

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.”<sup>1</sup>

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.”<sup>2</sup> These local groups play a vital role in rooting out

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<sup>1</sup> 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%2BsKbjJjBJSaTOSdw2DF4xynPwFB8a2jV1FaA3Idy7vY59bOtN2lxVQM%3D>

<sup>2</sup> Augustine L., Cloud C., Frost-Brown S., Goldberg D., Rice L., Soto J., Williams M. (2019) *Defending Against Unprecedented Attacks on Fair Housing: 2019 Fair Housing Trends Report*. National Fair Housing Alliance. <https://nationalfairhousing.org/wp-content/uploads/2019/10/2019-Trends-Report.pdf>

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