NFHA NATIONAL FAIR HOUSING ALLIANCE

February 26, 2021

Director Mark A. Calabria
Federal Housing Finance Agency
Constitution Center
400 Seventh Street, SW
Washington, DC 20219

Submitted electronically at:
https://www.fhfa.gov/AboutUs/Contact/Pages/Request-for-Information-Form.aspx

Re: *Request for Information on Appraisal-Related Policies, Practices, and Processes*

Dear Director Calabria,

Thank you for the opportunity to submit comments in response to the Federal Housing Finance Agency's ("FHFA") Request for Information ("RFI") on Appraisal-Related Policies, Practices, and Processes.[1]

Founded in 1988, the National Fair Housing Alliance ("NFHA") is a consortium of more than 200 private, non-profit fair housing organizations, and state and local civil rights agencies, from throughout the United States. Headquartered in Washington, D.C., NFHA's comprehensive education, advocacy, community development, member services, consulting services, research, and enforcement programs help provide and ensure fair access to housing and financial services. NFHA's track record demonstrates that fair housing and fair lending laws have made a tremendous difference in the lives of millions of people throughout the country.

Still, much work has yet to be done to make credit markets equitable for everyone, and FHFA plays a critically important role in ensuring that mortgage markets are fair and free from discrimination. NFHA believes the responses below will help inform FHFA's work and positions.

The Appraisal System Historically Undervalued Homes in Communities of Color

For much of America's history, communities of color were systematically excluded from economic opportunities through explicit policy decisions.[2] In particular, the New Deal's federal Home Owners Loan Corporation ("HOLC") developed one of the most harmful policy decisions in the housing system by creating a system that included race as a fundamental factor in

---

[1] FHFA, *RFI on Appraisal-Related Policies, Practices, and Processes* (Dec. 28, 2020) (hereinafter, the "RFI").
[2] Lisa Rice, THE FIGHT FOR FAIR HOUSING: CAUSES, CONSEQUENCES, AND FUTURE IMPLICATIONS OF THE 1968 FEDERAL FAIR HOUSING ACT (1st ed. 2017). For a detailed explanation of how federal race-based housing and credit policies promoted inequality, *see* Chapter 6, entitled "The Fair Housing Act: A Tool for Expanding Access to Quality Credit." *See also*, The Urban Institute, *Confronting Structural Racism in Research and Policy Analysis* (Feb. 2019).

determining the desirability of neighborhoods. This system included Residential Security Survey forms that explicitly captured the percentage of "Negro" populations and other racial groups living in an area. It also included the creation of appraisal maps that were color-coded to indicate the desirability of neighborhoods.[3] These discriminatory policies and practices inculcated the association between race and risk into the nation's housing and financial markets.

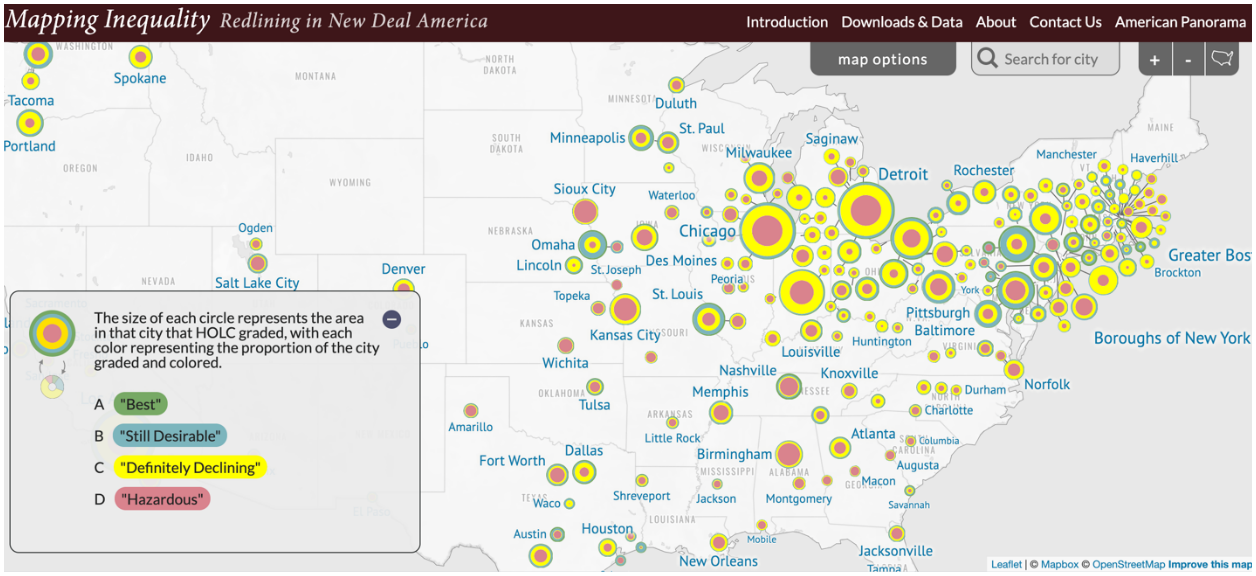
Communities of color were coded as "hazardous" as signified by red shading on the map (see example below) and were assigned a lower value. Areas that contained even small numbers of Black residents were coded as "hazardous" and shaded red.[4] Moreover, areas that were adjacent to communities with Black residents could be downgraded simply based on their proximity to a community of color. (See graphics below as an example.)

Thus, homes in neighborhoods with similar amenities were undervalued primarily on the basis of race. Notably, the data used to create the maps were not just collected randomly, but rather were based on the opinions of the leading real estate professionals at the time, including appraisers. Later, the Federal Housing Administration adopted these maps as the basis for its mortgage insurance underwriting decisions. Thus, the maps not only reflected the race-based views of the nation's housing industry leaders at the time, but were also used to amplify and codify these views throughout the housing system. This approach led to the modern-day term "redlining," which refers to restricting access to credit in communities of color. Racial disparities in wealth, health, education, and other key factors of success continue to follow the harmful redlining patterns set forth in these historical maps.

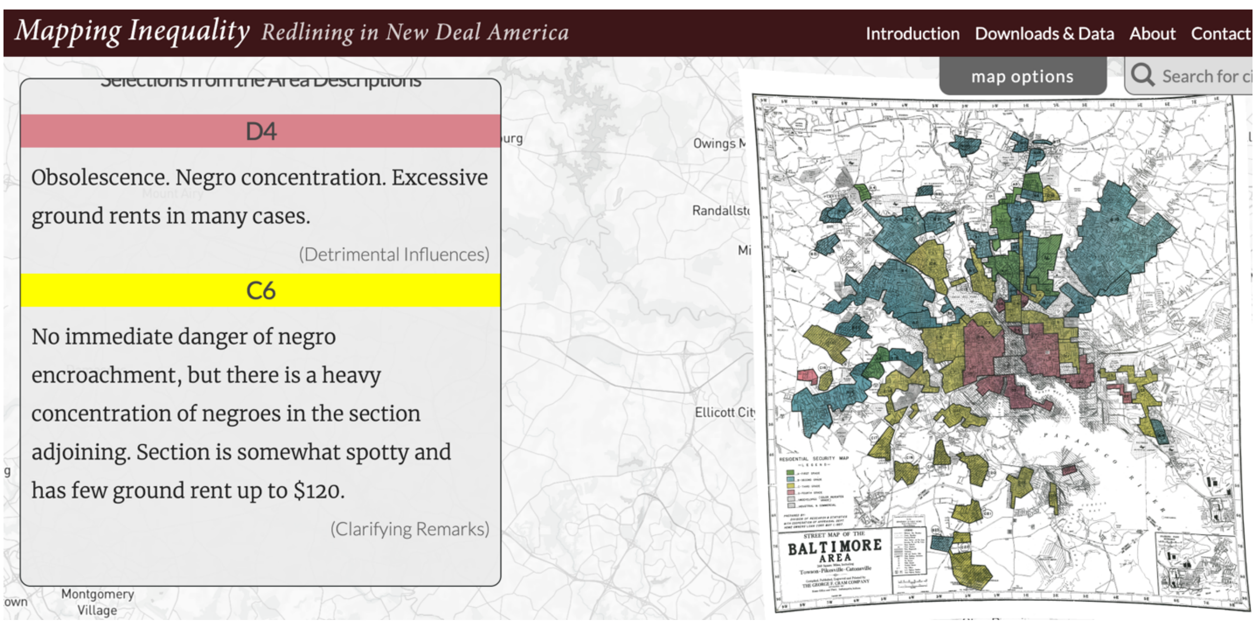
A collaboration of academics has produced an invaluable interactive online tool known as "Mapping Inequality," which documents how real estate appraisers and the HOLC used their biased views to determine the economic value of a community on the basis of race. Below are examples of the tool and an archived HOLC map of Baltimore. We encourage FHFA staff to use this tool to better understand the history of discrimination in appraisals. Unfortunately, some of these views and patterns persist to this day.

[3] The Home Owners' Loan Act of 1933 established the HOLC as an emergency agency under the Federal Home Loan Bank Board. 12 U.S.C. 1461 *et seq.*

[4] Lisa Rice, *The Fair Housing Act; A Tool for Expanding Access to Quality Credit,* THE FIGHT FOR FAIR HOUSING: CAUSES, CONSEQUENCES, AND FUTURE IMPLICATIONS OF THE 1968 FEDERAL FAIR HOUSING ACT (1st ed. 2017).



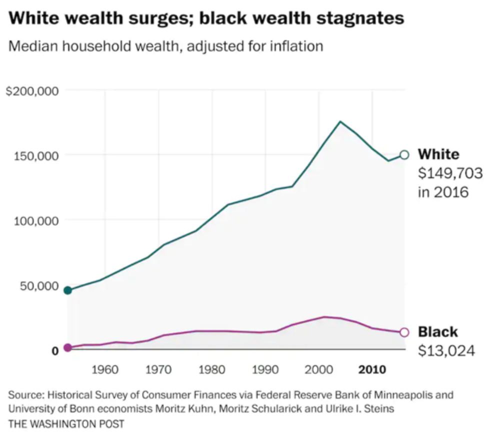
This is the landing page of the "Mapping Inequality" tool. The graphic at the left shows the HOLC map legend where red signifies a community that was deemed "Hazardous." Source: [Mapping Inequality](#).



This is the HOLC's map of Baltimore, which color coded the communities of color as red and "hazardous" based in part on "Negro concentration." Source: [Mapping Inequality](#).

These discriminatory policies created distinct advantages for White families, leading to massive wealth, homeownership, and credit gaps that persist today. In particular, because home value has been the cornerstone of intergenerational wealth in the United States, the historical appraisal practices have had long-term effects in creating some of the current wealth inequalities where

White wealth has soared while Black wealth has remained stagnant. In 2016, the typical middle-class black household had $13,024 in wealth versus $149,703 for the median white household.[5]



In 2019, White family wealth sat at $188,200 (median) and $983,400 (mean).[6] In contrast, Black families' median and mean net worth were $24,100 and $142,500, respectively.[7] These wealth disparities, in turn, reflected intergenerational transfer disparities: 29.9 percent of White families have received an inheritance, compared with only 10.1 percent of Black families.[8]

In addition to the wealth gap, undervalued home appraisals can have other significant consequences. Low appraisals can result in distortions in the loan-to-value ratio and in cancelled home sales contracts or refinancing offers. Finally, low appraisals pose significant challenges for using home equity for advancement opportunities, such as payment for college tuition or security for small business loans. Accurate home valuations are critically important to the advancement and security of people and communities of color.

The Unique Challenge of Overvaluation

While the lion's share of appraisal bias affecting communities of color has been comprised of an undervaluation of properties, there have been cases of harmful, excessive, and abusive overvaluation of property values. Specifically, many subprime loans were based on appraisals that were highly inflated resulting in homeowners being upside down in their mortgages. Even ten years after the Great Recession, six million homeowners still owed more on their mortgage loans than what their properties were worth.[9] This problem disproportionately impacted communities of color who were much more likely to receive a subprime loan than their White

[5] Heather Long and Andrew Van Dam, *The Black-White Economic Divide Is as Wide as It Was in 1968*, WASHINGTON POST (June 4, 2020).
[6] Neil Bhutta, Jesse Bricker, Andrew Chang, et al., *Changes in U.S. Family Finances from 2016 to 2019: Evidence from the Survey of Consumer Finances*, 106(5) FED. RESERVE BULLETIN (Sept. 2020).
[7] *Id.*
[8] Neil Bhutta, et al., *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances*, FEDS NOTES, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (Sept. 2020).
[9] NPR, *A Decade Out From The Mortgage Crisis, Former Homeowners Still Grasp For Stability* (May 22, 2016).

counterparts[10] and were also more likely to receive subprime loans when they qualified for prime mortgages.[11]

The overvaluation of appraisals has a deleterious impact on consumers and communities because it is often tied to abusive and excessive fees and equity stripping. It serves to lock borrowers in unfair and often unsustainable loans, prohibits the ability of consumers to refinance into safer and more affordable products, limits people's ability to sell their homes, and often leads to other predatory practices.

Discrimination in Appraisals Continues on an Individual and Systemic Basis

Unfortunately, the appraisal system continues to suffer from bias on an individual and systemic basis. Recent news stories have highlighted anecdotal evidence on an individual basis:

- A Black couple in Marin City, California spent $400,000 in renovations and received an initial appraisal of only about $100,000 more than the pre-renovation value. They asked a White friend to pose as the homeowner and then received an appraisal of $500,000 more than it appraised for just weeks earlier, which was a nearly 50 percent increase in value. The homeowner said, "There are implications to our ability to create generational wealth or passing things on if our houses appraise for 50 percent less than its value."[12]

- A mixed-race couple in Denver, Colorado scheduled an appraisal in connection with a home equity loan. When the Black husband greeted the appraiser, the home was valued at $405,000 based on comparable homes in a Black neighborhood in a different location. When the White wife greeted the second appraiser, the home was valued at $550,000, which was a $145,000 increase. The wife stated, "Race obviously played a role in how we were treated. But what's deflating is that this experience put a dollar figure on it."[13]

- After receiving an initial appraisal of $340,000, a Black family in Bloomfield, Connecticut removed all family photos and asked a White neighbor to pose as the homeowner. This time, the home appraised for just over $400,000. The homeowner stated, "[T]his kind of experience not only robs you of the ability to refinance, but also affects opportunities at building generational wealth."[14]

- After receiving an initial appraisal of $330,000, a mixed-race couple in Jacksonville, Florida removed all photos of the Black wife and her side of the family, books by Black

---

[10] Debbie Gruenstein Bocian, Keith Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages*, CENTER FOR RESPONSIBLE LENDING (May 31, 2006).
[11] *See, e.g.*, *Justice Department Reaches $335 Million Settlement to Resolve Allegations of Lending Discrimination by Countrywide Financial Corporation* (Dec. 21, 2011).
[12] Julian Glover, *Black California Couple Lowballed by $500K in Home Appraisal, Believe Race Was a Factor*, ABC7NEWS (Feb. 12, 2021)
[13] Troy McMullen, *For Black Homeowners, A Common Conundrum with Appraisers*, WASHINGTON POST (Jan. 21, 2021).
[14] *Id.*

authors, and holiday cards from Black friends. When the White husband greeted the second appraiser, the home appraised at $465,000, which was an increase of more than 40 percent. After posting the story on Facebook, the homeowners received over 2,000 comments, many of which were from Black homeowners saying that they had a similar experience. The wife stated, "[I]n the Black community, it's just common knowledge that you take your pictures down when you're selling your house."[15]

While the individual stories of discrimination in appraisals are impactful, the analyses of systemic bias are even more stunning and disturbing. Recent studies contain the following findings:

- A 2018 Brookings Institution study found that homes in majority Black neighborhoods were appraised for 23 percent less than properties in mostly White neighborhoods, even after controlling for home features and neighborhood amenities.[16] That is, differences in home and neighborhood quality could not fully explain the devaluation of homes in Black neighborhoods, raising questions about whether discrimination was the determining factor. The study estimated that homes in majority-Black neighborhoods were undervalued by $48,000 per home on average, leading to a $156 billion cumulative loss in value nationwide. One of the study's authors summarized, "We still see Black people as risky."

- In a discouraging discovery, a 2020 study found that neighborhood racial composition was an even stronger determinant of a home's appraised values in 2015 than it was in 1980.[17] Researchers found that the race appraisal gap had in fact doubled since 1980.[18] Results suggested that this was primarily due to appraisers using the sales comparison approach, which allows historically undervalued appraisals to influence current values. The study stated, "Since no steps were taken to rectify the historic inequities, this approach has enabled such inequalities to persist."

- Another 2020 study found that Automated Valuation Models ("AVMs") in majority-Black neighborhoods produced a larger percentage magnitude of inaccuracies, relative to the underlying sales price, than AVMs in majority-White neighborhoods.[19] Even after controlling for certain neighborhood and income characteristics, the predominant race of the neighborhood still played a statistically significant role in the determination of the

---

[15] Debra Kamin, *Black Homeowners Face Discrimination in Appraisals*, THE NEW YORK TIMES (Aug. 25, 2020).
[16] Andre Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, THE BROOKINGS INSTITUTION METROPOLITAN POLICY PROGRAM (Nov. 2018). *See also* Junia Howell and Elizabeth Korver-Glen, *Neighborhoods, Race, and the Twenty-first Century Housing Appraisal Industry*, 4 SOCIOLOGY OF RACE AND ETHNICITY 473 (2018) (finding substantial differences in home values in communities of color even after controlling for home features, neighborhood amenities, socioeconomic status and consumer demand).
[17] Junia Howell and Elizabeth Korver-Glen, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015*, SOCIAL PROBLEMS (2020).
[18] Brentin Mock, *Decades after Housing Reform, Race Has Become an Even Greater Determinant of Home Appraisals in Black and Latino Neighborhoods, New Research Finds*, BLOOMBERG CITYLAB (Sept. 21, 2020).
[19] Michael Neal, Sara Strochak, Linna Zhu, and Caitlin Young, *How Automated Valuation Models Can Disproportionately Affect Majority-Black Neighborhoods*, URBAN INSTITUTE (Dec. 2020).

percentage AVM inaccuracy gap. Although the researchers opted to avoid attributing the differences to discrimination, they did not preclude the possibility that AVMs may reinforce past discrimination.

As these individual stories and systemic analyses show, discrimination persists in the appraisal system, which unfairly limits the ability of communities of color to build wealth and opportunities.

FHFA Has the Legal and Policy Tools to Address Discrimination in the Appraisal System

FHFA Is in a Unique Position to Address Discrimination in the Appraisal System

We applaud FHFA's initiative in soliciting information through this RFI regarding discrimination in the appraisal system and potential structural changes. FHFA, as the regulator of Fannie Mae and Freddie Mac (collectively, the "Enterprises"), is in a unique position to identify and address any potential discrimination in the appraisal system. The Enterprises are exempt from the appraisal requirements set forth in Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"),[20] which means that FHFA's oversight could be instrumental in addressing decades of bias in the appraisal system for the large portion of the mortgage market covered by the activities of the Enterprises.

The RFI's focus on racial equity concerns is also consistent with FHFA's *Strategic Plan: Fiscal Years 2021-2024* ("Strategic Plan").[21] Issued in October 2020, FHFA's Strategic Plan established goals and objectives related to the Enterprises, the national housing finance markets, and the agency. In particular, Objective 2.2 of the Strategic Plan is to "[e]nsure that the regulatory entities fulfill their statutory missions to support affordable housing, community development, and diversity and inclusion requirements." FHFA plans to use the following Means and Strategies to achieve the objective:

- Monitor and promote compliance with fair lending laws at the regulated entities.
- Promote financial inclusion and economic opportunity through fair access for, and fair treatment of, mortgage borrowers at the regulated entities.
- Ensure regulated entity compliance with diversity and inclusion statutory and regulatory requirements.

Moreover, the focus on racial equity is consistent with President Biden's recent Executive Order.[22] Although FHFA is an independent agency and thus not subject to the Executive Order, FHFA can still look to the order for useful guidance. For example, the Executive Order directs executive agencies to:

---

[20] FIRREA, Pub. L. 101-73, Title XI, codified at 12 U.S.C. § 3331 *et seq*.
[21] FHFA's *Strategic Plan: Fiscal Years 2021-2024* can be found here.
[22] *Advancing Racial Equity and Support for Underserved Communities through the Federal Government*, Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021).

- Assess whether, and to what extent, programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.
- Study methods for assessing whether agency policies and actions create or exacerbate barriers to full and equal participation by all eligible individuals.
- Select certain programs and policies for a review that will assess whether underserved communities and their members face systemic barriers in accessing benefits and opportunities available pursuant to those policies and programs.
- Study strategies, consistent with applicable law, for allocating federal resources in a manner that increases investment in underserved communities, as well as individuals from those communities.
- Evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with community-based organizations and civil rights organizations.
- Gather the disaggregated data necessary to inform the effort to measure and advance equity.

We think that the RFI's focus on racial equity is an important step in achieving FHFA's objective of promoting financial inclusion and economic opportunity.

FHFA Should Conduct Robust Oversight of the Enterprises' Appraisal Activities for Potential Fair Lending Risk

We strongly support FHFA's strategic objective of monitoring and promoting compliance with fair lending laws at the Enterprises, which would include the Enterprises' appraisal activities. The Fair Housing Act is one of the key fair lending laws and clearly prohibits discrimination in appraisals.

- Section 3605(a) of the Fair Housing Act states: "It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin."[23]

- Section 3605(b) of the Fair Housing Act defines a "residential real estate-related transaction" to include the "appraising of residential real property."[24]

- The implementing regulations promulgated by the U.S. Department of Housing and Urban Development ("HUD") broadly define the term "appraisal" to mean "an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection

[23] 42 U.S.C. 3605(a). The categories of prohibited discrimination (race, color, religion, sex, handicap, familial status, national origin) are hereinafter referred to as a "protected class" or a "prohibited basis."
[24] 42 U.S.C. 3605(b). The Fair Housing Act clarifies that "[n]othing in this title prohibits a person engaged in the business of furnishing appraisal of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status." 42 U.S.C. 3605(c).

with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value."[25]

- The regulation also states that prohibited practices include "[u]sing an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, or national origin."[26]

In addition to the Fair Housing Act, there are other fair lending laws and regulations that may cover the appraisal activities of the Enterprises. For example, the Federal Housing Enterprises Financial Safety and Soundness Act ("FHEFSSA") detailed Congress' expectations that the Enterprises would adhere to the requirements of the fair housing and fair lending laws.[27] The implementing regulations promulgated by HUD state that "[n]either [enterprise] shall discriminate in any manner in making any mortgage purchases because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect."[28]

Violations of fair lending laws and regulations may be established through a disparate treatment or disparate impact theory of discrimination. In some instances, both theories may apply.

- *Disparate Treatment-Overt Evidence.* Disparate treatment occurs when a lender or other entity treats a person or community differently on a prohibited basis. The evidence of disparate treatment can be overt or comparative. Overt evidence exists when a lender or other entity overtly expresses (orally or in writing) a preference to treat persons or communities differently on a prohibited basis. For example, in the case of the *United States and Consumer Financial Protection Bureau v. BancorpSouth Bank*, the bank instructed its employees to turn down minority mortgage applicants more quickly than White applicants.[29]

- *Disparate Treatment-Comparative Evidence*. Although disparate treatment is legally known as "intentional discrimination," there does not need to be overt evidence that the actions were motivated by prejudice or a conscious intent to discriminate. Disparate treatment can occur when there is comparative evidence (including statistical analysis) that a lender or other entity treated a person or community differently and there is no legitimate, non-discriminatory reason for the difference in treatment. For example, in the

[25] 24 C.F.R. 100.135(b).
[26] 24 C.F.R. 100.135(d)(1).
[27] 12 U.S.C. 4545.
[28] 24 C.F.R. 81.42.
[29] United States and Consumer Financial Protection Bureau v. Bancorpsouth Bank, No. 1:16cv118-GHD-DAS (N.D. Miss., Complaint filed June 29, 2016).

case of the *United States v. Countrywide Financial Corp, et al.*, the bank provided the employees with broad discretion to set the interest rate and fees as well as the ability to increase their compensation through higher prices.[30] As a result, Black and Latino borrowers received substantially higher rates and fees when compared to White borrowers, and the bank could not provide a legitimate, non-discriminatory reason for the difference in outcomes.

- *Disparate Impact.* Disparate impact occurs when the policy of a lender or other entity has a disproportionately negative impact on persons or communities on a prohibited basis, even though the policy appears neutral. That is, the policy does not on its face appear intended to negatively impact the people or communities on, for example, the basis of race. A policy that has a disparate impact may violate the Fair Housing Act, unless the policy meets a legitimate business need that cannot reasonably be achieved through a less discriminatory alternative. For example, the *Countrywide* case may also be viewed as a disparate impact case because the bank's policy of discretion and compensation incentives had a disparate impact on minority borrowers, and the bank's policy was not justified by a legitimate business need. The Supreme Court recently upheld the use of the disparate impact theory of discrimination under the Fair Housing Act in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*[31]

Thus, the Enterprises face a compliance risk with respect to any appraisal activities that may potentially violate the Fair Housing Act or other fair lending laws or regulations under a disparate treatment or disparate impact theory of discrimination. Given the critically-important role that appraisals play for communities of color, FHFA should ensure that it conducts robust oversight of the Enterprises' appraisal activities to mitigate any potential fair lending risk and any potential harm to people and communities of color.

SUMMARY OF RECOMMENDATIONS

In order to promote financial inclusion, economic opportunity, and compliance with fair lending laws, NFHA recommends that FHFA take the following actions with respect to the Enterprises' appraisal activities. More detailed recommendations follow in response to the specific questions raised in FHFA's RFI.

Appraisal Process Improvements: Fair Lending Risk Management

FHFA's RFI discusses several potential appraisal process improvements, including hybrid appraisals, AVMs, desktop appraisals, exterior-only appraisals, appraisal waivers, and enhanced data collection. We recommend that FHFA consider the following fair lending risk management controls in connection with its responsibilities for overseeing the Enterprises' appraisal activities:

---

[30] *United States v. Countrywide Financial Corp., et al.,* No. 11-CV-10540 (PSG) (C.D. Cal., Complaint filed Dec. 21, 2011).

[31] *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Project*, 576 U.S. 519 (2015).

- **<u>Discretion</u>: FHFA should ensure that the Enterprises' use of discretion is limited and carefully monitored**.

- **<u>Model Risk Management</u>: FHFA should ensure that models the Enterprises use for home valuations and appraisal waivers do not rely on biased data and are carefully reviewed for fair lending risk**.

- **<u>Data Management</u>: FHFA should ensure that the data used by the Enterprises are carefully reviewed for fair lending risk, including data based on historically undervalued communities.**

- **<u>Data Collection</u>: FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing.**

- **<u>Complaints</u>: FHFA should ensure that the Enterprises track and address any complaints that raise concerns about bias in home valuations and appraisal waivers. FHFA should also implement a process for reviewing consumer complaints.**

- **<u>Ongoing Fair Lending Training</u>: FHFA should ensure that the Enterprises' key appraisal staff and third parties receive ongoing fair lending training.**

- **<u>Research</u>: FHFA should encourage and support research evaluating the impact of various home valuation services and appraisal waivers on communities of color. Also, FHFA should encourage the Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color.**

- **<u>Existing Policies</u>: FHFA should amend its existing policies to incorporate fair lending risk**.

- **<u>New Policies</u>: FHFA should publish an Advisory Bulletin and examination procedures clarifying its expectations for managing fair lending risk**.

Appraiser and Inspection Workforce

Discussions of the appraiser and alternative inspection workforce should recognize concerns based on the lack of diversity. Accordingly, NFHA recommends that FHFA consider the following with respect to the appraiser and inspection workforce:

- **<u>Recruitment</u>: FHFA should work with stakeholders to recruit a more diverse workforce of both appraisers and non-appraiser inspectors.**

- **<u>Ongoing Fair Lending Training</u>: FHFA should work with stakeholders to ensure that home evaluators (both appraisers and non-appraiser inspectors) receive ongoing fair lending training**.

FHFA and Enterprise Personnel

As a final matter, NFHA encourages FHFA to use an equity lens when considering the recruitment and retention of personnel at FHFA and the Enterprises. NFHA recommends the following with respect to recruitment and retention:

- **Diversity and Inclusion: FHFA should ensure that personnel at FHFA and the Enterprises meet goals for diversity and inclusion and have fair lending expertise**.

RESPONSES AND RECOMMENDATIONS FOR RFI QUESTIONS

1. Appraisal Policy and Process Improvements

FHFA Question A1.1: *"Is there is a need to provide new valuation solutions that address industry identified issues of appraiser capacity, turn-times, training, and rural and high-volume market coverage? What are those potential solutions? What are the risks of these policies and the challenges in implementing them?"*

At this point, it appears that changes to the traditional appraisal business model are inevitable. In all aspects of the mortgage market, consumers are demanding faster, more streamlined processes. Accordingly, more mortgage market players are attempting to harness the power of fintech, big data, artificial intelligence, and machine learning to improve the cost structure and turn-times. Moreover, the appraisal industry is experiencing a unique stress in workforce retention and recruitment as older and more experienced professionals exit the industry while new professionals find the licensing requirements and fee pressures ever more challenging.

The key to successfully improving the appraisal business model is managing the change to mitigate the fair lending risk and the risk of harm to consumers and communities, particularly communities of color. At the same time, FHFA and the Enterprises must recognize the undeniable value of on-site appraisals conducted by well-trained appraisal professionals. Automated processes rely on being able to group assets into buckets or categories and there are many instances when the unique circumstances of a property will not be best served by an automated system. FHFA and the Enterprises have the opportunity to play a central role in deconstructing decades of discrimination that undervalued homes in communities of color, which in turn unfairly stifled opportunities for advancement. It will be critically important to consider all changes in the appraisal business model with an equity lens, carefully reviewing all processes for fair lending risk, testing outcomes for their effect and impact on people and communities of color, and seeking opportunities to construct a fair and transparent valuation system.

FHFA Question A1.2: *"Are there opportunities for process improvements that allow non-traditional valuation services (inspection-only, desktop, exterior-only) to augment traditional appraisals? Please elaborate on the risks, challenges and benefits. Separately, are there opportunities to improve traditional appraisals to mitigate problems and concerns that have been observed to date?"*

In the past, the home valuation process consisted of a largely binary decision of whether to conduct a full appraisal (an interior and exterior on-site evaluation by a licensed appraiser) or no appraisal (through an appraisal waiver). More recently, to address concerns with turn-times, cost, and the pandemic, the Enterprises have experimented more with several different alternative valuation services, including:

- *Hybrid/Bifurcated Appraisals.* Generally, a hybrid (or bifurcated) appraisal separates the property data collection phase of the valuation from the appraisal phase. One entity (who may or may not be a licensed appraiser) conducts a property inspection and collects the key data points. From there, a different entity (the licensed appraiser) uses the data to focus on the analysis and final conclusion regarding the value of the property.[32]

- *Automated Valuation Models ("AVMs").* An AVM is defined in FIRREA as "any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling."[33] The Enterprises use proprietary AVMs and other collateral models to perform a variety of functions including loan quality control reviews, valuation desk reviews, loss mitigation, non-performing loan and property liquidations, and to assist with offering appraisal waivers on eligible loans.[34]

- *Desktop Appraisals and Exterior-only Inspection Appraisals*. In response to the COVID-19 national emergency, FHFA has directed the Enterprises to leverage appraisal alternatives to reduce the need for appraisers to inspect the interior of a home for eligible mortgages.[35] The Enterprises stated that for certain loans they will allow either a desktop appraisal or an exterior-only inspection appraisal in lieu of the interior and exterior inspection appraisal (i.e., traditional appraisal) when an interior inspection is not feasible due to COVID-19 concerns.[36] A desktop appraisal does not include an inspection of the subject property or comparable sales; instead the appraiser relies on public records, multiple listing service information, and other third-party data sources to identify the property characteristics.
    - *Foreclosure Moratorium and Forbearance Extension*. FHFA has also extended through March 31, 2021 the moratorium on foreclosures for Enterprise-backed single-family mortgages.[37] FHFA also announced an additional forbearance

[32] *See* RFI at 7; Fannie Mae, *Appraisal Modernization*, FANNIE MAE ARTIFICIAL INTELLIGENCE ANNUAL SUMMIT (July 2019).
[33] 12 U.S.C. 3354(c).
[34] *See* RFI at 13.
[35] FHFA authorized this flexible approach as of March 23, 2020 and has extended it through March 31, 2021. FHFA, *FHFA Directs Enterprises to Grant Flexibilities for Appraisal and Employment Verifications* (March 23, 2020); FHFA, *FHFA Further Extends COVID-Related Loan Flexibilities* (Feb. 10, 2021).
[36] Fannie Mae, *Impact of COVID-19 on Appraisals*, FANNIE MAE LENDER LETTER (LL-2021-04) (Feb. 10, 2021); Freddie Mac, *Extension of Temporary Flexibilities Related to COVID-19*, FREDDIE MAC SINGLE FAMILY BULLETIN (Bulletin 2021-7) (Feb. 10, 2021).
[37] FHFA, *FHFA Extends Foreclosure and REO Eviction Moratoriums and COVID Forbearance Period* (Feb. 9, 2021).

extension of up to three months for borrowers with Enterprise-backed single-family mortgages who were on a COVID-19 forbearance plan as of February 28, 2021.[38]

All of these valuation services pose a fair lending risk for people and communities of color. Below are some recommendations for managing the fair lending risk.

- **Discretion: FHFA should ensure that the Enterprises' use of discretion is limited and carefully monitored**. Several of these valuation services appear to contain an element of discretion where there is an opportunity to use human judgment to decide whether and how to use the valuation service. Discretion has long been considered a key fair lending risk as it provides the opportunity for different outcomes on a prohibited basis, such as the race of the borrower or community.[39] Where possible, FHFA should ensure that the Enterprises have clear policies and procedures to limit discretion. Where discretion is permitted, FHFA should ensure that outcomes are carefully monitored for results that vary on a prohibited basis (e.g., race).

- **Model Risk Management: FHFA should ensure that models the Enterprises use for home valuations do not rely on biased data and are carefully reviewed for fair lending risk**. While the use of models, technology, artificial intelligence, and machine learning reduces the variability of human decision making, we know that models are not necessarily innocuous and bias-free. In fact, models can perpetuate and even amplify a pre-existing bias or construct a new method of bias through unintended consequences.[40] FHFA should ensure that any models the Enterprises use are carefully reviewed for fair lending risk and adjusted accordingly, consistent with FHFA's Model Risk Management Guidance.[41]

- **Data Management: FHFA should ensure that the data used by the Enterprises are carefully reviewed for fair lending risk, including data based on historically undervalued communities**.[42] As described above, it is evident that appraisers historically undervalued homes in communities of color and that such bias continues to this day. FHFA should carefully review the data used by the Enterprises in appraisal systems and consider whether such data perpetuates past patterns of discrimination. For example, to the extent a sales comparison approach is used, FHFA should consider whether the Enterprises should use broader geographic areas that fairly compare the housing features and neighborhood amenities. Careful selections of comparable housing

[38] *See id.*
[39] *See e.g.,* Federal Financial Institutions Examination Council ("FFIEC"), INTERAGENCY FAIR LENDING EXAMINATION PROCEDURES at 9-10 (2009).
[40] *See* Kate Crawford, *Artificial Intelligence's White Guy Problem,* THE NEW YORK TIMES (June 24, 2016) (providing examples of artificial intelligence systems that perpetuated bias, including Amazon's same-day delivery service that avoided the areas that were previously redlined in the HOLC maps).
[41] FHFA, *Model Risk Management Guidance*, ADVISORY BULLETIN AB 2013-07 (Nov. 20, 2013). *See also* Carol A. Evans, *Keeping Fintech Fair: Thinking about Fair Lending and UDAP Risks*, FEDERAL RESERVE CONSUMER COMPLIANCE OUTLOOK (Second Issue 2017).
[42] *See*, FHFA, *Model Risk Management Guidance* at 16 (discussing data management).

using a broader geography and objective features may lead to fairer results. In addition, FHFA should consider that some of the alternative valuation services may lead to data risks, including inaccurate data from inexperienced or unlicensed evaluators, incomplete data due to appraisal waivers, or data anomalies due to COVID-19 flexibilities for forbearance or foreclosure.

- **Data Collection: FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing**. The Enterprises may experiment with a variety of valuation services, but in all cases, FHFA should ensure that the Enterprises collect the data necessary to conduct a robust evaluation of fair lending risk, including data related to census tract, the race or ethnicity of the borrower, and the race or ethnicity of the valuation provider.

- **Complaints: FHFA should ensure that the Enterprises track and address any complaints that raise concerns about bias in appraisals. FHFA should also implement a process for reviewing consumer complaints.** FHFA uses a risk-focused approach to supervision and complaints can be a key indicator of risk. FHFA should ensure that the Enterprises track any complaints related to bias in appraisals in order to identify any weaknesses or potential for consumer harm. FHFA should review these complaints to appropriately calibrate the risk and determine whether additional examination work is warranted.

- **Ongoing Fair Lending Training: FHFA should ensure that the Enterprises' key appraisal staff and third parties receiving ongoing fair lending training**. Enterprise staff and their vendors may be unaware of an unconscious or intentional bias related to appraisal decisions and models. Surprisingly, there are still some who are unaware of America's history of redlining and appraisal bias, and the potential for homes in communities of color to be undervalued on the basis of race.[43] Fair lending training can educate key staff and vendors on these fair lending risks and appropriate methods of mitigating the risk. FHFA should ensure that key staff include those that are designing and testing the models. Also, consistent with FHFA's guidance on Oversight of Third-party Provider Relationships,[44] FHFA should ensure that the Enterprises appropriately require fair lending training for appraisal vendors.

- **Research: FHFA should encourage and support research evaluating the impact of alternative valuation services on communities of color**. **FHFA should also encourage the Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color**. In addition to its supervision responsibilities, FHFA has a team of economists that conducts research on a range of housing topics. FHFA should encourage and support robust research and analysis of how various alternative valuation services may positively or adversely impact communities of color. Moreover,

[43] Tony Dokoupil, *White Americans Confront Legacy of Housing Discrimination*, CBS NEWS (Feb. 19, 2021) (featuring a White reporter and his family learning for the first time about how his family benefited from government housing policies that were denied to Black Americans).
[44] FHFA, *Oversight of Third-party Provider Relationships*, ADVISORY BULLETIN AB 2018-08 (Sept. 28, 2018).

the Enterprises have collected a rich data set regarding appraisals and are proposing to further refine this dataset.[45] FHFA should encourage the Enterprises to release the appraisal data to the public on an aggregate basis (that is not personally identifiable) to facilitate research regarding the impact of appraisal and other housing practices on communities of color. If public release is not possible, FHFA should consider whether the Enterprises can share the appraisal data with FHFA economists to facilitate such research.

FHFA has numerous legal, supervisory, policy, and research tools to evaluate and address potential discrimination in the appraisal system. We encourage FHFA to continue to consider fairness and equity in all aspects of the appraisal system.

<u>FHFA Question A1.3</u>: *"Do appraisal waivers have a place in Enterprise appraisal policy and process, and if so, for what segment of loans? What are the current risks to Enterprise safety and soundness in how appraisal waivers are offered? Would caps or other limits on their usage be appropriate?"*

An "appraisal waiver" means that the enterprise does not require an appraisal from a licensed or certified appraiser because the enterprise has determined that it has enough information on the current value of the property. As stated in the RFI, since the late 1990s, the Enterprises have offered appraisal waivers on eligible refinance transactions. [46] In 2017, the Enterprises expanded appraisal waiver offerings to eligible purchase transactions.

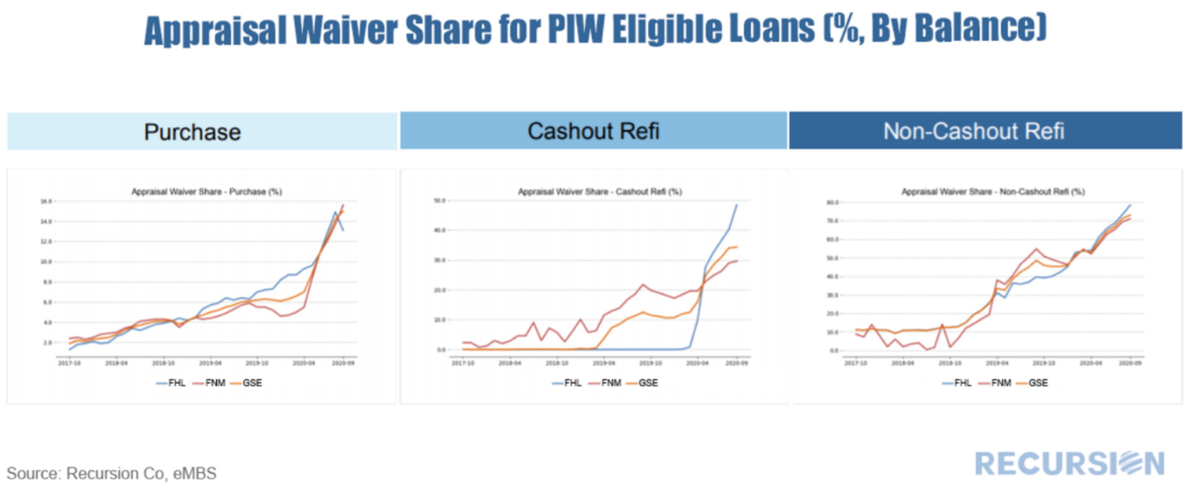
As stated above for the alternative valuation services, the decision of whether to grant an appraisal waiver poses a fair lending risk for people and communities of color. The recommendations for managing the fair lending risk are similar to those stated above with additional information included for the discussions of discretion and model risk management.

- **<u>Discretion</u>: FHFA should ensure that the Enterprises' use of discretion is limited and carefully monitored**. According to the RFI, the Enterprises offer an appraisal waiver through their automated underwriting systems ("AUS"), but allow the lender and the borrower the discretion to make the final decisions on whether to accept the waiver offer.[47] The analytics data team at Recursion Co. recently conducted an analysis showing a wide variance in the take-up rate of appraisal waivers by product, enterprise, and time period.[48] These data suggest the potential for broad discretion in the use of appraisal waivers, which can result in disparate outcomes on the basis of race or ethnicity. Where possible, FHFA should ensure that the Enterprises have clear policies and procedures to limit discretion. Where discretion is permitted, FHFA should ensure that outcomes are carefully monitored for results that vary on a prohibited basis (e.g., race).

---

[45] *See* Fannie Mae and Freddie Mac, *Uniform Appraisal Dataset (UAD) and Forms Redesign Initiative FAQs* (June 2020).
[46] *See* RFI at 13.
[47] *See id.*
[48] Recursion Co., *Recursion Releases Report on Property Inspection Waivers* (Sept. 22, 2020).

NFHA NATIONAL FAIR HOUSING ALLIANCE



- **Model Risk Management: FHFA should ensure that models the Enterprises use for home valuations do not rely on biased data and are carefully reviewed for fair lending risk.** According to the RFI, each Enterprise offers an appraisal waiver through their AUS and each Enterprise approaches the waiver decision differently depending on individual risk tolerance, collateral tools, and aggregated data.[49] FHFA should ensure that any models the Enterprises use are carefully reviewed for fair lending risk and adjusted accordingly, consistent with FHFA's Model Risk Management Guidance.[50]

- **Data Management: FHFA should ensure that the data used by the Enterprises are carefully reviewed for fair lending risk, including data based on historically undervalued communities.**

- **Data Collection: FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing.**

- **Complaints: FHFA should ensure that the Enterprises track and address any complaints that raise concerns about bias in appraisal waivers. FHFA should also implement a process for reviewing consumer complaints.**

- **Ongoing Fair Lending Training: FHFA should ensure that the Enterprises' key appraisal staff and third parties receiving ongoing fair lending training.**

- **Research: FHFA should encourage and support research evaluating the impact of appraisal waivers on communities of color. FHFA should also encourage the**

[49] *See* RFI at 13.
[50] FHFA, *Model Risk Management Guidance*, ADVISORY BULLETIN AB 2013-07 (Nov. 20, 2013). *See also* Carol A. Evans, *Keeping Fintech Fair: Thinking about Fair Lending and UDAP Risks*, FEDERAL RESERVE CONSUMER COMPLIANCE OUTLOOK (Second Issue 2017).

Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color.

FHFA Question A1.4: *"Would utilizing alternative inspection workforces, such as insurance adjusters, real estate agents, and appraisal trainees assist with addressing appraiser capacity concerns? Are there risks of using third-party non-appraisers? If yes, How?"*

Discussions of the appraiser and alternative inspection workforce should recognize concerns based on the lack of diversity. The appraisal profession does not reflect the racial composition of the U.S. proportionately. A recent survey conducted by The Appraisal Foundation found that 73 percent of respondents identified as male while 23 percent identified as female, 90 percent identified as Caucasian, four percent identified as Hispanic or Latino, two percent identified as Black or African American, and one percent identified as Asian.[51]

Recruiting a diverse workforce of appraisers and inspectors may help address the serious concerns that the current appraisal system undervalues homes in communities of color. A diverse workforce may be less susceptible to unconscious or intentional bias based on the race or ethnicity of the borrower or community. Such a workforce may better understand value based on objective factors such as housing features and neighborhood amenities rather than preconceived or historical notions of value based on race. Accordingly, NFHA recommends that FHFA consider the following with respect to the appraiser and inspection workforce:

- **Recruitment: FHFA should work with stakeholders to recruit a more diverse workforce of both appraisers and non-appraiser inspectors.** Although FHFA does not have direct oversight of appraiser and inspector recruitment, FHFA should work with the Enterprises and other stakeholders to recruit a more diverse workforce and to consider any unnecessary barriers to entry. For example, concerns have been raised that the appraiser licensing requirements are too time-intensive, burdensome, and costly.[52] Such requirements may be particularly challenging for recruiting appraisers of color. We applaud Fannie Mae's work with the Appraisal Institute and the National Urban League to provide scholarships to diverse, talented candidates in connection with the Appraiser Diversity Initiative.[53] We encourage FHFA to support these efforts as well as efforts to recruit a diverse inspection workforce.

---

[51] Testimony of David S. Bunton, President, Appraisal Foundation, *Hearing: What's Your Home Worth? A Review of the Appraisal Industry*, U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES, SUBCOMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT, AND INSURANCE (June 20, 2019). *See also*, Cherelle L. Parker, Ira Goldstein, and Gregory D. Squires, *Home Appraisals Drive America's Racial Wealth Gap – 95% of Philly's Appraisers Are White*, PBS WHYY (Feb. 25, 2021).

[52] Testimony of Jeff Dickstein, Chief Compliance Officer, Pro Teck Valuation Services, on behalf of the Real Estate Valuation Advocacy Association, *Hearing: What's Your Home Worth? A Review of the Appraisal Industry*, U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES, SUBCOMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT, AND INSURANCE (June 20, 2019).

[53] Appraisal Institute, *Appraisal Institute, Fannie Mae, National Urban League Award Scholarships to Strengthen Diversity in Profession* (Feb. 18, 2021).

NFHA NATIONAL FAIR HOUSING ALLIANCE

- **<u>Ongoing Fair Lending Training</u>: FHFA should work with stakeholders to ensure that home evaluators (both appraisers and non-appraiser inspectors) receive ongoing fair lending training**. Consistent with FHFA's guidance on Oversight of Third-party Provider Relationships,[54] FHFA should ensure that the Enterprises appropriately require fair lending training for appraisal and inspection vendors. In addition, FHFA should work with stakeholders more broadly to promote an awareness of the fair lending risk in appraisals. Fair lending training can educate the valuation workforce on these fair lending risks and appropriate methods of mitigating the risk.

<u>FHFA Question A1.5</u>: *"Is there a need for additional policies and controls to balance potential risks with efficiency benefit from appraisal modernization? If yes, please provide your recommendations."*

FHFA should carefully review all aspects of the Enterprises' appraisal systems for fair lending risk, particularly with respect to discretion and the use of models. As stated above, NFHA recommends the following controls for managing the fair lending risk:

- **<u>Discretion</u>: FHFA should ensure that the Enterprises' use of discretion is limited and carefully monitored**.

- **<u>Model Risk Management</u>: FHFA should ensure that models the Enterprises use for home valuations do not rely on biased data and models and appraisal waivers are carefully reviewed for fair lending risk**.

- **<u>Data Management</u>: FHFA should ensure that the data used by the Enterprises are carefully reviewed for fair lending risk, including data based on historically undervalued communities.**

- **<u>Data Collection</u>: FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing.**

- **<u>Complaints</u>: FHFA should ensure that the Enterprises track and address any complaints that raise concerns about bias in home valuations and appraisal waivers. FHFA should also implement a process for reviewing consumer complaints.**

- **<u>Ongoing Fair Lending Training</u>: FHFA should ensure that the Enterprises' key appraisal staff and third parties receive ongoing fair lending training.**

- **<u>Research</u>: FHFA should encourage and support research evaluating the impact of various home valuation services and appraisal waivers on communities of color. FHFA should also encourage the Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color**.

[54] FHFA, *Oversight of Third-party Provider Relationships*, ADVISORY BULLETIN AB 2018-08 (Sept. 28, 2018).

In addition to these risk management controls, FHFA should also amend existing policies and consider clarifying its approach to fair lending risk through new policies. NFHA recommends the following with respect to policy changes:

- <u>Existing Policies</u>: **FHFA should amend its existing policies to incorporate fair lending risk**. While we applaud FHFA's efforts to monitor and promote compliance with fair lending laws at the Enterprises, FHFA should take the opportunity to amend its policies to clarify that fair lending risk is an integral part of FHFA's approach to risk-focused supervision, including with respect to appraisals. In particular, FHFA should consider adding a fair lending risk component to its policies for ratings, compliance, model risk management, and third-party oversight.[55]

- <u>New Policies</u>: **FHFA should publish an Advisory Bulletin and examination procedures clarifying its expectations for managing fair lending risk**. While monitoring and promoting fair lending laws is part of FHFA's Strategic Plan, FHFA could make this goal more concrete and actionable by publishing an Advisory Bulletin as well as examination procedures that detail FHFA's expectations for the Enterprises with respect to fair lending risk, including with respect to appraisals. This approach would be consistent with the public guidance that other federal financial regulators have provided for the industry.[56]

<u>FHFA Question A1.6</u>: *"Do the objectives as outlined for the UAD update and forms redesign meet the current and future needs of the mortgage industry? Are there opportunities for refinements or additions?"*

As stated above, FHFA should ensure that data collection should plan for robust fair lending testing and should encourage comprehensive research regarding communities of color. NFHA recommends the following with respect appraisal data:

- <u>Data Collection</u>: **FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing**. The Enterprises may test a variety of data fields and forms, but in all cases, FHFA should ensure that the Enterprises collect the data necessary to conduct a robust evaluation of fair lending risk, including data related to census tract, the race or ethnicity of the borrower, and the race or ethnicity of the valuation provider.

- <u>Research</u>: **FHFA should encourage the Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color**. The Enterprises have collected a rich data set regarding appraisals and are proposing to further refine this

---

[55] *See* FHFA, *Examination Rating System*, ADVISORY BULLETIN AB 2012-03 (Dec. 19, 2012); *Compliance Risk Management*, ADVISORY BULLETIN AB 2019-05 (Oct. 3, 2019); *Model Risk Management Guidance*, ADVISORY BULLETIN AB 2013-07 (Nov. 20, 2013); *Oversight of Third-party Provider Relationships*, ADVISORY BULLETIN AB 2018-08 (Sept. 28, 2018).

[56] *See, e.g.,* FFIEC, INTERAGENCY FAIR LENDING EXAMINATION PROCEDURES (2009); Consumer Financial Protection Bureau, *Supervision and Examination Manuals* (Sept. 2020).

dataset.[57] FHFA should encourage the Enterprises to release the appraisal data to the public on an aggregate basis (that is not personally identifiable) to facilitate research regarding the impact of appraisal and other housing practices on communities of color. If public release is not possible, FHFA should consider whether the Enterprises can share the appraisal data with FHFA economists to facilitate such research.

2. Risk Management

As described above, NFHA recommends that FHFA integrate a consideration of fair lending risk in the evaluation of every aspect of the Enterprises' activities, including appraisal activities. Please see the recommendations above for more detail.

3. Industry Considerations

FHFA Question C1.1: *"What do you envision the impact of appraisal process improvements as described in this RFI to be on the appraisal industry? What impact, if any, has increasing use by the Enterprises of alternative appraisal solutions had on the availability and/or quality of traditional appraisals?"*

As described more fully above, NFHA expects that the appraisal process and technology will continue to evolve. Accordingly, NFHA recommends that FHFA integrate a consideration of fair lending risk in the evaluation of all appraisal process improvements. Please see the recommendations above for more detail.

FHFA Question C1.2: *"What would be the impact of appraisal policy and process improvements to the mid or late career appraiser? Do you believe late career appraisers would delay retirement if they could focus on specific valuation services like desktop appraisals? Or alternatively, would late career appraisers cease operations due to technology adoption challenges?"*

As described more fully above, NFHA believes that discussions of the appraiser workforce should recognize concerns based on the lack of diversity (not just age). Please see the recommendations above for more detail.

FHFA Question C1.3: *"Do you believe appraisal policy and process improvements would have a positive impact on access to credit, including for rural and underserved markets by providing additional valuation services that serve the needs of these markets?"*

As described more fully above, NFHA believes that any appraisal system poses a fair lending risk for communities of color because some valuation methods are based on data that historically undervalued homes in communities of color. In addition, unfortunately, individual biased

---

[57] *See* Fannie Mae and Freddie Mac, *Uniform Appraisal Dataset (UAD) and Forms Redesign Initiative FAQs* (June 2020).

appraisals still take place today. While some of the appraisal process improvements show promise for improving turn-times, FHFA should carefully evaluate any process improvements for fair lending risk. Please see the recommendations above for more detail.

FHFA Question C1.4: *"Is there discrimination in current collateral valuation practices? If you believe there is discrimination, describe the impact. Please provide any relevant data or analyses to support your position. Conversely, are there concerns that alternative or automated solutions could have a discriminatory impact?"*

As described more fully above, NFHA believes that the appraisal system continues to suffer from bias on an individual and systemic basis. Recent news stories have highlighted anecdotal evidence on an individual basis. In addition, recent studies show that even after controlling for the legitimate factors of housing features and neighborhood amenities, homes in majority-Black neighborhoods tend to show an unexplained lower value than homes in majority-White neighborhoods. These findings raise concerns that discrimination in appraisals on the basis of race continues on a systemic basis. Moreover, the findings are consistent even for alternative appraisal systems, such as AVMs. Please see the explanation above for more detail.

FHFA Question C1.5: *"What are the fair housing impacts of current FHFA and Enterprise policies and procedures on appraisals and valuations, and how can these policies change to further fair housing? Please provide any relevant data or analyses."*

As described more fully above, NFHA recommends that FHFA integrate a consideration of fair lending risk in the evaluation of all of the Enterprises' home valuation methods. Below is a summary of the recommendations. Please see the recommendations above for more detail.

- **Discretion: FHFA should ensure that the Enterprises' use of discretion is limited and carefully monitored**.

- **Model Risk Management: FHFA should ensure that models the Enterprises use for home valuations do not rely on biased data and models and appraisal waivers are carefully reviewed for fair lending risk**.

- **Data Management: FHFA should ensure that the data used by the Enterprises are carefully reviewed for fair lending risk, including data based on historically undervalued communities.**

- **Data Collection: FHFA should ensure that the Enterprises collect the data needed for robust fair lending testing.**

- **Complaints: FHFA should ensure that the Enterprises track and address any complaints that raise concerns about bias in home valuations and appraisal waivers. FHFA should also implement a process for reviewing consumer complaints.**

- **<u>Ongoing Fair Lending Training</u>: FHFA should ensure that the Enterprises' key appraisal staff and third parties receive ongoing fair lending training.**

- **<u>Research</u>: FHFA should encourage and support research evaluating the impact of various home valuation services and appraisal waivers on communities of color. FHFA should also encourage the Enterprises to release the appraisal data in aggregate form to facilitate research regarding communities of color**.

- **<u>Existing Policies</u>: FHFA should amend its existing policies to incorporate fair lending risk**.

- **<u>New Policies</u>: FHFA should publish an Advisory Bulletin and examination procedures clarifying its expectations for managing fair lending risk**.

<u>FHFA Question C1.6</u>: *"Do you have any additional feedback on issues and questions raised by this RFI?"*

NFHA and its members have tackled bias in the appraisal industry for several decades including bringing enforcement matters to address violations of fair housing and lending laws. Bias in the valuation of properties can occur in myriad ways and it is important for FHFA to understand how discrimination can happen. Anecdotal stories and multiple studies make clear that bias is a continuing challenge, and this has caused many industry professionals and fair housing experts to ask if the entire appraisal process should be reformed. For example, as described above, some have questioned the efficacy of the predominate use of the sales comparison approach leading to suggestions that a switch to the cost analysis approach might yield more equitable outcomes. We encourage FHFA to undertake a serious analysis of how and why appraisal bias continues to flourish and engage a broad range of stakeholders to press for systemic and industry changes to make the marketplace fairer.

As a final matter, NFHA would like to encourage FHFA to use an equity lens when considering the recruitment and retention of personnel at FHFA and the Enterprises. NFHA recommends the following with respect to recruitment and retention:

- **<u>Diversity and Inclusion</u>: FHFA should ensure that personnel at FHFA and the Enterprises meet goals for diversity and inclusion and have fair lending expertise**. In many respects, the Enterprises set the standards for several critical aspects of the housing market, including appraisals. Thus, through oversight, FHFA has a tremendous responsibility and opportunity to ensure that the Enterprises create a fair and transparent mortgage market that serves all communities, including communities of color. To do that, both FHFA and the Enterprises should have a workforce that reflects the diversity of America and that has the fair lending expertise to understand the challenges faced by borrowers and communities of color. We applaud FHFA's recent efforts to ensure diversity and inclusion at the Enterprises and the agency,[58] and we look forward to working with FHFA on future efforts to ensure fairness and equity for borrowers and communities of color.

Conclusion

NFHA appreciates the opportunity to provide its comments to the Request for Information and looks forward to engaging with FHFA on these important matters.

For questions, please reach out to the following staff of the National Fair Housing Alliance: Jorge Andres Soto at 310-686-3198 or JSoto@nationalfairhousing.org; Debby Goldberg at -240-393-1912 or DGoldberg@nationalfairhousing.org; or Morgan Williams at 202-486-2776 or MWilliams@nationalfairhousing.org.

Sincerely,

Lisa Rice

Lisa Rice
President and Chief Executive Officer

[58] *See* Testimony of Sharron Levine, Director of the Office of Minority and Women Inclusion, FHFA, *Hearing: OMWI Directors,* U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES, SUBCOMMITTEE ON DIVERSITY AND INCLUSION (Sept. 8, 2020); General Accounting Office, *Fannie Mae and Freddie Mac: Efforts to Promote Diversity and Inclusion*, GAO 20-637 (Sept. 2020).