



June 26, 2023

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20219

ATTN: Comments/RIN 2590-AB29

Dear Director Thompson,

On behalf of U.S. Mortgage Insurers (USMI) and our member companies,¹ we appreciate the opportunity to provide feedback on the Federal Housing Finance Agency's (FHFA) Notice of Proposed Rulemaking (NPR) on "Fair Lending, Fair Housing, and Equitable Housing Finance Plans."² USMI represents the nation's leading private mortgage insurance (MI) companies and our members are committed to a strong housing finance system backed by private capital that enables access to affordable and sustainable mortgage finance. The private MI industry is a critical component of the nation's housing finance system and sits at the intersection of access and affordability for homebuyers and promoting safety and soundness by providing risk protection to lenders, Fannie Mae and Freddie Mac (the GSEs), and taxpayers. We are proud to represent an industry with a 66-year history of enabling first-time, minority, and low- to moderate-income (LMI) homebuyers to achieve the American Dream of homeownership.

As an industry that is dedicated to the U.S. housing finance system and that serves homebuyers with limited access to funds for large down payments, USMI and its member companies are keenly interested in advancing policies that promote access to the conventional mortgage market and support sustainable homeownership. USMI supports the FHFA's work to address access and affordability issues that exist in the mortgage market while maintaining safe and sound operations at the GSEs. Since 1957, the private MI industry has been in the market every day and has helped more than 38 million households achieve sustainable homeownership, including more than 1 million in 2022 alone, with 62% of purchase mortgages going to first-time homebuyers.³

USMI fully supports enforcement of fair lending and fair housing statutes and regulations to ensure that all home-ready consumers, regardless of race, ethnicity, gender, age, or other protected class, have access to mortgage financing. Homeownership remains the primary vehicle for families to achieve financial stability and build long-term, intergenerational wealth and the private MI industry supports public-private efforts to remove barriers to homebuying and promote sustainable homeownership opportunities for minority communities.

¹ USMI membership comprises: Enact Mortgage Insurance Corporation; Essent Guaranty, Inc.; Mortgage Guaranty Insurance Corporation; National Mortgage Insurance Corporation; and Radian Guaranty, Inc.

² 88 Federal Register 25293 (April 26, 2023).

³ GSE Aggregate Data and MI Company Data.

We recognize that the FHFA, in its role as regulator and conservator, has the authority to require the GSEs to operate in a manner that furthers their congressionally-mandated public missions, including an affirmative obligation to “provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for [LMI] families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.”⁴

While the NPR covers a variety of topics, USMI specifically wishes to comment on the proposed requirements concerning the GSEs’ Equitable Housing Finance Plans (Plans) and provide the following observations and recommendations:

- 1) Evaluating the GSEs’ Plans: FHFA should specify whether/how the annual performance reports will impact GSE oversight and “grading” of their mission-related activities.
- 2) Stakeholder Engagement:
 - a. FHFA should provide additional details concerning the format of the proposed public engagement and list the possible avenues for the public to share observations, data, and recommendations related to the GSEs’ Plans.
 - b. FHFA should proceed with publishing the *Federal Register* notice for the Federal Advisory Committee on Affordable, Equitable, and Sustainable Housing membership application/nomination process.
 - c. Data Transparency
 - i. FHFA should release more granular loan-level data from the National Mortgage Database (NMDB) and map it to Home Mortgage Disclosure Act (HMDA) data and other sources that collect data on race.
 - ii. FHFA should increase transparency around the GSEs’ automated underwriting systems (AUSs) and other technologies.
- 3) Faithful Implementation of the *Prior Approval for Enterprise Products* Final Rule:
 - a. FHFA must engage in robust oversight of new products, activities, and pilots to ensure that the GSEs comply with their charters and do not cross the “bright line” between the primary and secondary mortgage markets.
 - b. FHFA should provide additional information about the “New Products Committee,” including its leadership, composition, and cadence of its meetings.
 - c. FHFA should maintain a public website that describes all new product, activity, and pilot submissions from the GSEs and lists all relevant FHFA actions (approval, rejection, etc.).

Background on the GSEs’ Equitable Housing Initiatives

On June 8, 2022 the GSEs publicly released their 2022-2024 Plans that identified barriers to homeownership and proposed actions to advance equity in housing finance and address the

⁴ Fannie Mae Charter, 12 U.S.C. 1716(3); Freddie Mac Charter, 12 U.S.C. 1451 note.

persisting racial homeownership gap.⁵ There has been significant concern among policymakers and housing finance stakeholders around the stark differences in racial homeownership rates which, as of 1Q2023, stood at 74.4% for White households, 45.8% for Black households, and 49.7% for Hispanic households.⁶ Private MIs have engaged in robust collaboration with policymakers, the GSEs, other market participants, and consumer advocate organizations in furtherance of policies that promote equity in the housing finance system. This includes enhancements to property valuation policies and the implementation of special purpose credit programs (SPCPs) by the GSEs and lenders.

Evaluating the GSEs' Plans

The NPR includes requirements for annual performance reports,⁷ but it is unclear how the FHFA will consider the GSEs' Plans and performance reports as it relates to the annual *Scorecard for Fannie Mae, Freddie Mac, and Common Securitization Solutions* or any other "grading" metrics used by FHFA to assess the GSEs' activities, especially those focused on affordability and equity. While the NPR references the GSEs' Duty to Serve Programs and Housing Goals, it does not address how the Plans will specifically interact with these other requirements connected to its mission-related obligations and reaching traditionally underserved segments of the housing market. Further, Proposed Section 1293.26 would create new equitable housing responsibilities for the GSEs' boards of directors to "appropriately consider the objectives, actions, and goals of the Enterprise's Equitable Housing Finance Plan, while also appropriately considering its affordable housing goals, Duty to Serve plans and targets, and its other mission-related obligations."⁸ USMI urges the FHFA to specify in the final rule whether/how the annual performance reports will impact GSE oversight and "grading" of their mission-related activities.

Stakeholder Engagement

Advancing a coordinated housing policy that ensures traditionally underserved borrowers have access to homeownership requires robust collaboration among federal, state, and local policymakers, the GSEs, mortgage market participants, and consumer advocate organizations. Proposed Section 1293.24 would require the FHFA and GSEs to engage in annual public engagement activities by June 15th with "members of underserved communities and housing market participants in developing their plans and updates (and describe such consultation in the plans."⁹ Figure 1 below illustrates how the proposed public engagement would operate with the other proposed deadlines related to Plan submissions, updates, and annual performance reports.

⁵ Federal Housing Finance Agency, "FHFA Announces Equitable Housing Finance Plans for Fannie Mae and Freddie Mac" (June 8, 2022).

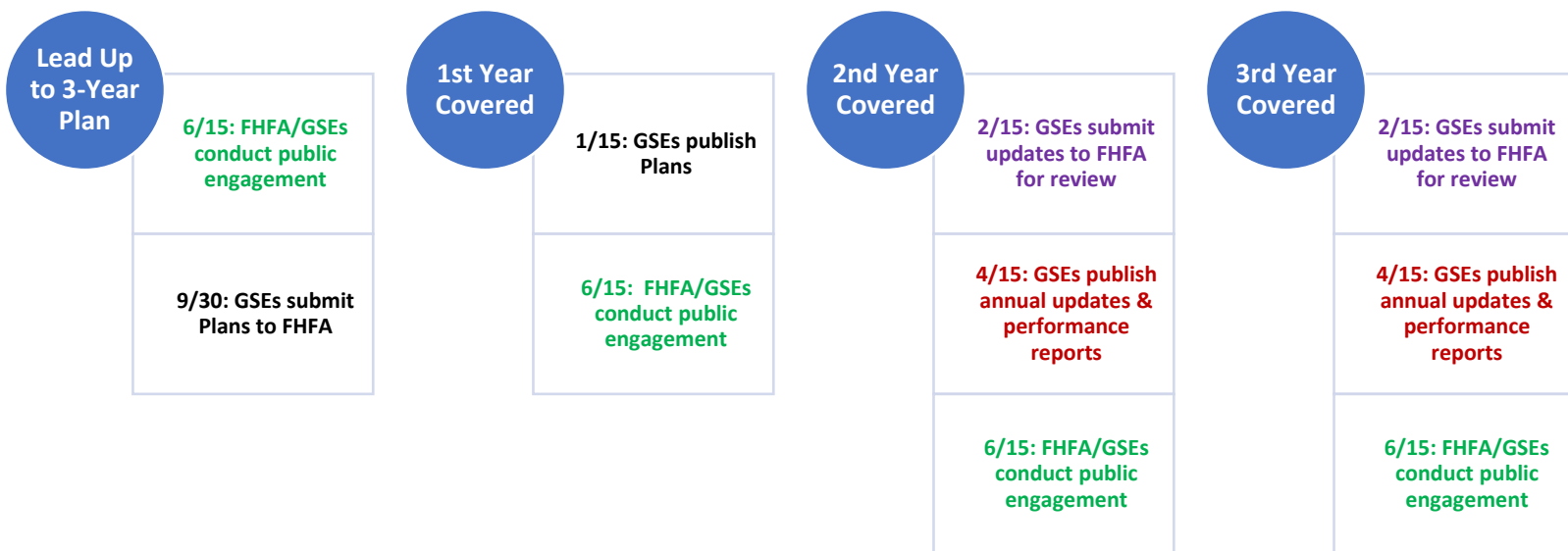
⁶ U.S. Census Bureau, Current Population Survey/Housing Vacancy Survey, May 3, 2023.

⁷ 88 Federal Register 25308 (April 26, 2023).

⁸ 88 Federal Register 25309 (April 26, 2023).

⁹ 88 Federal Register 25309 (April 26, 2023).

FIGURE 1: Proposed Timeline for 3-Year Plans:¹⁰



USMI supports regulatory requirements for the FHFA and the GSEs to conduct outreach and collaborate with industry stakeholders to best carry out the Plans. However, USMI recommends that the final rule contain additional details around the format of the public engagement and list the avenues for the public to share observations, data, and recommendations related to the GSEs’ Plans. Engagement formats could include, but are not limited to: request for input (RFI) processes; roundtables; listening sessions; and targeted meetings with consumer advocate organizations and classes of market participants.

Further, in August 2022 FHFA published a “Notice of Intent to Establish a Federal Advisory Committee on Affordable, Equitable, and Sustainable Housing” to advise on “affordable, equitable, and sustainable housing needs, barriers to access, barriers to long-term sustainability, and any regulatory, guidance, or policy changes that may be necessary or beneficial to expand such housing.”¹¹ FHFA stated that applications/nominations for membership on the federal advisory committee would be solicited in a subsequent Federal Register notice but, as of the date of this comment letter, no such subsequent notice has been published. USMI urges FHFA to expeditiously publish the notice for the membership application/nomination process so that the federal advisory committee can be established and begin its work to provide information and analysis to FHFA to inform its policies and oversight related to equitable housing initiatives.

A critical component of stakeholder engagement is the further democratization of data to enhance transparency within the housing finance system and aid in the development and implementation of policies aimed at: (1) expanding access to affordable and sustainable homeownership; and (2) promoting prudent risk management and safety and soundness in the

¹⁰ 88 Federal Register 25305 (April 26, 2023).

¹¹ 87 Federal Register 52556, 52557 (August 26, 2022).

system. USMI strongly supports additional transparency and data sharing initiatives to enable market participants to enhance access, affordability, and sustainability in the mortgage markets. It is important that policies promote collaboration among the FHFA, the GSEs, and industry participants to monitor origination trends, analyze the mortgage market, and develop strategies/products to expand access to affordable and sustainable homeownership. USMI welcomed FHFA’s June 2021 announcement regarding expanded access to the NMDB and October 2022 announcement on the publication of the new Uniform Appraisal Database (UAD) Aggregate Statistics Data File.¹² To supplement the proposed stakeholder engagement process outlined in the NPR and allow industry participants and consumer advocate organizations to be true partners in promoting equitable access to homeownership, USMI makes the following recommendations to maximize data sharing:

- Building on previous expansions of data access, FHFA, in conjunction with the Consumer Financial Protection Bureau (CFPB), should release more granular loan-level data from the NMDB and map it to HMDA data and other sources that collect data on race for better analysis of the intersection of race, mortgage lending, and homeownership.
- FHFA should increase transparency around the GSEs’ AUSs and other technologies.

Faithful Implementation of the *Prior Approval for Enterprise Products Rule*

Innovation in the housing finance system can be beneficial for initiatives to address barriers to homeownership and expand access to homeownership, but it should be accompanied by a thorough and transparent process to assess GSE expansions and ensure they do not disintermediate other market participants. During their nearly 15 years in conservatorship, however, the GSEs have developed and implemented a variety of programs, products, and pilots with little to no transparency, often representing expansions into areas of the mortgage finance system long considered to be functions of the primary mortgage market. These pilots were introduced into the market with minimal transparency for stakeholders and without comment periods to receive industry input on both the need for the pilots and recommendations to improve their operations. To promote a robust housing finance system and prudential expansion of homeownership opportunities, pilots and new products need to be carefully considered.

USMI strongly supports the *Prior Approval for Enterprise Products* rule finalized under your leadership in 2022 and implemented in 2023.¹³ The final rule will create a more transparent and objective regulatory process to ensure the appropriateness of GSE activities. It is critical that the FHFA implement the *Prior Approval for Enterprise Products* rule in a manner that ensures innovations do not disintermediate other market participants, cause the GSEs to

¹² Federal Housing Finance Agency, “FHFA Published New Uniform Appraisal Dataset (UAD) Aggregate Statistics Data File” (October 24, 2023); Federal Housing Finance Agency, “FHFA Announced New and Expanded Statistical Products from the National Mortgage Database” (June 30, 2021).

¹³ 87 Federal Register 79217 (December 27, 2022)



participate in the primary mortgage market, increase risk to taxpayers, or create an unlevel playing field for the private sector.

USMI was encouraged by your testimony before the House Financial Services Committee on May 23rd when you stated that FHFA has “been working out how the new products rule will work both internally at FHFA and Fannie and Freddie and we are committed to making sure that pilots are public” and stressed that “It is not the goal of Fannie Mae or Freddie Mac to ever serve in any primary market capacity.”¹⁴ USMI strongly supports that position and recommends the following additional actions to ensure faithful implementation of the rule:

- 1) FHFA should provide additional information about the “New Products Committee” that was referenced during the May 23rd House Financial Services Committee hearing, including the committee’s leadership, composition, and cadence of its meetings.
- 2) FHFA should maintain a public website that describes in detail all new product, activity, and pilot submissions from the GSEs and lists FHFA actions (approval, rejection, etc.). Each GSE currently maintains a “Pilot Transparency” webpage¹⁵ but these are only refreshed on a semiannual basis and provide limited information about pilots: name; brief description; status; plan alignment (if applicable); and scope/duration.

USMI appreciates the opportunity to share its views on the FHFA’s NPR on “Fair Lending, Fair Housing, and Equitable Housing Finance Plans.” As an industry dedicated to enabling access to homeownership for low down payment borrowers, while simultaneously ensuring safety and soundness in the housing finance system, we view ourselves as natural partners with the FHFA and welcome further engagement to support the goal of promoting sustainable housing opportunities for underserved communities. We welcome any questions you may have concerning our observations and recommendations, and please do not hesitate to contact me at sappleton@usmi.org or 202-280-1820 for additional information related to this submission.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Seth D. Appleton", with a long horizontal flourish extending to the right.

Seth D. Appleton
President
U.S. Mortgage Insurers

¹⁴ House Financial Services Committee, “FHFA Oversight: Protecting Homeowners and Taxpayers” (May 23, 2023).

¹⁵ Fannie Mae Pilot Transparency available at <https://www.fanniemae.com/about-us/what-we-do/pilot-transparency> and Freddie Mac Pilot Transparency available at <https://www.freddiemac.com/about/pilots>.