

Banking and Finance Law Daily Wrap Up, EQUAL CREDIT OPPORTUNITY—FHFA releases its final rule on fair lending, fair housing, (Apr. 30, 2024)

Banking and Finance Law Daily Wrap Up

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By Donielle Tigay Stutland, J.D.

The final rule, released in conjunction with the Enterprises' "Equitable Housing Finance Plans," aims to address barriers to sustainable housing opportunities for underserved communities.

The Federal Housing Finance Agency (FHFA) has released its Final Rule related to Fair Lending, Fair Housing, and Equitable Housing Finance Plans. The FHFA also [announced](#) the release of Fannie Mae and Freddie Mac's (the Enterprises') Equitable Housing Finance Plan updates for 2024 and Performance Reports for 2023. According to FHFA's [notice](#), the Final Rule generally takes effect 60 days after its publication in the *Federal Register*—"except for subpart D, which will become effective on February 15, 2026."

The Final Rule "addresses barriers to sustainable housing opportunities for underserved communities by codifying existing FHFA practices in regulation and adding new requirements." In addition, the Final Rule, "codifies in regulation much of FHFA's existing practices and programs regarding fair housing and fair lending oversight of its regulated entities, the Equitable Housing Finance Plan program for the Enterprises, and requirements for the Enterprises to collect and report language preference, homeownership education, and housing counseling information."

Further, the Final Rule contains changes to the Equitable Housing Finance Plan program to promote greater accountability for the Enterprises and public transparency, adds oversight of unfair or deceptive acts or practices to FHFA's fair housing and fair lending oversight programs, requires additional certification of compliance by the regulated entities, and establishes more precise standards related to fair housing, fair lending, and principles of equitable housing for regulated entity boards of directors (boards).

The Final Rule follows up on an April 2023 proposal which sought to codify, in regulation, that Fannie Mae and Freddie Mac maintain Equitable Housing Finance Plans; and that they collect and report homeownership education, housing counseling, and language preference information from the Supplemental Consumer Information Form (see [Banking and Finance Law Daily](#), April 20, 2023).

"As we reflect on the significance of Fair Housing Month, FHFA and its regulated entities will continue to address barriers that make affordable housing difficult to find," said FHFA Director Sandra L. Thompson. "These initiatives are critically important at a time when housing affordability remains a persistent challenge."

Public Feedback. The FHFA [seeks](#) public feedback to inform the next three-year Plans through a Request for Input and listening session. In particular, the FHFA requested that interested parties comment on the definition of "first-generation homebuyers," and whether that definition is sufficient enough to support and advance housing opportunities for historically underserved borrowers, particularly those who lack access to generational wealth. The FHFA expects to hold a public listening session in June 2024, and anticipates releasing the next Plans in January 2025.

Fannie Mae Equitable Housing Finance Plan 2024. Fannie Mae's Equitable Housing Finance Plan for 2024 [highlighted](#) the following objectives: (1) reduce up-front rental and homeownership costs and eliminate barriers related to insufficient credit; and (2) support long-term housing success for underserved borrowers and renters. The plan also added expanded counseling support for near mortgage-ready homeowners and created a new "first-generation homebuyer" definition to enable mortgage industry to find new ways to address disparities in generational homeownership.

Freddie Mac Equitable Housing Finance Plan 2024 Updates. Freddie Mac also updated its Equitable Housing Finance Plan 2024. The 2024 update [highlighted](#) five objectives. First, Freddie Mac committed to addressing the homeownership gap for Black and Latino families through responsible and impactful initiatives that expand access to credit. Second, in efforts to address systemic underinvestment within formerly redlined areas, Freddie Mac will work to strengthen support for underserved renters and multifamily borrowers by expanding financing for affordable housing developers and helping Community Development Financial Institutions (CDFI), minority depository institutions (MDI) and smaller banks with improved access to capital.

Third, Freddie Mac will undertake efforts to increase and improve quality of affordable housing supply by planning to leverage private, global investments to create and preserve vital affordable housing. Fourth, the plan notes the Enterprise intends to increase opportunities for renters at multifamily properties and from within renters' communities by focusing on mainstreaming financial empowerment, wealth building opportunities, tenant protections and resident services for renters. The Fifth objective noted was to reduce disparities in the Black and Latino community experience. Freddie Mac committed to "(re)building trust in the housing ecosystem by inviting the experiences of Black and Latino communities into our approach and demonstrating our commitment through action."

2023 Equitable Housing Finance Plan Performance Reports. The 2023 Equitable Housing Finance Plan Performance Report [highlighted](#) efforts taken by Fannie Mae to reduce up-front cost barriers for first-time homebuyers. For example, in 2023, Fannie Mae acquired 921 mortgages, with a total of more than \$6.9 million in combined down payment and closing cost assistance, that were made to first-time homebuyers in majority Black, majority Latino, or majority Black and Latino census tracts in six major metropolitan markets. Fannie Mae estimated that more than \$9.7 million in down payment and closing costs assistance was provided in 2023 to eligible borrowers through initiatives. Likewise, Freddie Mac [made available](#) its own 2023 Equitable Housing Finance Plan Performance Report.

Comments. Following the release of the Final Rule, community groups offered comments that reflected hope that the new rule would help strengthen the agency's and the Enterprises' efforts. Jesse Van Tol, CEO of the National Community Reinvestment Coalition made a [statement](#) following the release of the Final Rule:

"We're deep into an affordable housing crisis that has made homeownership all but impossible for too many Americans, and rent too expensive. The near-term crisis, driven by high interest rates and a housing supply shortage, has also made even more difficult the long-term challenge of closing the racial divide in homeownership rates. That simply must be solved if we're ever going to close the nation's enduring racial wealth divide. This new rule combines an encouraging set of requirements and objectives to better meet the housing credit needs of underserved communities, including special purpose credit programs that provide down payment assistance and improved pricing. The requirement for lenders to collect and report data on the provision of homeownership education and housing counseling should provide a clearer picture of the extent and impact of those efforts, and where they fall short. FHFA's fair lending oversight of the Enterprises and the Federal Home Loan Banks as well as the inclusion of UDAP requirements could be important if they trigger stronger enforcement of unfair or deceptive credit practices by lenders."

Companies: Fannie Mae; Freddie Mac; National Community Reinvestment Coalition

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