June 7, 2024

Director Sandra L. Thompson
Federal Housing Finance Agency
Constitution Center
400 Seventh Street, SW
Washington, DC 20219

Re: Request for Comment re Equitable Housing Finance Plans

Dear Director Thompson:

The National Fair Housing Alliance® (NFHA™)[1] appreciates the opportunity to respond to the Request for Information (RFI)[2] regarding the Fannie Mae and Freddie Mac (collectively, the Government-Sponsored Enterprises or GSEs) Equitable Housing Finance Plans (EHFPs or Equity Plans).[3] The Equity Plans identify and address barriers to sustainable housing opportunities for underserved communities broadly, including rural residents. This RFI solicits public feedback to assist the GSEs in implementing their current 2024 EHFPs and preparing their 2025-2027 plans. Overall, NFHA applauds FHFA for codifying the requirement for EHFPs in regulations[4] and commends the GSEs for their dedication to supporting fair and affordable housing. We hope our comments below will help bolster FHFA's and the GSEs' efforts to create an equitable housing market.

Executive Summary

1. **The GSEs' Equity Plans Appropriately Focus on Programs for Black and Latino Mortgage Applicants**
    a. The Statutes and Regulation Support a Focus on Black and Latino Mortgage Applicants
    b. The Need to Reach Black and Latino Mortgage Applicants Is Urgent and Well-Documented

[1] The National Fair Housing Alliance® (NFHA™) leads the fair housing movement. NFHA works to eliminate housing discrimination and ensure equitable housing opportunities for all people and communities through its education and outreach, member services, public policy, advocacy, housing and community development, tech equity, enforcement, and consulting and compliance programs.
[2] Federal Housing Finance Agency, *Request for Information: Fannie Mae and Freddie Mac Equitable Housing Finance Plans* (Apr. 29, 2024), https://www.fhfa.gov/sites/default/files/2024-05/EHFP-RFI-2024.pdf.
[3] Fannie Mae Equitable Housing Finance Plan 2024, https://www.fanniemae.com/media/51166/display; Freddie Mac Equitable Housing Finance Plan 2024, https://www.freddiemac.com/about/pdf/2024-Freddie-Mac-Equitable-Housing-Finance-Plan.pdf.
[4] FHFA, *Final Rule: Fair Lending, Fair Housing, and Equitable Housing Finance Plans*, 89 Fed. Reg. 42768 (May 16, 2024), https://www.govinfo.gov/content/pkg/FR-2024-05-16/pdf/2024-09559.pdf.

2. **The GSEs' Equity Plans Should Focus on Special Purpose Credit Programs and First-Generation Programs**
   a. The GSEs Should Continue to Expand Liquidity for SPCPs
   b. The GSEs Should Prioritize Support for First-Generation Homebuyers
      i. *The GSEs Should Adopt a Robust Definition of a "First-Generation Homebuyer Loan"*
      ii. *The GSEs Should Adopt Programs That Prioritize Support for First-Generation Homebuyers*

3. **The GSEs Should Ensure that Other Aspects of the Homebuying Process Are Fair and Non-discriminatory**
   a. The GSEs Should Ensure That Their Appraisal Guidelines Do Not Perpetuate Bias
   b. The GSEs Should Provide Liquidity for Small Dollar Mortgages
   c. The GSEs Should Ensure the Responsible Use of Artificial Intelligence
   d. The GSEs Should Implement Non-discriminatory Servicing and REO Maintenance and Marketing Policies
   e. The GSEs Should Support FHFA Fully Eliminating LLPAs

4. **The Implementation of the Equitable Housing Finance Plan Rule Should Focus on Engagement and Transparency**
   a. FHFA and the GSEs Should Engage in Comprehensive Consultations with Fair Housing, Civil Rights, and Consumer Advocates
   b. FHFA and the GSEs Should Develop Transparent and Meaningful Metrics to Evaluate the Equity Plan Performance

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Comments

1. **The GSEs' Equity Plans Appropriately Focus on Programs for Black and Latino Mortgage Applicants**

The GSEs' Equity Plans appropriately focus on programs for Black and Latino mortgage applicants based on statutory requirements, regulatory requirements, and the extent of the need in communities of color.

   a. The Statutes and Regulation Support a Focus on Black and Latino Mortgage Applicants

The GSEs' Equity Plans' focus on Black and Latino mortgage applicants is supported by statute and regulation. First, several statutes support this focus. For example, the GSEs' authorizing statutes provide that one of their purposes is to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas).[5] In addition, the Federal

[5] 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).

Housing Enterprises Financial Safety and Soundness Act of 1992 provides that, in meeting the Housing Goals and Duty to Serve requirements, the GSEs are required to take affirmative steps to assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families.[6] Finally, under the Fair Housing Act, all Federal agencies that have regulatory or supervisory authority over financial institutions, including FHFA, are required to administer their programs and activities relating to housing and urban development in a manner that affirmatively furthers the purposes of the Fair Housing Act, which includes providing for fair housing throughout the United States.[7]

The new Equity Plan regulation sets the guidelines for the focus on and identification of "underserved communities." The regulation states that the Equity Plan must include:

1) Identification of barriers to sustainable housing opportunities faced by one or more underserved communities;
2) Objectives that establish the overall direction and focus for the plan by defining the outcomes the plan seeks to accomplish, and that are logically tied to one or more identified barriers;
3) Meaningful actions describing the high-impact activities the Enterprise intends to undertake to further the identified objectives that span one or more years (including extending beyond the period covered by the plan);
4) Specific, measurable, and timebound goals (goals) for each action; and
5) Summaries of the Enterprise's public engagement in developing the plan.[8]

To identify an "underserved community," the regulation provides the following:

> An Enterprise shall ensure that a plan relies on adequate information in identifying the underserved community or communities addressed by that plan and shall document that information as part of the plan. In selecting one or more underserved communities to be the focus of a plan, an Enterprise shall consider, among other factors:
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> 1) Input from public engagement;
> 2) Whether the underserved community has previously been the focus of a plan;
> 3) The extent of the needs identified for the underserved community, including such needs that may remain despite prior efforts under a plan; and
> 4) Whether the underserved community is covered by a different initiative or program of the Enterprise.[9]

b. <u>The Need to Reach Black and Latino Mortgage Applicants Is Urgent and Well-Documented</u>

Consistent with the statutes and regulation, the need to reach the underserved community of Black and Latino mortgage applicants is urgent and well-documented. 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

[6] 12 U.S.C. 4565(b)(3)(A).
[7] 42 U.S.C. 3608(d).
[8] 12 CFR § 1293.22(b).
[9] 12 CFR § 1293.25(a).

advantages for White families, leading to massive homeownership, credit, and wealth gaps that persist today. Efforts to reach applicants of color using race-neutral, income-driven programs have failed. By every measure, Black and Latino households face daunting barriers to homeownership.

- Homeownership gap. The Black-White and Latino-White homeownership gaps remain wide and persistent. In 2021, the Black-White homeownership gap stood at 29 percentage points.[10] Most alarmingly, this gap was wider than it was when race-based discrimination against homebuyers was legal (prior to passage of the Fair Housing Act in 1968). Similarly, the Latino-White gap was at 22 percentage points. Even when the racial homeownership rate is stratified by household income, there continue to be significant disparities in homeownership between racial groups, even in the highest income brackets. For example, for households with an income over $150,000, there exists a 10- percentage point gap between Black and White families.[11] Also, low-income White households have a higher homeownership rate than more affluent Black households.

- Down payment and rent burden. In 2022, a record-high 22.4 million renter households were "cost-burdened," meaning they spent more than 30 percent of their income on rent and utilities. This is an increase of 2 million households over three years.[12] Black and Latino renters were more likely than White renters to be cost-burdened. More than half of Black renters (57 percent) and Latino renters (54 percent) were cost-burdened, while about 45 percent of White renters were cost-burdened. These disparities make it more difficult for Black and Latino renters to build wealth and save for down payments for homeownership.

- Down payment and wealth transfers. Black and Latino households are less likely to receive familial assistance with down payments and the other forms of financial support that can make homeownership achievable and sustainable. For example, Black and Latino families are less likely to receive or expect to receive an inheritance than White families, and, if they do, it is, on average, less than that of White households.[13] Black families are also less likely to obtain financial assistance from their personal networks, with 41 percent of Black families reporting they could receive $3,000 from family or friends compared to 72 percent of White families.[14] Moreover, many Black and Latino

[10] The homeownership rate is 73 percent for White households, 51 percent for Latino households, and 44 percent for Black households. *See* National Association of REALTORS® Research Group, *2023 Snapshot of Race and Homebuying in America* (2023), https://www.nar.realtor/sites/default/files/documents/2023-snapshot-of-race-and-home-buying-in-the-us-03-02-2023.pdf; Urban Institute, *Reducing the Racial Homeownership Gap*, https://www.urban.org/policy-centers/housing-finance-policy-center/projects/reducing-racial-homeownership-gap.
[11] *See* Fannie Mae 2022–2024 Equitable Plan at 7 (June 2022), https://www.fanniemae.com/media/43636/display.
[12] Joint Center for Housing Studies of Harvard University, *America's Rental Housing 2024*(Jan. 2024), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf.
[13] *See* Andrew Van Dam, *How Inheritance Data Secretly Explains U.S. Inequality,* Washington Post (Nov. 10, 2023), https://www.washingtonpost.com/business/2023/11/10/inheritance-america-taxes-equality/.
[14] Neil Bhutta et al., *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances*, Bd. of Governors of the Fed. Res. Sys. FEDS Notes (Sept. 28, 2020),

households provide financial assistance to older generations, which slows their ability to save for a down payment.[15]

- Underwriting. In the fourth quarter of 2023, White applicants' automated underwriting system applications had approval rates of about 83 percent and 89 percent for the automated underwriting systems of Fannie Mae and Freddie Mac, respectively; Black applicants had approval rates of about 65 percent and 73 percent; Latino applicants had approval rates of about 75 percent and 80 percent.[16] An analysis of the 2020 HMDA data found a denial rate of 27.1 percent for Black applicants compared to 13.6 percent for White applicants.[17] The trend in higher denial rates has persisted in HMDA data for many years.

- Pricing. A 2019 study of mortgage pricing found that Latino and Black borrowers pay 7.9 and 3.6 basis points more in interest for mortgages, respectively, even when controlling for several factors.[18] This amounts to $765 million more annually for these borrowers.

- Home equity and appraisals. In 2021, homes in White neighborhoods were appraised at values nearly 250% higher than similar homes in similar Black neighborhoods and at values nearly 278% higher than similar homes in similar Latino neighborhoods within the same metropolitan areas, depriving households of color of opportunities to build wealth.[19] Overall, White communities have access to over $15 trillion more in capital because of racialized appraisal practices.[20]

  In addition, according to the 2021 appraisal statistics, 23.3 percent of homes in high minority tracts (80.1–100 percent) experienced an appraised value less than the contract price. This is compared to 13.4 percent of homes in White tracts (0–50 percent) and 19.2 percent of homes in minority tracts (50.1–80 percent).[21] Also, FHFA

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https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the2019-survey-of-consumer-finances-20200928.html.

[15] See Mike Dang, *Their Children Are Their Retirement Plans*, New York Times (Feb. 24, 2023), https://www.nytimes.com/2023/01/21/business/retirement-immigrant-families.html#:~:text=The%20offspring%20of%20many%20East,challenges%20others%20don't%20face.&text=Sign%20up%20for%20the%20Audio%20newsletter%2C%20for%20Times%20subscribers%20only.

[16] *See* FHFA Fair Lending Data, https://www.fhfa.gov/data/fair-lending-data.

[17] *See* Jung H. Choi et al., *What Different Denial Rates Can Tell Us About Racial Disparities in the Mortgage Market*, (Jan. 13, 2022), https://www.urban.org/urban-wire/what-differentdenial-rates-can-tell-us-about-racial-disparitiesmortgage-market.

[18] *See* Robert Bartlett et al., *Consumer-Lending Discrimination in the FinTech Era*, Haas School of Business UC Berkeley (Nov. 2019), https://faculty.haas.berkeley.edu/morse/research/papers/discrim.pdf.

[19] Junia Howell and Elizabeth Korver-Glenn, *Appraised: The Persistent Evaluation of White Neighborhood as More Valuable Than Communities of Color*, Eruka (2022), https://static1.squarespace.com/static/62e84d924d2d8e5dff96ae2f/t/6364707034ee737d19dc76da/1667526772835/Howell+and+Korver-Glenn+Appraised_11_03_22.pdf.

[20] *See id.*; *see also* Andre Perry et al., *The Devaluation of Assets in Black Neighborhoods: The Case of Residential Property,* The Brookings Institution (Nov. 27, 2018), https://www.brookings.edu/articles/devaluation-of-assets-in-black-neighborhoods/.

[21] For 2022, 17.15 percent of home purchase appraisals were below contract price in high-minority tracts, compared to 14.3 percent in minority tracts and 11.2 percent in White tracts. Uniform Appraisal Dataset Aggregate Statistics, https://www.fhfa.gov/data/dashboard.

identified examples of appraisal reports with direct references to the racial and ethnic composition of the neighborhood.[22] FHFA also identified time adjustments as a factor in appraisals that contributes to appraised values less than contract price, and racial disparities in appraisal outcomes.[23] Freddie Mac's research showed that properties in tracts occupied by people of color are more likely than properties in White tracts to receive an appraisal lower than the contract price.[24] A Fannie Mae publication concluded that White borrowers' homes were overvalued at higher rates across all neighborhoods, but stronger effects were present for White borrowers in Black neighborhoods.[25]

- Wealth. Finally, White wealth has soared while wealth for people of color has remained stagnant. This is not surprising given that home equity is typically the greatest source of wealth for an American household. Since the Great Recession, the typical Black and Latino household has had between about $10 to $15 of wealth for every $100 held by the typical White household.[26] In 2022, the median wealth was $285,000 for White households, $61,600 for Latino households (20 percent of the typical White household), and $44,900 for Black households (15 percent of the typical White household). Both the Latino-White and the Black-White median wealth gaps increased by around $50,000 between 2019 and 2022, with each gap reaching over $220,000 in 2022. Further, the Black-White wealth gap grew by $20 trillion dollars during the COVID19 pandemic as White homeowners were able to refinance their mortgages and take advantage of the benefits of historically low-interest rates at greater levels than Black homeowners.[27]

Notably, the GSEs have long had a lackluster record of purchasing mortgages from Black and Latino borrowers, which has contributed to the homeownership gap. For example, in 2022, Black families comprised about 14 percent of the total U.S. population, but only about 7 percent of the loans that Fannie Mae and Freddie Mac purchased.[28] In contrast, White families comprised

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[22] *See* Chandra Broadnax, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary,* FHFA Insights Blog (Dec. 14, 2021), https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-byAddressing-Appraiser-and-Property-ValuationCommentary.aspx.

[23] *See* Scott Susin, *Underutilization of Appraisal Time Adjustments* (Jan. 2024), https://www.fhfa.gov/Media/Blog/Pages/Underutilization-of-Appraisal-TimeAdjustments.aspx ; Scott Susin, *Underappraisal Disparities and Time Adjustments* (Jan. 2024), https://www.fhfa.gov/Media/Blog/Pages/Underappraisal-Disparities-and-TimeAdjustments.aspx.

[24] *See* Melissa Narragon et al., *Racial & Ethnic Valuation Gaps in Home Purchase Appraisals—A Modeling Approach* (May 2022), https://www.freddiemac.com/research/insight/20220510-racial-ethnic-valuation-gaps-homepurchase-appraisals-modeling-approach; Freddie Mac, *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals-A Modeling Approach*, (Sept. 20, 2021), https://www.freddiemac.com/research/insight/20210920-home-appraisals.

[25] *See* Jake Williamson et al., *Appraising the Appraisal* (Feb. 2022), www.fanniemae.com/media/42541/display.

[26] Aditya Aladangady, Andrew C. Chang, Jacob Krimmel, *Greater Wealth, Greater Uncertainty: Changes in Racial Inequality in the Survey of Consumer Finances*, Federal Reserve Board FEDS Notes (2023), https://www.federalreserve.gov/econres/notes/feds-notes/greater-wealth-greater-uncertainty-changes-in-racial-inequality-in-the-survey-of-consumer-finances-20231018.html.

[27] Bloomberg, *Wells Fargo Rejected Half of Its Black Mortgage Applicants* (March 10, 2022), https://www.bloomberg.com/graphics/2022-wells-fargo-black-home-loan-refinancing/.

[28] *See* GSE data released by FHFA at https://www.fhfa.gov/DataTools/Downloads/Pages/Fair-LendingData.aspx. *See also* Jung Hyun Choi et al., *Explaining the Black-White Homeownership Gap* (Oct. 2019),

about 62 percent of the U.S. population, but comprised about 68 percent of Fannie Mae and Freddie Mac acquisitions. 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 or ethnicity. 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.[29] In other words, future housing demand will be driven by people of color. Actionable plans for a fair and equitable national housing finance market are critically important at this moment.

2. The GSEs' Equity Plans Should Focus on Special Purpose Credit Programs and First-Generation Programs

a. The GSEs Should Continue to Expand Liquidity for SPCPs

The GSEs should continue their focus on expanding liquidity for lender-originated SPCPs as well as developing their own SPCPs. Because of America's long history of discriminatory housing policies and because income-driven programs have not closed the homeownership gap, race-conscious programs are needed to create an equitable housing market. 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 (SPCPs),[30] but lenders have been reluctant to do so without assurances of mortgage market liquidity. The GSEs' current Equity Plans contemplate the following SPCPs:

- Fannie Mae's HomeReady® First mortgage offers flexibilities such as down payment assistance, expanded income-level eligibility, and reduced closing costs, and focuses on majority-Black, majority-Latino, and majority-Black and Latino census tracts. The product is now available in 10,000 census tracts of color.[31] Fannie Mae expects that as many as 65 percent of the HomeReady First loans they acquire will be to borrowers who identify as a person of color. Fannie Mae expects to acquire between 7,000 and 10,000 combined HomeReady First loans, lender-sponsored SPCP loans, and equity-focused

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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).

[29] *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.

[30] ECOA, 15 U.S.C. 1691(c); 12 CFR § 1002.8.

[31] Fannie Mae Equity Plan at 21.

mortgages originated by housing finance agencies in 2024. In 2024, Fannie Mae plans to:
  - Expand lender engagement and participation in HomeReady First in new markets;
  - Test approaches to increase awareness of HomeReady First, including proactive marketing consumer and lender outreach in key markets;
  - Streamline the reporting and technology needs for lenders to make it easier to identify eligible borrowers and underwrite SPCPs; and
  - Support equity-focused down payment and closing cost assistance mortgage programs created by local or state entities, including state housing finance agencies.
- Fannie Mae plans to support Twin Cities Habitat for Humanity of Minnesota (TC Habitat), which will launch a regional SPCP product to support 214 Black homebuyers (comprised of 64 TC Habitat homebuyers and 150 homebuyers with other community development financial institution partners and lenders) with down payment assistance to purchase a home and/or provide financial education and coaching to help prepare for homeownership.[32]
  - Fannie Mae plans to produce a white paper to summarize the design, implementation, and execution of the regional SPCP.
  - The goal of each of Fannie Mae's 2022 Innovation Challenge projects is to support and learn from local approaches to addressing housing inequities and assess the potential to scale that approach to other communities.
- In 2024, Freddie Mac commits to purchasing 10,000 lender-designed or Freddie Mac-designed SPCP loans.

b. <u>The GSEs Should Prioritize Support for First-Generation Homebuyers</u>

NFHA's key recommendation is that the GSEs should move quickly to adopt a robust definition of "first-generation homebuyer" and then prioritize support for first-generation homebuyers in products and programs.

i. The GSEs Should Adopt a Robust Definition of a "First-Generation Homebuyer Loan"

The GSEs should adopt the proposed definition of a First-Generation Homebuyer Loan, with some minor tweaks. First-generation borrowers are disproportionately families of color and are less likely to benefit from intergenerational wealth transferred from parents or caregivers who were homeowners before them.[33] Below is a comparison of the definition of "first-generation" used in the Down Payment Toward Equity Act of 2023 (sponsored by House Financial Services

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[32] Fannie Mae Equity Plan at 38.

[33] NFHA and Center for Responsible Lending, *First Generation: Criteria for a Down Payment Assistance Program* (May 21, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/06/crl-nfha-first-generation-jun21.pdf; Aniket Mehrotra, Jung Hyun Choi, Janneke Ratcliffe, *First Generation Homebuyers Face Significant Obstacles to Homeownership,* Urban Institute (Nov. 17, 2023), https://www.urban.org/urban-wire/first-generation-homebuyers-face-significant-obstacles-homeownership-help-programs-can.

Committee (HFSC) Ranking Member Maxine Waters)[34] and the GSE definition,[35] with comments on recommended changes.

Term	**HFSC**	**GSE**	**NFHA Comments**
Income	Income that is less than or equal to 120% of Area Median Income. In high-cost markets, this increases to 140% AMI.	None.	Support GSEs omitting the income limitation. The homeownership gap remains persistent regardless of income.
First-time homebuyer	Has not held property ownership in the last 3 years.	Has no ownership interest (sole or joint) in another property during the last three years preceding the Note Date of the Mortgage; and	-Support the GSE definition. -Recommend changing the language in the fact sheet so that the ownership interest is/was only in the United States (ownership in another country would not count).
First-generation homebuyer(a); or	Parents or guardians have not owned a home in the last 3 years.	No parent[36] of the borrower has owned a property in the last 3 years preceding the Note Date of the Mortgage;	-Recommend changing the language in the fact sheet so that the ownership interest is/was in the United States (ownership in another country would not count). -Recommend that a borrower or their parents having interest in heirs' property NOT be considered a factor that disqualifies them from being defined as a first-generation homebuyer.
First-generation homebuyer(b); or	Individual was ever placed in foster care.	Or b) The individual has aged out of foster care;	-Recommend conducting additional analysis to determine whether "placed in" or "aged out" is better.
First-generation homebuyer(c)	Not applicable.	Or c) The individual has become emancipated.	-Support the GSE definition.
Additional recommendations			-Recommend a simple attestation verification process. - Domestic partners and spouses (whether co-borrowers or not) should not also be required to meet the first-generation definition. - Add borrowers whose parents lost a home to foreclosure during the last 3-years, as they will be unlikely to have the ability to provide financial assistance.

[34] U.S. House Committee on Financial Services, Ranking Member Maxine Waters, *Fact Sheet: The Down Payment toward Equity Act of 2023*, https://democrats-financialservices.house.gov/uploadedfiles/2023_downpayment_toward_equity_act_fs.pdf.

[35] Fannie Mae Equity Plan at 25; Freddie Mac Equity Plan at 9. *See also* Freddie Mac, *First-Time Homebuyer Certification*, https://guide.freddiemac.com/ci/okcsFattach/get/1009247_6; Freddie Mac, *First Generation Homebuyer Fact Sheet*, https://sf.freddiemac.com/docs/first_generation_fact_sheet.pdf; Fannie Mae, *First Generation Homebuyer Fact Sheet*, https://www.fanniemae.com/media/51216/display#:~:text=A%20first%2Dgeneration%20homebuyer%20loan,years%20preceding%20the%20note%20date%2C.

[36] Note that in Fact Sheets the GSEs explained that they did not include individuals under a legal guardianship (or previously under a legal guardianship) because they are less likely to have access to the guardian's inter-generational wealth. Additionally, they wanted to minimize the potential confusion for borrowers that no longer have a legal guardian but may have previously had one. Therefore, the GSEs are not requiring a legal guardian's property ownership status or history to be considered.

In addition, the GSEs should enhance their outreach to lenders to mainstream the use of the definition. Effective application of the first-generation homebuyer definition requires these institutions to be well-informed. The GSEs should provide clear and practical guidance on how lenders can implement this definition and better serve first-generation homebuyers.

ii. The GSEs Should Adopt Programs That Prioritize Support for First-Generation Homebuyers

The GSEs should ensure liquidity for first-generation homebuyer loans similar to the liquidity provided for other 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. The analysis by NFHA and the Center for Responsible Lending shows that targeting down payment assistance to first-generation, first-time homebuyers (along with income requirements) has the potential to increase access to homeownership for 5 million new homebuyers, including 1.7 million Black homeowners, 1.3 million Latino homeowners, and 1.5 million White homeowners, which would help to close the homeownership gap.[37]

The GSEs' Equity Plans should support targeting loans and programs to first-generation homebuyers. The GSEs have committed to work together to support business initiatives designed to serve first-generation homebuyers. The GSEs have stated that these initiatives could potentially include providing liquidity to scale first-generation programs that help historically underserved consumers, particularly those lacking homeownership-driven family wealth, achieve homeownership. For example, Fannie Mae's HomeReady® First mortgage offers flexibilities such as down payment assistance, expanded income-level eligibility, and reduced closing costs[38] and Freddie Mac's Home Possible® mortgage offers down payment options and allows for flexible sources of funding. These programs recognize the need to address the shortfall in family wealth and income by reducing down payment requirements and monthly costs for qualifying borrowers. These programs should be expanded to first-generation homebuyers.[39]

3. The GSEs Should Ensure that Other Aspects of the Homebuying Process Are Fair and Non-discriminatory

a. <u>The GSEs Should Ensure That Their Appraisal Guidelines Do Not Perpetuate Bias</u>

Given the important role that appraisals play in determining access to home equity and wealth, the GSEs should ensure that their appraisal guidelines mitigate any potential fair lending risk

[37] NFHA and Center for Responsible Lending, *First Generation: Criteria for a Down Payment Assistance Program* (May 21, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/06/crl-nfha-first-generation-jun21.pdf.
[38] Fannie Mae Equity Plan at 21.
[39] *See* NFHA and Center for Responsible Lending, *Comment to FHFA and GSEs: Adding Eligibility for First-Generation Homebuyers to the GSE Affordable Housing Programs* (April 11, 2022), https://nationalfairhousing.org/wp-content/uploads/2022/04/First-Generation-for-GSE-Affordable-Programs-4-11.pdf.

and any potential harm to people and communities of color. In 2024, the GSE Equity Plans call for the following:

- *Data analysis, technology, and quality control (QC)*. Fannie Mae and Freddie Mac will continue to analyze appraisal bias patterns using a combination of subjective terminology and mis-valuation indicators, and monitor for mis-valuation through loan-level reporting that evaluates undervaluation and overvaluation data trends. Fannie Mae and Freddie Mac will apply lessons learned to their QC processes for evaluating the quality of appraisals. In addition, Fannie Mae and Freddie Mac will continue research and development of a more efficient appraisal text scanning process as well as increased frequency of monitoring in 2024.[40]
- *Industry engagement*. Fannie Mae will engage industry stakeholders in appraisal management roles to share information about appraisal bias challenges and potential solutions, raising awareness of research results, new products, and technology enhancements at a minimum of 12 industry forums.[41] Freddie Mac will continue to support the Office of the Comptroller of the Currency's Project REACh by leading appraisal workstreams to improve industry consistency in the reconsideration of value process and appraisal equity support.[42]
- *Appraisal alternatives*. Fannie Mae will build out appraisal alternatives and expand their availability. This includes increasing the availability of value acceptance (appraisal waivers) and value acceptance + property data, an option that allows lenders to forgo an appraisal if they provide interior and exterior property data collection to verify property eligibility prior to the note date. Fannie Mae will continue to monitor utilization in loans to Black and Latino borrowers.[43] Freddie Mac will explore expanding its policy to allow automated collateral evaluation (ACE) and ACE+ property data report (PDR), where ACE is supplemented with a PDR, for certain purchase transactions with higher loan-to-value ratios for all borrowers, which should help mitigate appraisal gaps for Black and Latino borrowers.[44]
- *Appraiser diversity*. Fannie Mae plans to focus on expanding the number of Black and Latino participants in the Appraiser Diversity Initiative through at least 200 new scholarships, eight or more recruiting events, and by adding at least five new industry sponsors.[45] Freddie Mac will continue its commitment of 10 or more employees to mentor and support as many as 20 diverse new appraisers through the ADI. Freddie Mac will also host seven to nine outreach events/programs to recruit and mentor program participants, award 200 scholarships (qualifying/practical application experience hours), add five new sponsors and expand program focus to include the Latino homeownership journey. Finally, Freddie Mac will partner with ADI leadership to develop an optimal structure through which ADI will support program graduates.[46]

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[40] Fannie Mae Equity Plan at 30; Freddie Mac Equity Plan at 24.
[41] Fannie Mae Equity Plan at 30.
[42] Freddie Mac Equity Plan at 23.
[43] Fannie Mae Equity Plan at 30.
[44] Freddie Mac Equity Plan at 25.
[45] Fannie Mae Equity Plan at 31.
[46] Freddie Mac Equity Plan at 23.

In addition to the above, the GSEs should:

- Continue exploring anti-bias enhancements to the Uniform Residential Appraisal Report, such as real-time risk flags to the appraiser.
- Support FHFA's release of property-level appraisal data to the public, with appropriate controls for consumer privacy; and
- Support research using the Uniform Appraisal Dataset, including with trusted third-party researchers and focusing on alternatives to the sales comparison approach, which may perpetuate the history of undervaluing homes in communities of color.

b. The GSEs Should Provide Liquidity for Small Dollar Mortgages

The GSEs should create programs to provide liquidity for small dollar mortgage loan programs. 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.[47] Moreover, such programs 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.

c. The GSEs Should Ensure the Responsible Use of Artificial Intelligence

Technology is the new civil rights frontier. The GSEs should ensure that Artificial Intelligence (AI) systems support non-discriminatory and equitable housing and finance markets.[48] AI and automated systems are already used extensively in the housing and finance sectors, including in credit scoring, automated underwriting, risk-based pricing, and automated valuation models. AI holds great promise for improving systems, democratizing opportunities, lowering costs, and increasing productivity. Yet, it also holds great dangers for perpetuating bias as typically AI models are developed using historical data, which can exacerbate historical discrimination. The GSEs should amend their Equity Plan to specifically prioritize ensuring that any use of AI that will materially impact is fully vetted for potential discriminatory bias and for the possibility of less discriminatory alternatives.

d. The GSEs Should Implement Non-discriminatory Servicing and REO Maintenance and Marketing Policies

The GSEs should support equitable mortgage servicing, including reducing racial or ethnic disparities in loan modifications and loss mitigation. For 2024:

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[47] *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).

[48] *See* Testimony of Lisa Rice, NFHA President and CEO, *Hearing on AI and Housing: Exploring Promise and Peril, before the Subcommittee on Housing, Transportation, and Community Development* (Jan. 31, 2024), https://www.banking.senate.gov/hearings/artificial-intelligence-and-housing-exploring-promise-and-peril.

- Fannie's Mae's goal is to broadly increase access to post-purchase counseling, an evidence-based approach to reduce default among homeowners experiencing distress.[49]
- Freddie Mac will continue to identify opportunities to improve the Mission Servicing Oversight Framework and to integrate it into future equitable housing offerings.[50]
- Freddie Mac also plans to analyze its servicing policies to help improve outcomes for loans originated to underserved communities through potential policy changes, expanded outreach and counseling, educational materials, borrower education and other servicing-related activities.

In addition, 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:
- Add 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 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.[51]

e. <u>The GSEs Should Support FHFA Fully Eliminating LLPAs</u>

The GSEs should support finally eliminating all Loan Level Price Adjustments ("LLPAs"), which unjustifiably increase mortgage costs and have a disparate impact on borrowers of color. After advocacy by NFHA and others as well as careful review of both the safety and soundness and mission-driven concerns, FHFA took steps to make incremental changes to the pricing framework, including:

- Eliminating upfront fees for the Enterprises' affordable mortgage programs and first-time homebuyers at or below the median income;[52]
- Increasing upfront fees for vacation homes, cash-out refinances, and large loan amounts;[53] and

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[49] Fannie Mae Equity Plan at 40.
[50] Freddie Mac Equity Plan at 8.
[51] For more details regarding fair housing concerns related to REO properties, see NFHA, *Foreclosure Crisis and Recovery*, https://nationalfairhousing.org/reo/
[52] FHFA, *FHFA Announces Targeted Pricing Changes to Enterprise Pricing Framework* (Oct. 24, 2022), https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Targeted-Pricing-Changes-to-Enterprise-Pricing-Framework.aspx.
[53] FHFA, *FHFA Announces Targeted Increases to Enterprise Pricing Framework* (Jan. 5, 2022), https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Targeted-Increases-to-Enterprise-Pricing-Framework.aspx.

- Eliminating the debt-to-income upfront LLPA.[54]

Also, the framework now decreases fees for some creditworthy borrowers who have smaller down payments, but pose a decreased risk to the Enterprises by paying for private mortgage insurance.[55]

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).[56] 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 Latino 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. 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.

4. The Implementation of the Equitable Housing Finance Plan Rule Should Focus on Engagement and Transparency

a. FHFA and 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 new Equity Plan regulation states that: "The Enterprises shall consult with stakeholders, including members of underserved communities and housing market participants, in the development and implementation of their plans and updates."[57] The GSEs should regularly engage with these communities and seek solutions that treat all borrowers and communities equitably. The GSE Equity Plans should also disclose these consultations.[58]

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[54] FHFA, *FHFA Announces Rescission of Enterprise Upfront Fees Based on Debt-to-Income (DTI) Ratio* (May 10, 2023), https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Rescission-of-Enterprise-Upfront-Fees-Based-on-Debt-To-Income-Ratio.aspx.

[55] FHFA, *FHFA Announces Updates to the Enterprises' Single-Family Pricing Pricing Framework* (Jan. 19, 2023), https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Updates-to-Enterprises-SF-Pricing-Framework.aspx.

[56] *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.

[57] 12 CFR § 1293.24(b).

[58] *See* 12 CFR § 1293.22(b)(5) (requiring a summary of the public engagement). *See, e.g.,* Fannie Mae Equity Plan at 45-48.

b. <u>FHFA and the GSEs Should Develop Transparent and Meaningful Metrics to Evaluate the Equity Plan Performance</u>

The GSEs should work with FHFA and the public to develop transparent and meaningful metrics for the Equity Plans. The new Equity Plan regulation provides that:

- The Equity Plan must include:
    - Meaningful actions (actions) describing the high-impact activities the Enterprise intends to undertake to further the identified objectives that span one or more years (including extending beyond the period covered by the plan); and
    - Specific, measurable, and timebound goals (goals) for each action.

- "Meaningful actions" are defined as:[59]
    - Relation to objectives and goals. Meaningful actions shall be logically tied to one or more measurable goals and one or more objectives and support sustainable housing opportunities for an identified underserved community.
    - Other Enterprise goals and incremental action. Meaningful actions may also serve other Enterprise objectives and goals; however, a plan shall reflect significant additional action above and beyond actions that are also serving other Enterprise objectives and goals and shall reflect more than de minimis action.
    - Significant dedication of resources. Meaningful actions shall reflect a commitment commensurate with an Enterprise's prominence in the housing market, its available resources, its dedication of resources to other important efforts, the needs of underserved communities, market conditions, and safety and soundness.
    - Compliance with law. Actions that are not compliant with the Safety and Soundness Act, the authorizing statutes, or other applicable law do not qualify as meaningful actions.

In addition, the Equity Plan regulation requires the GSEs to submit an annual Performance Report with specific metrics.[60] FHFA and the GSEs should continue to evaluate the appropriateness of the metrics and requests from the public for more meaningful metrics. This approach can provide transparency and ensure that key stakeholders are aware of the GSEs' efforts to achieve an equitable housing finance market.

Thank you for considering our views.

Sincerely,

National Fair Housing Alliance

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[59] 12 CFR § 1293.25(c).
[60] 12 CFR § 1293.23.