

November 19, 2021

The Honorable Sherrod Brown
Chairman
United States Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Re: Nominees for the Board of Governors of the Federal Reserve and the Office of the Comptroller of the Currency and Their Commitment to Fair Lending

Dear Senator Brown:

The undersigned civil rights and consumer advocacy organizations are writing to urge that the Senate Committee on Banking, Housing, and Urban Affairs (the “Senate Banking Committee”) thoroughly vet nominees for the Board of Governors of the Federal Reserve (“Board”) and the Office of the Comptroller of the Currency (“OCC”) to ensure they have a demonstrated commitment to fair lending and racial equity. The nominees must commit to making fair lending a top priority and have the knowledge and experience to direct their agencies’ fair lending oversight and enforcement efforts effectively. Moreover, the nominees must reflect the rich and broad diversity of the nation. This is an urgent matter, given extremely concerning reports regarding the state of the fair lending supervision and enforcement program at each of these agencies.¹ We applaud your lifelong commitment to protecting borrowers and communities of color and hope that you will use your role as Chair of the Senate Banking Committee to ensure that these powerful positions are filled by nominees who will ensure the nation’s robust fair lending laws are fully enforced.

We are particularly concerned about enforcement of the Fair Housing Act and other fair lending laws, given the persistent Black/White homeownership and wealth gaps. Additionally, Latino homeownership still significantly lags non-Hispanic White homeownership by nearly 25 points.² Moreover, Asian-American and Pacific Islander communities face significant homeownership gaps. For example, the Nepalese homeownership rate is just 17 percent, and the Samoan homeownership rate is just 23 percent.³ Overall, the Asian-American and Pacific Islander homeownership rate in 2019 was 60 percent and well below the White homeownership rate.⁴

¹ At the time of this writing, Professor Saule Omarova has been nominated as Comptroller of the Currency. There have been no nominations for positions at the Board, but it is expected that the following positions will be open in the coming months: Chair (Chair Powell’s term expires February 5, 2022); Vice Chair of the Board (Vice Chair Clarida’s term expires January 31, 2022); and Vice Chair for Supervision (Vice Chair Quarles’ term expired October 13, 2021). In addition, the Board will have three open seats: one immediate opening; one opening after Governor Quarles leaves at the end of December, and one opening after Vice Chair Clarida leaves at the end of January (unless he is re-nominated).

² NAHREP, Hispanic Wealth Project, “2021 State of Hispanic Wealth Report.” Available at <https://hispanicwealthproject.org/annual-report/>.

³ United States Census Bureau, 2013-17 5-year ACS PUMS.

⁴ Jung Hyun Choi, Daniel Pang, “More Asian Americans Are Becoming Homeowners, but They Still Face Barriers in the Housing Market,” *Urban Wire: Housing and Housing Finance* (June 17, 2021). Available at

Among Native Americans, the homeownership rate is 50.8 percent.⁵ Not only do these persistent gaps raise issues of fairness and equity, but they also have significant economic implications. Recent research shows that the nation’s GDP could grow at least \$1 trillion per year if discrimination targeted at Black Americans alone is addressed.⁶ Further, researchers from the Federal Reserve Bank of San Francisco have identified redlining as a key structural barrier in our economy, contributing to a staggering \$22.9 trillion in losses to U.S. economic output over the last 30 years.⁷

The federal financial regulators⁸ have the responsibility, accompanied by broad authority and considerable resources, to examine and supervise the institutions they regulate for compliance with the fair lending laws. However, recent data show a disturbing decline in fair lending referrals to the U.S. Department of Justice (“DOJ”) for enforcement, as required by the Equal Credit Opportunity Act.⁹ In 2010, the federal financial regulators referred 47 matters to the DOJ. By 2020, that number had plummeted to just 12. Similarly, the number of referrals based on race or national origin discrimination decreased from 24 in 2010 to just four in 2020. These trends raise the concern that the federal financial regulators are not using the full scope of their supervisory authority to effectively identify potential patterns or practices of lending discrimination. This may result in far-reaching harm for borrowers and communities of color. It is also a drain on the resources of the civil rights and consumer advocates, DOJ, the U.S. Department of Housing and Urban Development (“HUD”), and state agencies. To be clear, the incredible work done in 2010 to refer matters to DOJ is important. However, we must build upon these past enforcement achievements to better address discrimination in the financial services system moving forward.

<https://www.urban.org/urban-wire/more-asian-americans-are-becoming-homeowners-they-still-face-barriers-housing-market>.

⁵ Freddie Mac, “Empowering Native American Communities with Lending and Homeownership Opportunities” (October 7, 2021). Available at <https://sf.freddiemac.com/articles/insights/empowering-native-american-communities-with-lending-and-homeownership-opportunities>.

⁶ Nick Noel, Duwain Pinder, Shelley Stewart, and Jason Wright, “The Economic Impact of Closing The Racial Wealth Gap, McKinsey & Company” (August 13, 2020). Available at <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap>; Dana M. Peterson and Catherine L. Mann, “Closing The Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.,” *Citi GPS: Global Perspectives & Solutions* (September 20, 2020). Available at <https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/>.

⁷ Shelby R. Buckman, Laura Y. Choi, Mary C. Daly, and Lily M. Seitelman, “The Economic Gains from Equity, Brookings” (September 8, 2021). Available at <https://www.brookings.edu/bpea-articles/the-economic-gains-from-equity/>.

⁸ The federal financial regulators are: the Board of Governors of the Federal Reserve (“Board”), the Office of the Comptroller of the Currency (“OCC”), the Consumer Financial Protection Bureau (“CFPB”), the Federal Deposit Insurance Corporation (“FDIC”), and the National Credit Union Administration (“NCUA”).

⁹ See National Fair Housing Alliance, “2021 Fair Housing Trends Report” (July 29, 2021). Available at <https://nationalfairhousing.org/reports-research/>; DOJ, “The Attorney General’s 2019 Annual Report to Congress Pursuant to the Equal Credit Opportunity Act Amendments of 1976” (July 2020). Available at <https://www.justice.gov/crt/page/file/1296731/download>; CFPB, “Fair Lending Report of the Bureau of Consumer Financial Protection” (April 2021). Available at https://www.consumerfinance.gov/documents/9641/cfpb_2020-fair-lending_report_2021-04.pdf.

Recent reports raise additional concerns about the regulators' commitment to fair lending. Just last month, the Federal Reserve Board's Office of Inspector General (OIG) released a report with the appalling admission that the Board delegated high risk redlining reviews to examiners (instead of the Board's specialized Fair Lending Team of attorneys, economists, and analysts) even though the Board is aware that the examiners' reviews "often required material changes or lacked support."¹⁰ Similarly, a recent news article disclosed that over the last few years, OCC staff discovered at least six banks were allegedly engaging in discriminatory lending practices, but none were penalized or even publicly reprimanded.¹¹ Acknowledging the importance of addressing redlining violations, the DOJ recently announced an ambitious new "Combating Redlining Initiative."¹² However, if federal financial regulators do not do their jobs and identify redlining risk and/or violations to assist the DOJ and others, then communities of color will be unfairly denied credit, financial stability, and life opportunities.

President Biden has made a commitment to prioritizing racial equity across the entire federal government through the Advancing Racial Equity and Support for Underserved Communities through the Federal Government executive order on his first day in office.¹³ While this executive order does not apply to the independent financial regulators, it is imperative that they similarly commit to the vision offered by the president through their fair lending oversight and enforcement. Accordingly, we urge you to ensure that candidates nominated to lead the Board and the OCC demonstrate a documented track record of and commitment to rooting out discrimination in our financial system and expanding access to credit for communities of color and other underserved communities.

Thank you for considering our views. If you have any questions, please contact Nikitra Bailey, Senior Vice President of Public Policy (nbailey@nationalfairhousing.org), or Jorge Soto, Associate Vice President of Advocacy and Government Affairs (jsoto@nationalfairhousing.org) at the National Fair Housing Alliance.

Sincerely,

The Leadership Conference on Civil and Human Rights

National Fair Housing Alliance

UnidosUS

National CAPACD

National Urban League

¹⁰ Federal Reserve Board Office of Inspector General, "The Board Can Improve the Efficiency and Effectiveness of Certain Aspects of Its Consumer Compliance Examination and Enforcement Action Issuance Processes," Evaluation Report 2021-SR-B-012 (Oct. 6, 2021). Available at <https://oig.federalreserve.gov/reports/board-consumer-compliance-oct2021.pdf>.

¹¹ Patrick Rucker, "Trump Financial Regulator Quietly Shelved Discrimination Probes into Bank of America and Other Lenders," *ProPublica* (July 13, 2020). Available at <https://www.propublica.org/article/trump-financial-regulator-quietly-shelved-discrimination-probes-into-bank-of-america-and-other-lenders>.

¹² DOJ Press Release, "Justice Department Announces New Initiative to Combat Redlining" (Oct. 22, 2021). Available at <https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining>.

¹³ EO 13985, "Advancing Racial Equity and Support for Underserved Communities through the Federal Government" (January 20, 2021).

NAACP Legal Defense and Educational Fund, Inc. (LDF)
Lawyers' Committee for Civil Rights Under Law
NALCAB
Consumer Federation of America
Prosperity Now
Center for Responsible Lending
California Reinvestment Coalition
Massachusetts Communities Action Network

CC: The Honorable Patrick Toomey
The Honorable Charles Schumer
The Honorable Nancy Pelosi
The Honorable Raphael Warnock
The Honorable Tom Tillis
The Honorable Maxine Waters
The Honorable Patrick McHenry
The Honorable Ronald Klain
The Honorable Brian Deese
The Honorable Susan Rice
The Honorable Cedric Richmond
Federal Reserve Chair Jerome Powell
Federal Reserve Governor Lael Brainard
Federal Reserve Governor Michelle Bowman
Acting Comptroller Michael Hsu
Professor Saule Omarova