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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,

The following comments are in response to the Federal Housing Finance Agency's ("FHFA") Request for Input ("RFI") for the Enterprises Equitable Housing Finance Plans ("Equity Plans").[1] Woodstock Institute is a 47 year old research and policy organization with a long history of regulatory advocacy dating from the 1975 Home Mortgage Disclosure Act (HMDA) and the Federal Community Reinvestment Act (CRA) two years later, to the Illinois Predatory Loan Prevention Act (PLPA) and Illinois Community Reinvestment Act in 2021. Woodstock conducts research and advocates for consumer financial protection and community economic development. Our work seeks to combat structural inequities and improve the quality of life in low-income neighborhoods and communities of color.

As an organization dedicated for decades to research and policy initiatives aimed at expanding the financial equity of minority and low- and moderate-income communities and their residents we believe our comments can provide guidance on important concepts and approaches to the development and assessment of these Equity Plans and their performance.

The Format for These Comments

The Perspective of Woodstock Institute Comments

The comments below are made from the perspective of our decades of research and policy analysis. The Government Sponsored Enterprises (GSEs[2]) have played an important role in supporting expanded lending to minority and low- and moderate-income communities and their residents. These efforts have often come largely as the result of government mandates and years of concerted pressure from community-based advocates and civil rights groups. As the following historical review indicates, the role played by the GSEs has sometimes fueled discrimination and undermined the very low- and moderate income, minority, and underserved markets that they were chartered to serve.

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

[2] Throughout these comments, the term GSE will be used generally to indicate the Government Sponsored Enterprises (either the Federal National Mortgage Association – Fannie Mae – or the Federal Home Loan Mortgage Corporation - Freddie Mac - or both}. In other instances, they may simply be referred to as the Enterprises.

This unfortunate history is reflected not only in the distant past, but in the role that the GSEs played in two lending cycles that have devastated minority communities, first in the late 1960s and 1970s and then in their investments in the subprime lending that again gutted minority communities well before the Great Recession.

In this context, we certainly applaud the goals of the Equity Plans. The range of objectives for the Equity Plans is impressive and expansive. As stated in the RFI, the top goals are:

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

The additional list of objectives focuses most directly on "reducing racial or ethnic disparities" and "increasing the supply of affordable housing". As the RFI indicates, these goals are already embedded in the affirmative obligations of Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") as reflected in their charters and in the requirements of the Housing and Community Development Act of 1992. The affirmative fair housing and affordable housing goals in the 1992 Act, however, did not stop the GSEs from supporting the toxic subprime lending that disproportionately robbed minority communities of their wealth once again.

The Equity Plans represent a clear identification and expansion of these existing obligations in a process designed to add transparency and accountability. Whether they lead to more effective efforts to overcome discrimination and provide for sustainable affordable housing depends in part on understanding the failures of the past and the actions to overcome these failures in the Equity Plans.

The Structure of the Comments

The thrust of our comments is to identify policies and practices that either failed to take advantage of "sound" fair and affordable lending opportunities or that actually contributed to the exploitation and undermining of the economic growth of the communities where they were made.

These comments begin with a statement of the key issues that we believe need to be addressed if the Equity Plans are to overcome past failures and provide robust advances in fair, sustainable, and truly affordable mortgage lending that benefits both homeowners and renters. This is followed by a history of the role the GSEs have played in activities and programs that have unfortunately supported the racially segregated mortgage markets and contributed to discrimination and racial exploitation. The Equity Plans need to recognize this history and be structured in a manner that the failings of the past are not repeated. The final section provides examples of how necessary issues can be addressed in the goals and objectives listed in the RFI.

The sections are:

- **Key Issues that Need to Be Addressed in the Equity Plans -** This section focuses on key issues that need to be addressed in the Equity Plans. These include:
  - *The Primacy of Listening to the Affected Communities;*
  - *The Need to Distinguish Between Scale versus Sustainability;*
  - *The Misuse of the Term Affordable versus Sustainable;*
  - *The Need to Understand the Difference between Fair Lending and Minority Lending;*
  - *The Need to Identify Fair, Affordable, and Sustainable Lending Practices and Programs that Are Scalable;*

    - *The Need for Fair Lending Actions to Be Subject to Evaluation by Outside Agents with Experience Enforcing Fair Housing, Fair Lending, and Civil Rights Laws; and*
    - *The Need for the Equity Plans to Be Accompanied by Public Disclosure of Data Adequate for the Public to Participate Effectively in the Assessment of the Plans and the Resulting Performance*.

- **The Racial History of the GSEs**
    - *The Creation and Role of Fannie Mae Beginning in the Jim Crow Era;*
    - *Cities Destroyed for Cash and the Role of Fannie Mae;*
    - *Continuing Racial Issues in the Conventional Markets;*
    - *The GSEs and the Great Recession;* and,
    - *Historical Summary*

Examples of How Key Issues Can Be Addressed in Serving the Goals and Objectives of the RFI.

Section I - Key Issues that Need to Be Addressed in the Equity Plans:

The Primacy of Listening to the Affected Communities

Given our history working with organizations in minority, diverse, and underserved communities, we have found that they have the most comprehensive understanding of their mortgage needs. They experience firsthand the impacts – both positive and negative – from the mortgage markets. It has been the community-based social action and development organizations, local housing counseling and support programs, their coalitions and national organizations, and civil rights advocates and attorneys that have continually challenged discriminatory and abusive policies and practices and provided the models for sound, fair, and equity-building mortgage programs.

Therefore, our first comment is for FHFA to listen most carefully to the recommendations of these groups as they identify examples of the most effective lending programs and policies and as they challenge policies and practices that compound and support discrimination and undermine sound affordable lending.

The Need to Distinguish Between Scale versus Sustainability

Almost by their very existence, whatever the Enterprises do meets the goal of increasing the supply of housing finance. The issue is to make sure that what is supported is "sound", affordable, and fair, not simply scalable. In the past, the metrics were focused on increasing the *scale* of lending in particular markets. Volume alone too often supported abusive, fraudulent, and discriminatory lending in spite of the obligation of the Enterprises to operate in a safe and sound manner. It is important to reconsider the haphazard use of the term "sound" in spite of its technical place in the GSEs' charter obligations and the Housing and Community Development Act of 1992. References to "sound" lending have too often been used to exclude the very markets that are defined as the focus of the Equity Plans.

The exploitation of minorities and low- and moderate-income borrowers has too often been used to falsely blame them for the failures in the markets by blindly claiming that lending to them is innately unsound. In a practical and applied sense, the term "*sustainable*" more accurately describes both what is necessary to build wealth in minority and low- and moderate-income communities and what should be the nature of the metrics for assessing the quality of the GSEs' activities in meeting their goals.

The Misuse of the Term Affordable versus Sustainable

Loans that are defined as "affordable" are too often defined simply as loans that are made to low- and moderate-income borrowers or areas without consideration of whether they really are manageable and sustainable and do not incorporate abusive, deceptive, or fraudulent underwriting conditions. For example, during the growth of the subprime market the Federal bank regulatory agencies counted all loans made in low- and moderate-income areas for positive consideration under the CRA even though massive numbers of those loans were subprime loans with toxic conditions that contributed to individual foreclosures and undermined the economic health of the communities where they were made. Likewise, thousands of the loans counted toward the GSEs' affordable housing goals before the Great Recession also contained toxic terms and fraudulent underwriting that contributed to the destruction of the communities where they were located.

The Need to Understand the Difference between Fair Lending and Minority Lending

Metrics for service to minority borrowers and minority communities need to be clearly distinguished from the pure volume of loans to these markets. That is, the questions of sustainability and affordability must be incorporated into any metrics related to minority lending. During both the FHA scandals of the 1960s and 1970s and the subprime abuses of the 1990s and first decade of the 2000s, the GSEs increased the volume of lending in minority markets. The massive levels of foreclosure and the devastating impact on the individuals and their communities, however, attest to the need to distinguish between the volume of loans made to minorities and in minority communities and the sustainability of those loans that is required to build wealth and provide equity.[3]

The Need to Identify Fair, Affordable, and Sustainable Lending Practices and Programs that Are Scalable

The essential purpose of the Enterprises is to expand the market for sustainable loans. While it is important to identify special programs that support fair, affordable, and sustainable lending, it is equally important to identify the ways in which these programs can be made "scalable". This is a complex challenge as different regions, metropolitan and rural areas, and local communities have different needs and different forms of housing and ownership and rental markets.

Some programs, such as NeighborWorks America, can increase the scale of lending based on a general national model that also provides for flexibility to meet different needs in different markets. While this may represent one of the classic models of a scalable program for supporting sustainable affordable housing in low- and moderate-income and minority communities, one needs to recall that it began as a local program, in Pittsburgh.

It has generally been the local programs (from counseling for home mortgage applicants, to legal assistance for borrowers threatened with foreclosure, to the management and sale of foreclosed properties) that have formed the base of successful scalable programs. What has grown into NeighborWorks America is a reflection of the potential for many successful sustainable programs that provide lending and support services all across the country in different communities. The

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[3] See, for example, Ellen Schloemer, Wei Li, Keith Ernst, and Kathleen Keest, *Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners*, Center for Responsible Lending, December 2006; Center for Responsible Lending, *Subprime Lending is a Net Drain on Homeownership*, CRL Issue Paper No 14, March 27, 2007; and, Dan Immergluck and Geoff Smith, *There Goes the Neighborhood: The Effect of Single-Family Mortgage Foreclosures on Property Values*, The Woodstock Institute, June 2005.

Community Development Finance Institution industry (CDFIs) has its roots in South Shore Bank, purchased through a consortium of local activists in Chicago seeking to use the structure of a bank for community development. For the GSEs, one needs to note that the various forms of the current GSEs' low down payment, first-time buyer, and affordable housing programs are actually evolutions from the original Community Homebuyers Program that came from a partnership between National People's Action (NPA), GE Mortgage Insurance Company, and Fannie Mae.

In sum, sustainable and affordable reinvestment and loan programs were not created by the GSEs or by other government agencies. They were developed at the grass roots by community-based stakeholders, lending and other mortgage industry partners, affordable housing developers, and, at times, civil rights and legal assistance attorneys. Therefore, the program development and evaluation requirements of the Equity Plans not only need to "*include*" these groups but they also need to prioritize their roles. These groups need to play a major role in the development of the plans, the programs, the evaluation metrics, and the analysis and evaluation of the outcomes.

Therefore, it is important that the process for input from community stakeholders be more than a casual one. The "public comment" process is simply not adequate to create the interactions and consultations necessary to search out and assess the prospects for adopting and expanding the full range of lending related programs that will be required to ensure that the activities in the Equity Plans and their evaluation metrics serve to make more than modest increases in existing patterns.

The Need for Fair Lending Actions to Be Subject to Evaluation by Outside Agents with Experience Enforcing Fair Housing, Fair Lending, and Civil Rights Laws

Given the history of the GSEs beginning with the creation of Fannie Mae in the Jim Crow era and their role in the Federal Housing Administration (FHA) scandals and the subprime abuses, it seems that there has been a limited recognition of either their discriminatory behavior or the types of activities that would affirmatively advance fair lending.[4] Therefore, it is important that issues of fair lending be raised and evaluated by outside agents with the most experience in fair housing and fair lending in addition to providing a senior management role to the offices of fair housing and equitable housing in each GSE.

Well over a decade ago, Fannie Mae held a multi-day fair lending conference at Airlie House in Virginia. Representatives were invited from the civil rights, fair housing, government enforcement and lending industry sectors. Over several days, Fannie Mae assembled panels that raised fair housing issues related both to the overall mortgage market and to the activities of Fannie Mae itself. Travel support and accommodations were provided to make sure that budget limitations did not restrict the range of participants.

This began a series of annual fair housing conferences which continued for some time to bring together organizations, agencies, and individuals with fair housing concerns about Fannie Mae's activities and programs. Meanwhile, Freddie Mac made no comparable effort. Over time, however, the level of support and scope of the Fannie Mae conferences diminished. What began as an open-ended forum for raising fair housing issues eventually evolved into a conference where criticism of Fannie Mae was avoided. In the end, it became a marketing platform for many subprime lenders. It was abandoned with the coming of the Great Recession.

[4] Only after the FHA scandals and after the anti-redlining movement created pressure for reform did Fannie Mae recognize the impacts of redlining. See, Federal National Mortgage Association, *Redlining: A Special Report by FNMA*, 1976,

The Need for the Equity Plans to Be Accompanied by Public Disclosure of Data Adequate for the Public to Participate Effectively in the Assessment of the Plans and the Resulting Performance

The RFI for the Equity Plans proposes the development of "metrics" to assess the performance of the Enterprises and to help define market issues. It is critically important that the data related to these metrics be made available to the public with support that seeks to democratize the data to make it as easy to use as possible for the widest range of concerned stakeholders. Currently, the information that the GSEs provide in the annual affordable housing reports to Congress is cursory. While some data tables provide data by state, the data are generally provided simply on a national level.

There can be no meaningful input from community stakeholders if they are not provided with reasonable data that defines critical aspects of the purchasing practices of the GSEs and the sellers of those loans as well as the status of these loans over time. Given the influence that the GSEs have on the mortgage markets, the public data should be easy to locate, easy to download, and include documents that clearly and fully define the data fields and codes.

Section II – The Racial History of the GSEs

The Creation and Role of Fannie Mae Beginning in the Jim Crow Era

Current historians have been active in tracing mortgage redlining to the neighborhood risk maps created by the Home Owners' Loan Corporation during the Depression and subsequently adopted by the Federal Housing Administration for making FHA loans. These maps graded neighborhood risk categories and colored in red neighborhoods claimed to pose a high risk to lenders. In response to this history, one of the main goals of the Equity Plans in the RFI is "reducing underinvestment or undervaluation in formerly redlined areas".

The maps were developed by Social Darwinists who created the School of Human Ecology at the University of Chicago in the 1920s. They imposed racist interpretations onto models of neighborhood life cycles and real estate values. These models defined racial change as the critical force that caused decline in older neighborhoods. Robert Park, the leader of the school wrote:

> *In the great city of the poor, the vicious and the delinquent, crushed together in an unhealthful and contagious intimacy, breed in and in, soul and body, so that it has often occurred to me that those long generations of the Jukes and the Tribes of Ishmael would not show such a persistent and distressing uniformity of vice, crime, and poverty unless they were peculiarly fit for the environment in which they are condemned to exist.*[5]

Two of his colleagues, Homer Hoyt and Frederick Babcock, transformed these racist models into principles of real estate valuation. In his 1932 book *The Valuation of Real Estate*, Babcock wrote:

> *The (filtering) process can be described as inevitable in all residential districts. Given time, all such areas become decadent districts or slums occupied by the poorest, most incompetent, and least desirable groups in the city. Ragged urchins play on marquetry floors.*

Two pages later he adds, *"…there is one difference in people, namely race, which can result in very rapid decline."*[6]

[5] Robert E. Park, Ernest W. Burgess and Roderick McKenzie, *The City*, University of Chicago Press, 1925, at page 45.

[6] Frederick Babcock, *The Valuation of Real Estate*, McGraw Book Company, 1932, at pages 89 and 91.

In his 1933 book *One Hundred Years of Land Values in Chicago*, Homer Hoyt published a list of the racial groups that were ranked from the best to the worst in terms of neighborhood values. That list is:

1. English, Germans, Scotch, Irish, Scandinavians
2. Northern Italians
3. Bohemians or Czechs
4. Poles
5. Lithuanians
6. Greeks
7. Russians, Jews (lower class)
8. South Italians
9. Negroes
10. Mexicans[7]

In 1932, the National Association of Real Estate Boards created the first professional appraisal organization, the American Institute of Real Estate Appraisers (AIREA). The AIREA's first book on appraisal was published in 1935. It instructed appraisers to take account the racial composition of the neighborhood and assess the "infiltration of inharmonious racial groups". This reflected the language of the Human Ecology School and the consideration of race from another book by Frederick Babcock in 1924, *The Appraisal of Real Estate*.[8]

These models were incorporated into the practices of the fledgling Federal Housing Administration which hired Homer Hoyt sand Fredrick Babcock to develop and administer their appraisal and underwriting guides. In 1938, to support the FHA mortgage insurance program and provide stability for the mortgage markets, Congress created the Federal National Mortgage Association (Fannie Mae). Its role was to purchase FHA-insured mortgages so that lenders could expand the mortgage market by selling these loans and originating additional mortgages.

In this form, Fannie Mae fueled the growth of home lending and homeownership through FHA's new forms of mortgages that were more affordable and that protected the lenders from foreclosure risks. But because of the racial redlining in the FHA programs and the parallel discrimination built into the conventional market by the appraisal and real estate sales industry, Fannie Mae fueled a white mortgage market while simultaneously cutting minorities and minority communities off from the kinds of mortgage lending that was both affordable and that provided for building equity through homeownership. Up until the time of the civil rights movement in the 1960s, minority and racially changing communities were cut off from mainstream sources of mortgage lending and were left to what one historian defined as "the underworld of real estate finance".[9]

Cities Destroyed for Cash and the Role of Fannie Mae

With increasing pressure of the civil rights movement and in response to the urban riots in the 1960s, the FHA began expanding its lending into minority markets. By the time of the passage of the Fair Housing Act in 1968, FHA had reversed its redlining practices. With additional new programs from Congress, it began infusing minority markets and racially changing areas with FHA

[7] Homer Hoyt, *One Hundred Years of Land Values in Chicago*, University of Chicago Press, at page 316.

[8] See Warren Dennis and Charles Field, *Discrimination in the Finance of Dwellings: A Report to the United States Department of Housing and Urban Development Regarding Proposed Fair Lending Regulations*, Troy, Maling & Pottinger, P.C., Washington, D.C., Technical Support Paper #3, at page 9.

[9] Frederick Case, *Inner City Housing and Private Enterprise*, Praeger, 1972.

lending.[10] Meanwhile, the conventional market was still ruled by existing racial appraisal and underwriting policies. This created a dual housing finance market defined by race.

Unlike conventional loans which were made primarily by savings and loans and commercial banks, FHA lending was dominated by mortgage bankers who borrowed their funds on commercial lines of credit. Profits were based on margins between the cost of borrowing their funds, the origination fees, and the income from servicing the loans after they were sold to Fannie Mae and/or Freddie Mac in the secondary market. The financial incentives were to make as many loans as possible, sell them in the secondary market, and secure the fees for servicing the loans. The servicing income depended upon not spending time on working on delinquent loans. This created an incentive for the lenders to foreclose as quickly as possible. Because the loans were completely insured against loss, the mortgage companies could actually increase their profits by foreclosing as soon as possible on delinquent loans.[11]

With careful monitoring of FHA lending, this could have ushered in a new era of fair lending and the expansion of minority homeownership and the building of equity in their homes. But the U.S. Department of Housing and Urban Development ("HUD") did not provide any real oversight of FHA lending. As a result, what could have been a substantive reversal in the racial mortgage markets actually provided the incentives for expanded racial exploitation. These loan programs produced massive levels of fraud from real estate agents, mortgage companies and HUD underwriters and housing inspectors.

Brian Boyer's book *Cities Destroyed for Cash* in 1973 provides the most comprehensive study of the FHA scandals. Boyer reported that by May of 1973, the government had indicted 250 people with another 300 cases waiting to be filed.[12] When Boyer collected the FHA foreclosures into a single mythical city (Romney City), he concluded that it had 350,000 houses (about half of them already boarded up) and a population of 1,400,000 - equal to the sixth largest city in the United States at the time, which he termed "a $70 billion slum".[13]

Boyer's conclusions represent a telling analysis of the FHA scandals:

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[10] See for example: The National Commission on Neighborhoods, *People Building Neighborhoods: The Final Report to the President and the Congress of the United States*, chapter on "Neighborhood Reinvestment", U.S. Government Printing Office, March 19, 1979, pages 67-127; Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*, University of North Carolina Press, 2019; Judith Feins, "Urban Housing Disinvestment and Neighborhood Decline: A Study of Public Policy Outcomes", Ph.D. dissertation, Department of Political Science, University of Chicago, 1976; and, Brian Boyer, *Cities Destroyed for Cash: The FHA Scandal at HUD*, Follet Publishing Company, 1973. For examples of changes in HUD's underwriting see, for example: Letter from the Commissioner of FHA, U.S. Department of Housing and Urban Development to All Approved Mortgagees, November 8, 1965; Letter from the Commissioner of FHA, U.S. Department of Housing and Urban Development to All Approved Mortgagees, July 31, 1967; and, Letter from the Commissioner of FHA, U.S. Department of Housing and Urban Development to All Approved Mortgagees, August 2, 1968.

[11] See, Urban-Suburban Investment Study Group, *The Role of Mortgage Lending Practices in Older Urban Neighborhoods: Institutional Lenders, Regulatory Agencies and Their Community Impacts*, Paper #5, "The Role of the Mortgage Banker in the FHA-Insured Single-Family Home Loan Process", at pages 121-162. The fast foreclosure activities of mortgage companies using FHA loans during this period were documented in the following investigation by HUD but the results were never published: George Lefcoe with Gene Toten and John Moran, "Causes of Defaults in FHA Single-Family Mortgage Programs", U.S. Department of Housing and Urban Development, June 26, 1973.

[12] Boyer, *Cities Destroyed for Cash, supra* note 10, at page 17.

[13] Ibid, at page 37.

> *The national solution to the black riots of 1966, 1967 and 1968 was the FHA low-income housing programs, but what they have done is destroy the homes and neighborhoods of the poor, giving millions of people a glimpse of hope yet quickly snatching it away.*[14]

The disaster known as the FHA scandal was not caused by ignorance or a lack of sophistication. Instead, it was a deliberate program of urban ruin for profit, under the cover of government housing law and with an endless flow of federal money.[15]

Reviewing the impact of the FHA scandals, the report of the National Commission on Neighborhoods stated that:

> *The FHA scandals reached crisis proportions in the early 1970s. The insurance funds for some of the high risk and subsidized loan programs were not sufficient to meet all the claims and the government had to spend Treasury funds of about $2 billion to make up for the losses. ... Up until 1965, FHA repaired the properties it acquired through foreclosures. However, they were so swamped with foreclosures that this practice was dropped. At one time, HUD had over 100,000 properties in its possession.*[16]

Without the secondary market, this massive racial exploitation could not have happened. Fannie Mae not only funded the FHA secondary market, but it purchased all FHA loans without any review or oversight. During this period, Fannie Mae did not have a single underwriter or a single person on staff whose job it was to consider the quality of these loans.[17] Just as Fannie Mae had been a driving force behind expanding the white homeownership market after 1938, it was a driving force behind the scandals that devastated minority and racially changing communities in the late 1960s and the 1970s. In this case, however, there should have been an awareness and response to its role.

Continuing Racial Issues in the Conventional Markets

It was the FHA scandals that precipitated the community organizing that led to the anti-redlining movement in the 1970s. While it was the abuse of FHA lending that was devastating minority and racially changing communities, the focus of anti-redlining activities was to bring safe and fair lending into these markets by ending the redlining by conventional lenders that supplied the bulk of home lending in the United States. Therefore, when the Home Mortgage Disclosure Act of 1975 (HMDA) was passed, it required disclosure of loans by depository lenders (banks and savings institutions). The Community Reinvestment Act of 1977 (CRA) imposed an affirmative obligation on banks and savings institutions to serve their entire communities. This began the era of efforts to secure sustainable and affordable loans from the conventional market while efforts to eliminate the abuses in FHA lending continued.

In 1970, Fannie Mae was given the right to purchase conventional mortgages. Also in 1970, the government created the Federal Home Loan Mortgage Corporation (Freddie Mac) to provide competition to Fannie Mae and to expand conventional lending by banks and savings institutions.

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[14] Ibid, at page 20.
[15] Ibid, at page 4.
[16] National Commission on Neighborhoods, supra note 10, at page 76.
[17] See: Urban-Suburban Investment Study Group, supra note 10, Katie Kenny, Paper #8 "The Secondary Mortgage Market: FNMA and GNMA and FHA-Insured Single-Family Loans", at page 230; and The National Commission on Neighborhoods, supra note 10, at page 101.

At this time, however, the GSEs generally adopted the underwriting standards of the conventional market lenders. Two issues were of particular importance in eliminating mortgage discrimination.

First, the appraisal standards and appraisal forms used by the GSEs incorporated the consideration of race that was still used by the professional appraisal industry and that was central in their training and certifications programs. In 1976, the Department of Justice sued the professional appraisal institutions for racial discrimination.[18] The AIREA (the largest of these organizations) joined in a settlement that removed major sections of their texts and instituted new training programs. Still, the consideration of race remained in the appraisal process for the GSEs until the Senate Committee on Banking, Housing, and Urban Affairs held hearings in December of 1978 on appraisal discrimination. At that time, Freddie Mac agreed to remove racial references and make other changes to its appraisal process. Fannie Mae, however, only agreed to eliminate actual data on the racial composition of the areas.[19]

There were other aspects of the appraisal process that had a disparate impact on minority housing markets. Commenting on one of these factors, the National Commission on Neighborhoods reported:

> *Perhaps the most serious remaining problem is the use of the concept that the term of the loan should not exceed its [the property's] estimated "remaining economic life." "Economic life" is an appraisal term for the period of time the property supposedly will produce income from rent or by sale. Reliably estimating remaining economic life is virtually impossible, and subjectivity of the estimate therefore allows discriminatory assumptions about the neighborhood life cycle or racial change to be used.*[20]

At the Senate hearings, Freddie Mac agreed that it would only consider economic life if it was estimated to be less than five years. Meanwhile, Fannie Mae refused to change its practice.[21] Nonetheless, appraisal issues remain.
Fannie Mae's practice of using the lowest appraised value when more than one appraisal has been made for a loan makes it difficult for buyers and local lenders to overcome appraisal discrimination that results in artificially low appraisals. These appraisals become the comparables for future loans, supporting a cycle of low values if not actually a cycle of decline. This exacerbates the very problem of the "appraisal gap" identified in the recent study by Freddie Mac.[22]

In many instances, biases are built into the appraisal process not simply by the selection of the comparables to be used, but by the fact that appraisers may use as comparables the sales where they themselves set the appraised values. This was common during the era of the FHA scandals and in

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[18] For a detailed description of the use of race in the professional appraisal standards at this time, see, "Plaintiff's Response to the First Set of Interrogatories of the Defendant American Institute of Real Estate Appraisers", filed by the U.S. Department of Justice in the case of *U.S. verses American Institute of Real Estate Appraisers of the National Association of Realtors, the Society of Real Estate Appraisers, the United States League of Savings Associations, and the Mortgage Bankers Association of America*, (C.A. No. 76 C 1448: Northern District of Illinois, 1976).

[19] See, for example: U.S. Congress, Senate Committee on Banking, Housing and Urban Affairs, "FNMA-FHLMC Underwriting", 95th Congress, 2nd Session, hearing held on December 19, 1978; and National Commission on Neighborhoods, supra note 10, at page 104.

[20] Ibid., National Commission on Neighborhoods.

[21] Ibid., National Commission on Neighborhoods.

[22] "Racial and Ethnic Valuation Gaps in Home Purchase Appraisals", Economic & Housing Research Note, Freddie Mac, September 2021.

more recent claims of fraud as well.[23] The use of second appraisals has been a feature of some CRA loan programs that challenged discrimination by creating "second look" requirements for rejected loans. Second look protections built into lending programs include not only the review of appraisals, but the review of income and credit issues as well.

The second major concern of the anti-redlining movement was that the GSEs used very conservative underwriting standards for conventional loans, most importantly the requirement that borrowers make a down payment of at least 20% of the property value. This posed a serious problem for serving low- and moderate-income markets. While the FHA provided low down payment programs, the GSEs did not provide these options for conventional loans.

When Fannie Mae created the Community Homebuyers program that did provide for low down payments, it was developed by National People's Action (NPA) and General Electric Mortgage Insurance Company and eventually accepted by Fannie Mae. This was the first major enterprise-wide program of its kind for the GSEs. Other versions and variations have been developed by both Fannie Mae and Freddie Mac over the years and have been critical in expanding the conventional market for affordable and sustainable loans.

A related set of issues is the initial reluctance of Fannie Mae to purchase seasoned loans from special CRA programs. Not having an active secondary market for these CRA loans meant that the banks had to portfolio the loans. This limited their ability to continue to make more of these loans. After protracted negotiations, Fannie Mae did begin to purchase these loans. This expanded into a regular facet of the GSEs' purchases.

Therefore, progress was made during this period, but it often resulted from pressure from Congress or community stakeholders.

The GSEs and the Great Recession

There is no need to recount the scale of damage that resulted from the collapse of the mortgage markets and the Great Recession. Placing of the GSEs in receivership under the Federal Housing Finance Agency (FHFA) is evidence enough of the failure of the GSEs to provide affordable and sustainable mortgages as they invested heavily in the subprime market. The fact that these mortgages contained fraudulent underwriting is clear in the lawsuits filed by FHFA against 18 lenders in 2011 to recover damages for selling Fannie and Freddie securities that "had different and more risky characteristics than the descriptions contained in the marketing and sales materials".

While these lenders may be technically liable for making false claims, the evidence is that the risks and abuses in the subprime market were well known years before the GSEs became major players in the subprime market. That is, the GSEs knew or should have known of the risks and high possibility of fraud and misrepresentation before they purchased such loans and before they counted any such loans as part of their affordable housing goals. Moreover, it was also well known that the

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[23] See, for example, Boyer, *Cities Destroyed for Cash*, supra note 10. For litigation that related to appraisers using their own comparables for future valuations see for example: Calvin Bradford, "Report on the Role of the Veterans Administration in Causing Rapid and Massive Racial Resegregation" submitted to the court by the plaintiffs in the case of *Jorman, et al. versus Veterans Administration, et al*. (C.A. No. 77 C 581: Northern District of Illinois), May 18, 1984, or appraisal issues in the case of *Joyce Saucier, et al. versus Countrywide Home Loans, et al.* (Civil Action No. 05-0001475) and *Lavana F. Fitzhugh, et al. versus Countrywide Financial Corp., et al.* (Civil Action No. 04-6830) in the Superior Court of the District of Columbia.

toxic subprime loans were disproportionately concentrated in minority communities. There were many studies by stakeholder groups warning of the impacts of these loans.

For example, the research arm of National People's Action (NPA) produced a study in 1999 of subprime lending and foreclosures in the City of Chicago, one of the largest minority home buying markets in the country. In tracing subprime lending and foreclosures beginning with loans made in 1991, the study concluded that, "The increase in foreclosures corresponds to the increase in originations by subprime lenders, not home-loan originations. Loans by subprime lenders increased from 3,137 in 1991 to 50,953 in 1997, a 1,524% increase." A detailed inspection in one Chicago community of color showed that the foreclosures commonly led to abandoned properties.[24] Other studies have also described the larger detrimental impact of these foreclosures in the communities where they are located.[25]

Even if the GSEs did not pay attention to such stakeholder studies and research by consumer and reinvestment groups, a joint Predatory Lending Task Force from HUD and the U.S. Department of Treasury in 2000 warned of the fraud and abuses in this market. The report stated:

> *The explosive growth of subprime mortgage lending has thus created a corresponding increased potential for abuse of consumers. The existence of these practices is especially troubling to the extent that, as findings from a recent HUD report indicate, subprime lending is most heavily concentrated in lower-income and predominantly minority neighborhoods. Predatory lending has contributed to the rapid growth in foreclosures in many inner-city communities, and foreclosures can destabilize families and entire neighborhoods.*[26]

The report described the characteristics of toxic and fraudulent predatory subprime loans. The report made extensive recommendations to combat predatory lending. One recommended that:

> *Congress enact legislation to clarify, as necessary, the authority of HUD and the Federal Housing Finance Board as the mission regulators of the Government Sponsored Enterprises (Fannie Mae, Freddie Mac and the Federal Home Loan Banks) to prohibit the purchase by each of these entities of predatory loans. Regulations in this area should address the restrictions already voluntarily undertaken by Fannie Mae and Freddie Mac.*[27]

The Task Force also published a report on the "unequal burden" of subprime lending and foreclosures in minority communities.[28] This study was supported by special studies and forums on the subprime patterns in Atlanta, Baltimore, Chicago, Los Angeles, and New York. These special studies were based on the type of methodology used in NPA's 1999 Chicago study.

Given the clear warnings about the risks and minority impacts of subprime lending, the use of these loans to serve the GSEs' affordable housing goals was an act that betrayed their Congressional mandates. These subprime loans not only contributed to the losses for individual borrowers, but

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[24] National Training and Information Center, *Preying on Neighborhoods: Subprime Mortgage Lending and Chicagoland Foreclosures*, Chicago, September 21, 1999.

[25] See, for example: *Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners*, supra note 10; *Subprime Lending is a Net Drain on Homeownership*, supra note 10; and, *There Goes the Neighborhood: The Effect of Single-Family Mortgage Foreclosures on Property Values*, supra note 10.

[26] HUD-Treasury National Predatory Lending Task Force, Curbing Predatory Lending, 2000, at page 1.

[27] Ibid, at page 11.

[28] *Unequal Burden: Income and Racial Disparities in Subprime Lending in America*, U.S. Department of Housing and Urban Development, April 2000.

the impacts created a loss of value for others in the neighborhoods where they were located and undermined the economic health of entire communities and cities.

Historical Summary

Surely, the programs of the GSEs have expanded homeownership to many low- and moderate-income and minority borrowers and communities. Nonetheless, much of the history of the GSEs has been supportive of the dual racial housing markets, and on a massive scale. Fannie Mae was complicit in the creation of redlining through the very structure of its creation. Fannie Mae was an accessory to the FHA scandals by blindly purchasing any loan with FHA insurance. Fannie Mae and Freddie Mac fueled the destruction of minority communities through their investments in toxic subprime lending, devastating formerly redlined minority communities rather than building equity in homeownership.

The role of FNMA in fueling the FHA scandals as well as the role of both GSEs in infusing minority communities with toxic subprime loans has contributed to massive racial exploitation and undermined billions of dollars in efforts to reinvest in formally redlined communities. Millions of minorities lost their homes or lost equity in their homes due to foreclosures in their neighborhoods. Brian Boyer's conclusions about the FHA scandals applies as well to the roles Fannie Mae and Freddie Mac played in the unequal burden of predatory lending in minority communities:

> *They created class bitterness and hatred where none needed to exist. Where, at least, no new bitterness and hatred were called for. … [They] worked the economic levers that kept this society physically segregated. Some of it was the product of ignorance, but none of it was accidental.*
>
> *Nor have urban blight and abandonment been the result of processes no man understood or could prevent, as the official line pretends. Instead, the destruction of our cities has come about solely for profit…*[29]

Therefore, the GSEs have an especially important obligation to use their resources to build equity and support affordable sustainable mortgages in minority and low- and moderate-income communities. This places a clear burden on the Equity Plans to overcome the failures of the past and set and achieve goals that are more than marginal or simply reflect the existing market patterns.

Section III - A Sample of How Key Issues Can Be Addressed in Serving the Goals and Objectives of the RFI

This section returns to the key issues described at the beginning of this letter and provides examples of how these issues can be reflected in the Equity Plans. As we noted at the beginning of these comments, the range of objectives for the Equity Plans is impressive and expansive. The purpose of this section is not so much to make specific recommendations for programs and policies but to provide examples of how the development and implementation of the Equity Plans can be structured to avoid the failings of the past.

The Primacy of Listening to the Affected Communities

Because the most creative and sustainable programs as well as the critical identification of barriers to fair and affordable lending have traditionally come from community stakeholders and local institutions, the Equity Plans need to be developed in response to the needs identified by these groups. Failing to listen to and respond to these groups has been one of the reasons that the GSEs have made only marginal gains in supporting truly affordable and sustainable mortgage lending.

[29] Boyer, *Cities Destroyed for Cash*, supra note 10, at page 20.

While the listening session and comment letters that are part of FHFA's RFI will solicit a broad range of concerns and recommendations, the timeframe for developing the initial plans that will be in effect for three years does not allow for the kinds of work by the individual Enterprises that is necessary to assess the value of these recommendations, engage with the groups, and develop the most effective ways of incorporating the most promising elements or the most important criticisms into the initial plans. Therefore, the plans need to contain a set of activities to ensure that stakeholder groups, especially those representing and/or serving minority and low- and moderate-income communities and borrowers have a substantive role (rather than simply a commenting role) in establishing the metrics to assess the plans and to determine the changes needed in the future.

As a beginning step, and to the extent now possible, the GSEs need to engage in their own listening sessions and request comments on the kinds of activities and programs that need to be included in their plans as well as comments on the policies and practices, underwriting, purchasing and servicing standards that need to be revised or eliminated as barriers to fair and affordable lending. This needs to be followed by a process that provides a formal means for the GSEs to work with the groups that have identified the most valuable and critical recommendations.

One aspect of this process in the future might be that the Enterprises be required to hold annual meetings with a broad range of local stakeholders. They might be required to establish advisory boards of community stakeholders and local development, lending, and reinvestment groups. Such advisory groups, however, need to be structured as ongoing working relationships and not short meetings on an occasional basis. To take advantage of the expertise of the stakeholders who participate in these groups, those with limited resources need to be compensated for the value of their expertise and not simply for travel expenses to meetings.

In addition, the GSEs should be required to engage in formal research to identify and review lending patterns of local institutions and programs with an outstanding record of continuing service to minority and low- and moderate-income communities and borrowers and analyze the way these institutions assess local needs, develop loan products and programs, and market their services. This applies not only to activities that invest in "previously redlined" and "racially concentrated areas of poverty", but also activities related to expanding opportunities "in areas with access to educational, transportation, economic, and other important opportunities" (which appears to be the category that relates to predominantly white and higher-income areas). Finally, this research and the resulting analyses need to be made available to the public.

The Need to Distinguish Between Scale versus Sustainability; The Misuse of the Term Affordable versus Sustainable; and *The Need to Understand the Difference between Fair Lending and Minority Lending.*

These three issues need to be considered collectively. The first issue is basically a warning not to set goals or use metrics that measure the volume of production separately from the context that measures sustainability. That is, the metrics must measure whether the lending is actually affordable in an ongoing context, and whether the lending is free from discriminatory, abusive, or fraudulent aspects and terms.

If the past activities of the GSEs had been assessed in the context of sustainable lending, the promise of building equity and value in homeownership for minorities might have been an achievable response to the Fair Housing Act rather than the GSEs supporting lending that offered "a glimpse of hope yet quickly snatched it away". Had the scale of the activities by Fannie Mae during the late 1960s and 1970s or both GSEs in the 1990s and early 2000s been measured in the

context of sustainability, whole communities and cities might have been saved. Therefore, the programs, policies, and mortgage purchases of the GSEs need to be evaluated using metrics that assess the actual affordability of the loans in terms of providing lending that is within the means of the borrowers, free from fraud and misrepresentation, and provided to all markets and borrowers through fair and nondiscriminatory marketing.

This means not simply setting goals and reporting the volume achieved. Simply setting goals based on who received loans has led to much of the past history of exploitation and foreclosure. It means screening and constantly reviewing the loan purchases for terms that are misleading, fraudulent, or that are not within the means of the borrowers. Measuring and supporting what is truly affordable and sustainable also means seeking out underwriting standards and programs that can expand the markets to those who have been denied credit through the existing channels both in minority areas and in white and higher-income areas.

The Need to Identify Fair, Affordable, and Sustainable Lending Practices and Programs that Are Scalable

The reporting of the GSEs' work with special programs is laudable and important. Lending needs and the programs that serve those needs vary from one region, one city, and even one community to another in the same metropolitan areas or cities. Expanding the mortgage markets by responding to local needs can have major impacts on individual communities. While the RFI for the Equity Plans supports reporting by the GSEs of activities related to valuable local and special programs, there is also the need to assess and support the increased scale of successful and sustainable programs. In this regard, the Equity Plans need to incorporate research on local successful programs with an eye on the ability to expand them into larger markets. This does not mean that all local programs contain features that are conducive to expansion in different markets.

As noted previously, Neighborhood Housing Services grew from a single initiative in Pittsburgh to a national program (NeighborWorks) because it contained features that allowed local needs and local organizations and lenders to meet the needs of underserved markets in different cities in ways that provided flexibility to a generic structure.

The mortgage programs of Self-Help Credit Union grew from a small rural housing initiative. It now has a portfolio of affordable and sustainable home loans that is close to $1 billion. Moreover, it has developed relationships with local and national lenders in many locations across the country to provide a secondary market for affordable and sustainable loans in underserved communities. Its own secondary market portfolio in 2020 was over $450 million.[30] While the lending of the GSEs helped precipitate the Great Recession, Self-Help continued to make and invest in sustainable loans in low- and moderate-income and minority communities.

The GSEs need to engage in research to understand how successful programs work and how to support these programs in their purchasing and servicing activities. The GSEs need to engage with those who are operating successful programs and assess whether the structure and activities of these programs can be increased at scale through the support of the GSEs. This links us back to the first priority, that of engaging with the local institutions and programs that represent and/or serve the minority and low- and moderate-income markets.

The Need for Fair Lending Actions to Be Subject to Evaluation by Outside Agents with Experience Enforcing Fair Housing, Fair Lending, and Civil Rights Laws

[30] Self-Help Credit Union 2020 Annual report at https://www.self-help.org/ar/2020/.

The recent Memorandum of Understanding between HUD and FHFA provides a formal effort to cooperate in fair housing enforcement.[31] While this adds to the resources of the FHFA to enforce fair housing violations and correct discriminatory policies and practices, one needs to recognize that there is a broad range of organizations and agencies that engage in fair housing education, training, and enforcement. Historically, these organizations and agencies have been at the forefront of identifying fair housing issues and violations. Therefore, in addition to the GSEs' own fair housing programs and the cooperative agreement between HUD and FHFA, the Equity Plans need to draw on a larger range of fair housing expertise and enforcement experience into the process of defining goals, identifying discrimination issues, and developing interventions.

In its original form, the "Airlie House Conference" was a bold and critical move to engage Fannie Mae with those organizations, agencies, and individuals with decades of fair housing experience. This is the kind of serious ongoing fair housing activity that should be required either of the Enterprises individually or collectively. This should involve representatives of civil rights and fair housing organizations, representatives of government oversight and enforcement agencies, lenders, and community-based organizations providing a broad spectrum of perspectives from those most actively involved in advancing fair lending.

Finally, while the purpose of this section is largely to recommend the kinds of structure and processes that should guide the development and implementation of the Equity Plans, there are two places where it seems important to make specific recommendations. These relate to multifamily housing and physical access for individuals with disabilities and households receiving supplemental income from Housing Vouchers, Social Security Disability Income, or other similar programs.

Using the multifamily guide for Freddie Mac as a reference, there are extensive requirements for the inspection of properties. Sellers are required to represent that the properties comply with all applicable laws. This would include the Fair Housing Act. Given the focus of the Equity Plans on fair lending, it would be prudent to verify these claims in relation to the seven design and construction requirements of the Act that make the property and the units in the property accessible to person with physical disabilities. In spite of the many inspection requirements for the properties, there is no provision to provide an inspection report related to the accessibility requirements of the Act. In as much as issues of discrimination against persons with disabilities are one of the major fair housing complaints, it would seem reasonable to require that sellers provide copies of an inspection for compliance with these provisions of the Act.

Second, HUD's Housing Choice Voucher program provides subsidies to allow eligible households to locate and rent market rate housing units anywhere in the United States. In theory this provides a means for lower-income, minority, and other protected class households to not only locate housing in the communities where they currently live, but in what the RFI defines as "areas with access to educational, transportation, economic, and other important opportunities." Indeed, HUD's research on the voucher program is called "Moving to Opportunity for Fair Housing".

The major obstacle to providing these opportunities is the need for the landlord or property manager to accept these vouchers. Given the scale of multifamily purchases by the GSEs and their distribution across both city and suburban markets, requiring the acceptance of vouchers – and other subsidies such as Social Security Disability payments - as a source of income should simply be made a requirement of selling multifamily properties to the GSEs. Moreover, the owner and management of these properties should be provided with training materials to indicate how the

[31] Memorandum of Understanding by and between the U.S. Department of Housing and Urban Development and the Federal Housing Finance Agency Regarding Fair Housing and Fair Lending Coordination, August 12, 2021.

income from the support programs should be used in determining the ability of the applicants to afford the units.

The Need for the Equity Plans to Be Accompanied by the Disclosure of Data Adequate for the Public to Participate Effectively in the Assessment of the Plans and the Resulting Performance

Developing a meaningful evaluation of the Equity goals means that the metrics and evaluation process itself need to be developed in concert with stakeholder groups so that the process is open to a broad range of perspectives and concerns. In order to evaluate the Equity Plans both the GSEs and the public need access to a robust set of public data.

The current forms of public data related to single-family and multifamily purchases are not adequate. While the GSEs file public reports on their purchases and on the status of the loans and servicing, only a limited set of data on purchased properties are made available to the public. The data that are made available can be difficult or impossible to use for those who are not professional researchers with advanced technical skills and software. For example:

For the single-family public data file:

- There are four sets of single-family public data files:
    - One file contains the single-family owner-occupied data (one set for each Enterprise) with 15 fields of data. The files are too large to load in any Excel program;
    - A second file contains all the single-family 1-4 unit property data including rental properties (one set for each Enterprise) with 18 fields of data. Both files are too large to load into any Excel programs;
    - A third file contains all the single-family properties (one set for each Enterprise) with 50 fields of data. These are the only files that include the census tract location of the properties as well as detailed data on the loan terms. These files are also too large to load into any Excel program; and,
    - A fourth set of single-family data includes all the high-cost properties (one set for each Enterprise) with 16 fields of data. These are the only files that can be loaded into an Excel program.
- There are no directions or any manual on the differences in the data sets or how to use them;
- Each of the files contain different data as well as overlapping data from the other data sets;
- There is no way provided to match all the different files;
- None of the files include name of the seller;
- The census tract data are based on the 2010 count; and,
- There are no data on the status of the loans from purchases in earlier years (such as current, delinquent, in default, in foreclosure, foreclosed, etc.).

For the multifamily public data files:

- There is one set of data on the types of units in the properties (one set for each Enterprise) that can be loaded into an Excel program;
- There is a second set of data on the individual properties (one set for each Enterprise) that can be loaded into an Excel program;
- These files are of vastly different sizes and need to be matched by record number. This presents a very complicated challenge to create a single file with the data for each property along with the types of units for that property;
- These files do not contain the name of the seller;

- These files report the number of units in ranges (buckets) so that you cannot tell the actual number of units;
- The files report the percentages of affordable units, but without knowing the actual number of units in the property, you cannot tell how many units are affordable in different categories;
- There is no manual or set of directions defining exactly what the property types and codes mean or how to match the unit type and property data into a single file; and,
- There is a third set of files (one set for each Enterprise) with data on the loan terms and with census tract data, but it does not contain the same data as the property and unit type files.

The public data sets for the GSEs are extremely limited. All but one of the single-family files are too large to load into an Excel program and be used by members of the public without advanced software and technical skills. There is no option to download data by any geographic level other than the entire nation. The files are hard to use as they contain some common and some overlapping data with no guidance of how to merge or match them.

In sum, while the public needs to have detailed data on the loan purchases and loan performance of the GSEs, the existing sets of public disclosure data are inadequate. Without more robust and usable sets of data, the public is limited in its ability to assess the performance of the activities in the Equity Plans.

While we applaud the Federal Housing Finance Agency for undertaking this initiative, the historical record of HUD, the FHFA and the GSEs, combined with the appalling lack of enforcement of existing Fair Lending laws by bank regulatory agencies, raises questions as to the seriousness of an agency requesting comment on their "Equitable Housing Finance Plans" and the return on investment for those who choose to comment.

From at least the end of Reconstruction, in 1877, to the 1970s, government agencies at all levels stacked the wealth- and property-acquisition deck in favor of some at the expense of others. Having used racial discrimination to segregate housing and allow a limited segment of society to acquire roughly 90 percent of the nation's wealth, government agencies changed course and decided that racial discrimination was wrong, not to mention illegal. The decision was made to "level the playing field;" to make everybody, regardless of race, creed, color, etc., play by the same rules.

While that may sound like progress, it does nothing to reduce the overwhelming head-start that government agencies gave some in acquiring wealth. Leveling the playing field is a far cry from wiping the slate clean. It does nothing to reduce the advantages given to those who benefitted from discrimination. It provides neither restitution nor compensatory damages to those harmed by the illegal discriminatory policies set and implemented by entities like Fannie Mae and Freddie Mac. Leveling the playing field accepts and perpetuates the inequality that racial discrimination created.

Any initiative called "Equitable Housing Finance Plans" must recognize that the problems these plans aim to address were created by race-specific policies. As such, the proposed solutions must be equally race-specific. We hope our comments will help.