May 5, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Amendment in the Nature of a Substitute to the Fair Lending for All Act (H.R. 166)

Dear Chairwoman Waters, Ranking Member McHenry and Members of the Committee:

We are writing to urge your support for H.R. 166, the Fair Lending for All Act. The bill would create an Office of Fair Lending Testing within the Consumer Financial Protection Bureau (CFPB), add two additional protected classes, and create criminal penalties for violations, three necessary improvements. In addition, the substitute amendment would enhance ECOA's civil enforcement provisions by providing organizations with standing to bring fair lending cases and ensuring that any entity involved in the credit process is subject to ECOA.

The creation of an Office of Fair Lending Testing at the CFPB is a critical step in preventing the types of fair lending violations that limit economic mobility, slow economic growth and perpetuate the racial wealth gap. Discrimination not only stops consumers from accessing fair and equitable credit products but also hurts the economy. By one account, “providing fair and equitable lending to Black entrepreneurs might have resulted in the creation of an additional $13 trillion in business revenue over the last 20 years.”

1 Peterson, D., Mann, C. (2020). Closing the Racial Inequality Gaps: The Economic Cost of Racial Inequality in the U.S. Citi Bank
https://ir.citi.com/%2FPRxPvgNWu319AU1ajGf%2BsKbjjBjSdTOSdw2DF4xynPwFB8a2iV1FaA3Idy7vY59bO7N2lxVQM%3D

Fair lending testing, also known as matched-pair testing, is an enforcement method that uncovers covert discrimination when investigations reveal differences in treatment in the pre-application stage. Testing provides vital evidence of whether applicants were discouraged from applying for credit or offered different products, terms or information. This information is not revealed through required data collection, like the Home Mortgage Disclosure Act, because there is no requirement that lenders collect demographic data during the pre-application stage of the loan process. As a result, testing is one of the only ways to uncover discrimination in the pre-application phase of the credit process. The CFPB must have the staff and resources to carry out this work, and the Fair Lending for All Act will provide the Bureau with those necessary resources.

The CFPB, even with the creation of this new office, cannot conduct fair lending investigations and file enforcement actions by testing every discriminatory lender that is currently violating ECOA because there are too many types of lending products and lenders. Since the late 1980s, the U.S. Department of Housing and Urban Development has partnered with local and national fair housing groups to conduct matched-pair testing in the housing arena because it cannot tackle this problem by itself. “In 2018, private, nonprofit fair housing organizations processed 75.01% of complaints, as compared to 19.19% by FHAP agencies, 5.72% by HUD, and .08% by DOJ.”2 These local groups play a vital role in rooting out

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discrimination in the housing finance sector and could be equally valuable in rooting out discrimination in the lending marketplace. Their investigative services must be expanded to all lending products.

We strongly support the provisions of the *Fair Lending for All Act* as introduced and urge that the substitute amendment be adopted to provide organizations with the standing to bring additional fair lending cases.

Please contact Gerron Levi, Senior Director of Government Affairs, at 202-464-2708 or Brad Blower, General Counsel, at 202-383-7706 with any additional questions.

Sincerely,

**National**

**National Community Reinvestment Coalition (NCRC)**
Center for Responsible Lending
Leadership Conference on Civil and Human Rights
NAACP
NAACP Legal Defense and Educational Fund
National CAPACD- National Coalition for Asian Pacific American Community Development
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
National NeighborWorks Association
Poverty & Race Research Action Council
Prosperity Now
Public Citizen
Public Justice

**State Groups**

**Alaska**
AKPIRG

**Arizona**
Pima County Community Land Trust

**California**
California Coalition for Rural Housing
California Low-Income Consumer Coalition (CLICC)
California Reinvestment Coalition
Fair Housing Council of Orange County
People's Self-Help Housing
Public Good Law Center

**Colorado**
African American Trade Association
Urban Land Conservancy
Connecticut
Neighborhood Housing Services of Waterbury, Inc.

District of Columbia
727 Mgt. LLC

Delaware
Delaware Community Reinvestment Action Council, Inc.

Florida
Affordable Homeownership Foundation, Inc.
Community Reinvestment Alliance of South Florida
HELP COMMUNITY DEVELOPMENT CORP.
Metro North Community Development Corporation

Georgia
Beyond Savvy Corporation
Equal Rights Center
Georgia Advancing Communities Together, Inc.

Hawaii
Hawai‘i Alliance for Community-Based Economic Development
Self-Help Housing Corporation of Hawaii

Illinois
Housing Action Illinois
Universal Housing Solutions CDC
Woodstock Institute

Indiana
Habitat for Humanity of Northwest Indiana
HomesteadCS
Northwest Indiana Reinvestment Alliance
Prosperity Indiana
Suzy Q Service Corporation

Maryland
African American Chamber of Commerce of Montgomery County
CCCSMD
Housing Options & Planning Enterprises, Inc.
MakingChange, Inc
Maryland Consumer Rights Coalition
**Minnesota**
Housing Justice Center
MICAH- Metropolitan Interfaith Council on Affordable Housing

**Mississippi**
MS Communities United for Prosperity (MCUP)

**Missouri**
Consumers Council of Missouri
Metropolitan St. Louis Equal Housing and Opportunity Council
R.A.A. - Ready, Aim, Advocate

**New York**
Fair Finance Watch

**North Carolina**
Henderson and Company
Olive Hill Community Economic Development Corporation, Inc
Sandhills Community Action Program Inc.

**Ohio**
Columbus Empowerment Corporation
Home Repair Resource Center23-
Homes on the Hill, CDC
JOVIS
SCMBA

**Oregon**
CASA of Oregon
Housing Oregon

**Pennsylvania**
Ceiba
Philadelphia Association of Community Development Corporations
Pittsburgh Community Reinvestment Group

**Texas**
Southern Dallas Progress Community Development Corporation

**Washington**
Beacon Development Group C/O Cindy Proctor
West Virginia
CommunityWorks in West Virginia

Wisconsin
Metropolitan Milwaukee Fair Housing Council