvestment in communities of color

#### *1. The GSEs Should Ensure That Appraisal Guidelines Do Not Perpetuate Bias*

The GSEs are in a unique position to identify and address any potential discrimination in the appraisal system. The GSEs are exempt from the appraisal requirements set forth in Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"),<sup>30</sup> which means that the GSEs' guidelines can be instrumental in addressing decades of bias in the appraisal system for the large portion of the mortgage market covered by the activities of the GSEs. Moreover, the Fair Housing Act clearly prohibits discrimination in appraisals.<sup>31</sup> Thus, the

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(12 C.F.R. § 1254.6(2)) and requires the GSEs to conduct an Enterprise Business Assessment, which includes a fair lending risk and impact assessment (12 C.F.R. § 1254.8(2)).

<sup>27</sup> We commend Fannie Mae for its recent announcement to allow lenders, with the applicant's permission, to use bank account data to include 12 months of consistent rental payments in underwriting and assessing eligibility for a mortgage. See Hugh Frater, *Helping Renters Unlock the Door to Homeownership*, Fannie Mae Perspectives Blog (Aug. 11, 2021), <https://www.fanniemae.com/research-and-insights/perspectives/helping-renters-unlock-door-homeownership>.

<sup>28</sup> See Laurie Goodman and Jun Zhu, *Rental Payment History Should Be Used to Assess the Creditworthiness of Mortgage Borrowers*, Urban Institute (April 17, 2018), <https://www.urban.org/urban-wire/rental-pay-history-should-be-used-assess-creditworthiness-mortgage-borrowers>.

<sup>29</sup> See Andre Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), <https://www.brookings.edu/research/devaluation-of-assets-in-black-neighborhoods/>.

<sup>30</sup> FIRREA, Pub. L. 101-73, Title XI, codified at 12 U.S.C. § 3331 *et seq.*

<sup>31</sup> See Fair Housing Act, 42 U.S.C. § 3605. HUD's implementing regulation states that prohibited practices include "[u]sing an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling

GSEs face a compliance risk with respect to any appraisal activities that may potentially violate the Fair Housing Act or other fair lending laws. Given the important role that appraisals play for communities of color, the GSEs should ensure that appraisal guidelines mitigate any potential fair lending risk and any potential harm to people and communities of color. For example, the sales comparison approach may perpetuate the history of undervaluing homes in communities of color. The GSEs should review other approaches, such as the cost of rebuilding, that might ensure more equitable outcomes. Also, we have heard concerns raised by some lenders that the GSEs will not accept a subsequent appraisal at a higher value, if a borrower of color obtains a subsequent, fairer appraisal if the first appraisal appears to be biased. The GSEs should review whether their guidelines currently lock in biased appraisals.

In addition to the appraisal guidelines, the GSEs can share appraisal data and support appraisal research to seek more equitable outcomes. The GSEs have collected a rich data set regarding appraisals and are proposing to further refine this dataset.<sup>32</sup> The GSEs should release the appraisal data to the public on an aggregate basis (that is not personally identifiable) to facilitate research regarding the impact of appraisals and other housing practices on communities of color. Also, the GSEs should support research evaluating the impact of appraisal standards and alternative valuation services on borrowers and communities of color and whether less discriminatory alternatives exist.

## 2. *The GSEs Should Create Programs to Provide Liquidity for Small Dollar Mortgages*

The lack of liquidity for small dollar mortgage loans has a disparate impact on borrowers of color and entire cities and regions across the nation, who are more likely to need and apply for these loans.<sup>33</sup> Moreover, such programs actually support one of the key business justifications of the GSEs, which is to provide liquidity for mortgages for low- and moderate-income families even if the return is less than that earned on other activities.<sup>34</sup> Accordingly, the GSEs should create programs to provide liquidity for small dollar mortgage loan programs.

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where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, or national origin.” 24 C.F.R. § 100.135(d)(1).

<sup>32</sup> See Fannie Mae, Uniform Appraisal Dataset (UAD),

<https://singlefamily.fanniemae.com/delivering/uniform-mortgage-data-program/uniform-appraisal-dataset>.

<sup>33</sup> See Ben Eisen, *Dearth of Credit Starves Detroit's Housing Market*, Wall Street Journal (Oct. 29, 2020), <https://www.wsj.com/articles/a-broken-mortgage-market-strands-detroits-black-residents-11603984218> (finding low property values to be the main driver of the dearth of mortgages in Detroit as lenders earn little profit on small dollar mortgages).

<sup>34</sup> Fannie Mae and Freddie Mac Charters: “The Congress declares that the purposes of this title are to establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to...(3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.” 12 U.S.C. § 1716 (Fannie Mae); 12 U.S.C. § 1451 note (Freddie Mac).

### 3. *The GSEs Should Ensure That Servicing and REO Policies Are Fair and Non-Discriminatory*

As with the Great Recession, the effects of the pandemic have fallen the hardest on Black and Brown borrowers. A CFPB survey of mortgage servicers' actions during the pandemic revealed troubling results.<sup>35</sup> Nearly half of the servicers surveyed did not collect or maintain information about a borrower's Limited English Proficiency ("LEP") status, making it impossible to determine which borrowers needed LEP services. Moreover, several servicers did not maintain race data, making it difficult to conduct fair lending analysis on servicing results.

The GSEs should support equitable mortgage servicing, including reducing racial or ethnic disparities in loan modifications and loss mitigation. To do so, the GSEs should:

- Require servicers to maintain data on the race and ethnicity of the borrowers;
- Regularly review servicers' loss mitigation outcomes disaggregated by race and ethnicity;
- Provide for the timely public release of detailed data on loan performance and servicing outcomes, including by race, ethnicity, and geography;
- Impose minimum required language access provisions, including asking about language preference; tracking that information in the servicing file and transferring it to subsequent servicers;
- Adding prominent links on loss mitigation websites to translated materials;
- Where appropriate, require servicers to send out the translated Early Intervention notice and other notices;
- Ensure effective oversight of their asset management companies to ensure compliance with policies; and
- Ensure that all policies for the maintenance and marketing of REO properties are fair and non-discriminatory.<sup>36</sup>

#### D. Barrier: Discrimination

The last barrier we discuss here is discrimination, which continues to plague and distort the market. For example, a recent analysis of nearly 7 million 30-year mortgages by University of California at Berkeley researchers found that Black and Latino applicants were charged higher interest rates and refinance fees when compared with White borrowers in both face-to-face and online transactions.<sup>37</sup> The Berkeley study also found that both face-to-face and online lenders rejected a total of 1.3 million creditworthy Black

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<sup>35</sup> CFPB, *Mortgage Servicing COVID-19 Pandemic Response Metrics: Observations from Data Reported by Sixteen Servicers* (Aug. 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_mortgage-servicing-covid-19-pandemic-response-metrics\\_report\\_2021-08.pdf](https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-covid-19-pandemic-response-metrics_report_2021-08.pdf).

<sup>36</sup> For more details regarding fair housing concerns related to REO properties, see NFHA, *Foreclosure Crisis and Recovery*, <https://nationalfairhousing.org/reo/>.

<sup>37</sup> Robert Bartlett, et al., *Consumer Lending Discrimination in the Fintech Era* (Nov. 2019), <https://faculty.haas.berkeley.edu/morse/research/papers/discrim.pdf>. See also Khristopher J. Brooks, *Disparity in Home Lending Costs Minorities Millions, Researchers Find*, CBS News (Nov. 15, 2019), <https://www.cbsnews.com/news/mortgage-discrimination-black-and-latino-paying-millions-more-in-interest-study-shows/>.

and Latino applicants between 2008 and 2015. Similarly, a LendingTree study reported that Black and Latino applicants have had the highest denial rates since 2004.<sup>38</sup> Moreover, discriminatory trends are not limited to the mortgage market, but are pervasive in all aspects of housing. In a discouraging discovery, a recent study found that neighborhood racial composition was an even stronger determinant of a home's appraised value in 2015 than it was in 1980.<sup>39</sup> Researchers found that the race appraisal gap had in fact doubled since 1980.<sup>40</sup> Finally, these disturbing discriminatory trends hurt the economy as a whole. Researchers from the Federal Reserve Bank of San Francisco have identified redlining as one of the key structural barriers that caused a staggering \$22.9 trillion in losses to U.S. economic output over the past 30 years.<sup>41</sup> Given these circumstances, the GSEs should support strong oversight to ensure compliance with the fair housing and fair lending laws, including the obligation to Affirmatively Further Fair Housing.

1. *The GSEs Should Support Elevating the Office of Fair Lending Oversight to a Fully-Staffed Division*

Although the current Office of Fair Lending Oversight (“OFLO”) has made effective decisions since its inception in 2018, its critically-important mission deserves to be elevated from a small office within the Division of Housing, Mission, and Goals, to a fully-staffed Division that reports to the Director. FHFA’s fair lending mission should be co-equal with its safety and soundness mission, which would begin with creating a Division of Fair Lending Oversight that is co-equal to the Division of Enterprise Regulation (which oversees the safety and soundness mission).

FHFA’s currently inferior treatment of the fair lending mission is evident on its website and documentation. At this time, the “Leadership and Organization” page of FHFA’s website contains the following robust description of the supervisory duties of the Division of Enterprise Regulation:

Division of Enterprise Regulation (DER) led by Deputy Director Paul Miller provides management oversight, direction, and support for all examination activity involving the Enterprises, the development of supervision findings, and preparation of the annual reports of examination. The division monitors and assesses the financial condition and performance of the Enterprises and their compliance with regulations through annual on-site examinations and periodic visits. An examiner-in-charge leads examination

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<sup>38</sup> Tendayi Kapfidze, *LendingTree Analysis Reveals Mortgage Denials at Cycle Lows* (Oct. 7, 2019), [https://www.lendingtree.com/mortgage-denials-at-cycle-low/#link=%7B%22role%22:%22standard%22:%22href%22:%22https://www.lendingtree.com/mortgage-denials-at-cycle-low/%22,%22target%22:%22\\_blank%22,%22absolute%22:%22%22,%22linkText%22:%22%3Cstrong%3EA%20Lending%20Tree%20study%20released%20earlier%20this%20month%3C/strong%3E%22%7D](https://www.lendingtree.com/mortgage-denials-at-cycle-low/#link=%7B%22role%22:%22standard%22:%22href%22:%22https://www.lendingtree.com/mortgage-denials-at-cycle-low/%22,%22target%22:%22_blank%22,%22absolute%22:%22%22,%22linkText%22:%22%3Cstrong%3EA%20Lending%20Tree%20study%20released%20earlier%20this%20month%3C/strong%3E%22%7D).

<sup>39</sup> Junia Howell and Elizabeth Korver-Glen, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015*, Social Problems (Sept. 4, 2020), <https://academic.oup.com/socpro/advance-article-abstract/doi/10.1093/socpro/spaa033/5900507?redirectedFrom=fulltext>.

<sup>40</sup> See Brentin Mock, *A Neighborhood's Race Affects Home Values More Now Than in 1980*, Bloomberg CityLab (Sept. 21, 2020), <https://www.bloomberg.com/news/articles/2020-09-21/race-gap-in-home-appraisals-has-doubled-since-1980>.

<sup>41</sup> See Shelby R. Buckman, *et al.*, *The Economic Gains from Equity* (Sept. 8, 2021), <https://www.brookings.edu/bpea-articles/the-economic-gains-from-equity/>.

activity at each Enterprise. Examination teams will expand further as DER continues to build towards a post-conservatorship future.<sup>42</sup>

However, the website's description of the Division of Housing, Mission, and Goals - where OFLO is currently housed - does not mention fair lending *at all*. Similarly, the most recent annual report provides one short sentence about the fair lending mission within the Division of Housing, Mission, and Goals, while providing the following complete description of the supervisory and policy duties of the Division of Enterprise Regulation:

The Division of Enterprise Regulation (DER) supervises the Enterprises and evaluates the safety and soundness of their financial condition and operations. World-class supervision of the Enterprises is critical to fulfilling the Agency's mission of fostering competitive, liquid, efficient, and resilient (CLEAR) national housing finance markets, and to preparing the Enterprises to responsibly exit the conservatorships. Using a risk-based supervisory approach, DER examiners conduct oversight through targeted examinations, ongoing monitoring and analysis activities, and issuing supervisory guidance to the Enterprises. DER prepares annual ROEs, which communicate DER's supervisory assessments of the Enterprises. The ROE assigns composite and component ratings in accordance with FHFA's supervisory rating system and communicates the principal examination conclusions and findings for the supervisory cycle. The division also provides support and advice to the Agency on supervisory issues, development of FHFA policy, and internal FHFA management activities.<sup>43</sup>

Presumably, the GSEs would like to create a strong and effective fair lending supervision program to ensure that they equitably serve the whole of the national housing finance market. This problem requires a structural solution, one that sends a strong signal about the importance of ensuring that the market operates in a nondiscriminatory way, creates the mechanism for accountability, and places that mechanism in a prominent place within the agency to make sure that it receives the resources and attention it requires.

## 2. *The GSEs Should Support Increased Transparency regarding the Fair Lending Examination Findings*

The GSEs should ask FHFA to release a comprehensive report on the GSEs' compliance with the nation's fair housing and fair lending laws that is at least as detailed as the information provided regarding the safety and soundness examinations and the diversity and inclusion examinations, which are documented in the annual report.<sup>44</sup> Currently, the fair lending examination is the only examination not detailed in the annual report or other comprehensive report. In particular, the GSEs should encourage FHFA to provide specific information on the race and ethnicity of the

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<sup>42</sup> FHFA, Leadership and Organization, available at: <https://www.fhfa.gov/AboutUs/Pages/Leadership-Organization.aspx>.

<sup>43</sup> FHFA, *Report to Congress 2020* at 5 (June 15, 2021), <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Report-to-Congress-2020.pdf>.

<sup>44</sup> See e.g., FHFA, *Report to Congress 2020* (June 15, 2021), at 27 (detailed report of safety and soundness exam) and 65 (detailed report of diversity and inclusion exam), <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Report-to-Congress-2020.pdf>.

borrowers sorted by product lines so key stakeholders can determine the extent to which the GSEs are serving the whole of the national housing finance market.

## E. Other Actions

### *1. Affirmatively Furthering Fair Housing*

The GSEs should work with FHFA to review how FHFA’s authority and obligation to Affirmatively Further Fair Housing may create certain obligations for the GSEs. In HUD’s recent interim final rule regarding the duty to Affirmatively Further Fair Housing, HUD noted that the rule is consistent with decades of case law that have held that “funding recipients, to meet their [Affirmatively Furthering Fair Housing] obligations, must, at a minimum, ensure that they make decisions informed by preexisting racial and socioeconomic residential segregation. The courts have further held that, informed by such information, funding recipients must strive to dismantle historic patterns of racial segregation; preserve integrated housing that already exists; and otherwise take meaningful steps to further the Fair Housing Act’s purposes beyond merely refraining from taking discriminatory actions and banning others from such discrimination.”<sup>45</sup> While the GSEs do not receive funds directly from FHFA, the GSEs receive certain benefits from an implicit guarantee and from conservatorship, and now receive an explicit guarantee through the Preferred Stock Purchase Agreement.<sup>46</sup> FHFA and the GSEs should ensure that the review of the Affirmatively Furthering Fair Housing obligations includes single-family loans as well as multi-family loans.

### *2. Duty to Serve Plans*

*Affirmatively Furthering Fair Housing.* The GSEs should adjust their Duty to Serve Plans to include an emphasis on Affirmatively Furthering Fair Housing in every goal and undertake activities to expand housing opportunities for groups disproportionately experiencing housing discrimination. Under the current rule, FHFA may provide extra credit for residential economic diversity activities.<sup>47</sup> One approach to strengthening the framework would be for the GSEs to request that FHFA clarify in the Evaluation Guidance that extra credit may be provided for residential economic diversity activities that fulfill the goal of Affirmatively Furthering Fair Housing.<sup>48</sup>

*Shared Equity Programs.* The GSEs should provide robust support for Shared Equity programs to support the development of affordable housing in the Duty to Serve Plans. In addition, the GSEs should advocate for the increased standardization in the process for underwriting loans that

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<sup>45</sup> HUD, Restoring Affirmatively Furthering Fair Housing Definitions and Certifications, Interim Final Rule, 86 Fed. Reg. 30779, 30780 (June 10, 2021).

<sup>46</sup> See U.S. Department of the Treasury, Treasury Department and FHFA Amend Terms of Preferred Stock Purchase Agreements for Fannie Mae and Freddie Mac (Jan. 14, 2021), <https://home.treasury.gov/news/press-releases/sm1236>.

<sup>47</sup> See 12 C.F.R. § 1282.36(c)(3).

<sup>48</sup> See e.g., FHFA, *Duty to Serve Evaluation Guidance*, Guidance 2020-4 at 15 (March 11, 2020), <https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/Revised-Evaluation-Guidance-March-2020.pdf>.

support Shared Equity Programs, expand educational awareness of the programs, develop pilot programs to explore best practices, and help develop tools to increase their use.

*Meaningful Goals for Racially or Ethnically Concentrated Areas of Poverty.* The GSEs should strive to adopt meaningful and significant goals to expand credit access and address housing inequities in Racially or Ethnically Concentrated Areas of Poverty in their Duty to Serve Plans.

### 3. *Affordable Housing Goals*

The GSEs should support strengthening and fully enforcing the affordable housing goals to ensure that their true purpose is realized. They can be a tool for helping to build household wealth in a safe and sound manner while also shoring up economic growth.

### 4. *Personnel and Training*

Efforts to provide fair and equitable solutions to the racial and ethnic homeownership gap can be complex and ever-evolving. The GSEs should hire staff with specialized skills and backgrounds in fair housing and fair lending to support these efforts. In addition, the GSEs should ensure that staff reflect the rich and broad diversity of the nation, including diversity based on race, national origin, disability status and gender. Increasing staff diversity will lead to better outcomes for the housing finance market. Research has shown that diverse teams are more innovative and productive<sup>49</sup> and that companies with more diversity are more profitable.<sup>50</sup> Moreover, people with diverse backgrounds and experiences bring unique and important perspectives to understanding how certain decisions impact different segments of the market.<sup>51</sup>

Finally, the GSEs should ensure that all stakeholders involved in housing finance decisions receive regular training on fair lending and racial equity principles. Trained professionals are better able to identify and recognize issues that may raise red flags. They are also better able to design systems that result in non-discriminatory and equitable outcomes. The more stakeholders in the field who are educated about fair lending and equity issues, the more likely housing finance structures will expand opportunities for all consumers.

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<sup>49</sup> See, e.g., John Rampton, Why You Need Diversity on Your Team, and 8 Ways to Build It, Entrepreneur (Sept. 26, 2019), <https://www.entrepreneur.com/article/338663>.

<sup>50</sup> See, e.g., David Rock and Heidi Grant, Why Diverse Teams Are Smarter, Harvard Business Review (Nov. 4, 2016), <https://hbr.org/2016/11/why-diverse-teams-are-smarter> (reporting that companies in the top quartile for ethnic and racial diversity in management were 35% more likely to have financial returns above their industry mean, and those in the top quartile for gender diversity were 15% more likely to have returns above the industry mean).

<sup>51</sup> See, e.g., Inioluwa Deborah Raji, et al., Closing the AI Accountability Gap: Defining an End-to-End Framework for Internal Algorithmic Auditing at 39 (2020), <https://dl.acm.org/doi/pdf/10.1145/3351095.3372873> (stressing the importance of “standpoint diversity” as algorithm development implicitly encodes developer assumptions of which they may not be aware); Steve Lohr, Facial Recognition is Accurate, If You’re a White Guy, N.Y. Times (Feb. 9, 2018), <https://www.nytimes.com/2018/02/09/technology/facial-recognition-race-artificial-intelligence.html> (explaining how Joy Buolamwini, a Black computer scientist, discovered that facial recognition worked well for her White friends but not for her).



### **III. FHFA Should Publicly Release an Equity Plan for the Agency**

In light of President Biden’s executive order, FHFA should publicly release an Equity Plan for its own agency. On January 20, 2021, the Biden Administration issued Executive Order 31985: “Advancing Racial Equity and Support for Underserved Communities through the Federal Government.”<sup>52</sup> The executive order calls for “an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.” Among other things, the executive order asked agencies to identify potential barriers for underserved communities and to produce a plan for addressing any barriers to full and equal participation in agency programs. Accordingly, FHFA should publicly release an Equity Plan that identifies barriers to advancing equity in housing finance and provides a plan to address those barriers.

### **IV. Conclusion**

The racial and ethnic homeownership gap is wide and persistent. However, this gap is not insurmountable. We hope that the policy recommendations described above can provide a roadmap that the GSEs and FHFA can use to ensure that the national housing finance market promotes equitable outcomes and uplifts the whole of the market.

Thank you for considering our views. If you have any questions, please contact Nikitra Bailey, Senior Vice President of Public Policy ([nbailey@nationalfairhousing.org](mailto:nbailey@nationalfairhousing.org)), or Maureen Yap, Senior Counsel ([myap@nationalfairhousing.org](mailto:myap@nationalfairhousing.org)), at the National Fair Housing Alliance.

Sincerely,

Americans for Financial Reform Education Fund

Autistic Self Advocacy Network

Center for Community Progress

Consumer Action

Consumer Federation of America

Illinois People's Action

Integrated Community Solutions, Inc

Long Island Housing Services, Inc.

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<sup>52</sup> 86 Fed. Reg. 7009 (Jan. 25, 2021). We acknowledge that FHFA is an independent agency and not necessarily required to follow the executive order.

MICAH- Metropolitan Interfaith Council on  
Affordable Housing

National CAPACD- National Coalition for Asian  
Pacific American Community Development

National Coalition For The Homeless

National Consumer Law Center (on behalf of its  
low-income clients)

National Fair Housing Alliance

Poverty and Race Research Action Council

Prosperity Now

## APPENDIX 1: FHFA'S OPTIONAL EQUITY OBJECTIVES

In addition to the two required Equity Objectives, FHFA listed the following non-exclusive optional objectives for the Equitable Housing Finance Plans:

- Reducing racial or ethnic disparities in acceptance rates for the Enterprise's automated underwriting system (AUS);
- Reducing racial or ethnic disparities in the share of loans acquired by the Enterprise compared to the overall mortgage market;
- Reducing racial or ethnic disparities in servicing, loan modifications, and loss mitigation;
- Reducing racial or ethnic disparities in tenant screening, repayment options, and evictions;
- Increasing the quality of the supply of affordable housing available in racially or ethnically concentrated areas of poverty;
- Increasing the supply of affordable housing available in areas with access to educational, transportation, economic, and other important opportunities;
- Reducing underinvestment or undervaluation in other (non-redlined) areas that remain underserved or undervalued;
- Increasing the supply of affordable housing that is accessible for persons with disabilities and available in the most integrated setting appropriate to the needs of an individual with a disability;
- Increasing the supply of affordable housing available to families with children in areas with access to educational, transportation, economic, and other important opportunities;
- Increasing sustainable housing opportunities for individuals in the mortgage market, such as by expanding the number of qualified borrowers of a particular racial or ethnic group, or making policy changes to promote fair lending;
- Increasing sustainable housing opportunities for renters living in multifamily properties financed by the Enterprise's loan purchases, such as by prohibiting source of income discrimination, providing other tenant protections, requiring reporting of on-time payments to credit bureaus, and facilitating accessibility for persons with disabilities;
- Promoting or requiring improvements in fair lending standards and compliance, marketing, and outreach to applicants of a particular racial or ethnic group who are least likely to apply for certain housing opportunities, and promoting or requiring fair lending self-testing by primary lenders or other counterparties; and
- Conducting, and making available publicly, research and data on advancing equity and sustainable housing opportunities.