Federal Housing Finance Agency
Constitution Center
400 7th Street, S.W.
Washington, D.C. 20219
Telephone: (202) 649-3800
Facsimile: (202) 649-1071
www.fhfa.gov

May 6, 2024

The Honorable Ned Lamont
Governor of the State of Connecticut
210 Capitol Avenue
Hartford, CT 06106

The Honorable Matt Ritter
Speaker of the House of Representatives
Legislative Office Building
300 Capitol Ave
Hartford, CT 06106

The Honorable Martin Looney
Senate President Pro Tempore
Legislative Office Building
300 Capitol Ave
Hartford, CT 06106

The Honorable Stephen Harding
Senate Republican Leader
Legislative Office Building
300 Capitol Ave
Hartford, CT 06106

The Honorable Vincent Candelora
House Republican Leader
Legislative Office Building
300 Capitol Ave
Hartford, CT 06106

The Honorable James Maroney
Legislative Office Building
300 Capitol Ave
Hartford, CT 06106

Dear Gentlemen:

I am writing on behalf of the Federal Housing Finance Agency (FHFA), the regulator and conservator of the government-sponsored enterprises Fannie Mac and Freddie Mac (collectively the "Enterprises"), to express concern about Connecticut Senate Bill 2 (SB 2) and suggest legislative language that would ameliorate these concerns. FHFA is responsible for the effective supervision and regulation of Fannie Mae and Freddie Mac and the eleven Federal Home Loan Banks. Fannie Mae and Freddie Mac were established and chartered by Congress to provide liquidity, stability, and affordability to the national mortgage market. FHFA's mission is to ensure that its regulated entities operate in a safe and sound manner and are a reliable source of liquidity and funding for housing finance and community investment across the nation.

FHFA and the Enterprises have reviewed SB 2, which is being considered by the Connecticut General Assembly. We are concerned about the bill's impact on primary mortgage market lenders, the secondary mortgage market, the Enterprises, and potential homeowners and borrowers in the state of Connecticut. FHFA and the Enterprises support the bill's wellintentioned goal of deterring illegal discrimination in algorithmic decision-making. But as the bill is currently drafted and proposed to be amended, SB 2 could make it more costly and more time-consuming for Connecticut consumers to obtain mortgage credit while providing little additional protection against unlawful discrimination.

Mortgage lenders selling loans to the Enterprises use Desktop Underwriter®, which was developed and is controlled by Fannie Mae, and Loan Prospector®, which was developed and is controlled by Freddie Mac. Desktop Underwriter® and Loan Prospector® are automated underwriting systems (AUSs) that utilize artificial intelligence (AI) models. Between 2020 and 2023, the Enterprises advised FHFA that they purchased over 215,600 single-family mortgage loans in Connecticut; of these loans, more than 90% were evaluated by an Enterprise AUS. Together, the Enterprises typically purchase over 70% of all single-family mortgages made in the United States annually.

As the exclusive prudential regulator and conservator of the congressionally chartered Enterprises, FHFA oversees the Enterprises' development and deployment of AUSs. To ensure uniformity in the regulation of AI and to prevent the fragmentation of the national mortgage market, concerns with AI created by the Enterprises should be addressed by FHFA. In 2022, FHFA issued Advisory Bulletin (AB) 2022-03 to the Enterprises on managing risks associated with the use of AI and machine learning.[1] That advisory bulletin highlighted key risks inherent in the Enterprises' use of AI and machine learning and provided considerations for effectively managing these risks. In particular, AB 2022-03 highlighted regulatory and compliance risks stemming from compliance with laws and regulations governing consumer protection, fair lending, privacy, and employment discrimination. The advisory bulletin also instructed the Enterprises to adopt principles guiding their use of AI and to implement processes that drive fair and equitable outcomes across different groups and to address explicit and implicit biases in AI systems that hinder diversity, inclusiveness, and representativeness across groups.

To promote nationwide uniformity in the regulation of AI and to prevent the fragmentation of the housing finance market, concerns with AI incorporated into the Enterprises' AUSs should be addressed by FHFA. FHFA's mission—to ensure that the Enterprises operate in a safe and sound manner and are a reliable source of liquidity and funding for housing finance for all borrowers—extends to ensuring that the Enterprises' AUSs and other systems and applications as well as the relevant models underlying each comply with all applicable federal laws and regulations, including consumer protection and anti-discrimination laws.

To prevent the fragmentation of the national mortgage market and avoid the hardships that such fragmentation would impose on Connecticut borrowers seeking to obtain mortgages, FHFA recommends that SB 2 be amended to exempt the Enterprises from its scope as either

[1] AB 2022-03: Supplemental Guidance to Advisory Bulletin 2013-07 - Model Risk Management Guidance

a developer or a deployer of AI. We recommend the following legislative language be included in the bill:

> *Nothing in this act shall deem any machine-based system or any other system, software, interface, or the like to be a be an artificial intelligence system or a high-risk artificial intelligence system subject to this act if such machine-based system or any other system, software, interface, or the like has been developed or deployed by the (i) Federal Housing Finance Agency, (ii) Federal National Mortgage Association, or (iii) Federal Home Loan Mortgage Corporation.*

We are available to discuss the potential adverse impacts of SB2 as it is currently drafted on Connecticut borrowers and the national mortgage market with you, members of the Connecticut Assembly and their staff, and the Office of the Governor. We look forward to working with you during the short time remaining in the 2024 legislative term to ensure that the mortgage market continues to operate without disruption for Connecticut residents.

Please contact Frank Medina with FHFA's Office of Congressional Affairs and Communication at (202) 649-3076 or francisco.medina@fhfa.gov to arrange a time for us to discuss further the impediments this bill would pose to mortgage lending in Connecticut if it were to be enacted.

Thank you for your attention to this matter.

Sincerely,

CLINTON JONES

Digitally signed by CLINTON JONES
Date: 2024.05.06 16:23:47 -04'00'

Clinton Jones
General Counsel
Federal Housing Finance Agency