

**FEDERAL HOUSING FINANCE AGENCY
ORDER**

**In Re: Enterprise Compliance and
Information Submission with Respect
to Fair Lending**

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) Order No. 2021-OR-FNMA-2
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ORDER ON FAIR LENDING COMPLIANCE AND REPORT SUBMISSION

WHEREAS, the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act), 12 U.S.C. § 4501, *et seq.*, provides the Federal Housing Finance Agency (FHFA) with general supervisory and regulatory authority over the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) to ensure that the purposes of the Safety and Soundness Act, the authorizing statutes, and any other applicable law are carried out;

WHEREAS, under 12 U.S.C. § 4513(a)(1)(B)(v) it is a principal duty of the Director is to ensure that the Enterprises are operated consistent with the public interest;

WHEREAS, under 42 U.S.C. § 3608(d), the Fair Housing Act provides that all agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of the Fair Housing Act;

WHEREAS, ensuring compliance by the Enterprises with the Fair Housing Act, 42 U.S.C. 3601, *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, and section 1325 of the Safety and Soundness Act, 12 U.S.C. § 4545, is in the public interest;

WHEREAS, under section 1331 of the Safety and Soundness Act, 12 U.S.C. § 4561(d), the Director may require the Enterprises to provide data to FHFA to evaluate interest rate disparities;

WHEREAS, to carry out its statutory oversight obligations, and to exercise general supervisory and regulatory authority under 12 U.S.C. § 4511(b), examination authority under 12 U.S.C. § 4517(b), and authority to analyze and make referrals of mortgage interest rate disparities under 12 U.S.C. § 4561(d)(1), FHFA must receive timely and regular information from the Enterprises with respect to fair lending performance to ensure that the purposes of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, and section 1325 of the Safety and Soundness Act, 12 U.S.C. § 4545, are being carried out;

WHEREAS, under section 1314(a)(1) and (2) of the Safety and Soundness Act, 12 U.S.C. § 4514(a)(1) and (2), the Director, by order, may require the submission by the Enterprises of such regular and special reports to FHFA as the Director considers appropriate; and

WHEREAS, under section 1319G of the Safety and Soundness Act, 12 U.S.C. § 4526, the Director may issue orders necessary to carry out his duties and ensure the purposes of the Safety and Soundness Act and the authorizing statutes are accomplished;

NOW THEREFORE, it is hereby Ordered as follows:

1. Each Enterprise shall comply with the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*; the Equal Credit Opportunity Act, 15 U.S.C. § 1691; and section 1325 of the Safety and Soundness Act, 12 U.S.C. § 4545, as well as their implementing regulations including 24 CFR part 100, 12 CFR part 1002, and 24 CFR part 81, subpart C.
2. Each Enterprise shall quarterly provide to FHFA the information and data needed to assess its fair lending performance as required by Attachment I hereto, the "Fair Lending Regular Reporting Instructions."
3. The Deputy Director for the Division of Housing Mission and Goals is delegated the authority to make technical and non-substantive changes to the instructions in Attachment I and to provide templates or other guidance on reporting format;
4. The Deputy Director for the Division of Housing Mission and Goals is delegated the authority to request special reports related to fair lending as discussed in Attachment II hereto, the "Fair Lending Special Reporting Instructions."
5. The Deputy Director for the Division of Housing Mission and Goals is delegated the authority to waive the requirement to submit certain reporting elements for a particular reporting period at the request of an Enterprise when such elements are provided pursuant to other FHFA requirements.

Communications and information produced pursuant to this Order relate to FHFA's preparation of examination, operating, or condition reports of a financial institution and are considered confidential supervisory information under 12 CFR part 1214.

Pursuant to 12 U.S.C. § 4514(a)(4), each submission shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the Enterprise to make such a declaration, that the report is true and correct to the best of such officer's knowledge and belief.

IT IS SO ORDERED, this 1st day of July 2021.

FEDERAL HOUSING FINANCE AGENCY

By: _____



Sandra L. Thompson
Acting Director
Federal Housing Finance Agency

Principal Federal Housing Finance Agency Contact

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ATTACHMENT I: FAIR LENDING REGULAR REPORTING INSTRUCTIONS

Each Enterprise shall provide, in a format suitable to FHFA, the following information. The submission shall be referred to collectively as the “quarterly fair lending report.”

Quarterly Reporting Periods

The fair lending report is due to FHFA no later than 45 business days following the quarter end. Unless otherwise specified, each fair lending report element shall cover the three-month period preceding the submission deadline. If data or information is not available for the reporting period, an Enterprise should submit an extension request no later than five business days prior to the reporting deadline.

The reporting periods are:

- a. January 1 – March 31
- b. April 1 – June 30
- c. July 1 – September 30
- d. October 1 – December 31

Required Elements

Narrative Overview

The fair lending report must include the following narrative elements:

1. Description of any changes to fair lending policies or fair lending program procedures;
2. Annual fair lending risk assessment, including a description of the methodology used and any relevant definitions (may be provided once annually when completed during the relevant reporting period, unless subsequently updated);
3. Current fair lending testing and targeted review plan (provided once annually when completed during the relevant reporting period, unless subsequently updated);
4. Fair lending-related consumer complaint summary information (including counts and any themes identified);
5. Summary of inquiries and requests for review received by the fair lending program from business units, together with a summary of the fair lending analysis and recommendation provided to the business unit;
6. Summary of fair lending testing and targeted reviews completed, including scope, methodology, results, and any subsequent mitigation activities completed as a result of testing (updated if activities are completed in subsequent reporting periods based on earlier testing);
7. Description of significant trends observed in underwriting and acquisition data;

8. The AUS version used to score the majority of applications during the reporting period; and
9. Summary of data quality, including the missing rates for Reporting Categories below.

Underwriting and Acquisition Data

The Enterprise shall provide quarterly underwriting and acquisition data covering the four quarters up to and including the end of the current reporting period. For example, the report for the period ending 3Q2020, must also include 2Q2020, 1Q2020, and 4Q2019. The Enterprises must also report summary statistics for underwriting and acquisitions (*i.e.*, totals). Data reporting should be presented in format readable by Microsoft Excel.

The fair lending report must include the following data elements for all Fair Lending Reporting Categories by Loan Purpose Reporting Categories:

10. Application counts, accept counts, accept rate, accept rate gap, and accept rate ratio for the Enterprise's Automated Underwriting System (AUS);
11. Pull-through rates and acquisition counts; and
12. Any updates to data provided pursuant to items 10 and 11 above that has been subsequently updated or corrected.

Automated Underwriting System (AUS) Model Updates or Changes

The Enterprise shall determine whether significant AUS model updates and/or changes occurred during the reporting period. If it is determined significant updates and/or changes occurred, the following elements must be included:

13. Sufficient information to understand the AUS model update or change, the business reasons for the update or change, major alternatives considered, and other significant impacts expected; and
14. A special report containing fair lending analysis and/or risk assessment of the AUS model update or change.

If no significant updates and/or changes occurred, the Enterprise must include:

15. Summary of any AUS model updates or changes that the Enterprise determined not be "significant AUS model updates and/or changes" with sufficient information for FHFA to determine the nature and significance of the update or change.

FHFA will review the summary and may require the Enterprise to submit additional information if FHFA disagrees with the Enterprise's determination as to whether an update or change is significant and require submission of elements 13 and 14 for that update or change.

Loan Purpose Reporting Categories

The Enterprises must provide summary and subset statistics for the following loan categories:

- a. Overall
- b. Home Purchase
- c. Refinancing (non cash-out)
- d. Cash-out Refinancing
- e. First-Time Homebuyers
- f. HomeReady or HomePossible (as applicable)

Fair Lending Reporting Categories

The Enterprises must report statistics for Race and Ethnicity, Sex, Marital Status and/or joint applications, and Age protected class categories.

For the Race and Ethnicity protected class statistics, results should be reported for at least the following groups:

- a. White (non-Hispanic or Latino)
- b. Black or African American
- c. Asian
- d. Hispanic or Latino
- e. Pacific Islander (inclusive of Native Hawaiian)
- f. American Indian or Alaska Native (AIAN)

If available, data and information for Race and Ethnicity subgroups (e.g., Native Hawaiian, Guamanian or Chamorro, Samoan, and Other Pacific Islander) must be reported.

ATTACHMENT II: FAIR LENDING SPECIAL REPORT

When requested in writing by the Deputy Director for the Division of Housing Mission and Goals, an Enterprise shall provide, in a format suitable to FHFA, such other information related to fair lending. Such requests may include, but shall not be limited to:

1. Data for a specific subset of applications or loans, or of a specific program, initiative, or proposal, to be provided within 10 business days of request;
2. A special report containing the complete results of specific fair lending analysis, testing, targeted reviews, or AUS fair lending testing described in a quarterly fair lending report, to be provided within 10 business days of request;
3. Data for the purposes of 12 U.S.C. § 4561(d), to be provided within 20 business days of request; and
4. A special report consisting of a fair lending self-evaluation by an Enterprise of a particular model, product, business area, or policy as requested by FHFA to be provided within 30 business days of request.

If an extension of the reporting deadline is required, an Enterprises should submit an extension request no later than five business days prior to the reporting deadline. The Deputy Director for the Division of Housing Mission and Goals may approve the extension; the scope and complexity of the analysis required will be assessed when considering whether an extension is appropriate.