



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,

The undersigned members of the Underserved Mortgage Markets Coalition appreciate the opportunity to comment on the proposed rule on fair lending, fair housing, and equitable housing finance (EHF) plans.

The UMMC represents 29 national affordable housing organizations who are firmly committed to working with FHFA, Fannie Mae and Freddie Mac to make greater efforts to safely and sustainably purchase mortgage loans in underserved markets, including the markets addressed in the EHF plans, as well as the Duty to Serve (DTS) markets. The views in this comment are only those of the undersigned UMMC members. The full UMMC has not endorsed this comment letter.

We have long seen all aspects of equitable housing finance as a central effort to ensure the Enterprises fulfill their mission to serve low- and moderate-income families and underserved populations. At the outset, we commend FHFA and its able staff for your notice of proposed rulemaking on Fair Lending, Fair Housing and Equitable Housing Finance. This was a critical first step at codifying Fair Lending Supervision, EHF plans, the prudential standard framework, and a start on data disclosure and language access. Thank you all very much.

The original request for information (RFI) on the EHF plans stated the goals of the program as: reducing the racial and ethnic homeownership gap and reducing underinvestment or undervaluation in formerly redlined areas that remain racially or ethnically concentrated areas of poverty or are otherwise underserved or undervalued.

If written with sufficient specificity, creating a rule for this program could ensure high quality plans are produced and that the Enterprises make progress toward creating a more equitable housing system. We agree that these are the right goals. It is hard to imagine anything in greater need of attention in our financial markets than racial equity. FHFA staff's proposed rule addressed the yawning racial wealth gap extremely well. What is still needed is an EHF plan process that is up to the task of addressing this gap.

### **Equitable Housing Finance**

We applaud using a strategic planning model, as we think that's the best way to help adapt the Enterprise's business practices towards underserved markets. However, the version of strategic planning in the proposed rule is missing several critical elements to ensure success, including:

1. Plan development guidelines: What constitutes an adequate EHF plan?
2. Oversight: FHFA's explicit authority to reject plans that don't meet a minimum standard.
3. Grades: What are the metrics for measuring success and failure?
4. Transparency: Making public FHFA's process for evaluating performance; and
5. Accountability: Commit to disclosing success or failure at the goal level so that the public can meaningfully contribute.

The DTS program and evaluation guidance has strong examples and precedent for how to address shortcomings 1-4 listed above. One shortcoming for both FHFA's DTS Program and this EHF proposed rule is a lack of requirements and a practice of disclosing success and failure at the goal level.

In order to meaningfully shift the approach of Fannie Mae and Freddie Mac to address the racial wealth gap, FHFA must approach compulsory strategic planning by setting in regulation clear guidelines and expectations that **progress** on addressing this problem and will be measured and made public.

### **Unfair or Deceptive Acts of Practices Supervision and Language Access**

We support FHFA's decision to add oversight of unfair or deceptive acts or practices to FHFA's fair housing and fair lending oversight programs. Adding federal consumer protection law to FHFA's fair housing and fair lending oversight programs will aid in the office's mission to improve equity in the market for conventional mortgage credit, support overall regulated entity safety and soundness, and serve the public interest.

We support the requirement for the Enterprises and GSE lenders to have a formal policy of gathering data on the language preference of borrowers. This data is essential for providing meaningful language access that meets the needs of borrowers. By having this data, the Enterprises can analyze how different language groups perform on their loans, help lenders and servicers offer appropriate language resources to their customers and adjust them as the language needs of their customer base change over time. Lenders can use the information to directly

provide in-language services to borrowers with limited English proficiency (LEP).

While collecting information on loan origination is an important first step, there is much to be done to ensure that LEP borrowers have meaningful access to our mortgage market. While FHFA and the Enterprises have spent years developing in-language resources for lenders and servicers, English-only communication between lenders, servicers, and borrowers is still the industry norm. We recommend requiring the Enterprises to implement policies requiring all Enterprise counterparties to provide meaningful language access to LEP borrowers, including use of translated documents in the FHFA Mortgage Translations Clearinghouse. This should start with language preference collection by mortgage servicers. Finally, FHFA should require regulated entities to create, and regularly maintain, language access plans.

### **Conclusion**

The proposed fair lending and fair housing rule offers encouraging and ambitious objectives previously unaddressed by FHFA. Yet, there are at least five specific changes and additions to the proposal we believe are essential to creating a credible strong EHF plan process for the Enterprises, in light of their competing pressures for profits and higher reserves.

FHFA has previous experience and established precedents in the Duty to Serve regulation and evaluation guidance that could effectively address many of the shortcomings of the EHF plan process proposal. Creating a formal process for measuring and disclosing granular success will increase the effectiveness of the EHF program and hold the Enterprises accountable. We strongly urge that the changes we outline be implemented in the final rulemaking now. This will increase the likelihood that the EHF plan process succeeds and that the program remains robust and effective over time.

Thank you for considering our views.

Respectfully,

cdcb  
Center for Community Progress  
Enterprise Community Partners  
Fahe  
Grounded Solutions Network  
Homeownership Alliance  
Housing Assistance Council  
Institute for Market Transformation  
LeadingAge  
Lincoln Institute of Land Policy  
Local Initiatives Support Corporation  
National Community Stabilization Trust  
National Consumer Law Center (on behalf of its low income clients)  
Next STEP  
Opportunity Finance Network

Prosperity Now  
ROC USA  
Unidos US

## Appendix

### Comparing Key Provisions in the Equitable Housing Finance Proposed Rule with the Duty to Serve Regulation

Provision	Duty to Serve Regulation	EHF Proposed	Comments
Strategic Planning Model	<b>Yes</b> <u>12 CFR 1282.32</u>	<b>Yes</b> <u>12 CFR 1292.22</u> p. 36	If properly administered, strategic planning is useful to test & learn on how the business model can be safely tweaked to reach underserved markets.
Plan Development Guidelines	<b>Yes</b> <u>12 CFR 1282.32(d)</u> <u>DTS Evaluation Guidance 2022-5, chp. 1 pp.1-25.</u>	<b>No</b>	Creating a set of plan development guidelines will help the Enterprises identify target populations and build procedure around the parameters of each section, just as with DTS.
Authority to Reject Plans	<b>Yes</b> <u>12 CFR 1282.32(g)(5)(iv)</u>	<b>No</b> FHFA should consider explicitly retaining the authority to reject plans. The proposal currently allows FHFA to remove content and provide “feedback for consideration” in its review of the plans, but does not allow for rejecting plans	The authority to reject plans for lackluster proposed actions, objectives, and goals would provide an additional, necessary layer of accountability.
Metrics Describing Success (the grades)	<b>Yes</b> see <u>12 CFR 1282.36(c)(4)</u> “Exceeds” “High Satisfactory” “Low Satisfactory” “Minimally Passing” “Fails”	<b>No</b> “Should the rule include required evaluation metrics for progress reports?” Q#8, p. 53.	It is difficult to understand how a strategic planning model can succeed without success metrics. Just as DTS has success metrics, so should EHF.
Evaluation Rating System (how the grades are determined)	<b>Yes</b> <u>12 CFR (a) and (c).</u> <u>DTS Evaluation Guidance 2022-5, chp. 2 pp.28-42.</u>	<b>No</b> “Should FHFA issue an evaluation of the Enterprises?” Ibid.	Presumably, FHFA will evaluate progress? By failing to disclose FHFA’s evaluation process, it becomes impossible for external stakeholders to meaningfully participate or to assess the adequacy of FHFA’s evaluation.

<p>Disclose Success &amp; Failure at the Goal Level</p>	<p><b>No</b></p> <p>To date, FHFA has only disclosed success &amp; failure at the market level which is wholly insufficient. This information that FHFA has should be disclosed.</p>	<p><b>No</b></p> <p>As of the proposed rule, there are no public metrics or evaluation system, much less disclosure.</p>	<p>This is a fatal shortcoming for regulating via strategic plan. Disclosing granular success and failure is essential for a test &amp; learn system with meaningful public input.</p>
<p>Uniform reporting formats and FHFA website</p>	<p><b>Yes</b></p> <p><u><a href="#">DTS 2022 Enterprise Quarterly &amp; Annual Reports on fhfa.gov</a></u></p> <p><u><a href="#">Plans for both Enterprises</a></u> reside at FHFA.Gov</p>	<p><b>No</b></p> <p>Each Enterprise is allowed to post its plan on its own website with its own spin on its value and success.</p>	<p>FHFA should create uniform formatting and structure to enable apples to apples comparisons between both Enterprises, both for the plans and progress reports. Having both plans and all progress reports reside at FHFA promotes transparency because it is easier for external stakeholders to find and compare the plans and progress. FHFA should encourage comparison and competition on mission. Just as DTS plans reside on FHFA.gov, so should EHF plans.</p>