The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
Constitution Center
400 7th Street, SW
Washington, D.C. 20219

June 7, 2024

Re: FHFA Request for Input
Fannie Mae and Freddie Mac Equitable Housing Plans

On behalf of the Center for Responsible Lending, thank you for this opportunity to respond to the Federal Housing Finance Agency's request for input with respect to the Equitable Housing Finance plans developed by Fannie Mae and Freddie Mac (the Enterprises). The Center for Responsible Lending (CRL) is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions.

CRL agrees with and supports the recommendations made by the National Fair Housing Alliance and other national consumer Advocacy organizations, whose comments address many of the particulars of the Enterprises' plans. We offer this additional comment separately to respond to the questions that FHFA has asked regarding the Enterprises' definition of first-generation homebuyers and with respect to what actions should be prioritized to support first-generation homebuyers.

Just over four years ago, CRL and the National Fair Housing Alliance (NFHA) issued what may have been the first proposal for a national down payment assistance program targeted towards first generation homebuyers,[1] and the following year CRL and NFHA submitted a recommendation for FHFA to expand the eligibility of the GSEs' affordable lending programs to include first-time, first-generation homebuyers with moderate incomes.[2] Accordingly, the questions posed by FHFA in its request for input with respect to first-generation homebuyers are of special interest to CRL.

At the threshold, we commend the Enterprises for moving forward to develop a common definition of the class that constitutes "first-generation homebuyers," and FHFA for bringing focus to this issue and inviting input on the definition and its application. We believe this can be an important step forward both for the GSEs in advancing equitable housing and for other organizations interested in addressing the racial housing gap.

[1] First Generation: Criteria for a Down Payment Assistance Program
[2] Adding Eligibility for First-Generation Homebuyers to the GSE Affordable Housing Programs

This comment is organized in three parts. In Part I we briefly summarize the reasons why it is so important for any program aimed at achieving equitable housing finance to address the needs of first-generation homebuyers. In Part II we respond to FHFA's question regarding the specific definition the Enterprises have proposed and offer recommendations for modifications and clarifications of that definition. Finally, Part III contains our recommendation for the actions, products, and use cases that should be prioritized by the Enterprises to support first-generation homebuyers.

I. The Barrier to Homeownership First-Generation Homebuyers Face

Just one week before this comment is being submitted, the headline of a front-page article in the *Washington Post* read: "What does it take to buy a house? *Increasingly, Mom and Dad*."[3] The evidence for that is overwhelming: surveys have found that between 23%[4] and 38%[5] of first-time homebuyers rely either on a gift from their parents or on an inheritance in order to afford the down payment and closing costs entailed in purchasing a home. That means that a large share of those who cannot rely on intergenerational wealth are either locked out of the housing market or, at the very least, forced to delay their entry. For example, among 18 to 34 year-olds, the homeownership rate for those whose parents are at the high end of the wealth spectrum is 2.5 times higher than those whose parents are at the bottom of that spectrum.[6]

Because home ownership is a principal way most families build wealth, it necessarily follows that those whose parents were not homeowners are relatively unlikely to be able to turn to "mom and dad" for help in purchasing a home. Indeed, an analysis of data from the most recent Survey of Consumer Finances found that, at the median, parents who are renters have $390,000 less in wealth than homeowner parents and that most of that gap is attributable to the fact that renters do not have any housing wealth.[7]

As has been well documented, throughout their painful history in this country, Black and Latino households have fallen disproportionately into the ranks of non-homeowners. In 1870, after the end of the Civil War, just 8% of Black families were homeowners compared to well over 50% of whites. In 1900, white families still owned homes at more than twice the rate of Black families.[8] And while homeownership opportunities expanded for Black and Latino as well as for White families over the course of the twentieth century and especially after World War II, there has remained throughout at least a nineteen percentage point gap in the homeownership rate

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[3] https://www.washingtonpost.com/business/2024/05/19/home-buyers-parents-help-housing-affordability/ (emphasis added).

[4] National Association of Realtors, 2023 Profile of Homebuyers and Sellers

[5] Redfin, 40% of Under 30s Received Family Money for Down Payment. The Redfin study is limited to homebuyers under age 30, substantially all of whom are first-time homebuyers. The FHFA's National Survey of Mortgage Originations has consistently found that about 20% of consumers obtaining a purchase mortgage relied on a gift from family or friend; assuming that first-time buyers represent half of the market and that repeat buyers are unlikely to need a gift from family or friend, that would support the higher estimate of the share of first-time buyers who rely on intergenerational wealth. National Mortgage Database Technical Report 2

[6] Mehrotra *et al., Evidence of Disparities in Access to Mortgage Credit* (Urban Institute, 2024).

[7] Choi& Zinn, The Wealth Gap Between Homeowners and Renters Has Reached an Historic High (Urban Institute, 2024).

[8] Collins & Margo, Race and Homeownership From the Civil War to the Present

between Blacks and Whites. After the Great Recession that gap expanded further, reaching almost 30% in 2013; as of 2022 the gap stood at 27%, larger than it was in 1968 when the Fair Housing Act was enacted.[9] Latino families have fared only slightly better: their homeownership rate lags that of non-Hispanic whites by 22 percentage points as of 2022.[10]

Nor is this simply a matter of happenstance. To the contrary, the homeownership gap—and the resulting racial wealth gap—are the product of racist policies and practices deliberately designed and executed to prevent people of color from acquiring homes. At the founding of the nation, Black individuals were enslaved people, treated in the eyes of the law as themselves chattel, and unable to own property. In the 150 years since slavery ended, state-sponsored racial discrimination—including, but by no means limited to, redlining, restrictive covenants and exclusionary zoning—coupled with discrimination by sellers of realty—have conspired to limit the opportunities for Black and Latino families to become homeowners and build wealth.[11] Indeed, It is worth recalling that in its first underwriting manual, the Federal Housing Authority—which played a large role in financing homeownership in the post-war years--instructed appraisers, as part of the underwriting process for FHA mortgages, to conduct an investigation of "areas surrounding a property" being considered for a mortgage "to determine whether incompatible racial and social groups are present" since "If a neighborhood is to retain stability it is necessary that properties shall continue to be occupied by the same social and racial classes." Appraisers were instructed to look for "protections from adverse influences"—including zoning laws, restrictive covenants, or "natural or artificial barriers" to prevent the "infiltration of …inharmonious racial or nationality groups."[12]

The short of the matter is, then , as we wrote in our paper first proposing down payment assistance targeted to first-generation homebuyers, that:

> Homeownership is the primary way that most families build wealth and achieve economic stability. But buying a home is an expensive proposition, and the upfront costs stand as a significant impediment, especially for those who cannot fall back on their families for help with a down payment and closing costs. …
>
> For people of color, homeownership is especially elusive. For decades, federally-sanctioned discrimination in the housing finance system largely denied them access to homeownership and other wealth-building opportunities. As a result of this and other forms of long-standing institutional discrimination, Black and Hispanic families have less wealth and lower homeownership rates, and thus less ability to provide financial assistance to their children. At the same time, broader societal discrimination, including in education and employment, have produced a massive income gap that makes it more difficult for Black and Hispanic families to accumulate sufficient savings. For these and other reasons, access to homeownership and its wealth-building benefits continues to be delayed or denied to far too many people of color and other low-wealth families, and the wealth gap continues to grow.

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[9] Federal Reserve Board, Survey of Consumer Finances Interactive Tables
[10] *Id.*
[11] R. Rothstein, THE COLOR OF LAW
[12] FHA, Underwriting Manual (1938).

II. The Enterprises' Definition of First-Generation Homebuyer

The foregoing establishes the importance of prioritizing first-generation homebuyers in programs designed to achieve equitable housing finance. The first step in doing so is, of course, to define "first generation" in a way that effectively captures those who are disadvantaged because of their lack of access to intergenerational housing wealth, and to draw the definition in a pragmatic way that can be readily operationalized. As is so often the case, the devil here lies in the details.

Defining the term "first generation homebuyer" has been an area of focus within the Congress over the past several years, beginning with the House's version of the Build Back Better legislation which included a down payment assistance programs for first generation homebuyers[13] and continuing with down payment assistance legislation introduced by Rep. Waters and Sen. Warnock,[14] and with legislation aimed at providing access to 20-year mortgages introduced by Sen. Warner and Rep. Cleaver (the "LIFT Act")[15]. All those bills took a common approach to defining "first generation homebuyer" as follows:

- Each bill includes within the definition any individual whose parents or legal guardians do not, or did not at the time of their death, have an ownership interest in a residence in any State excluding ownership of heir property or chattel.
- Each bill also includes within the definition of "first generation homebuyer" an individual who at any time had been placed in institutional care or foster care.
- Each bill carves out individuals who would otherwise meet the definition of "first generation homebuyer" if the individual's spouse or domestic partner has within the prior three years owned a residence in any State, excluding ownership of heir property or chattel.

A comparison of the definition found in these bills with the Enterprises' definition reveals a number of key differences.

First, the definitions in the various bills cover any individual whose parents were not homeowners so long as the individual's spouse or partner has not been a homeowner within three years. Although the Enterprises' definitions are framed in similar terms, a "Fact Sheet each of the Enterprises issued includes the following FAQ:

> Q1. If only one borrower on the loan application meets the first-generation homebuyer requirements, is the loan considered a first-generation homebuyer loan?
>
> No, all borrowers must meet the first-generation homebuyer requirements for the loan to be considered a first-generation homebuyer loan.[16]

Thus, under the Enterprises definition an application would be deemed to fall within a first generation homebuyer program only if all the applicants met the definition.

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[13] H.R. 5376, 117th Cong. 1st Sess.

[14] H.R. 4495, 117th Cong. 1st Sess.; H.R. 4231, 118th Cong. 1st Sess.; S. 3930, 118th Cong. 2d. Sess.

[15] S.2295, 188th Cong. 1st Sess.; H.R. 4573, 118th Cong. 1st Sess.; S.2797 117th Cong. 1st Sess.

[16] Fannie Mae First Generation Homebuyer Mortgage Fact Sheet; Freddie Mac First-Generation Homebuyer Mortgage Fact Sheet

We recognize, of course, that if no parent of any applicant has been a homeowner, those applicants are least likely to have access to intergenerational wealth to support their quest for homeownership. However, even if one buyer in a couple qualifies as a first-generation homebuyer, that couple is at an obvious disadvantage relative to couples who can turn to both sides of the family for assistance. Thus, we urge the Enterprises to reconsider this aspect of the definition, or, more precisely of the FAQ.

Second, all of the bills disregard ownership interests in heir property or in chattel (e.g., ownership of a manufactured home affixed to leased land) in determining first-generation homeownership status. The Enterprises' definition does not, in terms, address heir property or chattel although the "First-Generation Homebuyer Certification" that the Enterprises have published does state that "ownership interest in a property… does not include heir's property, undeveloped land, a manufactured home or mobile home titled as personal property or a contract for deed." For clarity we encourage the Enterprises to add this exclusion to their definition.

Third, the bills look only to ownership of property within the United States and not abroad whereas the Enterprises, in the certification, state that "Ownership interest in a property includes any real property owned in or outside of the United States." This means, for example, that immigrants whose parents may own a piece of land in the most impoverished places in the world cannot qualify as "first generation home buyers" even though their parents may not have any conceivable means of providing them with assistance in making a home purchase. Excluding immigrants on this basis runs completely against the purposes of supporting first-generation homebuyers and will severely disadvantage Latino communities in particular. We therefore urge the Enterprises to follow the approach of the various bills with respect to property located outside of the United States.

Fourth, all the bills include within the definition of first generation homebuyer an individual who at any time had been placed in institutional care or foster care. The Enterprises' definition, in contrast, includes only those who have "aged out of foster care" or "become emancipated." Excluding those who were in foster care during the course of their childhood but were not in such care when they reached the age of majority seems unduly restrictive and we urge the Enterprises to reconsider this limitation. We likewise urge the Enterprises to include within the definition those who have been in institutional care.

Fifth and finally, whereas all the bills look to the homeownership status of parents at the time the child is seeking to purchase a home or, if no parent is still alive, at the time of their death, the Enterprises' definition uses a three-year lookback window. In some respects, the Enterprises' definition is actually more expansive than the legislative proposals in that , for example, under the Enterprises' definition, if all parents have been deceased for more than three years, the individual will be deemed to be a first generation homebuyer (since such parents could not have "had an ownership interest…in a property in the last three years preceding the Note Date.") On the other hand, in the case of living parents the Enterprises' definition is more restrictive since it looks back to three years rather than to parents' current homeownership status. The Urban Institute has estimated that adopting a three-year lookback period would have only a modest impact on the size of the eligible population (reducing it from 5.5 to 4.7 million individuals),[17] which suggests that the added complexities such a look-back period introduces may not be worth any additional precision in targeting.

III. Priorities for Supporting First-Generation Homebuyers

The final question posed in FHFA's Request for Input is perhaps the most important: What actions, products, or use cases should be prioritized for the Enterprises to support first-generation homebuyers. We believe the answer should be readily apparent.

In 2022, CRL and NFHA jointly recommended that the criteria for eligibility for the Enterprises' affordable lending products—specifically, Fannie Mae's HomeReady and Freddie Mac's Home Possible mortgage programs—be expanded to include first-generation homebuyers with a family income less than or equal to 120% of the area median income where the borrower currently lives or where the house is to be purchased. As we explained, and as further elaborated upon in Part I of this comment, "First-generation homebuyers with incomes above the current 80% limit for the Affordable Lending products often need assistance in purchasing their first home." Moreover, because Black and Latino families are disproportionately first-generation homebuyers, expanding the definition in this way would increase the Enterprises' purchases of mortgages made to people of color from their improving but still far too low levels.[18]

In addition to the Enterprises' HomeReady and Home Possible Products, it is equally important that the first-generation classification be integrated into product offerings made in partnership with state housing finance agencies–many of whom have already adopted first-generation classifications to better target underserved consumers with finite downpayment assistance and grant programs. By incorporating the definition into state HFA products, the GSEs could help standardize the definition among HFAs and encourage increase targeting of supplemental housing resources designed to expand accessibility.

Finally, both GSE Equitable Housing Plans include commitments to execute special purpose credit program pilots in order to help support the expansion of homeownership eligibility and downpayment assistance for traditionally underserved borrowers. We believe that these pilots, in particular, represent the strongest opportunity to allow lenders to utilize the first-generation classification as a mechanism for responsibly exploring increased underwriting flexibility and the provision of downpayment capital in order to expand mortgage opportunities and minimize the impact that the absence of generational wealth often has on the ability to purchase a first home.

Thank you again for the opportunity to share our thoughts on the appropriate parameters of the first-generation classification and how that classification can be used by the GSEs to increase diverse consumers' representation in the conventional mortgage market. We support the GSEs efforts in adopting a first-generation classification and believe that, if properly implemented in a

[17] Mehrotra *et al.*, First-Generation Homebuyers Face Significant Obstacles to Home Ownership

[18] For both Fannie and Freddie, the share of their purchase mortgages for Black borrowers increased slightly between 2020 and 2023, from 5.2% to 6.2% for Fannie and from 4.7% to 6.8% for Freddie. For Latinos, the progress was greater; Fannie's share of purchase mortgages increased from 13.2% to 15.6% and Freddie's from 11.3% to 14.8%. Fannie Mae, Equitable Housing Finance Plan 2023 Performance Report; Freddie Mac, Equitable Housing Finance Plan 2023 Report

way designed to expand targeted down-payment assistance, increase income parameters for existing affordable housing products, and encourage an active secondary market for special purpose credit programs offering responsible underwriting flexibility and/or downpayment, the first-generation definition will significantly improve the ability of underserved borrowers to gain access to conventional mortgage loans.

Sincerely,

The Center for Responsible Lending