September 7, 2021

Sandra Thompson
Acting Director
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street, SW
Washington, DC 20219

RE: Policy Statement on Fair Lending; Comment Request 2021-N-7

Dear Ms. Thompson:

The Housing Policy Council[1] (HPC) and National Fair Housing Alliance[2] (NFHA)
appreciate the opportunity to comment on the Federal Housing Finance Agency's (FHFA) Policy
Statement on Fair Lending.[3] Our organizations support both the letter and spirit of the Fair
Housing Act (including the Affirmatively Furthering Fair Housing provision) and the Equal
Credit Opportunity Act. Our organizations and our member companies and organizations
continue to devote substantial resources on an ongoing basis to ensure that credit decisions for all
loan applicants are made without regard to race or other prohibited bases. Given the critical
importance of fair lending oversight to the housing finance ecosystem, we commend FHFA for
recognizing in the Policy Statement on Fair Lending its authority for fair lending supervision and
enforcement, and for clearly stating that the Enterprises are subject to the fair lending laws,
including the Fair Housing Act, the Equal Credit Opportunity Act, and the Federal Housing
Enterprises Financial Safety and Soundness Act. We offer the following recommendations to
further strengthen FHFA's fair lending oversight.

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[1] The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and
servicers, mortgage and title insurers, and technology and data companies. HPC advocates for the mortgage and
housing marketplace interests of its members in legislative, regulatory, and judicial forums. Our interest is in the
safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market
participants, and the promotion of lending practices that create sustainable homeownership opportunities in support
of vibrant communities and long-term wealth-building for families. For more information, visit
www.housingpolicycouncil.org
[2] The National Fair Housing Alliance is a consortium of more than 200 private, non-profit fair housing
organizations, and state and local civil rights agencies, from throughout the United States. Headquartered in
Washington, DC, NFHA's comprehensive education, advocacy, community development, member services,
research, and enforcement programs help provide and ensure equal access to apartments, housing, mortgage loans,
and housing-related insurance coverage for all residents of the nation. Our goal is to expand equal housing
opportunities.
[3] 86 Fed. Reg. 36199 (July 9, 2021).

Specific Comments and Recommendations

FHFA Should Provide More Transparency about Enterprise Loans Made to Protected Classes to Address Bias in the Homebuying Process

One of the simplest and most significant actions that FHFA can undertake immediately to address bias in the homebuying process, is provide more demographic data on the race and ethnicity of borrowers in its reports to Congress. FHFA already compiles and/or composes large amounts of information for Congress as part of the Annual Housing Report and the Annual Report to Congress. However, neither of these reports currently provides important details about the racial composition of the Enterprise product lines.

Without this type of granular view into the dispersion of GSE products across racial and protected class groups, stakeholders cannot determine what is and is not working to serve these constituencies. Market participants are left only to look at whatever aggregate numbers are reported by the Enterprises in their Annual Housing and Activities Report, which may not always align with each company's unique reporting on support for lending to protected classes. FHFA as conservator and regulator should provide easily accessible and comparable data for each Enterprise, along each of their major product lines, the HomePossible and Homeready products, and the overall single-family book of business. Such reports also should provide trended data so that stakeholders can assess whether progress is being made relative to the overall book of business of each Enterprise. The reports should include FHFA's assessment of whether the Enterprises are taking sufficient action to address the racial homeownership gap, much the same as the recent Annual Report to Congress did in the Diversity and Inclusion section of the 2020 report.

Along with enhancing the reports to Congress, we would also encourage FHFA to establish a dedicated website for the Office of Fair Lending Oversight, which should include this critical data along with data visualizations that display this information in easily accessible formats. This low-cost/low-burden action could ensure that all stakeholders have ready access to information updated on a quarterly or monthly basis.

FHFA Should Engage in Public Fair Lending Enforcement Actions against the Enterprises, when Appropriate

We recommend that FHFA engage in public fair lending enforcement actions against the Enterprises, consistent with its use of public enforcement actions in cases of safety and soundness violations. Although public enforcement actions can consume additional resources, they also enhance transparency, credibility, and effectiveness. When making a public enforcement action, it is also critical to include what, if any, restitution is required for violating fair lending laws.

FHFA Should Demonstrate Leadership in Efforts to Address Possible Appraisal Bias

On June 1, 2021, President Biden announced that he was tasking an interagency group of leaders, including FHFA, to "root out discrimination in the appraisal and homebuying process."[4] HPC and NFHA believe that an essential first step to better understand and address any appraisal bias is data transparency and evidence-based analysis. To that end, the single most effective action that FHFA could undertake to address potential appraisal bias would be for FHFA to utilize and share the wealth of GSE property data from the Uniform Appraisal Dataset (UAD).

Further, given the FHFA's access to authoritative government data sets, including the National Mortgage Database (NMDB), Home Mortgage Disclosure Act (HMDA) data, as well as the GSE Uniform Appraisal Dataset (UAD), we recommend that FHFA and the GSEs perform and engage other stakeholders in analysis that will inform and advance the discourse on this critically important topic. Such research should focus on answering key questions such as:

- What are the key data elements that should be used to identify and benchmark the presence of appraisal bias?
- Controlling for socio-economic variables, does the data indicate that there are any particular property or neighborhood characteristics that are more likely to be correlated with appraisal bias? Are there other factors that could help in the identification of potential bias? Which socio-economic variables and other variables are important controls in such analysis?
- Is the measurement of appraisal bias more prevalent on purchase or refinance transactions? If present, is bias more significant in terms of value differentials on purchase or refinance transactions?
- Are there regional differences in the frequency of valuation disparity that may indicate bias in the appraisal process? Are there any observable rural/urban differences?
- Is appraisal bias more or less likely to occur in low-income or high-income census tracts? Communities of color, white communities, or racially-mixed communities?
- Is racial bias in the appraisal process detectable in automated valuation models?
- Are there any differences in the value of homes in minority census tracts that are owned by white homeowners and rented, compared to borrowers of color who use the home as a primary residence?
- Are there differences in the value of homes that are paid for with cash (where no appraisal is required), versus homes where a mortgage requires an appraisal, versus homes that receive an appraisal waiver?
- If present, what is the estimated financial cost of racial bias in appraisals? Does it vary by property or neighborhood characteristics?

To effectively answer the questions posed above as well as other relevant questions, HPC and NFHA recommend that FHFA make these subjects a research priority for both the GSEs and

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[4] Fact Sheet: Biden-Harris Administration Announces New Actions to Build Black Wealth and Narrow the Racial Wealth Gap (June 1, 2021).

FHFA's Division of Research and Statistics, in close coordination with the Office of Fair Lending Oversight. Engaging external analysts with expertise on these topics would further enhance our collective understanding and the robustness of conclusions drawn from such research. It is our hope that this research will directly lead to enhancements in the valuation process and eliminate any vestiges of bias.

Additionally, to bolster this research, HPC and NFHA call on FHFA to dedicate the necessary resources for the development of a strategy for public release of appropriate elements of the extensive property valuation dataset that is now maintained by the Enterprises.[5] Since the 2010 launch of the Uniform Mortgage Data Program (UMDP), which included the Uniform Collateral Data Portal (UCDP), industry stakeholders have served as critical business partners supporting the success of this work. The accumulation of such a vast amount of data on properties across the United States– data that is verified by repeat sales and that provides insight on changes in the characteristics or condition of properties over time– is extremely valuable for a number of purposes. In relation to the Fair Lending Policy Statement, such information could shed light on whether any aspect of the appraisal process or other factors may produce valuation disparities and/or contribute to intentional or unintentional discrimination against borrowers of color.

We also encourage FHFA to coordinate with FHA and VA, where practical. Including appraisals on properties financed with FHA and VA mortgages would greatly enrich the dataset and lead to more relevant policy conclusions.

HPC and NFHA believe, therefore, that FHFA should initiate a plan for broad public release of this data to housing finance market participants – including, but not limited to, appraisers and appraisal management companies, lenders and servicers, mortgage and title insurance companies, investors and rating agencies, civil rights and advocacy groups, and data analytics providers. And, of course, this information would be of value to academics and researchers. The data has the potential not only to enhance transparency and risk management practices, but also to allow industry partners to more effectively evaluate whether their appraisals include identifiable sources of bias. Currently, the analytic capabilities of various types of industry stakeholders are considerable but limited by the quantity and scope of the data available to them. By undertaking this critical project, FHFA has the distinct opportunity to contribute to a housing finance ecosystem that has collateral models that are more reliable, predictable, and equitable. It may also lead to improvements in the data reported and utilized by appraisers themselves, making appraisals more accurate and thereby reducing credit risk for lenders and borrowers alike.

Conclusion

Overall, HPC and NFHA ask FHFA to use the tools available to the agency today to contribute to understanding and addressing racial homeownership gaps. To achieve much-needed progress, this critical, long-standing challenge can only be assessed with information that provides ongoing assessment on a regularized basis. The steps highlighted here can be initiated

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[5] See joint letter from HPC-MBA-ABA dated 2/25/21; HPC Letter on Request for Information on Appraisal-Related Policies, Practices, and Processes dated 2/25/21; and HPC Letter to FHFA on COVID-Related Flexibilities dated 6/14/21.

immediately and at the sole discretion of FHFA. We believe such actions will be an important step to meaningfully address the racial homeownership gap.

Thank you for your consideration of these recommendations. If you have any questions or would like to discuss these comments, please contact Meg Burns, EVP for the Housing Policy Council, at 202-589-1926, or Nikitra Bailey, SVP for Public Policy, National Fair Housing Alliance (nbailey@nationalfairhousing.org).

Yours Truly,
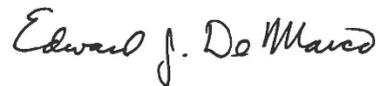
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