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Washington, DC 20548

B-336376

May 31, 2024

The Honorable Sherrod Brown  
Chairman  
The Honorable Tim Scott  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Patrick McHenry  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

Subject: *Federal Housing Finance Agency: Fair Lending, Fair Housing, and Equitable Housing Finance Plans*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Housing Finance Agency (FHFA) entitled “Fair Lending, Fair Housing, and Equitable Housing Finance Plans” (RIN: 2590-AB29). We received the rule on April 30, 2024. It was published in the *Federal Register* as a final rule on May 16, 2024. 89 Fed. Reg. 42768. The effective date of the rule is July 15, 2024, except for subpart D to part 1293 (amendatory instruction 2), which will become effective on February 15, 2026.

FHFA states that this final rule codifies in regulation much of the agency’s existing practices and programs regarding fair housing and fair lending oversight of its regulated entities, the Equitable Housing Finance Plan program for the Enterprises, and requirements for the Enterprises to collect and report language preference, homeownership education, and housing counseling information. FHFA also states that the rule makes changes to the Equitable Housing Finance Plan program to promote greater accountability for the Enterprises and public transparency, adds oversight of unfair or deceptive acts or practices to FHFA’s fair housing and fair lending oversight programs, requires additional certification of compliance by the regulated entities, and establishes more precise standards related to fair housing, fair lending, and principles of equitable housing for regulated entity boards of directors. Finally, FHFA states that the rule establishes a requirement for the Federal Home Loan Banks to report annually on any actions they voluntarily take to address barriers to sustainable housing opportunity for underserved communities in order to provide public transparency but does not require the Federal Home Loan Banks to undertake such actions or engage in the planning process required of the Enterprises.

Enclosed is our assessment of FHFA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions

about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Clinton Jones  
General Counsel  
Federal Housing Finance Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL HOUSING FINANCE AGENCY  
ENTITLED  
“FAIR LENDING, FAIR HOUSING, AND EQUITABLE HOUSING FINANCE PLANS”  
(RIN: 2590-AB29)

(i) Cost-benefit analysis

The Federal Housing Finance Agency (FHFA) did not discuss the costs and benefits in this final rule. In its submission to us, FHFA indicated that it considered the preparation of an analysis of the costs and benefits of the rule to be not applicable.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FHFA certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FHFA is not subject to the requirements of the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

As an independent regulatory agency, FHFA is not subject to the requirements of the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On April 26, 2023, FHFA published a proposed rule. 88 Fed. Reg. 25293. FHFA stated that it received 121 comments on the proposed rule from members of the public, trade associations, industry participants, FHFA regulated entities, consumer advocacy organizations, research organizations, think tanks, and others. FHFA responded to comments in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FHFA stated that this final rule does not contain any information collection requirements that would require OMB's approval under the Act.

Statutory authorization for the rule

FHFA promulgated the final rule pursuant to sections 1456(c)(1), 1723a(m)(1), 4511, 4513, 4514, 4517, and 4526 of title 12, and section 3608(d) of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FHFA is not subject to the requirements of the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FHFA is not subject to the requirements of the Order.