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United States House of Representatives
Committee on Financial Services
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RANKING MEMBER

March 5, 2021

Memorandum

To: Members, Committee on Financial Services
From: FSC Majority Staff
Subject: March 10, 2021, Full Committee Hearing entitled, "Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services"

The full Committee will hold a hearing entitled, "Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services" on Wednesday, March 10, 2021 at noon EST via Cisco Webex. There will be one panel with the following witnesses:

- **Paulina Gonzalez-Brito**, Executive Director, California Reinvestment Coalition
- **Rashad Robinson,** President, Color of Change
- **Dr. Keeanga-Yamahtta Taylor,** Assistant Professor of African-American Studies, Princeton University
- **John C. Yang,** President and Executive Director, Asian Americans Advancing Justice | AAJC
- **Ian Rowe**, President and Co-Founder of Vertex Partnership Academies

Overview

Systemic racism in America has led to the exclusion of people and communities of color in the housing and financial services industries, as well as the consumer financial marketplace. Current calls for racial justice have been prompted by historical and recent incidents, including police brutality against Blacks and other people of color and an uptick in violence against Asian Americans falsely blamed for the COVID-19 pandemic. These calls have also increased focus on the link between racial and economic disparities. Barriers and biases erected against people of color, the businesses they own, and the communities they live in have been exacerbated by the COVID-19 pandemic, including challenges in accessing capital and banking services (including the Paycheck Protection Program), homeownership (with people of color more likely to be delinquent on their mortgages), and leadership opportunities at the highest levels in corporate America and financial services firms. This hearing will focus on solutions that remove those barriers and replace them with real opportunities that create equity for people and communities of color in the financial services industry and beyond.

Access to Capital, Credit and Financial Services

Borrowers of color have faced numerous challenges accessing credit from financial institutions to buy a home, buy a car, go to college, or start a small business. In the 1970s, Congress enacted civil rights statutes like the Equal Credit Opportunity Act (ECOA) and the Community Reinvestment Act (CRA) to ensure borrowers had equal access to credit, and to combat discriminatory practices, such as redlining in which banks discriminate against prospective customers based primarily on where they live, or their racial or ethnic background, rather than creditworthiness. Despite these laws, discriminatory practices persist.

For example, the Center for Investigative Reporting conducted an investigation of 31 million records that were reported and made publicly available in compliance with the Home Mortgage Disclosure Act (HMDA) to identify lending disparities.[1] The investigators found that more than 60 metro areas continue to exhibit patterns of modern day redlining, despite the fact that 98 percent of banks pass their exams by receiving a satisfactory or outstanding grade under CRA, a law intended to combat redlining. Center for Investigative Reporting's data showed Black applicants were turned away at significantly higher rates than whites in 48 cities, Latinos in 25, Asians in nine and Native Americans in three. Other studies have found discriminatory practices in payday lending,[2] consumer credit reporting,[3] and debt collection.[4] Despite these trends, Trump appointees took several regulatory actions to roll back the implementation of CRA, diminished fair housing and lending enforcement, and weakened consumer protections.[5]

New financial technologies such as artificial intelligence, as well as the emerging prominence of fintech companies, may provide opportunities to reduce the racial wealth gap, but may also create new ways to mask bias or further entrench discrimination in lending.[6] A May 2019 Brookings report concluded that machine learning algorithms can oftentimes recreate or erroneously legitimize real-world prejudices and biases, and that the fairness of algorithms are predicated on the quality of the data it was trained on.[7] While nonbank fintechs may offer products and services to traditionally underbanked communities of color, these fintechs may present enhanced risks with regard to consumer protections because they may not be required to adhere to CRA and other regulatory requirements that federally regulated banks must follow.[8]

During the COVID-19 pandemic, minority-owned businesses have faced challenges accessing relief programs, like the Paycheck Protection Program (PPP). One analysis of the initial round of PPP loans found that, "Black business owners were more likely to be denied PPP loans compared to white business owners with similar application profiles due to outright lending discrimination."[9] The same analysis found that businesses in majority Black neighborhoods experienced significant delays in receiving PPP loans and were more likely to be pushed toward online lending, citing factors such as a lack of relationships between larger banks and minority-owned businesses, as well an especially steep decline in community banks within communities of color. Additionally, there has been a rapid decline in recent years in minority depository institutions (MDIs), particularly Black-owned banks, despite demonstrating an ability to better serve low-income and communities of color.[10]

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[1] Aaron Glantz and Emmanuel Martinez, *Kept Out: For people of color, banks are shutting the door to homeownership*, Reveal from the Center for Investigative Reporting (Feb. 15, 2018).
[2] Testimony of Diane Standaert, Executive Vice President and Director of State Policy, Center for Responsible Lending, before the Committee (Apr. 30, 2019).
[3] NCLC, *Past Imperfect: How credit scores and other analytics "bake in" past discrimination and perpetuate it* (2016).
[4] Testimony of April Kuehnhoff, Staff Attorney, NCLC, before the Committee (Sep. 26, 2019).
[5] For example, see Committee Press Release, *Waters' and Meeks' Resolution to Reverse the OCC's Harmful Rule Undermining the Community Reinvestment Act Passes the House* (June 29, 2020).
[6] Cornell University Chronicle, *Study: AI may mask racial disparities in credit, lending* (Jan 29, 2019).
[7] Brookings Institute, *Algorithmic bias detection and mitigation: Best practices and policies to reduce consumer harms* (May 22, 2019).
[8] American Banker, *BankThink: Fintechs that get bank charters should be subject to CRA. Period* (Jan. 13, 2021).
[9] Brookings Metropolitan Policy Program, *New data shows small businesses in communities of color had unequal access to federal COVID-19 relief*, (Sep. 2020).
[10] Subcommittee on Consumer Protection and Financial Institutions hearing, *An Examination of Regulators' Efforts to Preserve and Promote Minority Depository Institutions* (Nov. 20, 2019).

In response, Congress provided $12 billion in capital investments and grants to strengthen MDIs and community development financial institutions (CDFIs). Congress also took steps to ensure MDIs and CDFIs had a role to play in providing relief. However, there remain ongoing concerns regarding pervasive discriminatory barriers to capital, credit, wealth, and opportunities that the U.S. financial system should provide to all people.[11]

Access to Fair Housing and Homeownership

Despite the passage of the Fair Housing Act[12] and ECOA a half century ago, access to quality, affordable housing opportunities and housing finance options remain a central barrier to racial and economic justice in the U.S. As of 2019, over 60 percent of people experiencing homelessness were Black and Latinx.[13] Prior to the current pandemic, over half of all Black and Latinx renters were paying more than 30 percent of their income on rent,[14] with people of color facing the highest rates of eviction nationally.[15] As housing costs have outpaced stagnant wages for decades,[16] the ability for families, especially renters, to build up their savings, buy a home, and build wealth is highly limited.[17]

Today, owning a home represents the single greatest driver of wealth for most families across the country.[18] Yet, up until the mid-20th Century, Black families and other people of color were often barred from living or securing home financing outside of racially and ethnically segregated communities, or from owning a home altogether as a result of government-sanctioned redlining.[19] In the final quarter of 2019,[20] the homeownership rate among Black and Latinx individuals continued to lag at 44 and 48.1 percent, respectively, compared to 73.7 percent for White households.[21] In 2019, the same year that the Black homeownership rate (40.9 percent) fell to its lowest level since the late 1960s, White families held a median net worth of $188,200, which was over 7 times that of the median net worth of Black families ($24,100) and over 5 times that of Latinx families ($36,100).[22]

[11] CNBC, *President Biden pledges to fix the racial wealth gap. Here are his plans*, (Feb. 5, 2021).

[12] The Fair Housing Act was passed into law in 1968 with two main purposes: 1) to end and prohibit discrimination in the sale, rental, financing, advertising, and insurance of housing based on several protected classes; and 2) to undo systemic barriers to housing opportunity through a mandate to "affirmatively further fair housing" (AFFH). As passed, the Fair Housing Act established fair housing protections on the basis of race, color, religion, and national origin. Sex was added as a protected characteristic in 1974 and disability and familial status (the presence or anticipated presence of children under 18 in a household) were added in 1988.

[13] HUD, *2019 AHAR: Part 1 - PIT Estimates of Homelessness in the U.S.* (Jan. 2020).

[14] Joint Center for Housing Studies of Harvard University, *Black and Hispanic Renters Face Greatest Threat of Eviction in Pandemic* (Jan. 11, 2021).

[15] Deena Greenberg et al. *Discrimination in evictions: Empirical evidence and legal challenges* (2016).

[16] Clever, *A Timeline of Affordability: How Have Home Prices and Household Incomes Changed Since 1960?* (Mar. 1, 2021).

[17] Prosperity Now, *The Unequal Impact of the COVID-19 Crisis on Households' Financial Stability* (Apr. 2020).

[18] Urban Institute, *Homeownership is still financially better than renting* (Feb. 21, 2018).

[19] Starting in the 1930s, the Federal Housing Administration (FHA) practiced a policy, later termed "redlining," that denied federally-backed mortgages to persons in particular neighborhoods based on racial composition. Pursuant to this policy, the FHA declined to insure mortgages in and near certain neighborhoods based on their racial and ethnic composition, including African-American neighborhoods, while at the same time that it was providing subsidies to builders of homes in subdivisions with restrictive covenants that precluded sales to African-Americans and other explicitly excluded racial and ethnic groups. See Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership* (2019).

[20] Due to Census methodology challenges presented by the COVID-19 pandemic, Committee will refer to the latest pre-pandemic homeownership rates for the fourth quarter of 2019. See National Association of Homebuilders, *Second Quarter Homeownership Data Collection Challenges* (Jul. 28, 2020).

[21] US Census Bureau, *Quarterly Residential Vacancies and Homeownership, Fourth Quarter 2020* (Feb. 2, 2021).

[22] Federal Reserve, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances* (Sep. 28, 2020).

Some studies have found adverse health and financial effects associated with the COVID-19 virus and pandemic to be directly correlated with the legacy of redlining[23] and ongoing residential segregation.[24] This, paired with labor force segregation,[25] has contributed to people and communities of color being disproportionately affected by COVID-19 infections and deaths, pandemic-induced unemployment, lost wages, and being more likely to be behind on rent and mortgage payments.[26] A recent CFPB report found that homeowners with mortgages insured by the Federal Housing Administration (FHA), who are disproportionately borrowers of color, are experiencing delinquency rates that exceed those seen during the 2008 financial crisis.[27] Evolving forms of redlining[28] and lending discrimination,[29] ongoing residential steering,[30] and appraisal bias[31] continue to lock people of color out of fair and affordable homeownership and, correspondingly, wealth-building opportunities. The Urban Institute recently projected that, without targeted policy interventions, such as an expansion of housing counseling services, down payment assistance, and more equitable credit scoring systems, Black households will experience declines in homeownership by 2040, relative to previous generations and exacerbate the racial wealth gap.[32]

Diversity in Executive Ranks and Boards

Despite data showing that America's population is becoming increasingly racially and ethnically diverse, the senior executive ranks of financial services industry firms remain mostly white and male. In 2017, the Government Accountability Office (GAO) reported that from 2007 to 2015, the overall representation of women among managers at financial services firms remained generally unchanged, while the overall representation of people of color among managers marginally increased, except for African-Americans whose representation decreased.[33] A February 2020 Committee staff report on diversity and inclusion at America's largest banks concluded that "biases against women and underrepresented minorities perpetuate the lack of gender, racial, and ethnic diversity within the financial services industry, including at banks and in their senior ranks."[34]

Research shows that the majority of corporate and federal board appointees also continue to be white men. The Alliance for Board Diversity reported that among Fortune 500 companies, 80.7% of new board directors in 2017 were white men.[35] GAO reported that on Federal Home Loan Bank boards, "racial [and] ethnic minorities have limited representation in board leadership positions."[36] In a January 2020

[23] NCRC, *The Lasting Impact of Historic "Redlining" on Neighborhood Health: Higher Prevalence Of Covid-19 Risk Factors* (2020).
[24] National Bureau of Economic Research, *Government and Private Household Debt Relief During Covid-19* (Jan. 2021).
[25] Urban Institute, *How COVID-19 Is Affecting Black and Latino Families' Employment and Financial Well-Being* (May 6, 2020).
[26] See Financial Services Committee, *More than a Shot in the Arm: The Need for Additional COVID-19 Stimulus* (Feb. 4, 2021).
[27] CFPB, *Housing insecurity and the COVID-19 pandemic* (Mar. 1, 2021).
[28] National Fair Housing Alliance, *NFHA Files Federal Discrimination Lawsuit to Stop Redfin's Real Estate Redlining* (Oct. 29, 2020).
[29] Robert Bartlett et al. *Consumer-Lending Discrimination in the FinTech Era* (Nov. 2019).
[30] Newsday, *Long Island Divided* (Nov. 17, 2019).
[31] Brookings, The devaluation of assets in Black neighborhoods: The case of residential property (Nov. 27, 2018).
[32] Urban Institute, *By 2040, the US Will Experience Modest Homeownership Declines. But for Black Households, the Impact Will Be Dramatic* (Jan. 21, 2021).
[33] Government Accountability Office, *Financial Services Industry Trends in Management Representation of Minorities and Women and Diversity Practices, 2007-2015*, GAO-18-64 (November 8, 2017).GAO-18-64.
[34] Brummer, Chris, *What do the Data Reveal about (the Absence of Black) Financial Regulators?* Working Paper, 2020.
[35] Alliance for Board Diversity, *Missing Pieces Report: The 2018 Board Diversity Census for Women and Minorities on Fortune 500 Board*, Deloitte (2018).
[36] Government Accountability Office, *Federal Home Loan Banks: Steps Have Been Taken to Promote Board Diversity, but Challenges Remain*, GAO-19-252 (February 14, 2019).GAO-19-252.

letter, Chairwoman Waters and Chair Beatty called out the lack of diversity on SEC's advisory committees and noted that SEC's newest advisory committee included no Black members and that the one Latino member serves on two SEC advisory committees.[37] The letter further stated Financial Services Committee staff findings that only three of SEC's 79 advisory committee members are Black, zero are Latina, and only one is a Black woman.[38]

An October 2020 report noted that the absence of Black appointees at the financial regulatory agencies, including the banking regulators, is disconcerting because of the important role regulators and government staff play in shaping for the entire financial services marketplace.[39] The research concluded that there has never been a Black Chair of the Federal Deposit Insurance Corporation (FDIC), SEC, or Commodity Futures Trading Commission (CFTC).[40] In February 2021, the New York Times similarly reported that out of 417 economists at the Federal Reserve, only two are Black.[41] 2020 annual reports from the Offices of Minority Women and Inclusion, known as OMWI, reveal that financial regulators overall workforce diversity is representative of racial and ethnic minorities by an average of 37 percent.[42]

Banks and other corporations have more recently been announcing the promotion and appointment of some women and people of color to their senior ranks and boards, including Citigroup (its first female CEO),[43] Starbucks (its first Black female board chair),[44] as well as Walgreens[45] and the Teacher's Annuity and Insurance Association,[46] which recently became the first and only Fortune 500 companies with Black female CEOs. Unfortunately, the rate of change for people of color appointed to boards is still slow and, in some cases, stagnant. According to the 2019 edition of the Board Monitor, the percentage of new board appointments that went to African-Americans remained the same since 2018 (11%) and the percentage for Latinos decreased since 2017 (from 8% to 6%).[47]

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[37] Committee Press Release, *Waters and Beatty Blast Lack of Diversity on SEC Advisory Committees* (Jan. 14, 2020).
[38] Ibid.
[39] Brummer, Chris, *What do the Data Reveal about (the Absence of Black) Financial Regulators?* Working Paper, 2020.
[40] Ibid.
[41] https://www.nytimes.com/2021/02/02/business/economy/federal-reserve-diversity.html
[42] House Financial Services committee analysis of Greenlining Institute report, see The Greenlining Institute, "Offices of Minority and Women Inclusion: 2019 Snapshot of Financial Regulators Diversity and Inclusion." August 2020. OMWIs are responsible for all matters relating to diversity in management, employment, and business activities inside their respective organizations, as well as oversight of those efforts among their regulated entities. OMWIs are also required to report annually to Congress on the diversity and inclusion efforts of their respective agencies and regulated entities.
[43]Jim Zarroli, "Another Crack In The Glass Ceiling: Citigroup's Next CEO Is A Woman," *NPR*, September 10, 2020 https://www.npr.org/2020/09/10/911410590/another-crack-in-the-glass-ceiling-citigroups-next-ceo-is-a-woman#:~:text=Citigroup%20via%20AP-,Citigroup%20appointed%20Jane%20Fraser%20as%20its%20next%20CEO%2C%20making%20her,will%20step%20down%20in%20February.
[44] Danielle Wiener-Bronner, "Starbucks names Mellody Hobson board chair — the first Black woman in the role," *CNN*, December 9, 2020, https://www.cnn.com/2020/12/09/business/starbucks-mellody-hobson/index.html.
[45] Walter Loeb, "Roz Brewer Is New CEO Of Walgreens," *Forbes*, January 29, 2021, https://www.forbes.com/sites/walterloeb/2021/01/29/roz-brewer-is-new-ceo-of-walgreens/?sh=4fc0eca11bb0.
[46] Courtney Connley, "Thasunda Brown Duckett on new CEO role at TIAA: 'I have so much gratitude for the shoulders I stand on,'" CNBC, February 26, 2021, https://www.cnbc.com/2021/02/26/thasunda-brown-duckett-to-be-second-black-woman-fortune-500-ceo-in-2021.html.
[47] Heidrick & Struggles, Board Minotor US 2019. (2019) https://www.heidrick.com/Knowledge-Center/Publication/Board_Monitor_US_2019.

Appendix: Legislation

1. **H.R. 123, FHA Additional Credit Pilot Program Reauthorization Act (Green).** This bill would authorize a pilot program under Federal Housing Administration that would permit borrowers to opt into utilizing credit scoring models that incorporate additional data not traditionally included in credit scoring systems.
2. **H.R. 1277, Improving Corporate Governance Through Diversity Act (Meeks).** This bill would require public companies to annually disclose the voluntarily, self-identified gender, race, ethnicity and veteran status of their board directors.
3. **H.R. 166, Fair Lending for All Act (Green).** This bill would clarify the racial and other protections under Equal Credit Opportunity Act to ensure it applies to all people regardless of race, sexual orientation, gender identity, and an applicant's location based on zip code or census tract with respect to credit transactions.
4. **H.R. 281, Ensuring Diverse Leadership of 2019 (Beatty).** This bill would require at least one gender diverse candidate and racially or ethnically diverse candidate are interviewed when there is a vacancy among the Federal Reserve Bank presidents.
5. **H.R. 68, Housing Fairness Act of 2020 (Green).** This bill would enact reforms and authorize increased funding for HUD’s Fair Housing Initiatives Program and would create a new fair housing research competitive grant program.
6. **H.J.Res. _____, Resolution of Disapproval on the OCC’s Community Reinvestment Act Final Rule (Waters).** This bill would nullify the OCC’s problematic final rule on the Community Reinvestment Act.
7. **H.R. ___, bill to address discrimination in appraisals.** This bill would require a review of federal appraisal standards and recommended reforms to prevent disparate impacts on the valuation of homes in communities of color and owned by people of color. The bill would also create a grant program to support a diverse pipeline of professional appraisers.
8. **H.R. ___, bill to diversify the Federal Home Loan Bank Board of Directors.** This bill would require the Federal Home Loan Bank to consider at least one individual reflective of gender diversity and one individual reflective of racial or ethnic diversity for every vacant board seat.
9. **H.R. ___, bill to promote language access in mortgage servicing.** This bill would require federal housing agencies to put forward requirements for mortgage servicers to identify borrowers who need language assistance.
10. **H.R. ___, bill to provide down payment assistance.** This bill would provide targeted funding for down payment assistance to support first-time homebuyers, especially those historically excluded from homeownership opportunities.
11. **H.R. ___, Making FHA Work for Borrowers with Student Debt Act.** This bill would amend the National Housing Act to revise the treatment of student loan debt in the underwriting of FHA loans.
12. **H.R. ___, Diverse Investment Advisers Act (Beatty).** This bill requires entities registered with the Securities and Exchange Commission to utilize the “Rooney Rule” for utilizations of diverse asset managers.
13. **H.R. ___, Diversity Data Accountability Act.** This bill would require the Offices of Minority and Women Inclusion regulated entities to disclose diversity policies and practices to their regulators.

14. **H.R. ___, Diversity in Financial Regulatory Advisory Committees Act.** This bill would require reporting of advisory committee demographics and the consideration of at least one individual reflective of gender diversity and one individual reflective of racial or ethnic diversity when filling advisory committee vacancies at the Department of Treasury (including the Financial Stability Oversight Council), Federal Reserve Board of Governors, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, Federal Housing Finance Agency, National Credit Union Administration, Securities and Exchange Commission, and the Federal Deposit Insurance Corporation.
15. **H.R. ___, Ensuring Diversity in Community Banking Act (Meeks).** This bill would strengthen minority depository institutions through partnerships, technical assistance, and deposits.
16. **H.R. ___, Expanding Opportunity for MDIs Act (Beatty).** This bill would codify the Financial Agent Mentor-Protégé Program within the Department of the Treasury.
17. **H.R. ___, Federal Reserve Bank Board Diversity Act (Garcia, TX).** This bill would require Federal Reserve Banks to consider at least one individual reflective of gender diversity and one individual reflective of racial or ethnic diversity for every vacant board seat.
18. **H.R. ___, Home Loan Quality Transparency Act (Velazquez).** This bill would reverse the rollback of the Home Mortgage Disclosure Act so that financial institutions provide adequate data on loans to minority borrowers.
19. **H.R. ___, LEP Data Acquisition in Mortgage Lending Act (Green).** This bill would require Fannie Mae and Freddie Mac to include a preferred language question in the Uniform Residential Loan Application.
20. **H.R. ___, Minority Business Development Administration Act (Green).** This bill would codify the Minority Business Development Administration into law.
21. **H.R. ___, Minority Business Emergency Grants Act (Garcia, TX).** This bill would provide $3 billion in grants through the Minority Business Development Agency.
22. **H.R. ___, Promoting and Advancing Communities of Color Through Inclusive Lending Act (Waters).** This bill would, among other things, require 40 percent of all Community Development Financial Institutions (CDFI) Fund appropriations to be reserved for minority lending institutions (MLIs), establish an Office and Deputy Director of MLIs, reduce the CDFI Bond Guarantee threshold to $50 million from $100 million, and make reforms to strengthen minority depository institutions (MDIs) through partnerships, deposits, and investments.
23. **H.R. ___, Promoting Diversity and Inclusion in Banking Act (Green).** This bill would require Federal banking regulators to include a diversity and inclusion component in the Uniform Financial Institutions Rating System and require mandatory reporting of diversity and inclusion assessments.
24. **H.R. ___, the Federal Reserve Racial and Economic Equity Act (Waters),** would require the Federal Reserve to carry out its duties in a manner that supports the elimination of racial and ethnic disparities in employment, income, wealth, and access to affordable credit. The Board would be required to report on disparities in labor force trends as well as on plans and activities of the Board to minimize and eliminate these disparities.
25. **H.J.Res. _____, Resolution of Disapproval on HUD's Disparate Impact Rule (85 FR 60288).** This bill would nullify HUD's final Disparate Impact Rule (85 FR 60288) under the Fair Housing Act.

26. **H.J.Res. _____, Resolution of Disapproval on HUD's Preserving Community and Neighborhood Choice Rule (85 FR 47899).** This bill would nullify HUD's final Affirmatively Furthering Fair Housing rule (85 FR 47899) under the Fair Housing Act.