

June 7, 2024

Federal Housing Finance Agency
Office of the Director
400 7th Street, SW, 9th Floor
Washington, DC 20219

Re: Definition of First-Generation Homebuyers

Dear Director Thompson,

On behalf of America’s Credit Unions, Community Home Lenders of America, Housing Policy Council, Independent Community Bankers of America, and U.S. Mortgage Insurers, we are writing in response to the Federal Housing Finance Agency’s (FHFA) Request for Input on the Fannie Mae and Freddie Mac Equitable Housing Finance Plans. Specifically, we are writing to express our concerns with the Fannie Mae and Freddie Mac (“the Enterprises”) definition and policies regarding First-Generation Homebuyers.

We support the Enterprises’ efforts to serve first-generation homebuyers, including policies that appropriately target homebuyer assistance programs and subsidies towards borrowers who don’t have the benefit of intergenerational wealth that comes from family ownership of a home. Recent studies from researchers at the Urban Institute underscore the public policy rationale for targeting these specific homebuyers.¹

To best serve that policy goal we think the Enterprises should attempt to standardize the definition of First-Generation Homebuyer. With the recent proliferation of state and local definitions for what constitutes a First-Generation Homebuyer, a standard definition would be more efficient for lenders and global investors to model and execute.

However, the Enterprises’ current definition² is both too narrow and too broad, is operationally infeasible for lenders, and warrants refinements to more appropriately target borrowers and address operational concerns.

Specific Concerns with Proposed Definition of First-Generation Homebuyers

- **Certain Elements are Too Limiting:** The Enterprises’ narrow definition will unnecessarily exclude people who need the assistance. Although not mentioned explicitly in the RFI, both Freddie Mac and Fannie published a “First Generation Homebuyer Mortgage Fact Sheet”³ which stated that every borrower on a loan must meet the definition for the loan to meet the definition of First-Generation Homebuyers. This is inappropriate and runs counter to the public policy interests. We believe that many of the intended beneficiaries will likely still choose to buy a property with someone who does not meet the definition, and thus be ineligible for inclusion. This restriction

¹ Down Payment Assistance Focused on First-Generation Buyers Could Help Millions Access the Benefits of Homeownership by Jung Hyun Choi and Janneke Ratcliffe, April 7, 2021; First-Generation Homebuyers Face Significant Obstacles to Homeownership. To Help, Programs Can Define What “First-Generation” Means by Aniket Mehrotra, Jung Hyun Choi and Janneke Ratcliffe, November 17, 2023.

² Fannie Mae SEL-2024-03 (May 1, 2024); Freddie Mac Bulletin 2024-B (May 1, 2024).

³ <https://www.fanniemae.com/media/51216/display>;
https://sf.freddie.com/docs/first_generation_fact_sheet.pdf.

on the definition calls into question the research that the Urban Institute conducted, which sensibly had no such limitation.⁴

- **Certain Elements are Too Expansive:** The definition is also too expansive as it adopts a three-year lookback test on both the borrower and the borrower’s parents, which changes the definition into something different from the plain language meaning – that a first-generation homebuyer is someone who is the first in the family to buy a home. The problem with this approach is that by drawing such a broad definition, any future mortgage assistance will not adequately target those who are most in need of assistance -- those who haven’t had the benefit of the accumulation of housing wealth.

We infer that the Enterprises selected this definition to “limit” the verification period for lenders to determine whether a borrower’s parents have owned property, but such a conclusion is based on the premise that lenders should perform this function. Traditionally, lending institutions are not responsible for evaluating information on parties that are not part of the lending transaction. Therefore, it will come as no surprise that our members have no ability or willingness to verify the residency status of non-parties to the lending transaction, and thus the three-year lookback requirement represents a burden, rather than a benefit to ease implementation for the lending community.

- **Operationally Infeasible:** Simultaneous with FHFA issuance of the definition of First-Generation Homebuyers, the Enterprises jointly published a Certification Form⁵ for lenders to immediately utilize to validate First-Generation Homebuyer Status. Although this Certification Form indicates the Enterprises’ intentions, it is disappointing that this was rolled out before any public opportunity to weigh in on the underlying definition.

Substantively, we are very concerned with the Certification Form itself, as well as with the Enterprises’ Fact Sheets intimating that lenders will at some point be expected to verify that both a borrower and his or her parents meet the definition. We believe that this is operationally infeasible.

Specifically, our most significant concern with the Certification Form is the section that requires a borrower to provide the address for their parents. The Enterprise fact sheets confirm lenders’ concern with a verification requirement, stating that lenders are required to “keep the executed form(s) in the mortgage file” and that the collection of this information “will lay the groundwork for verification of first-generation status in the future.”

⁴ Down Payment Assistance Focused on First-Generation Buyers Could Help Millions Access the Benefits of Homeownership by Jung Hyun Choi and Janneke Ratcliffe, April 7, 2021; First-Generation Homebuyers Face Significant Obstacles to Homeownership. To Help, Programs Can Define What “First-Generation” Means by Aniket Mehrotra, Jung Hyun Choi and Janneke Ratcliffe, November 17, 2023.

⁵ Form 1109 available at <https://singlefamily.fanniemae.com/media/39076/display> and <https://guide.freddie.com/app/guide/form/1109>.

Lenders have no authorization or ability to conduct a verification of the residence of individuals that are not party to the loan transaction (let alone the prior residence of a deceased person). Further, broad availability of and/or access to tenant rental information is nonexistent today. If this Certification Form remains unchanged and is required to participate in future Enterprise lending programs, through the Equitable Housing Finance Plans, we believe that lender participation will be de minimis and will reduce support for these borrowers.

Proposed Amendments to the Definition of First-Generation Homebuyers and Certification Form

To improve the effectiveness of serving first-generation homebuyers, we recommend the following changes to the definition, Certification Form, and implementation policies:

- The definition should require only one borrower to meet the eligibility requirements. A recent National Fair Housing Alliance (“NFHA”) report⁶ on serving First-Generation Homebuyers provides an overview of eight state programs that provide a definition for this group. We believe that Minnesota has an operationally feasible definition that can serve as an effective model since it only requires that one borrower meet the criteria for program eligibility.
- The definition should require that the buyer and buyer’s parents have never owned a home or lost it to foreclosure. This is like the eligibility requirements that the states of Minnesota, Massachusetts, and Rhode Island utilize. The benefit of this definition is that it most accurately reflects what the definition means in plain language, which will reduce borrower confusion, and most effectively targets scarce resources to borrowers who have never had the wealth building benefits that come from family ownership of a home.
- We oppose any definition that relies on lender verification of borrower eligibility, particularly any requirement that a borrower’s parents never owned a home or haven’t owned a home in the last three years. These types of policies pose an unacceptable privacy, reputational, and compliance risk. A workable alternative that we can support is a model that requires a borrower to make a self-attestation by affidavit, rather than just a borrower “self-certification.” Of the eight states surveyed by NFHA, five of those states require a borrower self-attestation by affidavit.

All stakeholders should want to discourage a borrower from inappropriately claiming to be a first-generation homebuyer to access a financial incentive, which diverts resources from the intended beneficiaries. We believe that an affidavit to enforce accurate and penalize fraudulent statements will most effectively deter borrowers from falsifying information or lenders from trying to game the system. It will certainly be a more effective deterrent than simply requiring a borrower to provide an address for their parents -- one of the verbally articulated reasons why the Enterprises have stated they are collecting this information.

A self-attestation with or without affidavit will clearly impose a new operational burden on lenders. However, this is far less burdensome than performing a residential search to verify that a buyer and the buyer’s parents have never owned a home in the last three years. Additionally, a

⁶ “First Generation Foundations: A Guide to Advancing Equity with First Generation Homeownership Programs” (April 2024). Available at <https://nationalfairhousing.org/wp-content/uploads/2024/04/First-Generation-Homeownership-Program-Guide-4.29.24-extended-TOC.pdf>.

self-attestation by affidavit that places the eligibility requirements squarely on the borrower will minimize the foreseeable audit, representation and warranty, and inspector general investigation risks that could jeopardize lender participation.

- To evaluate the effectiveness of the definition and associated processes, we recommend that FHFA require the Enterprises to conduct quality control analyses of the borrowers and mortgage transactions deemed eligible. This guardrail would ensure the population is not overly represented and the data should be included in the Enterprises' Plan performance reports.

Conclusion

As your teams navigate these issues, our organizations would welcome the opportunity to meet with you – to the extent possible, jointly—to discuss our recommendations and concerns. Please have your staff contact Matt Douglas at matt.douglas@housingpolicycouncil.org with any questions or to arrange further discussion. Thank you for your consideration of these recommendations.

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