

April 19, 2021

Federal Housing Finance Agency
Office of the Director
400 7th Street SW, 10th Floor
Washington, DC 20219

Via fhfa.gov

Re: Climate and Natural Disaster Risk Management Request for Input

Dear Director Calabria and FHFA staff,

The undersigned consumer, community, civil rights, housing, legal services and other public interest organizations write this letter in response to the Federal Housing Finance Agency (FHFA)'s Climate and Natural Disaster Risk Management Request for Input (RFI). The dangers posed by climate change—including damage to homes and other physical property due to increased frequency and severity of natural disasters—create enhanced risks for all people, but these risks are not borne equally. We are especially concerned about the disproportionate impact of climate change and natural disasters on the most vulnerable communities in our society, and particularly on low and moderate income (LMI) neighborhoods and communities of color. Rising temperatures are transforming natural landscapes and threatening our built environment and infrastructure. These changes will undoubtedly threaten LMI borrowers' ability to become homeowners and to then sustain that homeownership long term. FHFA has a crucial role to play in helping the Government-Sponsored Enterprises (GSEs or Enterprises) assess and manage systemic climate risk to promote a fair and stable housing market in the United States.

Introduction

Climate change and environmental racism pose existential threats to LMI communities and communities of color with respect to housing. Redlining and other racist housing and lending practices have segregated people of color, particularly African Americans, into neighborhoods that face chronic disinvestment and higher levels of environmental degradation and climate impacts. LMI neighborhoods, communities of color and their local economies tend to be more physically susceptible to persistent flooding, sea level rise, severe storms, and heat waves.^{1,2} And compounding these problems of physical susceptibility, LMI communities and communities of color also have fewer resources to recover from increasingly frequent and severe natural

¹ Maya K. Buchanan, *et al.*, "[Sea level rise and coastal flooding threaten affordable housing.](#)" 2020 Environ. Res. Lett. 15 Dec. 4, 2020.

² Nives Dolsak and Aseem Prakash. "[Urban Heatwaves are Worse for Low-Income Neighborhoods.](#)" *Forbes*. Aug. 14, 2020.

disasters.³ As climate change worsens, these factors will further threaten the ability of LMI borrowers and borrowers of color to access and sustain homeownership because the homes they can afford in their communities are at greater risk of being damaged by climate events, increasing the chance of delinquency and default.

As noted in the RFI by the Enterprises, “natural disasters could result in increased delinquency rates, default rates, credit losses, credit related expenses, and loan loss frequency and severity,”⁴ which could impede the Enterprises’ ability to provide liquidity for the whole of the national housing finance market. We support FHFA’s goals to strengthen its ability to assess regulated entities’ current and future climate and natural disaster risk and enhance FHFA’s supervision and regulation with respect to these risks. In pursuit of that goal, though, it is imperative that measures taken to mitigate the effect of climate change must not create a disparate impact for homeowners or communities of color or place an undue burden on LMI borrowers.

Below we describe the threats posed by climate change and provide a set of recommendations for FHFA to consider as it moves forward in engaging on climate and natural disaster risk management.

Current and Future Physical Dangers of Climate Change

Climate change represents an existential physical threat to the lives, livelihoods, homes, and property of families and businesses across the United States. From fast rising sea levels that threaten our coastal towns, to the higher incidence of severe storms and hurricanes that batter the Gulf region, to the unprecedented levels of riverine flooding that damage homes and decimate crop yields along our major waterways, to the devastating wildfires that consume homes as fuel in our Western states (now year-round), climate impacts will continue to grow, and become exponentially more costly, for decades to come.

Even with swift global action to mitigate climate change through greenhouse gas reductions, the global temperature will continue to rise at least through 2040 or 2050. Along with rising temperatures, the number of annual weather events in the US that have caused at least \$1 billion in inflation-adjusted damages increased from 6 per year on average from 2000-2009 to 11 per year from 2010-2020, with the year 2020 setting a new record of 22 individual disasters.⁵ These included hurricanes, tornadoes, severe storms and flooding, straight-line winds, landslides and mudslides, and wildfires. Added to these, in early 2021, was the severe winter storm that left a large part of Texas without power and caused considerable property damage.⁶

³ The Urban Institute. “[Improving the Disaster Recovery of Low-Income Families.](#)”

⁴ FHFA Climate and Natural Disaster Risk Management Request for Input, p. 2.

⁵ NOAA National Centers for Environmental Information (NCEI) [U.S. Billion-Dollar Weather and Climate Disasters: Time Series](#). 2021.

⁶ The U.S. Department of Housing and Urban Development. “[New FEMA Major and Emergency Disaster Declarations.](#)” Feb. 25, 2021.

These climate-driven weather events represent profound risk to our nation's housing stock and mortgage markets because, beyond immediate physical damage, areas that experience these events often see increased rates of mortgage default, community wide depreciation in property values⁷, and potential insurance pullouts.⁸

The Fourth National Climate Assessment concluded that “the continued increase in frequency and extent of high-tide flooding due to sea level rise (SLR) threatens America’s trillion-dollar coastal property market and public infrastructure, with cascading impacts to the larger economy.”⁹ Recent research shows that 300 thousand homes and commercial properties along US coasts will be at risk of chronic, disruptive flooding within the next 30 years, representing a cumulative property value of \$136 billion and the homes of around 500 thousand people, households that currently contribute over \$100 million in property tax base.¹⁰ Coastal towns in Florida and New Jersey are especially vulnerable, each with around 60 thousand homes that will be at risk for chronic flooding by 2045. Compounded by our rising seas, more frequent and severe storms and hurricanes will continue to cause problems across the nation, especially for the Gulf region. And 2020 was also the most damaging year for wildfires in the Western United States,¹¹ a trend that will surely continue as the region becomes hotter and drier due to climate change, and as humans continue developing property in the wildland urban interface. In fact, the 20-year megadrought that has affected Western states is so severe and sustained that eight states are experimenting with seeding clouds in an effort to increase precipitation and ensure that the regional water supply can support the region’s population - a proposition that is far from certain.¹²

Climate financial risk is still growing within the U.S. mortgage market because it is not being accurately analyzed and priced within the market. The most costly climate-driven threat to property is coastal and inland flooding, but the combination of simultaneous climate change and rapid human development has made flood prediction more difficult, even as more and more areas are facing persistent flooding each year. The federal government needs to increase resources for flood modeling and predictions in line with cutting edge climate modeling and scenarios, and FHFA should increase staff with climate science and economics experience to better coordinate with those scientists and agencies to interpret climate models.

While all borrowers of mortgages from federally backed or regulated lenders must obtain a flood insurance policy if they live in a FEMA-designated floodplain, recent analysis has shown that

⁷ Federal Housing Finance Agency. “[Climate Natural Disaster Risk Listening Session](#).” Mar. 4, 2021.

⁸ Katherine Chigliosky and Elaine Chen. “[Many Californians Being Left Without Homeowners Insurance Due to Wildfire Risk](#).” *Insurance Journal*. Dec. 4, 2020.

⁹ U.S. Global Change Research Program. “[Fourth National Climate Assessment Volume II: Impacts, Risks and Adaptation in the United States](#).” Feb. 2020.

¹⁰ Union of Concerned Scientists. “[Underwater: Rising Seas, Chronic Floods and the Implications for US Coastal Real Estate](#).” Jun. 2018.

¹¹ Blacki Migliozi, et. al. “[Record Wildfires on the West Coast are Capping a Disastrous Decade](#).” *New York Times*. Sept. 4, 2020.

¹² Chelsea Harvey. “[Eight States Are Seeding Clouds to Overcome Megadrought](#).” *E&E News*. Mar. 16, 2021.

FEMA's flood maps are no longer reliable predictors of future flood risk given the acceleration of climate change.¹³ The town of Ellicott City, Maryland famously had two separate "1000 year flood" events in 2016 and 2018, a trend repeated across many U.S. towns due to the combination of rapid development and climate-related flooding. Natural disasters like this can cause serious losses for the GSE's if they lead to increased mortgage delinquency rates. In many cases, disasters are not leading to a tightened credit environment, with lenders opting to instead transfer credit risk to the secondary market.

Recommendations for FHFA's Work on Climate and Natural Disaster Risk Management

We ask FHFA to take into account these important considerations described below as FHFA embarks on this process to determine what steps it should take to mitigate climate risk. It is critical that FHFA not cause inadvertent harm to the communities who are already most vulnerable to the adverse effects of climate change and who face the most challenges in accessing and sustaining homeownership as well.

Conduct more research and collect more data. FHFA should conduct more research and collect more data on the effects of climate change and natural disaster risks on the housing finance market, and focused research on the intersection between climate risk, mitigation strategies, and communities of color. More research, and especially more data, is needed on where more investment is needed to build climate resilience and which communities are most at risk. It is important that FHFA make its research publicly available to allow all stakeholders to provide feedback on the data, and for FHFA to incorporate that feedback before taking action. Robust research and analysis of the effects of climate change on the housing finance market and vulnerable communities should guide FHFA's next steps.

Consult with key stakeholders. Relatedly, FHFA should consult with key stakeholders, including housing advocates, civil rights groups, and community organizations, to better understand climate risk and the impact on communities of color and LMI families before moving forward. Whenever possible, FHFA should coordinate with and support local groups seeking effective community-wide solutions. FHFA should especially consult with groups who were active working with communities where previous disasters took place to learn more about the impact on the housing market in those areas, how policies worked in practice, and what was effective or unhelpful in helping families and communities rebuild. For example, many homeowners have run into problems accessing their insurance proceeds to make the necessary repairs on their homes after suffering disaster-related damage, which has often impeded their recovery. FHFA should talk to advocates in these communities about these issues to better understand what policy changes or directions to servicers and insurance companies would improve this process going forward.

¹³ Rebecca Hersher. "[Major Real Estate Website Now Shows Flood Risk. Should They All?](#)" *NPR*. Aug. 26, 2020.

Coordinate with other governmental entities. As FHFA recognizes in the RFI, many regulators and policymakers are also focusing on addressing climate and natural disaster risks. We strongly encourage FHFA to collaborate with other government agencies, including other financial and housing regulators, the Financial Stability Oversight Council, the Federal Insurance Office, as well as other agencies with climate science expertise. FHFA should also coordinate with state and local efforts to address these issues. In many cases, federal, state, and local government entities will need to develop risk mitigation initiatives that address the issues for the entire community, including the communities of color. We urge FHFA to intentionally seek out the concerns of community advocates on an ongoing basis and to partner with federal, state, and local government entities in coordinated, government-wide initiatives to build expertise and seek effective solutions to mitigate climate risks.

Pursue solutions that do not burden individual homeowners and take care that LMI homeowners and those with limited wealth are not put at risk or asked to bear additional costs. Climate risks and natural disasters affect entire communities, and climate mitigation efforts should also be considered at the community level. While the Enterprises should consider products and policies that support improvements that individual property owners or developers can make to increase the likelihood that their properties can withstand disasters and other climate impacts (such as elevating properties, tying down roofs, improving insulation, and distributed clean energy, and energy efficiency retrofits, etc.), the larger issues raised by climate change and natural disasters cannot be solved on a house-by-house basis. LMI homeowners and those with limited wealth in particular should not be put at financial risk or asked to bear additional financial burdens to mitigate the impacts of climate change. The costs of responding to these risks cannot be placed on individual homeowners or potential homebuyers and must be addressed at the market level.

Prohibit relaxation of consumer protections for climate risk mitigation products. Climate improvements cannot be at odds with consumer protections and lending safeguards. Abusive products tied to climate or environmental improvements must never be allowed, and products promising climate risk mitigation or other environmental benefits to individual homeowners should be closely regulated and scrutinized to prevent predatory practices.

For example, Property Assessed Clean Energy (PACE) programs have too often led to home improvements that do not provide adequate energy efficiency improvements to offset the costs, the loans are in many cases unaffordable, and consumer protections have not been developed to prevent these problems. We strongly support efforts to strengthen consumer protections on PACE loans and impose comprehensive state and federal regulation that would regulate and oversee PACE as a mortgage product. PACE loans have pushed many low-income and/or elderly homeowners and borrowers of color into default and foreclosure. PACE loan sales methods foster abuse through practices such as push marketing, closings conducted electronically on tablets and smartphones, and the use of contractors as sales agents. Contractors have often used PACE as a means for entering into abusive and fraudulent home improvement arrangements. Local government sponsorship of PACE programs has been used

by front-line contractors and salespeople to lure unsuspecting homeowners into arrangements they believe are government-endorsed, money-saving and advantageous to the homeowner.

We understand that the super-priority lien position of PACE loans creates difficult risk management challenges for the GSEs, and we support FHFA's decision to prohibit the GSEs from purchasing or refinancing mortgages with PACE liens attached. FHFA and the Enterprises should use their authority and influence over the housing finance market to incentivize PACE lenders and state actors to enhance consumer protections and adopt policies that limit risk to the Enterprises, such as the development of new consumer products for energy efficiency improvements to provide responsible alternatives to make environmental improvements to their homes. PACE loans should only be allowed on GSE loans after the CFPB has finalized its PACE rulemaking focused on ensuring the loans are made with consideration of the homeowner's ability to repay. Consumer protections are necessary to protect homeowners from unscrupulous lenders who market problematic products that do not deliver the promised benefits and leave families in precarious situations that put them at risk of losing their homes. These abusive practices call for strong federal and state regulation and enforcement. Moreover, other measures to promote energy efficiency upgrades in the residential market also must be consistent with robust consumer protection principles. Approaches such as permitting higher property valuations based on estimated cost savings from energy efficiency improvements may create improperly inflated appraisals. "Stretch ratios" to increase a borrower's permitted debt-to-income ratio based on projected energy efficiency savings fail to account for the many other expenses that may affect a borrower's capacity to keep up with their payments.

Incorporate fair lending concerns. All considerations on climate must take into account fair lending concerns. FHFA must ensure that climate and natural disaster risk mitigation initiatives by the Enterprises avoid discriminatory outcomes and promote equitable treatment of borrowers and communities of color. As noted above, climate dangers are exacerbated in LMI communities and communities of color, which raises the risk that any climate and natural disaster risk initiatives could lead to adverse outcomes for communities of color. As the regulator of the Enterprises, FHFA's role includes ensuring that Fannie Mae and Freddie Mac are complying with fair lending laws. FHFA has the responsibility to avoid any potentially discriminatory outcomes and to promote financial inclusion and affirmative initiatives that help borrowers and communities of color mitigate their risk and fully participate in the housing finance market. FHFA should review all proposed initiatives in the early stages to avoid discriminatory outcomes, continue to monitor implemented initiatives for discriminatory outcomes, and, where appropriate, use its supervision and enforcement authorities to require remediation to avoid or remedy harm to borrowers or communities of color. Policy steps that might increase costs requires simultaneous policy steps and commitment of resources to redress the disproportionate costs and burdens created for people of color because of past and continuing systemic racism and discrimination. Otherwise, there is grave danger they will compound those harms.

Examine the effectiveness of disaster loss mitigation protocols. While the GSEs have developed a robust menu of options for disaster loss mitigation, it is unclear whether the Flex Modification provides adequate payment relief to distressed borrowers, and whether more could be done to enhance loan performance. For example, in the current market, most GSE borrowers have a loan-to-value below 80 percent, which prevents them from getting a lower interest rate on a modification. These borrowers should still be allowed to access the interest rate reduction. This could make a big difference in whether homeowners can access affordable payment reductions after a natural disaster. FHFA also should study its recent COVID policies and determine if anything could be made applicable to borrowers after a natural disaster.

Increase transparency and disclosures. Regulators cannot rely on market forces alone to correctly price in climate risk, nor is it clear that the market can do this accurately and fairly, but providing better disclosure of risks for prospective homeowners or other buyers is nonetheless crucial, as is ensuring that such disclosure does not lead to inequitable outcomes. Mandating climate risk disclosure for real-estate-linked assets would lead to more accurate risk-adjusted sales prices, better prepare homeowners for dealing with natural disaster threats, and encourage them to obtain adequate insurance coverage to avoid mortgage delinquency or default after a natural disaster.¹⁴ Only a few states currently mandate wildfire risk disclosure,¹⁵ for example, but widespread disclosure mandates could serve as a first step to calibrate the market towards a more accurate valuation of risky properties. FHFA should work with the CFPB to monitor the state of climate-related disclosures for different products and regions and ensure that disclosure policies are not leading to inequitable outcomes. FHFA should also consider requiring the Enterprises to measure and disclose the carbon footprint of their portfolios and develop a plan to reduce this impact.

Include consideration of climate risks in stress testing. To assess capital adequacy for the GSEs during acute natural disaster events and long-term climate-related repricing, FHFA should begin explicitly including likely climate scenarios in its annual DFAST stress testing for Fannie Mae and Freddie Mac, and should encourage FHLBanks to continue considering climate risks in their internal stress testing activities. The process of standing up stress tests will help form connective tissue between FHFA, the GSEs, FEMA, and climate economists and scientists, ultimately leading to better climate financial modeling, data, and scenario analysis.

Incentivize responsible investments that mitigate climate and disaster risk. FHFA should evaluate whether any policies are creating barriers to obtaining financing for environmental improvements. FHFA should consider cross-subsidies or spreading the risk across the GSEs' entire portfolios rather than trying to price it into specific loans, which has the potential to disproportionately burden borrowers and communities of color and LMI families. FHFA should conduct further research to obtain guidance on effective investments to mitigate climate and disaster risk for communities, including looking into and providing more information to the public

¹⁴Charlie Wowk, "[Burning Down the House: How Inadequate Climate Risk Disclosures and Information Asymmetries Threaten to Disrupt the U.S. Mortgage Market](#)." The FinReg Blog, Global Financial Markets Center, Duke University School of Law. Feb. 11, 2021.

¹⁵ *Ibid.*

about the impact of FHFA's more recent requirement that financing for energy and water efficiency improvements be included under the multifamily lending cap for the GSEs. This financing was previously excluded from the cap. At the same time, FHFA should also make sure it does not create incentives for problematic products that disregard consumer protections, or any products or investments that raise fair lending concerns. Responsible investments should be incentivized, and harmful or discriminatory products prohibited based on research and data about investment terms and outcomes.

Conclusion

Climate change and associated natural disasters are increasingly urgent threats that intersect with FHFA's ability to provide liquidity to the entire housing market, and LMI borrowers and communities of color are particularly vulnerable to their dangers. We thank you for the opportunity to provide comments and look forward to future discussions about how to best mitigate climate and natural disaster financial risks to promote safe and stable homeownership for all communities as it connects to FHFA's role in the housing finance market.

If you have any questions, please feel free to contact Linda Jun at linda@ourfinancialsecurity.org and Alex Martin at alex@ourfinancialsecurity.org.

Sincerely,

Americans for Financial Reform Education Fund
Action Center on Race and the Economy (ACRE)
California Low-Income Consumer Coalition
California Reinvestment Coalition
Center for Responsible Lending
Color of Change
Consumer Action
Consumer Federation of America
Future Nexus
MICAH- Metropolitan Interfaith Council on Affordable Housing
National Community Reinvestment Coalition (NCRC)
National Consumer Law Center (on behalf of its low-income clients)
National Council of Asian Pacific Americans (NCAPA)
National Fair Housing Alliance
Public Citizen
Public Good Law Center
Public Law Center
Watsonville Law Center