



Federal Priorities to Remove Roadblocks and Embed Equity in Federal Programs and Policies

April 2024

The Biden-Harris Administration in Executive Order [13985](#) called on agencies to advance equity and racial justice across the federal government to root out entrenched disparities and create opportunities for historically underserved communities. In keeping with this mandate, federal agencies have stepped up fair lending enforcement, including by tackling redlining, launching several equity related initiatives, and using the bully pulpit to call attention to discriminatory practices in housing, credit and financial services. In the next several months, federal agencies should engage in the critically important work of finalizing rules and guidance to turn various equity focused plans and proposals into programs and initiatives that are baked in to agency culture. The following is a slate of recommendations to advance these urgent goals.

Protect consumers from bias and discrimination related to artificial intelligence and other emerging technologies

The financial services industry and housing providers increasingly rely on algorithmic-based models to market, underwrite and price credit; screen tenants; provide insurance; detect fraud; and perform customer relations functions (e.g., chatbots). The widespread use of these models raises concerns regarding fair lending, equity and transparency. The Biden-Harris administration, through the [AI Bill of Rights](#) and other initiatives, has taken steps to address some of these concerns and to ensure the technology is used to enhance, not undermine, civil rights.

Federal agencies are now tasked with expanding their use of artificial intelligence (AI) through [Executive Order 14110](#) on the Safe, Secure and Trustworthy Development and Use of Artificial Intelligence. Though this ambitious federal-government wide approach calls for strengthening AI governance, including by monitoring for risks and promoting equity and fairness, more guidance and oversight is necessary to truly embed equity in the overall framework.

Poor supervision of financial institutions' use of AI amplifies discriminatory patterns in the credit markets, increases costs to consumers, and creates barriers to access. Agencies should take action to address the systemic risks caused by AI within their agencies and with respect to regulated entities that use the technology in housing, credit underwriting and other important consumer-facing activities. Given the whole of government approach outlined by the Biden-Harris administration on AI, federal agencies should:

- Embed principles of equity and transparency in guidance related to AI models;

- Examine financial institutions' use of AI models in all credit decisions and develop guidance and other information on the use of this technology;
- Require that financial institutions routinely test their models to ensure the outputs are fair, empirically derived, and statistically sound, and accurately predict risk or achieve other valid objectives;
- Ensure that financial institutions produce models that are explainable and in compliance with fair lending and consumer protection laws;
- Use supervisory and enforcement authority to prevent and address harm from financial institutions' use of AI models;
- Conduct research regarding the use of AI in credit, housing and other consumer-facing activities, especially the effect on consumers of color and other protected classes;
- Hire individuals from diverse backgrounds to evaluate the effect of AI on consumers of color and other protected groups; and
- Engage a diverse group of key stakeholders, including civil rights organizations, consumer advocates, and impacted community members to receive ongoing feedback on regulatory actions.

Preserve and promote accessible and affordable homeownership opportunities

Consumers face challenges obtaining homes and sustaining homeownership. Steep increases in insurance, property taxes and other home-related expenses make homeownership prohibitively expensive or unsustainable for many households of color. Family members and other heirs who inherit their homes informally and do not have legal proof of ownership are uniquely at risk as they are often excluded or do not benefit from important programs, including property tax relief programs. For aspiring homeowners, high interest rates, home prices and a shortage of affordable and accessible housing is putting homeownership out of reach.

We applaud the federal housing agencies and the Biden-Harris Administration for taking action to address some of these challenges. This includes the U.S. Department of Housing and Urban Development's (HUD) reinstatement of the discriminatory-effects rule and increase in fair housing enforcement. We also welcome the Federal Housing Finance Agency's (FHFA) promotion of Equitable Housing Finance Plans for Fannie Mae and Freddie Mac, and progress made to collect language preference for mortgage borrowers by FHFA and HUD.

Federal agencies and Congress must take additional steps to increase access to affordable housing and mortgages for low-income communities and consumers of color.

- The Consumer Financial Protection Bureau (CFPB) should finalize rules permitting streamlined mortgage loss mitigation, including for consumers with home equity lines of credit and those seeking to save the family home after divorce or the death of the borrower.

- The CFPB should establish duties for servicers to assist limited-English proficient homeowners in their preferred language, and finalize rulemaking establishing robust consumer protections for Property Assessed Clean Energy (PACE) loans.
- To ensure homeowners facing hardship have affordable home-saving options, HUD should finalize rules on note sales and put in place a permanent loss mitigation waterfall that incorporates options developed during the pandemic and a face-to-face meeting requirement.
- HUD should require the transfer and tracking of language preference information obtained by lenders, and mandate language preference collection by mortgage servicers.
- HUD should develop and disseminate AFFH-related guidebooks with program details and guidance on fair housing planning, and develop a training curriculum tailored to different categories of program participants.
- The FHFA should finalize its rulemaking on fair lending, fair housing and the Equitable Housing Finance Plans by incorporating measures to strengthen the programs.
- The FHFA should build on its language preference collection at mortgage origination to require language preference collection by mortgage servicers.
- The Office of Management and Budget (OMB) should immediately release HUD's Affirmatively Furthering Fair Housing (AFFH) rule.
- The U.S. Department of Veteran Affairs (VA) should extend the foreclosure pause, currently set to expire on May 31, 2024, until the VA Servicing Purchase (VASP) program is widely available, and reinstate a partial claim option for homeowners recovering from hardship who can resume their regular mortgage payments.
- The Biden-Harris Administration should implement a uniform policy change requiring federal agency guarantors of mortgage loans and government-sponsored mortgage lenders to use a [\\$0 student loan repayment](#) amount in underwriting DTI calculations if that amount is the actual payment amount the borrower owes, as reported on a borrower's credit report or otherwise verified by a student loan servicer.
- Congress should pass comprehensive legislation to address access to affordable housing including the availability of first generation downpayment assistance, funding for small dollar mortgage loans, expanded rental assistance, and support for the housing needs of people with disabilities and Native communities.
- The U.S. Census Bureau should incorporate questions into existing surveys on residential displacement to collect data on a national housing loss rate encompassing foreclosures, evictions and other forms of home loss.

Protect renters from abusive practices by landlords, housing providers and tenant screening companies

Rents have increased [significantly](#), 23.9 percent between the first quarter of 2020 and the first quarter of 2023. A record number of renter households are [cost-burdened](#), or experiencing homelessness. Discriminatory and exclusionary rental practices such as landlords' use of tenant screening companies, the addition of junk fees in rental agreements, and the abusive collection of rental debt burden renter households. To help renters obtain accessible and affordable housing:

- Congress should amend the Fair Credit Reporting Act (FCRA) to prohibit or limit tenant screening companies and housing providers from using certain eviction, criminal and other records, rental debt data, and disputed information based on tenants' exercise of their right to withhold rent;
- In amending the FCRA, Congress should also take steps to protect renters by:
 - Prohibiting landlords from using credit scores and reports in rental housing decisions;
 - Requiring disclosure of tenant screening scores, recommendations, and information about how algorithmic scoring models treat certain information such as criminal or eviction records;
 - Requiring users of tenant screening reports to provide specific reasons for the denial of housing; and
 - Requiring that any tenant screening algorithm or model used to produce scores or recommendations be empirically derived, statistically sound and routinely tested to ensure fairness and prevent discrimination against protected classes.
- The CFPB and FTC should continue to investigate and bring enforcement actions against tenant screening companies that violate the FCRA, and undertake research on the tenant screening industry to study errors in reports and the disparate impact of tenant screening on consumers of color and other protected classes;
- The CFPB's regulations should prohibit practices by companies that lead to inaccuracies, outdated information, and unfair treatment of tenants;
- The CFPB should promulgate a rule under the Equal Credit Opportunity Act (ECOA) that residential rental leases are "credit" for the purpose of the ECOA's adverse action requirement;
- Congress and federal agencies should take action to rein in debt collectors, stop junk fees, and take other action to protect renters as outlined in NCLC's [2024 Consumer Reform Priorities to Protect Tenants](#);
- HUD should promulgate a regulation prohibiting overly restrictive criminal-record screening in HUD-assisted housing; and

- HUD should issue strong guidance stating that (1) both tenant screening companies and landlords must comply with the Fair Housing Act (FHA) by ensuring that tenant screening reports and any algorithms or models used to produce scores or recommendations do not disproportionately exclude people of color from housing opportunities, (2) landlords may not use credit reports and scores or eviction records—or at least eviction records where the eviction filing did not result in a judgment against the tenant or the parties reached an agreement, and (3) landlords may not use criminal records older than seven years or any criminal records that do not bear directly on whether someone will be a successful tenant in rental housing decisions.

Expand in-language access to financial services and products for Limited English Proficient consumers and Immigrants

Consumers who speak English with limited proficiency (LEP consumers) need access to mainstream financial products and services in their preferred language. To expand access to the mortgage market for LEP borrowers the Federal Housing Finance Agency (FHFA) created a Mortgage Translations Clearinghouse with common origination and servicing documents, and now requires loan originators to ask applicants about their language preference on the Supplemental Consumer Information Form, and servicers to maintain language preference data as part of fair lending compliance. Despite this availability of translated forms and disclosures, mortgage lenders and servicers continue to use English-only materials, and immigrants still face substantial barriers in obtaining mortgages and other financial services in their preferred language.

The industry's widespread failure to accommodate LEP consumers has led these consumers to be more vulnerable to deception and predatory targeting through the use of affinity marketing—when providers use the promise of language accessibility as a mechanism to lure consumers into expensive, abusive products.

To foster greater language accessibility across our consumer financial marketplace:

- The CFPB and all relevant federal financial regulators should impose clear, uniform, language access requirements, with particular urgency in the areas of default mortgage servicing, consumer reporting, and debt collection. These requirements should include requirements to utilize government-provided model translations whenever available, and to provide oral interpretation to facilitate effective communication with LEP consumers when problems arise;
- Relevant agencies should require financial service providers to ask consumers about their language preference, record that information, and convey it whenever ownership or servicing of the debt is sold or transferred;
- The CFPB and FTC should continue to bring enforcement actions against bad actors that routinely exploit language barriers; and
- The FHFA should promote language access in the Special Purpose Credit Programs pilot initiatives created under the Equitable Housing Finance Plans.

Reform the federal student loan system to enhance protections for borrowers

Many households of color are experiencing financial instability due to student loan debt. Borrowers of color, particularly Black women, rely on loans rather than familial wealth to pay for college and career training and amass substantial debt as a result. Borrowers who default face financially devastating collection practices, including siphoning money needed to pay for rent, food, medicine, and other basic necessities directly from paychecks, Social Security benefits, and antipoverty tax credits such as the Earned Income Tax Credit. In addition, predatory for-profit schools often target students of color for aggressive recruitment. Students who attend for-profit colleges take on more debt than their peers at public institutions, face worse employment outcomes, and are twice as likely to default when compared to borrowers attending public institutions. Many students leave those schools with no degree or a degree with limited value, but deeply in debt.

- The Department of Education (ED) should finalize and promptly implement debt relief regulations to alleviate financial distress and reduce the disproportionate burden student loans place on people of color, first-generation students, and students from low-income families.
- ED should [use its existing authority to cancel the debts of struggling borrowers who have been in default for years](#) and cannot afford to pay.
- President Biden should work with the Departments of Education and Treasury to limit punitive collection tactics that take money intended to help meet subsistence needs and reduce poverty, like the seizure of Child Tax Credits, Earned Income Tax Credits, and Social Security benefits, and should work with Congress to permanently end seizure of these core safety net payments.
- ED should work with Congress to provide a better path to college financing for low-income families than the Parent PLUS program, which saddles too many low-income parents of color with unaffordable debts that they cannot repay and offers few options for relief.
- ED should ensure that both the new income-driven repayment regulations and the one-time payment count adjustment are timely, accurately, and effectively implemented so that low-income borrowers can access the full benefits of these important reforms.
- ED should protect students and borrowers from low-value, unstable, and predatory schools by finalizing and fully implementing its suite of school accountability regulations, investigating school misconduct, and providing relief to borrowers through the borrower defense, false certification, and closed school discharge programs to the fullest extent possible consistent with court orders.
- ED should carefully scrutinize schools' use of Online Program Management companies and determine whether borrowers of color are being targeted to attend online programs.
- The CFPB should increase supervision of companies that service or collect federal student loans so consumers can fully benefit from federal protections.

Promote non-discriminatory sale and financing of vehicles, add-ons, and insurance and ensure equitable access to emerging transportation options

Transportation, largely in the form of private vehicles, is the second largest expense for U.S. households. Access to reliable transportation provides geographic mobility to access jobs, affordable housing, education, healthcare, and other critical resources. Yet discrimination in the auto market increases the cost to consumers of color to finance and purchase a car, through add-ons sold with the car, and other abusive practices.

Better data is needed to address discrimination in auto finance.

The CFPB initiated an Auto Finance Data Pilot Project in 2023 which involved market monitoring orders to nine large auto finance entities. While gathering and disseminating more detailed granular data from larger market participants can capture broad sections of the market and will be valuable, it fails to capture important areas and aspects of the market, some of which may present greater risks to consumers.

The CFPB should continue to collect data from creditors that originate more than 20,000 auto finance transactions, and begin to collect data annually from those originating between 500 and 20,000. As part of this effort, the CFPB should obtain data about consumer demographics that can be associated with the data the CFPB is collecting about auto finance. It is also important that the CFPB continue to monitor discrimination in the auto sales and finance market and the disparate impact of finance policies and practices on consumers of color and other protected groups.

Add consumer protections for electric vehicles and autonomous vehicles

Electric vehicles are changing the landscape of cars and have the potential to increase mobility and lower costs. A number of agencies, including the Federal Highway Administration (FHWA), the Department of Energy, Treasury, and others are involved in the effort to increase the electrification of transportation. The agencies must prioritize the needs of low-income households and residents of environmental justice communities by:

- Basing program design on stakeholder input from members of the affected communities;
- Taking measures to hold low-income households harmless from the financial impacts of this transition;
- Ensuring that low-income households can access the financial and other benefits of electric vehicles;
- Adopting measures to address racial disparities; and
- Dedicating an equitable share of resources to low-income, environmental justice and vulnerable households and communities.

The investments should meet the Biden-Harris Administration's Justice40 goals, and agencies should ensure that the benefits to Justice40 communities are economic in nature and are quantifiable and trackable.

Autonomous vehicles (AVs) have the potential to provide a means of transportation for workers and families, including people with disabilities, who might otherwise find transportation inaccessible. However, such a possibility should not result in a rush to allow unsafe vehicles on the road. The National Highway Traffic Safety Administration (NHTSA) should provide stringent oversight to protect both those in the AVs and those sharing the roads with them.

Promote, enforce and defend fair lending laws

The following steps must be taken to ensure that consumers have nondiscriminatory access to credit and protection from abusive practices:

- The CFPB should continue to promote use of Special Purpose Credit Programs under the Equal Credit Opportunity Act (ECOA) to redress systemic discrimination in the broader credit market to give consumers an alternative to high-cost small dollar loans, and provide specialized guidance to non-profit organizations interested in launching Special Purpose Credit Programs under the ECOA;
- The federal agencies should continue to aggressively enforce fair lending laws, especially with respect to redlining, with penalties and restitution to consumers harmed by financial institutions, and with redress targeted at the communities most harmed; and
- The federal agencies should engage consumer, civil rights, grassroots, and community-based organizations in regulatory and supervision efforts.

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