

Joint Task Force Addressing Racial Disparities in Home Ownership

Special Purpose Credit Program Proposal August 18, 2022

Proposal

Allocation of \$30 million for a pilot program at Oregon Housing and Community Services (OHCS) that provides 100 percent funding of the home purchase price through a special purpose credit program loan product within the OHCS Flex Lending Program.

- Lenders develop a special purpose credit program and identify their focused demographic, consistent with the purposes of addressing racial disparities in homeownership, to participate in the program.
- Lenders provide the first mortgage loan, of up to 90 percent, and agree to buy out or pay the mortgage insurance.
- Borrowers can then access a 10 percent second mortgage from OHCS, which will have an interest rate of one percent over the rate of the first mortgage and the same term as the first mortgage.
- The first mortgage is sold to OHCS unless it is an Individual Taxpayer Identification Number (ITIN) mortgage loan.
- Loan payments for the first and second mortgages are made to OHCS's Master Servicer under the Flex Lending Program. Payments on the first mortgage go to the investor who purchases the first mortgage. Payments on the second mortgage go back to the Program and are available for other mortgages.
- For ITIN loans, the lender will retain the first mortgage loan and the borrower will make payments on the second mortgage to OHCS's Master Servicer.
- Participating lenders would need to fund a maximum of 90 percent, but only the difference between that percent and the total of any down payment funds. If the loan the lender provides is less than 85 percent (or less than 80 percent), it improves the interest rate because a lump sum mortgage insurance policy would cost less or not be needed.

To be eligible, lenders must meet the Flex Lending Program criteria and must develop a special purpose credit program. Lenders must:

- identify and document the community need for their program;
- establish a special purpose credit program for mortgage lending and legally attest that the program meets the requirements;
- commit to funding 90 percent for the first mortgage and to a buyout or payment of mortgage insurance;
- meet the Flex Lending Program criteria that require homebuyer education; and
- provide impact data showing that the program is reaching the intended population and meeting the identified community need.

Background

The 2018-2019 Joint Task Force on Addressing Racial Disparities in Home Ownership recommended convening a Housing Lending and Finance Disparities work group of members, banking and credit union representatives, housing organizations, and relevant state agencies to develop recommendations related to reducing racial disparities in lending access and outcomes for homeownership.

This Task Force learned about how the Equal Credit Opportunity Act (ECOA) and Regulation B permit creditors to create “special purpose credit programs” to extend credit to applicants who meet certain eligibility requirements. Under these programs, lenders may offer special underwriting or pricing for traditionally disadvantaged groups without violating the ECOA and Regulation B. These programs include initiatives for:

- “credit assistance programs expressly authorized by Federal or state law for the benefit of an economically disadvantaged class of persons”;
- “low-income minority borrowers”;
- government-sponsored housing credit subsidies for the “aged or the poor”;
- small business lending programs providing credit to minority- or disabled-owned businesses; and
- student loan programs based on the family’s financial needs.¹

In February 2022, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, the Department of Housing and Urban Development, the Department of Justice, and the Federal Housing Finance Agency issued an interagency statement to remind creditors of the ability under the ECOA and Regulation B to establish special purpose credit programs to meet the credit needs of specified classes of persons.²

Problem Statement

There has been increased discussion by Federal agencies and national organizations about special purpose credit programs, but guidance is still being developed and financial institutions are unsure of how to establish such programs, consistent with ECOA and Regulation B requirements and required lending principles. There is also uncertainty around how such a program could be developed with funding allocated to Oregon Housing and Community Services, but administered by financial institutions, with the requirements to do more analysis of the disparities.

¹ Lauren Winters, Department of Consumer and Business Services, *State and Federal Regulation Of Mortgage Lending* (July 15 presentation), available online at <https://olis.oregonlegislature.gov/liz/202111/Downloads/CommitteeMeetingDocument/256224> (last visited July 27, 2022).

² Board of Governors of the Federal Reserve System et al, *Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B* (February 22, 2022), <https://www.fdic.gov/news/financial-institution-letters/2022/fil22008a.pdf> (last visited July 27, 2022).