GROUNDED SOLUTIONS NETWORK

June 26, 2023

Federal Housing Finance Agency
Attn: Clinton Jones, General Counsel
400 7th Street SW
Washington, DC 20219

RE: Fair Lending, Fair Housing and Equitable Housing Finance plans, (RIN) 2590–AB29

Dear Mr. Jones,

Thank you for the opportunity to comment on the FHFA's Proposed Rule regarding Fair Lending, Fair Housing, and Equitable Housing Finance plans. Grounded Solutions Network appreciates that FHFA has been so proactive recently in creating opportunities to provide feedback on the various initiatives that fall under the agency's jurisdiction and sees this proposed rule as an opportunity to bring more equity to the housing finance system.

Our Interest in the Proposed Rule

The work that Grounded Solutions Network does has a natural alignment with the objectives of the Equitable Housing Finance (EHF) program as described in the proposed rule. We are a national nonprofit membership organization that supports strong communities from the ground up by furthering housing solutions with lasting affordability to advance racial and economic equity. Our membership includes community land trusts, nonprofits, inclusionary housing programs, and allied organizations located in 46 states, the District of Columbia, and Puerto Rico.

Our members predominantly provide shared equity homeownership opportunities to lower income families. Shared equity homeownership (SEH) refers to resale-restricted homeownership that allows low- and moderate-income households to build equity while preserving affordability for future homeowners[1]. A one-time subsidy lowers the purchase price of a home and concurrently creates an affordable homeownership unit with enduring

[1] The term "shared equity homeownership" generally includes community land trusts, limited-equity cooperatives, and deed-restricted homeownership designed for lasting affordability.

affordability that adds to the overall supply of needed affordable housing for multiple generations of home buyers.

Recent research shows that a significant percentage of the people served by our field are BIPOC households. Our 2023 report on a national census of community land trusts and other shared equity entities – which was supported by Freddie Mac and published by the Lincoln Institute of Land Policy – found that approximately 45% of shared equity homebuyers are people of color[2]. Because a one-time investment is made to substantially reduce the price for which a lower-income homebuyer purchases the shared equity home, a host of barriers that disproportionately affect people of color are removed for accessing and sustaining homeownership. Purchasing a shared equity home:

> (1) provides affordable monthly payments,
>
> (2) requires smaller down payments,
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> (3) offers lower loan-to-values due to the investment, which means the homebuyer does not need mortgage insurance and may have lower credit scores,
>
> (4) bestows ongoing support from the sponsoring government or nonprofit organization[3].

Research on SEH has also shown that these models prevent foreclosure and promote more stable homeownership, even in extremely chaotic markets[4].

This is certainly something to celebrate, but unfortunately the lack of access to mortgage financing for prospective homebuyers has limited the ability for many households to benefit from these opportunities. To help address this, we successfully advocated for the inclusion of SEH in the Duty-to-Serve (DTS) final rule. We have proactively engaged the Enterprises and FHFA for several years to increase access and liquidity to SEH borrowers, including advocating for the inclusion of SEH in the pre-rulemaking EHF framework. Given the characteristics of SEH households and the effectiveness of SEH models to address the racial and ethnic homeownership gaps, expanding Enterprise support for shared equity homeownership would be one of the most productive actions that FHFA and the Enterprises could take to advance equity in the housing finance system.

Regardless of whether SEH is included explicitly in the post-rulemaking EHF plans, the introduction of a new rule that codifies the EHF planning process into regulation is vital to further the Enterprises' public mission to increase liquidity in the residential mortgage market

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[2] Wang, Vince, Celia Wandio, Amanda Bennett, Jason Spicer, Sophia Corugedo, and Emily Thaden. 2023. *The 2022 Census of Community Land Trusts and Shared Equity Entities in the United States: Prevalence, Practice and Impact*. Lincoln Institute of Land Policy. Available at https://www.lincolninst.edu/publications/working-papers/2022-census-community-land-trusts-shared-equity-entities-in-united

[3] Wang, Vince and Emily Thaden. 2022. "Advancing Racial Equity Through Community Land Trusts". *Planning Theory & Practice* 23(2): 267-302.

[4] Thaden, Emily. 2010. *Outperforming the Market: Making Sense of the Low Rates of Delinquencies and Foreclosure in Community Land Trusts*. Lincoln Institute of Land Policy.

and to increase the availability of mortgage credit in underserved markets. A formal rule must also push the Enterprises to make meaningful progress in addressing racial and ethnic disparities in homeownership. The codification of EHF into regulation is particularly timely because of the ascendence of lenders who do not fall under federal regulation and are not beholden to the Community Reinvestment Act. The steady growth of these lenders will make programs like DTS and EHF even more important.

General Comments on FHFA-regulated Programs

Many of our comments regarding a proposed rule for Equitable Housing Finance plans are informed by our experience with the development and implementation of the DTS program. While the DTS program and the proposed EHF program are distinct from each other in many ways, we believe that there are some issues that they both share. The proposed rule presents an opportunity to improve upon what is already in place.

Both the DTS program and the EHF proposal lack elements that would help them realize their full potential, especially in an iterative "test and learn" framework like DTS or what is proposed for EHF. Transparency in the process is one aspect of this. There are several points where greater transparency is possible and would improve the process for both external stakeholders and the Enterprises. For example, neither the DTS process nor the current EHF framework require a sufficiently detailed disclosure of success or failure. DTS disclosure is only provided at the market level and the proposed rule for EHF includes no publicly disclosed metrics at all. We believe more transparency in the performance reports would be beneficial for all parties.

Another element where both programs' plans fall short is allowing for clear comparisons between the Enterprises in how they are responding to the objectives. For example, there are very few elements of the DTS plans and performance reports where the Enterprises can be directly compared. FHFA asks whether the final rule should include required goals and metrics and whether they should be the same for both Enterprises. We strongly encourage both goals and metrics that are comparable across the GSEs. Increased standardization in both the DTS and EHF performance reports published by the Enterprises would help the Enterprises, FHFA, and the public better understand which strategies have succeeded or failed.

Finally, something we emphasize throughout our comments is the need for alignment among the initiatives under the FHFA regulatory umbrella, by which we mean coordinating the various programs to maximize benefits for underserved communities. This is explicitly stated in our most recent comments submitted to FHFA on evaluating the Federal Home Loan Bank system and the possible introduction of a Social Bond by the Enterprises. Ultimately, the objectives of FHLB Affordable Housing Programs, DTS, and the EHF proposal are to bring greater opportunity and equity into housing finance; therefore, these programs should be working in concert and aligned for the greatest possible equity impacts.

Responses to Specific Questions

1) *The rule currently does not define equity. FHFA seeks comments on whether the rule should define equity. If the rule should define equity, what would be an appropriate definition?*

We believe the final rule should define equity, which we would generally define as being achieved when one's racial identity no longer predicted, in a statistical sense, how one fares. This includes elimination of policies, practices, attitudes, and cultural messages that reinforce differential outcomes by race or that fail to eliminate them. It will be difficult for FHFA and the public to evaluate whether equity has been achieved through the efforts of the Enterprises if there is no clear definition.

In the context of housing finance, inequity is largely experienced by racial and ethnic groups whose access to homeownership has been curtailed for generations by active exclusion and exploitation. In the more specific context of this Proposed Rule, we would define the pursuit of equity as taking actions and building systems to support access to homeownership by BIPOC households. This focus on race and ethnicity is based on the historical exclusion of these groups from homeownership, which has contributed over time to lower property values in BIPOC neighborhoods as well as less wealth for BIPOC households.

7) *Is the three-year timeline for the plans adopted by the Enterprises appropriate?*

We feel that the three-year timeline for the plans is appropriate. We note that it could be cumbersome for the Enterprises to be preparing both DTS and EHF plans on the same cycle. FHFA might consider scheduling the EHF plans to be submitted one year after the DTS plans. However, it is vital that the objectives, goals, and activities under DTS and the EHF plans be coordinated and leverage each other to maximize impact. We encourage FHFA to consider requiring the GSEs to explicitly address cross-program coordination and alignment in the EHF plans.

8) *Should FHFA issue an evaluation of the Enterprises? Should the rule include required evaluation metrics for the progress reports?*

Yes, FHFA should absolutely issue an evaluation of the Enterprises. Issuing a public evaluation of the Enterprises is a crucial part of engaging with external stakeholders and ensuring transparency, an issue which we have identified in both the DTS process and the EHF process.

Following from this, the final rule should require evaluation metrics for the progress reports. Most importantly, these metrics should be standardized across the two Enterprises. This allows for competition between the two Enterprises as well as helping FHFA and the public discern which activities are most effective. Indeed, it is hard to see how FHFA, external stakeholders, or the Enterprises could determine if they were successful without evaluation metrics. FHFA could adapt the ranking system used in the DTS program that goes from "Exceeds" to "Fails" as appropriate. We suggest that any metrics included in the final rule for EHF plans evaluate the action outcomes according to their benefit for Black and Brown households to keep racial equity elevated among the objectives of the EHF program.

9) *Should the rule include required or optional priority goals? If so, who should determine which priority goals are applicable?*

The rule should have required priority goals in order to provide a clear purpose for the Enterprises' activities. In addition to clarity of purpose, it would also allow for direct comparison between the Enterprises. Requiring the same priority goals in both Enterprises' plan development would reflect the intention stated in Section § 1293.26(d)(5) of the proposed rule, which states the goals shall facilitate comparisons between the Enterprises. If a common priority goal is not required, then it cannot be guaranteed that this comparison will be possible.

If the final rule does require certain priority goals, these should be determined through a public engagement process where external stakeholders can provide input on those goals. It is ultimately FHFA's decision on which priority goals are required but that decision must be informed by representatives of BIPOC communities and the organizations that serve them.

Given the systemic oppression and discrimination in housing endured by BIPOC communities for generations, any goals set forth for the Enterprises must address the root causes of the racial homeownership and wealth gaps. While other priority goals may be developed with stakeholder input, one goal that cannot be optional and needs to be stated explicitly in the final rule is that the Enterprises must address "racial and ethnic disparities in homeownership." Any actions proposed by the Enterprises should address the endemic nature of racial and ethnic inequity across the housing sector. Not only has the homeownership rate for Black households fallen below where it was 50 years ago, but the value of Black homes has been historically depressed through racist devaluation. This is a stain that persists even when families have reached the middle- and higher-income brackets[5].

We believe that this priority goal, which reflects the central objective of the EHF program, would be well addressed by expanding support for shared equity homeownership (SEH). As stated above, SEH programs have several benefits that specifically address barriers for people of color to access homeownership: lower purchase prices, smaller down payments, lower loan-to-value amounts (which translated to lower credit score requirements and preventing the need for mortgage insurance), and more affordable monthly payments. Therefore, we would recommend that FHFA considers enabling the GSEs to advance shared equity homeownership opportunities for people of color whether that is through a priority or optional goal, or through a required activity under the required goal of addressing racial and ethnic homeownership disparities.

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[5] Freddie Mac. 2021. *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*. Available at https://www.freddiemac.com/research/insight/20220510-racial-ethnic-valuation-gaps-home-purchase-appraisals-modeling-approach; Howell, Junia and Elizabeth Korver-Glenn. 2018. "Neighborhoods, Race, and the Twenty-first-century Housing Appraisal Industry.' Sociology of Race and Ethnicity 4(4) 473-490.

In addition to explicitly requiring racial and ethnic homeownership disparities as a priority goal, FHFA should also explicitly retain the authority to reject the plans and any updates if they are not sufficiently well developed or do not appropriately address the priority goals. Without the ability to reject the plans, the Enterprises will have minimal accountability and FHFA may struggle to enforce anything described in the final rule.

10) From year to year, what should be the scope of updates to the Equitable Housing Finance plans?

The Enterprises should make meaningful and productive adjustments to their activities if the goal metrics indicate it would be appropriate. Any updates to the plans must come with a clear explanation of what prompted the change, how the change addresses the issue that prompted it, what other solutions the Enterprise considered, and why they chose the one that they did. This would create greater transparency in the process and allow external stakeholders to better understand the decisions made by the Enterprises.

11) Should the focus of an Equitable Housing Finance Plan be limited to one underserved community at a time?

We do think the programs under FHFA's regulatory umbrella should, as a rule, take a more focused approach in achieving their equity objectives. The EHF plans are no exception. However, limiting the scope of the EHF plans to only one underserved community would require very careful consideration, especially if the plans are placed on a three-year cycle as proposed. We are not immediately in favor of this and would like to see a robust selection process with as much external stakeholder input as possible.

If the final rule does require the Enterprises to serve a single community, we suggest that the selection of the community and the actions undertaken be aligned with the Enterprises' DTS plans (and potentially the activities in the Federal Home Loan Banks' Affordable Housing Programs) to maximize the benefits to BIPOC underserved markets. The selection of the community must also be directly connected to the primary goal of addressing racial and ethnic homeownership disparities with an explanation presented for feedback to the public prior to the plans being approved by FHFA (see our response to question 12 below).

12) Does the rule provide for sufficient public engagement?

We appreciate the opportunity given for public engagement as described in Section § 1293.24. However, we feel that providing more than one opportunity for public feedback would better serve FHFA, the Enterprises, and external stakeholders. We suggest that FHFA add an additional opportunity for public engagement between the time the plans are submitted to FHFA (proposed as September 30) and the time the plans are published on the Enterprises' websites (proposed as January 15). If the timeline between September 30 and January 15 is too tight, we propose moving the deadline for submitting the plans to the FHFA back to August. This would also require that the draft plans be made available to the public to record and consider their feedback. This may be a difficult request for FHFA to make of the Enterprises. However, we believe that increasing transparency and engagement with external stakeholders will not only improve the plans themselves but will improve the overall understanding – on both sides – of how the Enterprises can best help underserved communities.

We suggest taking a similar approach to any Plan updates submitted to FHFA by the Enterprises. Updates should be submitted to FHFA and the public at the same time with a process that allows for public feedback to be recorded and considered. The Plan updates are the key to the "test and learn" framework of the EHF program. Receiving feedback from external stakeholders would only improve the Enterprises' work.

In addition to increasing the opportunities for public engagement, these public feedback sessions could act as a venue for improving the data at the foundation of the Enterprises' work. The Enterprises have suggested that data sources are lacking for some of their underserved markets, and that increased data may allow risk to be more accurately calculated and expand opportunities for those markets. We suggest that the public engagement process include an opportunity for the Enterprises to clearly state their data needs and for stakeholders to either provide the data, point the Enterprises toward data sources, or comment on potential strategies for collecting the data.

14) Are the minimum requirements for performance reports sufficient or should performance reports contain any additional information not included in the rule?

Whatever requirements are put in place, the performance reports submitted by the Enterprises should use a standardized format so they can be easily compared to each other. This allows for a better flow of information on what works and what doesn't between the Enterprises, FHFA, and external stakeholders. It also provides a venue for competition between the Enterprises to invigorate their work and encourage innovation.

The performance reports should also provide a level of detail that is useful for understanding where the Enterprises have put their effort. The performance report requirements described in the proposed rule would not provide this detail. Someone reading such a report would not know whether a loan was originated to a shared equity homeownership program participant, part of a Special Purpose Credit Program, a first-generation down payment assistance program, or other programs with specific features and goals. Reporting at a finer level of detail provides FHFA, the Enterprises, and external stakeholders a better understanding of how successful their activities are.

Finally, the EHF performance reports should include a substantial discussion of how and why previous activities were successful or unsuccessful, rather than a simple summary of which activities met a minimum metric.

15) Should the Banks be required to comply with a framework similar to that of the Equitable Housing Finance plans by regulation?

Yes, we believe the Banks should be required to comply with a similar framework. The Banks and their Affordable Housing Programs (AHPs) should be aligned with the objectives of DTS and

EHF plans as much as possible, and this alignment would best be achieved through regulation. The Affordable Housing Program final rule provides some opportunity for alignment with DTS and EHF in at least two of the regulatory priorities set out by FHFA: targeting to lower-income households and community stability (which encompasses the preservation of affordable homeownership units). Alignment would bolster FHFA and the FHLBs' work towards reducing the racial and ethnic homeownership and wealth gaps.

17) Are there other ways to incorporate principles of equitable housing for the Banks that would meet the same objective?

The Banks have recently volunteered to increase their AHP funding from 10% to 15% of their net revenue. This increase is very welcome although we think the banks could increase their investment in affordable housing even more. We also suggest that Banks could advance equitable housing outcomes by pursuing activities that are both deeper and broader. For example, the Banks could be required to create an Affordable Homeownership Strategy that commits them to increasing the number of entry-level homes available to low- and moderate-income households, especially for BIPOC households. FHFA could also require that the AHPs include partnerships with local nonprofit organizations, and that this component of the AHP includes a substantial percentage of organizations that serve and are led by people from marginalized communities.

In addition, we believe that expanding support for SEH models would increase equitable outcomes. Along those lines, we suggest making changes to the AHP scoring criteria and definitions to prioritize the use of AHP funding to support SEH programs, most likely under the community stability regulatory priority. To support these actions by the Banks, FHFA could also publish official guidance on best practices for using AHP funding to support SEH.

Conclusion

We would like to reiterate our gratitude to FHFA for providing this opportunity to shape their final rule on the Equitable Housing Finance plans. We believe that the Enterprises have a significant role to play in creating meaningful opportunities for underserved communities. We look forward to engaging further with FHFA and the Enterprises in our shared pursuit of a more equitable housing finance system.

Sincerely,

Brian Stromberg
National Policy Director
Grounded Solutions Network