



**National
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Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th St. SW, 8th Fl.
Washington, DC 20219

Attention: Comments/RIN 2590-AA81 (2018 – 2020 Enterprise Housing Goals)

Dear General Counsel Pollard:

Thank you for the opportunity to provide comments on FHFA's 2018-2020 Enterprise Housing Goals. The affordable housing goals are one of the most important fair housing laws in the country and one of the National Urban League's top priorities. The goals afford low- and very-low to moderate-income (LMI) families and communities of color, many who would not have access to sustainable mortgages but for the goals, the opportunity to live the American Dream. They are an integral part of the government's role in homeownership and its efforts to address injustices in the housing industry. The civil rights community strongly supports the affordable housing goals and their ability to provide and increase access to the traditional housing market. We encourage FHFA to use its broad authority as the Enterprises' regulator and conservator to ensure the goals satisfy their intended purpose.

I am the president & CEO of the National Urban League, a historic civil rights organization and trusted direct services provider to 2 million people, annually. We are a premier HUD-approved housing counseling agency serving over 300,000 people since the crisis. We are active with a number of pipeline initiatives to increase diversity in the housing industry as well. As a result of over 40 years of experience serving the community and the housing industry, we have firsthand knowledge of the trends impacting the market and the steps needed to improve it.

Given the current housing market and FHFA's broad authority to actively satisfy the goals, I am optimistic that Fannie & Freddie have the ability to not only meet, but to exceed the goals in the future. First, the goals must incentivize the Enterprises to prioritize lending to LMI families and communities of color; they currently do not. We applaud Director Watt for continuing to push the Enterprises to reach FHFA's benchmark goals through the proposed 2018-2020 rule, despite both Enterprises missing at least 2 goals, more than once recently.



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We encourage FHFA to implement the following policy recommendations to ensure the goals are met and exceeded to increase lending to LMI families and communities of color during the 2018-2020 timeframe:

- Reach an agreement with Treasury Secretary Mnuchin to end the conservatorship agreement to allow the Enterprises to be more assertive in making mortgage credit available;
- Lower credit score requirements to meet the actual risk in the marketplace, to accommodate the demographic shift taking place in the country and to better complement the FHA market, before 2019;
- Lower g-fees to meet the actual risk in the marketplace, to accommodate the demographic shift taking place in the country and to better complement the FHA market;
- Focus on outreach and loan officer incentives for the Enterprises' 97% LTV products to better complement the FHA market; and
- Further integrate housing counseling into the mortgage application process, allow it to be used as a compensating factor and offer borrower incentives to encourage the active use of these services.

BACKGROUND

The affordable housing goals are one of the seminal most impactful fair housing laws on the books. Several fair housing laws have been enacted since the late 1960s to combat discrimination in the housing market, including the Fair Housing Act of 1968¹, the Home Mortgage Disclosures Act (HMDA)², the Community Reinvestment Act (CRA)³ and the affordable housing goals.⁴ These laws often work together

¹ The Fair Housing Act of 1968 ended overt housing discrimination, allowed disparate impact claims to be applied in housing cases – recently affirmed by the Supreme Court in 2015 – and sanctioned the use of the Affirmatively Furthering Fair Housing rule, all of which the National Urban League strongly supports.

² HMDA was enacted in 1975 (and revised several times thereafter) to deter abusive practices in the housing industry. If the new implementation date is revised it should be done in a way that does not hurt access to the housing market.

³ The CRA requires banks to provide loans in the areas where they do business. The CRA is an effective tool that helps increase access for LMI borrowers and communities of color to purchase affordable and sustainable loans, however it is in serious need of reform.

⁴ Other rules may be categorized as fair housing laws as well. While the National Urban League believes the Duty to Serve rule has the capacity to affect change in the market, the jury is still out on its effectiveness, given the fact the final rule has not been implemented. We have concerns however that the rule does not place enough emphasis on homeownership in urban and suburban areas and that it does not integrate housing counseling into the mortgage application process. We also have concerns related to the Enterprises' enforcement scale.



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collectively to lower the structural barriers that prevent many people of color from becoming homeowners. Discrimination in the housing market would be status quo and homeownership in communities of color nearly nonexistent if these laws did not exist.⁵

The Affordable Housing Goals

The affordable housing goals require the Enterprises to provide affordable mortgages to qualified, underserved families and communities. The goals were created by the Enterprises' charters, but were not adhered to until the early 1990s. Pursuant to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act), the Enterprises have "an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families." The Enterprises adhere to the affirmative obligation in exchange for the material and monetary benefits the Enterprises receive from the government's role in the housing market. The affordable housing goals require the Enterprises to purchase a predetermined-percentage of mortgages from qualified borrowers who are often overlooked in the marketplace.

FHFA is required to consider the following seven factors in setting the single-family housing goals:

- National housing needs;
- Economic, housing, and demographic conditions, including expected market developments;
- The performance and effort of the Enterprises toward achieving the housing goals in previous years;
- The ability of the enterprises to lead the industry in making mortgage credit available;
- Such other reliable mortgage data as may be available;
- The size of the purchase money conventional mortgage market, or refinance conventional mortgage market, as applicable; and
- The need to maintain the sound financial condition of the enterprises.

FHFA's Authority to Implement the Goals and to Affect Change in the Housing Market

Beyond the Safety and Soundness Act, FHFA has the broad authority to ensure the goals are met, exceeded and to incentivize the Enterprises to increase lending to LMI families and communities of color. As the Enterprises' regulator, FHFA's mission is to ensure Fannie and Freddie "serve as a reliable source of liquidity and funding for housing finance". It is the agency's mission to provide liquidity to all

⁵ Despite being scapegoated for causing the crisis, the goals helped, and continue to help responsible borrowers become homeowners who have the opportunity to build wealth. The National Urban League opposed Johnson-Crapo because it terminated the affordable housing goals. We will oppose any measure that vilifies, terminates, or does not seek to expand the goals in the future.



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segments of the housing market, including LMI families and communities of color. FHFA has a similar mandate as the Enterprises' conservator. According to the conservatorship agreement, FHFA has oversight over "the operations and activities of each regulated entity to foster liquid, efficient, competitive, and resilient national housing finance markets (including activities relating to mortgages on housing for low- and moderate-income families)". FHFA has broad authority to ensure the affordable housing goals have their desired effect, pursuant to the Safety and Soundness Act, in addition to its responsibilities as regulator and conservator of the Enterprises. FHFA is required to take bold and judicious steps to meet the nation's housing needs and lead the industry in making mortgage credit available in a safe and sound manner.

ANALYSIS

Effective use of the affordable housing goals may be more important now than in previous years. Owning and renting a home is more expensive since the financial crisis, making it more difficult for LMI families and communities of color to access affordable housing in decent neighborhoods. The national homeownership rate is near a 50-year low and it is expected to decrease through 2030. Rental rates are expected to increase in contrast, adding to the housing cost-burdens of millions of Americans.⁶ Many people believe we are in a new normal, less homeowners and increasing numbers of renters in the marketplace struggling to save for homeownership.⁷ This is concerning because nearly 80% of the net new households will be headed by people of color, many of whom do not have the requisite credit scores or down payments to purchase a home and who may not have full knowledge of the homebuying process.

There are significant headwinds in the market that limit access to the housing market and make it difficult for the goals to incentivize the Enterprises to lend to LMI families and communities of color. The conservatorship agreement, unreasonably high credit score requirements and guarantee fees (g-fees), in addition to the Enterprises' low purchases of 97% LTV loans and the lack of use of housing counseling as a compensating factor, make it difficult for many homeowners to qualify for conventional loans.⁸ As a result, many seemingly qualified borrowers are frequently priced-out of the market and have to purchase their homes through FHA, if they satisfy the underwriting criteria. In 2015, over 70% of the mortgages

⁶ Lack of affordable multifamily housing stock is also a significant issue that FHFA can help address through the affordable housing goals, in addition to the Duty to Serve rule and the National Housing Trust Fund, among other initiatives.

⁷ Some are even betting on the securitization of the single-family rental market. We have concerns with these efforts, if they do compete with or injure prospective borrowers in the market.

⁸ Increasing underwriting and compliance costs, in addition to the lack of affordable homes, among other things, also serve to decrease access to the housing market.



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that African Americans received, both purchase and refinance loans, were backed by FHA and VA and over 60% of the loans that Latinos received were government-backed as well.

Below are several concerns that FHFA can address to incentivize the Enterprises to meet and exceed the goals:

The Conservatorship Agreement – The Enterprises have been in conservatorship since 2008. As a result, FHFA and the Enterprises have been overly-cautious with their lending standards, only purchasing loans from the most pristine borrowers, with the goal of protecting taxpayers from the risk of another national downturn. Higher credit score requirements and g-fees are the result. Pursuant to the 2012 Third Amendment Sweep, the Enterprises have to pay all of their profits to Treasury and they are required to have a \$0 capital buffer by January 2018. These requirements put the Enterprises at risk of needing a draw (bailout) from Treasury in the near future and further inhibit FHFA from leading the market in lending to LMI families and communities of color.

FHFA must use its authority as conservator to allow the Enterprises to meet and exceed the goals. The agency has the authority to amend the conservatorship agreement unilaterally to meet the nation’s housing needs, while keeping the Enterprises safe and sound. According to Director Watt, “The statute [HERA] gave us the authority to start it and it goes with that the authority to end it.”

It is imperative the conservatorship agreement be terminated as soon as possible or that immediate changes be made to decrease the need for a draw from Treasury and to allow the Enterprises to be more assertive in their lending to LMI families and communities of color in today’s market. At minimum, this may include taking steps to delay the Enterprises’ dividend payments to Treasury, transitioning from quarterly to annual payments.

FHFA can also work collectively with Treasury to end or amend the conservatorship agreement. In our view, this is the best option to ensure the conservatorship agreement no longer serves as an impediment for the Enterprises to increase access to the market and to satisfy the goals. As a result, we recommend FHFA to:

- **Reach an agreement with Treasury Secretary Mnuchin to end the conservatorship agreement to allow the Enterprises to be more assertive in making mortgage credit available.**



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Credit Score Requirements - Credit score requirements are unreasonably high given the current risks presented in the market. The Enterprises' average FICO scores have been in and around the mid-700s since the crisis, despite new initiatives to protect the Enterprises from loss, including QM and credit risk transfers. As a result, many creditworthy borrowers are prevented from accessing the traditional housing market.⁹

“The market is taking less than half the credit risk it was taking in the pre-crisis period,” according to Urban Institute. Over 5 million Americans were locked out of the housing market between 2009 and 2014 because of unnecessarily high credit score requirements. Executives from FICO and Vantage Score agree that “lenders’ credit score requirements for home purchasers are too high and out of sync with the actual risks of default presented by today’s borrowers.” FHFA clarified its representations and warrants, however lenders are still seemingly concerned they may be unnecessarily dinged by FHFA for trivial concerns. Consequently, credit overlays are still prevalent in the application process and many borrowers are forced to opt for FHA. Unfortunately, FHFA recently announced the current credit scoring model will remain in place until 2019, at the earliest.

FHFA has the authority to encourage the Enterprises to make more loans to LMI families and communities of color by adjusting its credit scoring requirements. FHFA must reduce its credit score requirements without haste to meet the nation’s housing needs, to address the demographic shift taking place and to lead the market in making mortgage credit available. FHFA must do more to reassure and encourage the Enterprises to make purchases of loans with FICO scores as low as 620, which we consider to be more reasonable than the current trend of FICOs in the 700s, especially given the pending demographic shift. Lowering FICOs would not imperil the Enterprises’ safety and soundness, which is clear from the research of various experts in the market. Adopting lower credit score requirements would allow more LMI families and communities of color to purchase homes and further incentivize the Enterprises to make these loans. As a result, we recommend FHFA to:

- **Lower credit score requirements to meet the actual risk in the marketplace, to accommodate the demographic shift taking place in the country and to better complement the FHA market, before 2019.**

⁹ We would like to note that while credit scores are important, low credit scores were not the overarching cause of the financial crisis. The foreclosure crisis wasn’t caused by irresponsible borrowers; it was caused by irresponsible products. Most of the subprime loans that were approved during the late 90s and early 2000s were for people who were already homeowners, those with above average FICO scores. According to a July 2014 MSNBC article, over 60% of the subprime loans approved between 1998 and 2006 were refinances, not new purchases. Borrowers were sold products banks knew they could not repay. Low FICO scores, among other misplaced targets, should not be scapegoated for the crisis.



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G-Fees – Similar to credit score requirements, current g-fees are too high and not commensurate with borrower risk. Both community advocates and industry stakeholders agree. G-Fees have increased steadily since the crisis, despite the pristine nature of the Enterprises' borrowers and new initiatives to protect the Enterprises from loss, including credit risk transfers. Moreover, g-fees are being collected to protect the Enterprises from loss, irrespective of the fact the Enterprises are required to have a \$0 capital buffer by January 2018.

Most of the Enterprises' recent income is from collecting g-fees. While g-fees are used to purchase credit risk transfers, there is room to lower the fees. The current g-fees do not actively reflect the risk in the market and should be lowered without delay to help the Enterprises meet and exceed the goals. We urge FHFA to:

- **Lower g-fees to meet the actual risk in the marketplace, to accommodate the demographic shift taking place in the country and to better complement the FHA market.**

The Enterprises' 97% LTV Products – The Enterprises recently began focusing on 97% LTV products. However, the Enterprises have purchased only low numbers of these loans over the past couple of years. Only 2% of Fannie's loans had LTVs of 97%, last year, despite the apparent need for these products given the high number of people of color who purchase their homes through FHA. The products are rarely used currently, namely because borrowers are not aware of the products and lenders do not actively sell them. While, the number of these loans is expected to increase in the near future; it will likely be at a slow pace.

FHFA has the authority to encourage the Enterprises to perform better outreach and to provide lender incentives for the Enterprises' 97% LTV products. FHFA should take active steps to increase outreach for these products and offer incentives to loan officers for offering them to borrowers. This would not increase defaults in most cases, because high down payment requirements are not a significant indicator of a borrower's ability to repay his or her loan. Allowing more borrowers with LTVs higher than 95% to access the market will incentivize the Enterprises to meet the nation's housing needs and lead the market in making mortgage credit available. We encourage FHFA to:

- **Focus on outreach and loan officer incentives for the Enterprises' 97% LTV products to better complement the FHA market.**



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Housing Counseling – Research indicates borrowers who work with housing counselors have better housing outcomes than those who navigate the system on their own. Borrowers who use housing counseling are 30% less likely to be seriously delinquent on their mortgages. They are more aware of the homebuying process, more likely to be responsible homeowners and less likely to be victims of deceptive practices. Unfortunately, borrowers’ use of housing counseling services is not currently considered during the mortgage application process, in many cases. Borrowers are not actively given credit or incentivized for using these services, despite their proven effectiveness as a loss-mitigation tool.

FHFA has the authority to do more to ensure the goals are met and exceeded by requiring the use of housing counseling. Housing counseling works; it is undisputed. Integrating housing counseling services into the mortgage application process benefits all parties involved (i.e., borrowers, lenders, servicers, the Enterprises and FHFA) by educating homebuyers and preventing future delinquencies and foreclosures. Similar to private mortgage insurance, housing counseling should be used as a compensating or risk-mitigating factor, allowing borrowers who do not have the requisite credit score, down payment, or DTI ratio to access the traditional housing market. This would not increase defaults; it would create more responsible homeownership. We support efforts similar to HUD’s Homeowners Armed With Knowledge, or HAWK, program, which provides incentives for borrowers to participate in HUD-approved housing counseling services. These efforts would increase the number of eligible borrowers and help ensure the Enterprises meet and exceed the goals. As a result, we encourage FHFA to:

- **Further integrate housing counseling into the mortgage application process, allow it to be used as a compensating factor and offer borrower incentives to encourage the active use of these services.**

CONCLUSION

The goals were enacted to meet the nation’s housing needs by leading the industry in making mortgage credit available. Along with other fair housing laws, the goals help ensure LMI families and communities of color have access to affordable and sustainable mortgages and the American Dream. We encourage FHFA to use its broad authority to ensure the 2018-2020 goals are actively met and exceeded and increase lending to LMI families and communities of color.

Sincerely,

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