NFHA NATIONAL FAIR HOUSING ALLIANCE

March 11, 2022

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

Re: Request for Input regarding the Draft Strategic Plan for Fiscal Years 2022-2026

Dear Acting Director Thompson,

We are writing in response to the Federal Housing Finance Agency's ("FHFA" or "Agency") Request for Input ("RFI") on the Draft Strategic Plan for Fiscal Years 2022-2026 ("Strategic Plan).[1] We applaud FHFA for seeking comment on the strategy for accomplishing the important work of the Agency and for accomplishing significant advancements in fair lending in a short period of time. We urge FHFA to build on this momentum by developing a strategic plan that provides for robust fair lending supervision, continued policy engagement, and comprehensive research.

Below we have reproduced the Strategic Plan and added our suggestions in red as well as our explanatory comments in gray boxes below each Objective. If you have any questions, please contact Nikitra Bailey, Senior Vice President of Public Policy (nbailey@nationalfairhousing.org), or Maureen Yap, Senior Counsel (myap@nationalfairhousing.org), at the National Fair Housing Alliance. Thank you for considering our views.

Sincerely,

Lisa Rice
President and CEO

[1] FHFA, *Draft Strategic Plan: Fiscal Years 2022-2026* (Feb. 2022), https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/FHFA_StrategicPlan_2022-2026.pdf.

Comments of the National Fair Housing Alliance

Strategic Goal 1: Secure the regulated entities' safety and soundness

Objective 1.1: Identify risks to the regulated entities and assess the safety and soundness of regulated entity operations

Means and Strategies to achieve the objective include:

1. Conduct risk-focused supervision and examination work, including ongoing monitoring, targeted examinations, onsite reviews, periodic special and horizontal reviews, and annual examinations;
2. Ensure regulated entity compliance with laws and regulations and adherence to financial standards;
3. Conduct diversity and inclusion supervision and examinations and assign ratings;
4. Develop and administer stress and other supervisory tests, as appropriate;
5. Monitor emerging risks, industry trends, supervisory standards, and macro-economic market conditions in order to inform risk assessments and adjust supervisory approaches, when appropriate;
6. Ensure the Enterprises establish and maintain standards for sellers, servicers, and counterparties that strengthen the overall functioning and resiliency of the mortgage markets;
7. Issue supervisory guidance, supervisory policies, and regulations to set standards and expectations for safe and sound operation of the regulated entities; and
8. Continue to enhance training and development of examination staff, including through continued implementation of the Housing Finance Examiner commissioning program.

NFHA Comment

Generally, Objective 1.1 appears appropriate for safety and soundness and diversity and inclusion supervision, but FHFA should ensure that fair lending supervision is held to the same standard. Moreover, fair lending compliance can significantly impact safety and soundness, and, therefore, should be included in the consideration of a regulated entity's safety and soundness risk profile. Below we provide more detail on how FHFA can achieve these goals.

Additionally, the safety and soundness of the regulated entities should be directly tied to the purpose of the Enterprises' which is expressly stated in their charters, including providing stability in the secondary market for residential mortgages, providing assistance to the secondary market to support housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities, and promoting access to mortgage credit to central cities, rural areas, and underserved areas.[2]

[2] *See* 12 U.S.C. § 4513 (a)(1)(B). See also Fannie Mae Charter, 12 U.S.C. § 1716; Freddie Mac Charter, 12 U.S.C. § 1451 note (Statement of Purpose). Although communities of color do not necessarily consist of low- and moderate-income families, there can be overlap between these communities.

Finally, Means and Strategies #8 raises questions about the FHFA examiner commissioning program and the extent to which examiners are receiving fair lending training. Below we provide more detail on this issue.

Objective 1.2: Require timely remediation of Matters Requiring Attention

Means and Strategies to achieve the objective include:

1. Produce finding memoranda that clearly identify Matters Requiring Attention ("MRAs") at the regulated entities;
2. Monitor remediation of MRAs for both timeliness and efficacy;
3. Track the status of MRAs to ensure proper and timely remediation at the regulated entities; and
4. Conduct ongoing monitoring to assess the regulated entities' progress in remediating MRAs.

NFHA Comment

Generally, Objective 1.2 appears appropriate for safety and soundness and diversity and inclusion supervision, but FHFA should ensure that fair lending supervision is held to the same standard. Below we provide more detail on how FHFA can achieve that goal.

Objective 1.3: Preserve and conserve Enterprise assets while managing the conservatorships

Means and Strategies to achieve the objective include:

1. Provide clear conservatorship expectations to Enterprise board and management, including expectations to significantly improve purchasing loans originated to borrowers of color and other underserved groups;
2. Develop a readiness framework for the Enterprises, including a robust fair lending framework;
3. Oversee the Enterprises' implementation of capital plans to achieve regulatory capital requirements;
4. Require the Enterprises to transfer a significant amount of credit risk to private investors through back-end credit risk transfer structures that are less likely to increase consumer pricing; and
5. Require the Enterprises to update their pricing frameworks to enhance safety and soundness ~~while providing enhanced support for core mission borrowers~~ and to eliminate the disparate impact of Loan Level Price Adjustments on borrowers of color and other groups protected by the federal Fair Housing Act and Equal Credit Opportunity Act.

NFHA Comment

FHFA should ensure that managing the conservatorships of Fannie Mae and Freddie Mac (collectively, the "Government Sponsored Enterprises" or "GSEs") is not limited to safety and soundness concerns as they have been historically interpreted. Management of the GSEs as well as ensuring they are safe and sound must also include robust fair lending and equity expectations. Failure to effectively monitor for discrimination risk and fair housing violations contributed to the 2008 collapse of the financial markets, the foreclosure crisis, and the Great Recession. The lack of effective fair housing and lending oversight can cause systemic risk. FHFA should ensure that the GSEs do not view the conservatorship as a reason to avoid their statutory duty to serve the whole of the housing market, including borrowers of color. Moreover, FHFA should not release the GSEs from conservatorship without further reforms that address their low level of purchases of loans made to Black and Latino borrowers. Borrowers of color will constitute the majority of future homebuyers and the safety and soundness of the system will be compromised if these families are unable to secure conventional mortgage loans.

More specifically, FHFA should include expectations for the GSEs to significantly improve their performance with respect to borrowers of color and other underserved groups. In 2020, only 4 percent of Fannie Mae and 3.4 percent of Freddie Mac home purchase loans were from Black borrowers, and only 2.6 percent and 2.5 percent of refinance loans were from Black borrowers.[3] Similarly, only 10.9 percent of Fannie Mae and 8.4 percent of Freddie Mac home purchase loans were from Latino borrowers, and only 8 percent and 7 percent of refinance loans were from Latino borrowers.[4] FHFA must ensure that one of the key conservatorship expectations includes marked improvement in the purchase of loans made to borrowers of color and in communities of color. FHFA must also ensure there is a marked improvement in the purchase of loans made to other underserved groups, like persons with disabilities.

In addition, FHFA should ensure that fair lending and equity issues are integral areas of analysis when updating the pricing frameworks found in Fannie Mae's Loan Level Price Adjustments ("LLPAs") and Freddie Mac's Delivery Fees (collectively, the "LLPAs"). NFHA has submitted several comment letters regarding this issue.[5] In the wake of the Great Recession, to bolster the GSEs' balance sheets, Fannie Mae and Freddie Mac began charging lenders these upfront fees based on certain attributes of the borrower or of the loans (e.g., LTV/credit score matrix). This pricing framework is inherently unfair as it places the burden of a future potential downturn and continued profits on Black, Latino, Asian American and Pacific Islander ("AAPI"), and Native American borrowers, even though they were the victims of the financial crisis, not the cause. Now that the GSEs have fully repaid the government for the 2008 bailout, the less discriminatory alternative is to eliminate LLPAs as they are a barrier that unnecessarily increases the cost of homeownership for underserved groups.

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[3] FHFA, *Annual Housing Report 2021 at 68, Appendix E* (October 2021), https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/Annual-Housing-Report-2021.pdf.
[4] *See id.*
[5] *See, e.g.* NFHA, et al., *Comment Letter to FHFA regarding the Policy Statement on Fair Lending*, (Sept. 7, 2021), https://nationalfairhousing.org/leading-civil-rights-consumer-advocacy-and-housing-policy-groups-urge-the-federal-housing-finance-agency-to-ensure-robust-fair-lending-oversight-for-fannie-mae-and-freddie-mac/.

Objective 1.4: Identify options for incorporating climate change in regulated entity governance

Means and Strategies to achieve the objective include:

1. Conduct research on the risk and effects of climate change on the housing finance system, including research specifically analyzing the risks and effects for borrowers and communities of color, and other underserved groups;
2. ~~Build on~~ Analyze experiences with natural disaster response, including the response for borrowers and communities of color, and other underserved groups, to ensure appropriate prioritization of climate change at FHFA and the regulated entities; and
3. Improve climate data collection, analysis and reporting, including disaggregated data for borrowers and communities of color, and other underserved groups.

NFHA Comment

As noted in a previous comment letter,[6] FHFA should ensure that any analysis of risks, effects, and mitigants for climate change also incorporates research specifically analyzing the impact of risks and solutions for borrowers and communities of color, and other underserved groups. FHFA should be sure to include disaggregated data to facilitate this analysis. Moreover, any proposed solutions to climate and natural disaster risk are likely to have significant repercussions for borrowers and communities of color as well as other underserved and vulnerable communities, such as individuals with disabilities, families, and borrowers with limited English proficiency. We strongly urge FHFA to regularly engage with these communities and seek solutions that treat all borrowers and communities equitably. FHFA must ensure that climate and natural disaster risk mitigation initiatives avoid discriminatory outcomes as well as promote equitable treatment of borrowers and communities of color, and other underserved groups.

Strategic Goal 2: Foster housing finance markets that promote equitable access to affordable and sustainable housing

Objective 2.1: Promote sustainable access to mortgage credit

Means and Strategies to achieve the objective include:

1. ~~Monitor~~ Support and provide guidance for the Enterprises' efforts to identify specific actions to increase and preserve sustainable mortgage purchase and refinance credit for all ~~qualified~~ creditworthy borrowers, with additional focus on low- and moderate-income families, communities of color, rural areas, and other underserved populations. These actions should include:

[6] *See*, NFHA, *Comment Letter to FHFA regarding Climate and Natural Disaster Risk Management at the Regulated Entities* (Apr. 19, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/09/NFHA-Comments_FHFA-RFI-re-Climate-Risk-Management4.19.21-Final.pdf.

- First Generation Homebuyer Programs;[7]
- Special Purpose Credit Programs;[8]
- Limited English Proficiency ("LEP") initiatives;
- Small dollar mortgage programs;
- Fair loan management models; and
- Fair credit scoring, underwriting, pricing, and other algorithmic systems;

2. Oversee the Enterprises' statutory mission obligations under the Affordable Housing Goals and Duty to Serve requirements;
3. Oversee the Enterprises' and FHLBanks' efforts to affirmatively further fair housing to ensure full compliance with the federal Fair Housing Act;
4. Ensure the FHLBanks continue to provide advances in a safe and sound manner in support of member liquidity and to comply with Affordable Housing Program (AHP) and Community Investment Program (CIP) statutory requirements;
5. Ensure the FHLBanks serve each state in their district under the AHP and CIP programs and the FHLBanks' Community Lending Plans identify and seek to fulfill the needs of communities throughout the district, including tribal communities;
6. Continue to ensure sustainable loss mitigation, including creating an interest rate refinance program to help the households hardest hit by the COVID-19 pandemic; and
7. Monitor the Enterprises' efforts to ensure a level playing field for small and large sellers.

NFHA Comment

FHFA should actively support and provide guidance for the GSEs' efforts to increase mortgage credit access for borrowers and communities of color and other underserved populations. Notably, one of FHFA's principal duties is to ensure that "the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families, and neighborhoods of color involving a reasonable economic return that may be less than the return earned on other activities)."[9]

Moreover, FHFA should be cognizant of the disparities in the housing market, particularly in the wake of the COVID-19 pandemic. In today's COVID-19 mortgage market, investors are pricing out first-time homebuyers, especially in Black neighborhoods. In 2021,1 in 7 homes sold in 40 major metropolitan areas were bought by investors, driving up purchase prices by outbidding would-be owner-occupants, making homeownership further out of reach for new households, and preventing families from generating wealth that could be invested in education, small

[7] *See, e.g.,* NFHA and Center for Responsible Lending, *First Generation: Criteria for a Targeted Down Payment Assistance Program* (May 2021) https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-nfha-first-generation-jun21.pdf.

[8] *See* NFHA, *Using Special Purpose Credit Programs to Expand Equality* (Nov. 2021) https://nationalfairhousing.org/using-special-purpose-credit-programs-to-expand-equality/.

[9] *See* 12 U.S.C. § 4513 (a)(1)(B). See also Fannie Mae Charter, 12 U.S.C. § 1716; Freddie Mac Charter, 12 U.S.C. § 1451 note (Statement of Purpose). Although communities of color do not necessarily consist of low- and moderate-income families, there can be overlap between these communities.

businesses, or passed on to the next generation.[10] Most of the homes were in Black neighborhoods ravaged by the previous foreclosure crisis in southern and post-industrial Midwest cities. Also, the Federal Reserve Board's $120 billion in monthly bond purchases, including $40 billion per month in agency mortgage-backed securities, has allowed current homeowners and investors to see their equity grow by more than $2.9 trillion since the second quarter of 2020.[11] However, Federal Reserve researchers found that these benefits did not benefit the whole housing market equally as only 6 percent of Black borrowers and 9 percent of Latino borrowers refinanced, as compared to 12 percent of White borrowers.[12]

Finally, FHFA has an important role to play here and should not limit itself to merely "monitoring" the GSEs efforts. For example, FHFA can ensure that each of these initiatives is an integral part of the GSEs' Equitable Housing Finance Plans. In previous comment letters, NFHA has provided detailed support for each of the initiatives listed here.[13]

Objective 2.2: Advance equity in housing finance, including through compliance with fair lending laws and regulations

Means and Strategies to achieve the objective include:

1. Promote fair and equitable treatment of mortgage borrowers and sustainable housing opportunities through robust risk-focused supervision; clear rules, policies, and guidance; and comprehensive research;
2. Oversee the Enterprises' implementation of Equitable Housing Finance plans; ~~and~~ ensure the Enterprises take meaningful actions to achieve the goals and objectives in the plans; share the plans, goals, actions, and outcomes with the public, including through disaggregated data for borrowers and communities of color, and other underserved groups; and engage stakeholders in commenting on and improving the plans and outcomes;
3. Conduct equity and fair lending risk assessments and risk-focused supervision and examination work, ~~as well as~~ including ongoing monitoring, targeted examinations, onsite reviews, periodic special and horizontal reviews, and annual examinations for fair lending compliance~~, on the regulated entities' policies, products, and initiatives~~;
4. Enhance data and fair lending modeling capabilities to independently monitor performance of the regulated entities and the markets in which they operate;

[10] Kevin Schaul and Jonathan O'Connell, *Investors Bought a Record Share of Homes in 2021, See Where*, The Washington Post (Feb. 16, 2022), https://www.washingtonpost.com/business/interactive/2022/housing-market-investors/?itid=hp-top-table-main.
[11] *See* CoreLogic, *Homeowners Gained $2.9 Trillion in Equity in Q2 2021*, CoreLogic Reports (Sept. 23, 2021) https://www.corelogic.com/press-releases/homeowners-gained-2-9-trillion-in-equity-in-q2-2021-corelogic-reports/.
[12] Kristopher Gerardi, Lauren Lambie-Hanson, and Paul Willen, *Racial Differences in Mortgage Refinancing, Distress, and Housing Wealth Accumulation during COVID-19*, Federal Reserve Banks of Atlanta, Philadelphia, and Boston (June 2021), https://www.bostonfed.org/publications/current-policy-perspectives/2021/racial-differences-in-mortgage-refinancing-distress-and-housing-wealth-accumulation-during-covid-19.aspx.
[13] *See, e.g.,* NFHA et al., *Comment Letter regarding the Enterprises' Equitable Housing Finance Plans* (Oct. 25, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/10/FHFA-Equitable-Housing-Finance-Plans_NFHA-et-al_FINAL2_2021-10-25.pdf.

5. Monitor emerging risks (including through public outreach), industry trends, supervisory standards, and macro-economic market conditions in order to inform fair lending risk assessments and adjust supervisory approaches, when appropriate;
6. Ensure that the regulated entities maintain effective fair lending ~~programs~~ compliance management systems that identify, assess, monitor, and mitigate fair lending risk (including emerging risks, such as the use of artificial intelligence); ~~and~~ prevent the occurrence of fair lending violations; and provide remediation, where appropriate;
7. Document fair lending examination findings in memoranda that clearly identify weaknesses in compliance management systems and Matters Requiring Attention ("MRAs") at the regulated entities, and any findings that require FHFA to take enforcement action;
8. Monitor remediation of MRAs for both timeliness and efficacy;
9. Track the status of MRAs to ensure proper and timely remediation at the regulated entities;
10. Conduct ongoing monitoring to assess the regulated entities' progress in remediating MRAs;
11. Develop and administer policies for fair lending ratings in connection with fair lending examinations, and disclose the policies and ratings to the public;
12. Enhance disclosure to the public of fair lending examination findings and ratings, consistent with the level of transparency provided for safety and soundness and diversity and inclusion examinations;
13. Provide development, training, and testing of examination staff with respect to fair lending risks and supervision tools (including through the Housing Finance Examiner commissioning program);
14. Strengthen relationships with other financial institution regulators, enforcement agencies, financial standard-setters, industry stakeholders, and civil rights and consumer advocates to leverage knowledge of emerging risks and best practices for fair lending compliance;
15. Issue regulations, examination procedures, supervisory policies, and supervisory guidance, as appropriate, to set standards and expectations for the fair and equitable operation of the regulated entities, including:
    - Examination procedures for evaluating risks or violations relating to appraisal discrimination;
    - Guidance for the GSEs to revise their guidelines to mitigate the risk of appraisal discrimination;
    - Examination procedures to ensure fair servicing and REO maintenance and marketing;
    - Guidance for the GSEs' use of Special Purpose Credit Programs ("SPCPs");
    - Guidance for improving access for consumers with Limited English Proficiency ("LEP"), including regarding the collection, retention and transmission in the loan file and use of language preference data;
    - Guidance for piloting the use of cash flow underwriting or alternatives that may be less discriminatory than credit scores; and

- More specific examination procedures for the disparate impact analysis, including with respect to the use of artificial intelligence[14] and the credit score validation process.

16. Publish data and comprehensive analysis on fair lending, fair housing, and equity topics, including:
    - Barriers to homeownership for borrowers and communities of color, and other underserved groups;
    - The GSEs' use of artificial intelligence and potential impacts on borrowers and communities of color, and other underserved groups;
    - The intersection between climate and natural disaster risk, mitigation strategies, and communities of color and other underserved groups; and
    - The risks and mitigants for appraisal bias.
17. Require the GSEs to provide board seats for civil rights, consumer groups, and other community groups.

NFHA Comment

We applaud the significant breadth of fair lending policies that FHFA has issued in a short amount of time, including issuing the comprehensive Enterprise Fair Lending and Fair Housing Compliance bulletin (AB 2021-04) and leading the way on releasing supervisory guidance for artificial intelligence that incorporates fair lending risk (AB 2022-02: Artificial Intelligence/Machine Learning Risk Management). We urge FHFA to build on these efforts through robust supervision, continued policy engagement, and comprehensive research.

Robust Supervision

We strongly urge FHFA to ensure that its fair lending supervision program is at least as robust as the safety and soundness supervision program in the Division of Enterprise Regulation ("DER"). For that reason, we copied many of the DER recommendations over to this fair lending section. For example, FHFA should ensure that:

- Fair lending supervision is at least as comprehensive as safety and soundness supervision, including ongoing monitoring, targeted examinations, onsite reviews, periodic special and horizontal reviews, and annual examinations;
- FHFA can enhance its data and fair lending modeling capabilities to independently monitor performance of the regulated entities and the markets in which they operate, rather than relying on the analysis submitted by the regulated entities (as was the case with the final rule on Validation and Approval of Credit Score Models);
- FHFA documents fair lending examination findings in memoranda that clearly identify weaknesses in compliance management systems and Matters Requiring Attention ("MRAs") at the regulated entities, and any findings that require FHFA to take enforcement action;

[14] *See, e.g.,* NFHA et all, *Comment Letter to FHFA regarding Financial Institutions' Use of Artificial Intelligence, including Machine Learning* (July 1, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/07/Federal-Banking-Regulator-RFI-re-AI_Advocate-Letter_FINAL_2021-07-01.pdf.

- FHFA develops and administers fair lending ratings similar to the consumer compliance ratings used by other regulators; and
- FHFA provides development, training, and testing of examination staff with respect to fair lending risks and supervision tools (including through the Housing Finance Examiner commissioning program) to ensure that every examiner has at least a basic understanding of fair lending risk.

Continued Policy Engagement

FHFA should continue to lead on fair lending supervision policy by issuing rules, examination procedures, policies, or guidance related to appraisal discrimination, servicing, REO maintenance and marketing, Special Purpose Credit Programs, consumers with Limited English Proficiency, alternative data, less discriminatory alternatives analysis, and artificial intelligence.

Comprehensive Research

FHFA should conduct and publish comprehensive research on the intersection of race/ethnicity and barriers to homeownership, artificial intelligence, climate change, and appraisal bias.

Equitable Housing Finance Plans

FHFA should improve the process for Equitable Housing Finance Plans by disclosing the plans to the public and engaging in stakeholder outreach.

Objective 2.3: Serve as a reliable source of information and analysis on the state of housing finance markets and related issues

Means and Strategies to achieve the objective include:

1. Analyze and publish trends in house prices and the risk characteristics of mortgages;
2. Publish data on the affordability of Enterprise-backed rental units;
3. Conduct and publish research on issues affecting housing and financial markets;
4. Conduct and lead forums on relevant housing finance issues along with civil rights organizations, consumer groups, and other community stakeholders;
5. Ensure that all research is disaggregated to analyze the impact on borrowers and communities of color, and other underserved groups;
6. Conduct and publish research using the Uniform Appraisal Dataset to analyze the sources and solutions for appraisal bias as it impacts borrowers and communities of color, and other underserved groups;
7. Collaborate with the GSEs, Department of Justice, Department of Housing and Urban Development, Consumer Financial Protection Bureau, Office of Comptroller of the Currency, Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve, and National Credit Union Administration to execute a Memorandum of Understanding to share the Uniform Appraisal Dataset for purposes of fair lending supervision, enforcement, and research;

8. Establish a Trusted Researcher Program to allow academics, advocates, and other trusted researchers to analyze the Uniform Appraisal Dataset and other databases to conduct and publish robust research on critical issues such as the racial/ethnic homeownership gap and appraisal bias; and
9. Promote use of FHFA data products.

NFHA Comment

FHFA and the other federal financial regulators have access to vast resources, skilled staff, and rich data sets that can be marshalled to address some of the most complex problems in the housing finance market. FHFA should ensure that it takes every opportunity to conduct and publish research that addresses barriers to homeownership for borrowers and communities of color, and other underserved groups. In particular, FHFA should collaborate with the other federal financial regulators and enforcement agencies to share the Uniform Appraisal Dataset to address the longstanding and complex problem of appraisal bias.[15]

Objective 2.4: Facilitate greater availability of affordable housing supply, including affordable rental housing

Means and Strategies to achieve the objective include:

1. Oversee Enterprises' implementation of initiatives to increase the supply of housing affordable for low- and moderate-income households and communities of color, including in well-resourced, low-poverty communities;
2. Continue to explore opportunities to further increase the number of 2–4-unit properties and manufactured housing and accessory dwelling units; and
3. Monitor the Enterprises' support of multifamily housing needs with a focus on affordable, underserved, and workforce segments of the market.
4. Create an interest rate refinance program for socially and economically disadvantaged borrowers hardest-hit by COVID-19.

NFHA Comment

In addition to ensuring affordable housing in under-resourced communities, FHFA should work toward "residential economic diversity," which would promote affordable housing in well-resourced communities. Low- and moderate-income households as well as families of color should have real housing choice, including the option to locate in high opportunity neighborhoods. This approach would also further the goals of the Affirmatively Furthering Fair Housing provision of the Fair Housing Act. Moreover, FHFA can incorporate this approach in both the Duty to Serve plans and the Equitable Housing Finance Plans.

[15] *See*, NFHA et al., *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria* (January 2022), https://nationalfairhousing.org/wp-content/uploads/2022/01/2022-01-18-NFHA-et-al_Analysis-of-Appraisal-Standards-and-Appraiser-Criteria_FINAL.pdf.

Objective 2.5: Support leveraging of technology and data to further promote fairness, transparency, explainability, accuracy, efficiency, and cost savings in mortgage processes

Means and Strategies to achieve the objective include:

1. Explore modernizing the single-family appraisal process to foster a fair, transparent, and repeatable appraisal process; foster efficiency in mortgage markets; and address barriers to equitable valuation;
2. Explore opportunities to leverage non-traditional data—including rental payment history with pricing controls and bank account data, alternative approaches, and new technology in the mortgage underwriting process;
3. Continue implementation of the final rule on the validation and approval of third-party credit scores model(s) that can be used by the Enterprises to include the transparent disclosure of the methods, to facilitate the evaluation of any disparate impacts in the models, and a robust search for the least discriminatory alternative, as required by law; and
4. Research and explore opportunities for further incorporation of financial technology (Fintech) in activities of the regulated entities and other mortgage market participants, including research on fairness techniques, disparate impact, and the analysis of less discriminatory alternatives.

NFHA Comment

Consistent with the statutory mission of the GSEs, FHFA should ensure that all initiatives related to data and technology are evaluated through a lens of fairness, fair lending, and equity rather than just efficiency and cost savings.[16] This includes a robust disparate impact analysis and search for less discriminatory alternatives related to appraisal guidelines, data sources, credit score models, and financial technology.

Right now, America is at a crossroads in determining whether or how to develop equitable technology systems that serve and uplift the whole of the national financial services market, or systems that perpetuate, amplify, and even accelerate existing discriminatory patterns. The time to act is now as the use of technology spreads through every aspect of consumer financial services and has the potential for far-reaching adverse impacts for borrowers of color and other protected groups. FHFA should engage with the GSEs, industry, advocates, and academics to ensure that technology systems support non-discriminatory and equitable housing and finance markets.

[16] *See, e.g.,* NFHA et all, *Comment Letter to FHFA regarding Financial Institutions' Use of Artificial Intelligence, including Machine Learning* (July 1, 2021), https://nationalfairhousing.org/wp-content/uploads/2021/07/Federal-Banking-Regulator-RFI-re-AI_Advocate-Letter_FINAL_2021-07-01.pdf.

Strategic Goal 3: Responsibly steward FHFA's infrastructure

Objective 3.1: Cultivate a high-performing, diverse, accountable, and engaged workforce

Means and Strategies to achieve the objective include:

1. Develop and implement a dynamic Agency Human Capital Strategic Plan to recruit and retain a high quality, inclusive workforce, including attorneys, economists, analysts, data scientists, and congressional and community affairs staff that specialize in fair lending and artificial intelligence;
2. Encourage employee development through training, opportunities for career growth, and leadership development;
3. Leverage strategic tools, policies, and services to support the long-term effectiveness of a diverse, inclusive, accountable, and engaged workforce; and
4. Foster a workplace culture of dignity, inclusiveness, and respect that exemplifies FHFA's values.

NFHA Comment

Consistent with NFHA's recommendations for robust fair lending supervision (including regarding the GSEs' use of artificial intelligence), we urge FHFA to hire more staff with specialized skills in fair lending and artificial intelligence. The specialized staff are needed for all initiatives, including supervisory and enforcement issues, rulemakings, policy, and research. In order to ensure that staff with specialized fair lending skills are appropriately integrated into all facets of FHFA's work, the Agency will need to recruit, hire, and retain additional staff.

We applaud FHFA's recognition of the importance of diverse staff. FHFA should ensure that staff reflect the rich and broad diversity of the nation, including diversity based on race, ethnicity, disability status, and gender. Research has shown that diverse teams are more innovative and productive.[17] Moreover, people with diverse backgrounds and experiences bring unique and important perspective to understanding how data and business models impact different segments of a market.[18]

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[17] *See, e.g.,* John Rampton, *Why You Need Diversity on Your Team, and 8 Ways to Build It*, Entrepreneur (Sept. 6, 2019), https://www.entrepreneur.com/article/338663.

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

Objective 3.2: Ensure efficient and effective stewardship of Agency resources

Means and Strategies to achieve the objective include:

1. Enhance Agency planning to ensure that resources for the Agency's core functions are available when needed;
2. Elevate the Office of Fair Lending Oversight to report directly to the Director, and staff the Office appropriately;
3. Track the Agency's use of its resources, and identify opportunities to improve outcomes and control costs; and
4. Continue to enhance internal controls.

NFHA Comment

Given the critical importance of integrating a robust fair lending analysis into all aspects of supervision, policy, and research, FHFA should elevate the Office of Fair Lending Oversight from a small office within the Division of Housing, Mission, and Goals, to a fully-staffed Division that reports to the Director. The CFPB has recently adopted this model and FHFA should follow suit.

Objective 3.3: Deliver high-quality support services that promote the Agency's mission effectiveness and safeguard the Agency's infrastructure

Means and Strategies to achieve the objective include:

1. Develop and implement multi-year plans, including an IT Strategic Plan, that coordinate the delivery of internal services with FHFA's strategic needs;
2. Ensure the ongoing quality and reliability of internal support services;
3. Invest in FHFA's infrastructure to support effective and efficient operations across the Agency;
4. Identify and address operational risks to the Agency, including cybersecurity risks; and
5. Safeguard Agency information technology while engaging with other government and private sector stakeholders on initiatives to identify and address cybersecurity risks to the financial sector.

NFHA Comment

No comments.