



MORTGAGE BANKERS ASSOCIATION

June 7, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

RE: FHFA Proposed First-Generation Homebuyer Definition

Dear Director Thompson,

The Mortgage Bankers Association¹ (MBA) thanks the Federal Housing Finance Agency (FHFA) for the opportunity to respond to its request for information (RFI) regarding Fannie Mae and Freddie Mac's (the GSEs) Equitable Housing Finance Plans, particularly the proposed definition of a "First-Generation Homebuyer." MBA supports FHFA's mission to address barriers to homeownership and understands the merits of establishing an industry-standard definition for first-generation homebuyers. With respect to the proposed definition, MBA is concerned that certain parameters outlined in the RFI could pose operational burdens and liability concerns for lenders of all sizes while also severely limiting the number of aspiring first-time homeowners who would be eligible for first-generation programs.

First-Generation Definition Too Restrictive

The proposed definition will exclude a significant portion of the underserved population that FHFA and the GSEs are aiming to assist. Although not explicitly mentioned in the RFI, both GSEs have issued Fact Sheets clarifying that when co-borrowers apply for a mortgage, both must meet the standard set by the definition, which specifies that neither the borrower nor the borrower's parents may have personally owned a home within the three years

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

preceding the first mortgage note date.² This unnecessarily restrictive definition assumes that homebuyers fitting these criteria are likely to purchase a home with co-borrowers who also meet the definition, when this may be in fact relatively uncommon given high home ownership rates in the U.S. MBA expects that the number of transactions where both borrowers qualify under the definition would be significantly lower than the number of transactions where a single borrower qualifies – thereby limiting the potential benefit of first-generation programs. The current requirement would also likely encourage an eligible applicant to leave a non-eligible co-applicant off of the note, thereby sacrificing the potential long-term benefit of a positive payment history as a co-borrower. MBA recommends that FHFA amend the definition to require only one borrower to meet the criteria, thereby considerably broadening the potential reach of the benefit.

Data Collection Burden and Liability Concerns

To certify their status as first-generation homebuyers, borrowers must complete the GSE First-Generation Homebuyer Certification form, self-attesting that the information provided, including their parents' address and homeownership status, is accurate. The GSEs do not require lenders to verify this information but do require lenders to keep the form in the loan file. Many MBA members have been informed by their GSE representatives that they will soon be required to collect this data, regardless of the release by the GSEs of any future program that uses the new definition. MBA is concerned that requiring collection of another data field at the point of application will increase friction for loan originators – particularly when they are unable to answer, when asked by the consumer, the question of why the data is being collected.

MBA is also concerned by the commentary from the GSEs that, "this information *will lay the groundwork for verification* of first-generation status in the future if first-generation mortgage offerings are introduced."³ Although the specifics of any future First-Generation Homebuyer programs are currently unknown, this language can be read to suggest that lenders may eventually need to verify the accuracy of information in the borrower attestation. Such a requirement, if proposed in the future, could discourage lender participation and dramatically curtail GSE efforts to assist these populations.

Lenders should not be required to verify or validate information in a *self-attestation* certification form submitted by borrowers attempting to take advantage of any future First-Generation Homebuyer program. Freddie Mac acknowledges in its fact sheet that misrepresentation may occur and that the certification form is intended to address this possibility.⁴ MBA fears that references to "verification" could lead to the GSEs ultimately holding lenders accountable for any inaccuracies or falsehoods. Loans sold to the GSEs should not be subject to repurchase based on misrepresented first-generation status if

² [Freddie Mac First-Generation Homebuyer Mortgage Fact Sheet](#): Question 1- "No, all borrowers must meet the first-generation homebuyer requirements for the mortgage to be considered a first-generation homebuyer mortgage."

³ Freddie Mac First-Generation Homebuyer Mortgage Fact Sheet: Question 8

⁴ Freddie Mac First-Generation Homebuyer Mortgage Fact Sheet Question 8: "By requiring this information, the GSEs aim at addressing possible misrepresentation without overburdening the borrowers."

lenders have adhered to the protocol of collecting and retaining the certification forms in good faith. Ultimately, holding lenders liable in such circumstances would severely discourage participation in the program, undermining FHFA and the GSEs' goal of increasing homeownership among first-generation buyers.

In addition to the legal risk, the expense of verifying these claims beyond a borrower's attestation would not be worth the risk for many lenders to undertake. Verifying a borrower's parents' homeownership history could be complicated due to potential changes in familial relationships over time - a nuance acknowledged by Freddie Mac in Question 5 of its First-Generation Homebuyer Mortgage Fact Sheet – as well as increased administrative processing costs that would ultimately be passed through to all borrowers. Imposing these legal risks and burdens on lenders could lead to increased risks and ultimately hinder participation in the program.

No Comment Period on Certification Form

FHFA announced its RFI concurrently with the GSE release of their finalized certification form, the content of which was not open for public comment. It is imperative that FHFA and the GSEs collaborate with industry stakeholders to align objectives and to ensure that the implementation of any future affordability programs will align seamlessly with existing industry standards, including other attestation or certification forms. We encourage the GSEs to engage in “drafting table” discussions with their seller-servicers when developing and revising such forms.

SPCP Access

SPCPs have proven to be a valuable tool for lenders to better extend GSE-backed financing to certain historically underserved populations, and MBA is pleased to see that with each iteration of the EHFPs, the use of SPCPs continues to progress and expand. MBA acknowledges the importance of ensuring there are established processes and standards in place for lenders who wish to participate in the GSEs' SPCPs or develop their own programs. It is critical for the GSEs to provide a clear path for all sellers in good standing who wish to participate. Based on our members' experience to date, we are concerned that the GSEs' current practices create unnecessary barriers to the development of SPCPs, or participation in the GSEs' existing SPCPs, by smaller lenders.

By nature, the resources lenders have available to participate in SPCPs, particularly those that are lender-sponsored, will vary based on the size of the institution. While guidelines should be in place to ensure that lenders' participation is effective and poses no additional risk to both borrowers and the GSEs, we remain concerned that some lenders who have made strides to participate in SPCPs and help underserved borrowers may be overlooked due to their size. MBA has received feedback from members who are ready to get involved and feel they have the necessary requirements but have still run into significant roadblocks. Expanding the use of SPCPs is critical, moving the needle on housing equity and closing the racial wealth gap. MBA encourages FHFA to ensure that there is a level playing field for access to SPCPs. While exploring ways to provide liquidity to lenders participating in SPCPs, in addition to baseline standards, we encourage the GSEs to consider the varying

needs of lenders. This will allow for the responsible expansion of participating lenders, which in turn will lead to the ability to help more borrowers.

MBA appreciates the opportunity to provide feedback on the EHFPs and the proposed definition of a “First-Generation Homebuyer” and we look forward to continuing our ongoing partnership with FHFA. If you have any questions, please feel free to contact [Sasha Hewlett](#) at (202) 557-2805 or [Darnell Peterson](#) at (202) 557-2922.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Mills". The signature is fluid and cursive, with a large initial "P" and "M".

Pete Mills
Senior Vice President
Residential Policy and Strategic Industry Engagement
Mortgage Bankers Association