

August 13, 2021

Ms. Julia R. Gordon
Assistant Secretary Designate
Department of Housing and Urban Development
451 7th St SW
Washington, DC 20410

Dear Ms. Gordon:

Thank you for testifying before the United States Senate Committee on Banking, Housing, and Urban Affairs on August 5, 2021, at the nominations hearing.

To complete the hearing record, we would appreciate your answers to the enclosed questions by August 13, 2021. When formatting your response, please repeat the question, then your answer, single spacing both question and answer. Please do not use all capitals.

Send your reply to Mr. Cameron Ricker, the Committee's Chief Clerk. He will transmit copies to the appropriate offices, including the Committee's publications office. Due to current procedures regarding Senate mail, it is recommended that you send replies via e-mail in a Microsoft Word or PDF attachment to Cameron_Ricker@banking.senate.gov.

If you have any questions about this letter, please contact Mr. Ricker at (202) 224-5587.

Sincerely,

Sherrod Brown
Chairman

SB/cr

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Questions for Ms. Julia R. Gordon, Assistant Secretary Designate, Housing and Urban Development, from Chairman Sherrod Brown:

- 1) Where have you excelled in past positions in attracting, hiring, and promoting people of color in positions in your organization/s? Where might there be room for improvement?

Hiring and retaining a diverse workforce at the Federal Housing Administration is of utmost importance to me. Throughout my career, I have prioritized recruiting people of color as well as women, since both of these demographic groups are underrepresented in the housing finance field. As the President of the National Community Stabilization Trust (NCST), I have made several key changes in how NCST's job descriptions are written to support hiring more people of color, such as including salary ranges rather than advertising "salary commensurate with experience" as is typical in the nonprofit sector; allowing work experience to substitute for college experience; and listing the position in channels aimed specifically at people of color. There is significant room for improvement in making the housing finance field attractive to young people of color. We need to highlight the connection between housing and racial equity and to showcase the impactful nature of our work on communities.

- 2) What specific measures will you use to evaluate the success of the U.S. Department of Housing and Urban Development in understanding and addressing the needs of Black, Indigenous and people of color (BIPOC)? And, will you work with the Secretary and senior officials to keep Congress apprised, as appropriate, on the progress being made on these measures?

The strength and vitality of BIPOC communities are central to HUD's mission and to Secretary Fudge's goals for her tenure. I will work with her to ensure that FHA's programs are operating with equitable outcomes in mind and meeting the needs of the people and communities we serve best. I am deeply committed to this mission, and to keeping Congress apprised of our successes, progress, and any needs we have to fulfill these goals if I am confirmed.

- 3) What is your plan for creating an inclusive working environment for employees within your office?

If confirmed, I will make it a priority to build and maintain an inclusive working environment at FHA. While FHA already has a very high percentage of BIPOC staff, an inclusive working environment goes beyond statistics. Under my management, decision-making processes will be broad-based, reaching into the career staff as well as outside FHA when appropriate. Additionally, I will make it a priority to provide employees with effective training and coaching around diversity and discrimination, and I will work with the relevant offices at HUD to ensure that any instances of harassment or discrimination are addressed swiftly.

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Questions for Ms. Julia R. Gordon, Assistant Secretary Designate, Housing and Urban Development, from Ranking Member Pat Toomey:

Congressional oversight

- 1) Please provide your philosophy on how HUD will approach and respond to Congressional information requests (both for documentary information and oral testimony), if you are confirmed.

I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all Congressional information requests, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the executive branch.

- 2) If confirmed, do you intend to respond to information requests differently depending on who is making the Congressional information request (whether it's the chair of the Congressional committee, the ranking member, or another member of Congress)? Please answer "yes" or "no." If your answer is "yes," please explain.

I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all Congressional information requests, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the executive branch.

- 3) Will you commit that, if confirmed, you will timely respond to and fully comply with all information requests from me? Please answer "yes" or "no." If your answer is "no," please explain.

I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all Congressional information requests including from any member, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the executive branch.

- 4) Will you commit that, if confirmed, you will make yourself and any other HUD employee expeditiously available to provide oral testimony (including but not limited to briefings, hearings, and transcribed interviews) to the Committee on any matter within its

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jurisdiction, upon the request of either the Chairman or Ranking Member? Please answer “yes” or “no.” If your answer is “no,” please explain why.

I recognize that oral testimony plays an important role in Congress’ important oversight responsibilities regarding executive branch activities. If confirmed, I commit to brief or testify regarding Congressional requests consistent with this important oversight function.

- 5) Do you believe that HUD may assert any privileges or other legal justifications to withhold information (whether records or oral testimony) from Congress? Please answer “yes” or “no.”

My understanding is that any determination as to whether HUD has an applicable privilege or other justification to withhold information from Congress would be made by the Office of General Counsel. Should I be confirmed, and should such a question arise during my tenure, I would consult closely with that office.

- 6) If you answered “yes” to the preceding question, please list every such privilege or other legal justification and provide the legal basis for why you believe HUD may use such privilege or legal justification to withhold information from Congress.

As noted above, any determination as to whether HUD has an applicable privilege or other justification to withhold information from Congress would be made by the Office of General Counsel and identified clearly as such at that time.

- 7) In an effort to be open and transparent with Congress and the public, will you commit not to assert any such privilege or legal justification against Congress that you listed above? If not, why not? If so, please identify all such privileges or legal justifications that you will commit to not assert against Congress.

If confirmed, I would work with the Office of General Counsel to ensure that I am complying with any and all legal requirements.

Barriers to Affordable Housing

- 8) In January 2021, HUD released a report entitled “Eliminating Regulatory Barriers to Affordable Housing: Federal, State, Local, and Tribal Opportunities,” which “identifies many federal regulations and practices that could be revised to eliminate unnecessary burdens to providing Americans with affordable, safe, quality places to live, including

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opportunities to make sustainable homeownership more achievable.”¹ Which of the report’s recommendations do you agree with?

The report you reference is a comprehensive document identifying myriad opportunities, many of which I would like to explore more if given the opportunity to serve. If confirmed, I would be happy to discuss these recommendations with your office in more detail as I learn more about each of the areas addressed.

- 9) The January 2021 HUD report on barriers to affordable housing described regulatory and sub-regulatory changes to modernize Davis-Bacon.² Do you support and will you work to implement any administrative reforms to update Davis-Bacon?

If confirmed, I would follow the Secretary’s leadership and would support, as needed, working with DOL to further assess ways in which the Federal government can streamline Davis-Bacon rules and regulations while maintaining the integrity of the law.

Multifamily Application queue

- 10) In recent months, the wait times for HUD Multifamily applications to be processed has tripled, and in some cases, quadrupled. If this continues, it could shrink the supply of affordable and workforce rental units. How will you address the wait times for HUD Multifamily applications? What steps will you be take to ensure that HUD Multifamily can adequately respond to expansion and contraction in the future?

Due to record demand and staffing constraints, there is a queue for FHA loan applications waiting to be assigned to an underwriter. Once assigned, processing is quick. Last year, FHA closed a record volume of loans and will do so again this year. If confirmed as Commissioner, I would consider it a critical priority to ensure that FHA focuses on staff expansion, systems improvements, contractor support, and other means to reduce the queue.

Environmental regulations

- 11) Regarding HUD’s environmental regulations that govern HUD’s programs, how will you balance the need to protect the environment with the need to limit the cost of building new affordable housing?

If confirmed as Commissioner, I would use existing, Congressionally-mandated processes to review environmental regulations to take into account both environmental protection and the affordability and availability of housing. In many instances, making housing safer,

¹ HUD, *Eliminating Regulatory Barriers to Affordable Housing: Federal, State, Local, and Tribal Opportunities*, (Jan. 19, 2021), available at <https://www.huduser.gov/portal/portal/sites/default/files/pdf/eliminating-regulatory-barriers-to-affordable-housing.pdf>.

² *Id.* at 48–49.

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healthier, and more sustainable aligns with affordability, particularly when considered over the long term. To the extent tensions between the issues arise, I would ensure that HUD makes well-informed decisions relying on public input, inter-agency feedback, and in-house expertise.

Manufactured housing

- 12) The Manufactured Housing Consensus Committee (MHCC) is a Federal Advisory Committee statutorily authorized to develop and submit to the HUD Secretary manufactured home construction and safety standards. The law requires the MHCC to “submit proposed revised standards . . . to the [HUD] Secretary in the form of a proposed rule, including an economic analysis.”³ Accordingly, the MHCC must have resources devoted to developing these required economic analyses. Will you provide the resources that are necessary for the MHCC to develop economic analyses to accompany the construction and safety standards being considered by the MHCC so that the standards are revised to keep up with innovations in the market?

Manufactured housing is an important tool to increase access to affordable homeownership, and it is critical that it adhere to appropriate construction and safety standards. If confirmed, I will work to ensure that all FHA programs, including the MHCC, have the necessary resources.

Mutual Mortgage Insurance (MMI) Fund

- 13) The FY20 Report on the MMI Fund shows that subjecting the FY20 portfolio to the same macroeconomic conditions faced during the housing crisis would create losses in excess of MMI Fund capital, resulting in a MMI Fund capital ratio of -0.63%, below the statutory 2% minimum, and requiring a bailout. Would you consider it a failure if the Federal Housing Administration (FHA) draws funds from the Treasury to cover losses, or put more simply, requires a bailout?

The country does not face the same macroeconomic conditions that prevailed during the 2008 financial crisis. Additionally, FHA has significantly improved its underwriting criteria and loss mitigation policies since 2008, and, if confirmed, I will work with FHA staff to continue to evaluate the risks associated with Forward and HECM portfolios. Additionally, I will share information with Congress through the Annual Report to Congress on the State of the Mutual Mortgage Insurance Fund and other communications.

- 14) Do you think the MMI Fund as of FY20 has sufficient capital reserves?

³ 42 U.S.C. § 5403(a)(4)(A)(ii).

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I am not in the position to make that determination, but if confirmed, I look forward to working with FHA staff to evaluate the performance of the loans currently held in the portfolio to make that assessment.

15) Do you think it is inappropriate to build a capital buffer able to withstand a shock of the kind experienced during the 2008 housing crisis?

Since I am not yet at HUD with access to non-public information about the current performance of the portfolio, I am unable to make a determination regarding the appropriate metric to be used in setting a buffer.

16) Is the statutory 2% MMI Fund capital ratio a sufficient buffer to protect against taxpayer losses? If not, what do you believe is appropriate? If not the 2008 housing crisis, what stress level scenario should FHA consider when deciding what capital buffer is sufficient?

FHA plays an enormously important countercyclical role in the nation's housing markets. As such, it is important to build capital during strong economic periods and equally important to be able to spend that capital during an economic downturn. Since I am not yet at HUD with access to non-public information about the current performance of the portfolio, I am unable to make a determination regarding the appropriate metric to be used in setting a buffer.

17) Multiple Biden administration officials have expressed an intent to impose climate stress tests and to change regulatory standards to address climate risk for private sector market participants. Do you think FHA's lending portfolio should be subjected to similar climate stress tests and regulatory standards?

Climate risk is a top priority for the Biden Administration and HUD. If confirmed, I look forward to working with the White House and Secretary Fudge to support efforts that safely and sustainably promote resiliency, energy efficiency and other green initiatives within the FHA lending space.

Federal Housing Administration (FHA) annual report

18) As a consumer of information contained in FHA's statutory report on the status of the MMI Fund, do you find the report useful?

I do. The FHA Annual Report is extremely helpful in identifying trends across loan type, demographics, risk factors and loan amounts.

19) Do you think any of the information presented in FHA's FY20 Report should no longer be presented in subsequent reports?

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I am not privy to the policy discussions currently taking place within FHA and am therefore unable to make that determination at this time. However, if confirmed, I look forward to working with FHA staff to identify opportunities that may improve the overall presentation of the program's data.

20) Do you think any additional information should be presented in subsequent reports?

If confirmed, I look forward to working with FHA staff to identify additional areas of analysis and presentation.

FHA mission

21) What is FHA's statutory mission or purpose? Please reference specific statutes in your response.

According to the HUD website, FHA's mission is as follows: "We provide mortgage insurance on loans made by FHA-approved lenders. We insure mortgages on single family homes, multifamily properties, residential care facilities, and hospitals throughout the United States and its territories."

The extent to which FHA's mission and purpose derive from specific statutes is a legal one that is primarily one for the Office of General Counsel. Should I be confirmed and should a question arise about whether the statutes governing FHA's mission or purpose affect the propriety of agency action, I would closely consult with that office.

22) Will you commit to enacting policies that prioritize and are consistent with FHA's statutory mission?

If confirmed, I will work in close consultation with the Office of General Counsel to enact policies that are consistent with FHA's mission and purpose, including all applicable statutory, regulatory, and sub-regulatory authorities.

Down payment assistance

23) 12 U.S.C § 1709(b)(9)(C) prohibits the "seller or any other person or entity that financially benefits from the transaction" from providing funds as part of the down payment for an FHA-insured loan. What does "financially benefits from the transaction" mean to you?

Any agency interpretation of this statutory provision would be made by the Office of General Counsel. If I am confirmed, I will work closely with the Office of General Counsel to ensure that FHA's actions are consistent with the law.

Answering Questions for the Record

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- 24) Please describe with particularity the process by which you answered these questions for the record, including listing every person that assisted you in answering these questions along with a brief description of his or her assistance.

The Department of Housing and Urban Development received these questions on August 9, 2021. I worked with Department attorneys and through the interagency process to answer the questions. I finalized and approved all answers to the questions and authorized their transmission to the Committee on August 13, 2021.

Questions for Ms. Julia R. Gordon, Assistant Secretary Designate, Housing and Urban Development, from Senator Robert Menendez:

You have been an advocate of finding ways to better address down payment requirements, which are a particular obstacle for many minority and low-income families whose lower family wealth makes it difficult to afford even a modest down payment. And since a family's home is often their largest asset and the key way to build wealth over time, the current dynamic only contributes to the massive economic inequality in our country.

- 1) Can you describe why you believe addressing down payment challenges is so critical to expanding homeownership among communities of color?

In today's high-priced housing market, many homebuyers turn to parents or other relatives for assistance with a down payment. However, the lack of generational wealth for homebuyers of color – which itself stems from being locked out of the market by redlining and other forms of racial and ethnic discrimination – poses an obstacle right at the start of the homebuying process that is difficult to overcome without non-familial sources of assistance.

- 2) If confirmed, what steps would you take at FHA to ease down payment requirements, particularly for first-time homebuyers?

I understand FHA is currently engaged in rulemaking on that topic, and therefore it would be inappropriate for me to comment as someone who does not yet work at HUD. If confirmed, I will commit to ensuring that down payment requirements are fair, equitable, accessible, and comply with all relevant law.

My understanding is that for FHA reverse mortgage HECM loans issued prior to September 17, 2017, FHA requires HECM servicers to issue a due and payable letter within 30 days of the

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death. This 30-day time requirement may be operationally unfeasible using the customary method of monitoring Social Security rolls.

- 3) If confirmed, would you pledge to look into this issue and consider instituting a more operationally feasible time requirement, such as 60 days after Social Security notice of death of the borrower?

I am committed to ensuring that the HECM program serves as a safe and affordable mortgage option for seniors. If confirmed, I would work with the FHA team to review existing policies to ensure that surviving family members and servicers are allotted adequate time to begin the reconciliation process for HECM mortgages.

FHA's loan limit for Title I manufactured housing loans is currently about \$69,000. My understanding is that this has not been increased since 2009. As you know, FHA Title I loans have fallen precipitously in recent years, from 848 loans in 2017 to only 204 loans in 2019.

- 4) Will you commit to reviewing whether an increase of the loan limit is appropriate, if confirmed?

If confirmed, I commit to working with the FHA Manufactured Housing team to review the current loan limit policy.

FHA's Title I program applies a blanket limit on collections of \$1000, regardless of the type of collection on a consumer's credit. FHA's Title II policy, however, excludes medical debt collections.

- 5) Do you believe medical debt collections should be included in the Title I program?

If confirmed, I will work with the Manufactured Housing Team to review the current collection policy under Title I.

- 6) Will you commit to reviewing whether the Title I collections policy should be aligned with the Title II policy to exclude medical collections, if confirmed?

If confirmed, I commit to working with FHA's Manufactured Housing staff to review the Title I collections policy to determine if it is appropriate to align it with the current policy under Title II.

In a report about eviction, Mr. Greene wrote that housing counseling is an element of eviction prevention. While I was able to include \$100 million in housing counseling as part of the

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American Rescue Plan, the eviction numbers show an overwhelming need for eviction prevention help.

7) In your view, what should Congress do to strengthen housing counseling services?

Housing counseling can play an extremely important role in helping borrowers achieve affordable homeownership and sustain that homeownership. Congress should appropriate adequate funding to support pre-purchase, post-closing, loss mitigation, and financial literacy counseling.

Questions for Ms. Julia R. Gordon, Assistant Secretary Designate, Housing and Urban Development, from Senator Mike Crapo:

For a home equity conversion mortgage loan (HECM) originating prior to September 17, 2017, the FHA requires servicers to issue a due and payable letter within 30 days of a death.

In May 2016, FHA took steps to solve the regulatory issue stemming from the 30 day timeline by offering changes to the HECM regulations clarifying that notice to the Department following the death of a mortgagor should be made within 60 days of the mortgagor's death and that notice to the borrower's estate, and heir(s) must be made within 30 days after notifying the Department.

The accelerated time requirement of 30 days, which still applies to loans originating prior to September 17, 2017, even after rulemaking, is resulting in unnecessary fines because it is operationally unfeasible using the customary method of monitoring Social Security rolls.

- 1) If confirmed, would you commit to look into this issue? Will you consider instituting a more operationally feasible and reasonable time requirement to all HECM loans, such as 60 days after Social Security notice of death of the borrower?

I am committed to ensuring that the HECM program serves as a safe and affordable mortgage option for seniors. If confirmed, I would work with the FHA team to review existing policies to ensure that surviving family members and servicers are allotted adequate time to begin the reconciliation process for HECM mortgages.