NATIONAL ASSOCIATION OF REALTORS®

ADVOCACY GROUP
Shannon McGahn
Chief Advocacy Officer

December 15, 2025

The Honorable Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Proposed Rule relating to Equal Credit Opportunity Act (Regulation B)
Docket No. CFPB-2025-0039

Dear Acting Director Vought:

On behalf of its nearly 1.5 million members, the National Association of REALTORS® (NAR) submits these comments on the Consumer Financial Protection Bureau's (CFPB or the Bureau) Proposed Rule relating to Equal Credit Opportunity Act (Regulation B). The proposed rule would amend provisions related to disparate impact, discouragement of applicants or prospective applicants, and special purpose credit programs. NAR is concerned that the potential risk of making credit less available to our clients outweighs any benefit of these proposed changes and urges the Bureau to reconsider this rule.

NAR applauds the Administration for its focus on housing affordability, because homeownership in America is slipping out of reach. According to NAR's latest Profile of Homebuyers and Sellers, the share of first-time buyers is now at the lowest level since we started recording the data. The median age of the first-time buyer is now 40 years old, and those who achieve homeownership have higher incomes than ever before. As we confront this crisis, NAR supports policies that responsibly expand homeownership opportunities for qualified buyers and opposes policies that unnecessarily limit these opportunities.

NAR has long advocated for a well-regulated mortgage market that makes credit broadly available to all qualified buyers in all communities. The free flow of mortgage credit is foundational to a healthy, functioning real estate market and the American Dream of homeownership. NAR supports strong consumer protections in the mortgage market, including the strong enforcement of the Equal Credit Opportunity Act (ECOA). NAR supports the general principle that all mortgage originators should act in "good faith and with fair dealings" in a transaction and treat all parties honestly. NAR's Code of Ethics already imposes a similar requirement on REALTORS®, who are required to put the interests of clients ahead of their own.

Discrimination in the mortgage market persists, and federal enforcement is necessary to curtail risky, predatory, and discriminatory lending activity. The enforcement of ECOA, the Fair Housing Act (FHAct), and other federal and state statutes over the last five decades has succeeded in stamping out the most blatant forms of discrimination. Yet discrimination in the mortgage market persists, preventing otherwise qualified households from becoming homeowners, building wealth, and experiencing the American Dream.

For example, a 2024 study from the Federal Reserve Bank of Minneapolis found that Black and Hispanic applicants were more likely to have their application denied than a White applicant with the same income and credit score who applied for a conventional mortgage of the same size for a similar home. The Bureau itself in 2023 documented "banking deserts" throughout the South where credit was not available at fair and competitive terms, particularly in communities of color, and investigations within cities have shown that banks engage in vastly more lending activity in White neighborhoods than in Black and Hispanic neighborhoods. Administrations of both parties have brought dozens of fair lending cases in the last two decades, including five brought by the Department of Justice during President Trump's first term. While 50 years have passed since ECOA's passage, fair lending enforcement remains as vital as ever for ensuring mortgage credit for all qualified homebuyers.

ECOA's disparate impact framework provides clear rules of the road to market participants to help ensure mortgages are broadly available throughout all communities. Congress envisioned ECOA's disparate impact framework in the 1970s and the courts have validated that framework for the last 50 years. In addition to ECOA, other federal, state, and local laws require mortgage lenders to provide credit broadly throughout the communities where they operate, including the FHAct and the Community Reinvestment Act (CRA). The Supreme Court has already affirmed in its 2015 *Inclusive Communities* decision that the Fair Housing Act subjects mortgage lenders to disparate impact liability.

For decades, the fair lending framework established by ECOA, the FHAct, and CRA have given mortgage lenders clear rules of the road, allowing them to develop systems to ensure they were serving entire communities. The existing framework offers lenders a common-sense way to check that policies that may disproportionately exclude protected class groups are, in fact, justified, and that the objectives of those policies cannot be achieved by a less discriminatory alternative. In fact, if a lender maintains such a policy without a legitimate justification, it risks accusations of intentional discrimination, not just effects-based discrimination. This was acknowledged by the Court in *Inclusive Communities*.

The new proposed "discouragement" standard does not reflect the standard applied to the rest of the housing market through the Fair Housing Act. The Fair Housing Act and the REALTOR® Code of Ethics provide that those engaged in the sale or rental of property "shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination" based upon a protected class characteristic. NAR recognizes that the best way to expand housing opportunities is to indicate in all statements related to buying property that no one is unwelcome. Similarly, fostering homeownership is most effective when all creditworthy persons are encouraged to apply for a loan, not just those in certain neighborhoods.

Special purpose credit programs allow lenders to provide more credit to our clients and communities. NAR supports section 701(c) of ECOA, which permits the creation of special purpose credit programs (SPCPs) to meet the credit needs of underserved borrowers and communities. Since 1976, this provision has permitted lenders to voluntarily design and implement programs to expand credit access for a broad range of economically-disadvantaged homebuyers, neighborhoods, and business owners, including low- and moderate-income households and census tracts, first-time and first-generation homebuyers, women, and others who would otherwise be denied credit or would face onerous terms relative to similar borrowers not of a protected class.

SPCPs act as a catalyst for expanding responsible access to credit and increased homeownership rates across the country. Our nearly 1.5 million members serve clients in every community in the United States, and they rely upon a variety of lending products. Adding prohibitions and restrictions on SPCPs will create a chilling effect, stopping private market participants from innovating to offer the broadest possible services.

Overturning a well-established system that ensures credit is broadly available throughout all communities risks exacerbating the homeownership crisis. As acknowledged by the Bureau, these changes may risk consumers losing legal options and opportunities for redress, and because of these changes some consumers may be more likely to be denied credit or to pay higher prices. Given the Trump administration's focus on expanding homeownership, we believe these proposed changes could make it harder for Americans to obtain and afford a home. Further, since lenders must maintain fair lending compliance systems to comply with other federal authorities as well as state and local laws, the rule will create confusion, not relief, for regulated parties. **NAR is concerned that the potential risk of making credit less available to our clients outweighs any benefit of these proposed changes, and urges the Bureau to reconsider this rule.**

Sincerely,

Kevin Brown
2026 President, National Association of REALTORS®