515 KING STREET, ALEXANDRIA VA 22314

September 26, 2025

The Hon. William Pulte, Director
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20024

Re: ***Comments Regarding FHFA's Notice of Proposed Rulemaking Entitled "Fair Lending, Fair Housing, and Equitable Housing Finance Plans" Document ID FHFA-2025-0039-0001, Fed. Reg. # 2025-14183***

Below are comments of the American Conservative Union Foundation's (d/b/a. Conservative Political Action Coalition Foundation) (hereinafter "CPAC Foundation") Center for Regulatory Freedom (hereinafter "CRF") on the FHFA's Notice of Proposed Rulemaking Entitled "Fair Lending, Fair Housing, and Equitable Housing Finance Plans" Document ID FHFA-2025-0039-0001, Fed. Reg. # 2025-14183, published in the Federal Register on July 28, 2025.

CRF is a project of the CPAC Foundation, a non-profit, non-partisan 501(c)(3) research and education foundation. Our mission is to inject a common-sense perspective into the regulatory process, to ensure that the risks and costs of regulations are fully based on sound scientific and economic evidence, and to ensure that the voices, interests, and freedoms of Americans, and especially of small businesses, are fully represented in the regulatory process and debates. Finally, we work to ensure that regulatory proposals address real problems, that the proposals serve to ameliorate those problems, and, perhaps most importantly, that those proposals do not, in fact, make public policy problems worse.

Executive Summary

- **Support for Repeal:** The Center for Regulatory Freedom (CRF) strongly supports FHFA's proposal to repeal 12 C.F.R. Part 1293, restoring clarity, reducing unnecessary burdens, and re-anchoring housing finance regulation to statutory priorities.
- **Consistency with Prior CRF Analysis:** In May 2025, CRF's comments to the DOJ's Anticompetitive Regulations Task Force identified these provisions as harmful, unnecessary, and anticompetitive. FHFA's repeal proposal directly responds to those concerns.
- **Entrenchment of GSEs:** Part 1293 imposed extensive planning, reporting, and engagement obligations that only the largest government-backed Enterprises could handle, further entrenching their dominance and making it harder for private and smaller lenders to compete.
- **Duplicative Oversight:** Existing laws already ensure compliance with fair housing and lending protections—HUD under the Fair Housing Act, CFPB under ECOA, and FTC under UDAP. FHFA's parallel rule created redundancy and confusion.
- **Excessive Compliance Costs:** From 2022–2024, Equitable Housing Finance Plans generated billions in activity but imposed significant compliance and programmatic costs that diverted resources away from core statutory housing goals.
- **Pro-Competition Realignment:** Repeal realigns FHFA's framework with a pro-competition model, reducing barriers for private and community lenders and ensuring that future initiatives reflect sound economics, statutory authority, and competitive fairness.

We strongly support the Federal Housing Finance Agency's proposal to repeal the rule at 12 C.F.R. Part 1293, commonly known as the Fair Lending, Fair Housing, and Equitable Housing Finance Plans regulation and commend FHFA for taking this important step to restore clarity, reduce unnecessary regulatory burdens, and reaffirm statutory priorities in housing finance.

The Center for Regulatory Freedom's Thoughts to DOJ on This

Earlier this year, in May 2025, CRF submitted detailed comments to the Department of Justice's Anticompetitive Regulations Task Force. In those comments, we highlighted a series of regulations that we believed created barriers to entry, entrenched incumbents, and undermined competition. Among the examples we cited were the very provisions of Part 1293 that FHFA is now proposing to repeal. At that time, we argued that these rules were not only unnecessary, but also harmful to the very communities they purported to serve. By layering duplicative mandates on regulated entities, the rule elevated compliance costs and strengthened the dominance of large government-backed Enterprises, leaving smaller lenders and private actors struggling to compete.

Your decision to propose repeal is therefore not just consistent with our concerns—it represents a direct response to the competitive and structural issues we identified. It signals that FHFA is committed to ensuring that the housing finance system remains open, competitive, and focused on statutory obligations rather than politically motivated mandates.

In our DOJ comments, we explained the problem in these terms:

> **"Fair Lending, Fair Housing, and Equitable Housing Finance Plans" (12 C.F.R. § 1293; FHFA). In addition to providing updated goals for the Enterprises, FHFA is also tasked with regularly identifying barriers to sustainable housing opportunities for underserved communities and adopting Equitable Housing Finance Plans every three years. Similar to the rule described previously, these regulations also aim to improve access to fair and affordable housing for minorities and low-income families by setting objective and measurable, time-bound goals to address barriers to sustainable housing opportunities for underserved communities. However, 12 C.F.R. §§ 1293.22–1293.24 imposes significant planning, reporting, and public engagement requirements to compel lenders to meet these goals, even though smaller institutions often lack the resources to do so, unlike large established entities such as the Enterprises, which are well-equipped to handle the rule's complex obligations. The stipulation of such goals also further entrenches the dominance of these government-backed Enterprises in the secondary mortgage market, making it harder for private lenders and smaller firms to compete on equal footing, as the Enterprises set the standards and terms for much of the market."**

This observation, made in May, goes to the very heart of FHFA's repeal notice. The problem was never that FHFA lacked authority to supervise the Enterprises or to enforce fair lending and fair housing requirements; the problem was that the 2024 rule went beyond those statutory duties, substituting central planning mandates for competitive markets.

We applaud FHFA for recognizing that the rule was duplicative of other agencies' authorities. HUD enforces the Fair Housing Act. CFPB enforces the Equal Credit Opportunity Act. The FTC enforces unfair and deceptive acts and practices standards. FHFA's attempt to build a parallel structure only created confusion and burden. By proposing repeal, FHFA ensures that oversight remains clear, coordinated, and legally grounded. Consumers benefit most when agencies stay within their statutory lanes and avoid overlapping mandates.

Equally important, repeal addresses the cost burden the rule imposed. As FHFA itself noted, Equitable Housing Finance Plans from 2022 to 2024 generated billions in activity—primarily through subsidies and special-purpose programs—but at significant compliance and programmatic cost. These resources could have been more productively applied toward statutory

housing goals. In particular, smaller community banks, credit unions, and non-bank lenders simply cannot absorb the level of planning, reporting, and engagement required under Part 1293. Large Enterprises can, but only because of their privileged position and implicit government backing. This skewed the market further in favor of the GSEs, exactly the wrong outcome if the goal is fairness and inclusion.

Repeal realigns FHFA's regulatory structure with a pro-competition model, ensuring that private and smaller lenders are not squeezed out by mandates designed around the capacities of the largest incumbents. We also appreciate FHFA's attention to Executive Order 14219, which directs agencies to repeal inconsistent or burdensome rules. Aligning regulatory activity with broader Administration policy ensures consistency across government and signals to markets that regulators will not impose duplicative or politically driven mandates.

Likewise, FHFA is correct to recognize that DEI-based regulatory requirements—whether under the guise of "equity plans" or otherwise—are no longer consistent with federal policy direction. Removing these provisions helps restore neutrality, focusing on statutory housing goals rather than politicized metrics. This does not mean abandoning oversight of fair lending or housing goals. On the contrary, FHFA has reaffirmed its continued enforcement authority to ensure compliance with the Fair Housing Act, ECOA, and related laws. The difference is that oversight will be exercised through statutory channels, not through duplicative regulatory overlays. This approach improves confidence in the housing finance system by ensuring that compliance obligations are predictable, grounded in law, and consistently applied.

The 2024 rule reflected a broader pattern of regulatory overreach: layering new obligations on top of existing laws without sufficient regard for cost, competition, or statutory mandate. CRF has consistently argued that such rules create perverse outcomes—ostensibly promoting fairness but in practice entrenching dominant players and crowding out private competition. FHFA's repeal notice makes clear that the agency has learned from this experience and is prepared to re-center its regulatory framework on statutory mandates and market-based outcomes.

This is a welcome development, and one that should serve as a model for other agencies considering how to unwind duplicative or politically motivated regulations. In moving to repeal Part 1293, FHFA has an opportunity not only to correct a past mistake but also to reaffirm the proper scope of its authority. That scope is substantial: FHFA continues to oversee Fannie Mae, Freddie Mac, and the Federal Home Loan Banks, ensuring safety and soundness, enforcing statutory housing goals, and holding the Enterprises accountable under law. By focusing on those duties, FHFA strengthens its credibility, reassures markets, and provides consumers with confidence that housing policy will remain stable, predictable, and fair.

The repeal also opens the door to rethinking how best to support underserved communities without resorting to duplicative mandates. Targeted statutory tools—like the Duty to Serve requirements and Affordable Housing Programs—already provide structured mechanisms for advancing access to housing. FHFA can build on these foundations without reintroducing the costly, confusing, and anticompetitive framework of Part 1293.

CRF applauds FHFA's leadership in proposing repeal. It demonstrates that the agency is willing to reconsider past decisions, evaluate their market impact, and take corrective action where necessary. We also believe this repeal represents an important validation of our May 2025 comments to the DOJ's Anticompetitive Regulations Task Force. At that time, we identified Part 1293 as precisely the kind of rule that distorted markets and entrenched incumbents. FHFA's action confirms that assessment.

By eliminating duplicative mandates, FHFA is reinforcing competition, reducing costs, and realigning its oversight with statutory housing goals. Consumers, smaller lenders, and taxpayers will all benefit from this decision. We urge FHFA to move swiftly to finalize repeal, and we pledge our continued support in that process. More broadly, we stand ready to work with FHFA to ensure that future regulatory initiatives reflect sound economics, statutory authority, and competitive fairness rather than duplicative or politically motivated mandates.

Conclusion

The Center for Regulatory Freedom commends the Federal Housing Finance Agency for taking this decisive step to repeal 12 C.F.R. Part 1293. By moving to unwind a regulation that was duplicative, costly, and ultimately counterproductive, FHFA is reaffirming its commitment to sound statutory authority and regulatory discipline. This action demonstrates that the agency is willing to correct course when past decisions impose unnecessary burdens without delivering meaningful benefits.

Repeal of this rule is more than a technical adjustment—it is a necessary recalibration of FHFA's role in housing finance. Oversight of fair lending and fair housing obligations is already embedded in federal law and delegated to agencies with direct statutory authority. By removing redundant mandates, FHFA ensures that enforcement remains consistent, predictable, and coordinated, rather than fragmented across multiple overlapping regimes. This enhances confidence in the system and ensures that resources are directed to where they can do the most good.

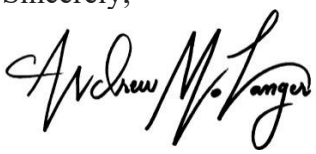
The decision also represents a critical affirmation of competition. Part 1293's complex obligations fell hardest on smaller lenders and community institutions, while Fannie Mae and Freddie Mac—already dominant because of their government backing—were well-positioned to absorb the added requirements. In practice, the rule increased concentration in housing finance rather than promoting access and opportunity. Repeal realigns the regulatory framework with

competitive fairness, allowing a more level playing field for private actors and more choices for consumers.

FHFA's proposal is further strengthened by its recognition that DEI-based mandates are no longer consistent with federal policy direction. By removing these provisions, the agency is ensuring neutrality, focusing squarely on statutory housing goals and safety and soundness responsibilities. This reorientation will help reinforce stability in housing finance markets while avoiding the politicization of regulatory mandates.

For these reasons, CRF strongly supports FHFA's proposal to repeal Part 1293 and urges the agency to finalize this rule without delay. Doing so will reduce costs, promote competition, and restore confidence in the regulatory framework governing the housing finance system. Consumers, taxpayers, and the broader marketplace will all benefit from this return to statutory discipline, regulatory clarity, and competitive fairness.

Sincerely,



Andrew M. Langer
Director
CPAC Foundation Center for Regulatory Freedom