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NATIONAL FAIR HOUSING FORUM
Bridging the Racial Homeownership Gap: Special Purpose Credit Programs
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Speakers: Demetria McCain, Principal Deputy Assistant Secretary, Office of Fair Housing and Equal Opportunity, HUD
Moderator: Cashauna Hill, Executive Director, Louisiana Fair Housing Action Center
Panelists: Sasha Samberg-Champion, Deputy General Counsel: Fair Housing and Enforcement: HUD, J. Frank Vespa-Papaleo, Principal Deputy Fair Lending Director: CFPB, Cerita Battles, Managing Director-Head of Community & Affordable Lending: JPMorgan Chase & Co.
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CASHAUNA HILL [0:00:00]: Hello again. And welcome to the National Fair Housing Training Academy National Forum titled *Bridging the Homeownership Gap: Special Purpose Credit Programs*. My name is Cashauna Hill. I am your moderator today and the Executive Director of the Louisiana Fair Housing Action Center. Since 2015 I have led a team working to end discriminatory housing policies and practices across our state through litigation and policy advocacy, as well as through provision of Fair Housing trainings and foreclosures counseling.

It is my pleasure that HUD has again invited me to serve as the moderator of today's conversation. Please note, this forum features information and examples that represent the experiences of the speakers and comments do not necessarily reflect the policies of HUD.

Please also note that the slides from today's presentations are available on the forum page of the HUD exchange website. And links to that page will be shared throughout today's event.

Before we get started, let's review some technical tips and instructions regarding today's conversation. T.J., over to you.

TJ WINFIELD [0:01:22]: Thanks, Cashauna. If you do have technical difficulties today with audio or video, we recommend that you do first sign out of the webinar and then back in. If you're still having trouble after that, you can request help in the Q&A box located on the Zoom panel section at the bottom of your screen. Or you can send an email to NFHTA, that's NFHTA@Cloudburstgroup.com.

We do encourage you to ask questions. You can enter your questions at any time by selecting the Q&A button on the Zoom panel. Please note that due to time constraints, we may not be able to answer every question today. The webinar is scheduled for two hours and it's being recorded. The recording and the transcript will be made available on the NFHTA website on HUD exchange, along with the resources that supplement today's conversation.

Back to you, Cashauna.

CASHAUNA HILL [0:02:13]: Thank you, T.J. I would now like to introduce Demetria McCain, Principal Deputy Assistant Secretary of HUD's Office of Fair Housing and Equal Opportunity. Demetria has long been a champion in the Fair Housing community and is committed to advancing racial equity, inclusiveness, and reinvestment in neighborhoods. Demetria, as always, it is great to have you join us today.

DEMETRIA McCAIN [0:02:40]: Thank you very much. Happy Fair Housing, everyone. Now, in February, just this year, NFHTA held a Black History Month forum on the topic of housing certification. And during the event I asked individuals like you to commit to building cultural competencies regarding the Black experience in this nation. Developing empathy and understanding is just one way that we all can live this year's Fair Housing Month theme, which is called Fair Housing, More than Just Words.

And we will begin -- when we begin to understand the people we serve, be they individuals who are Black, Latinx of the AANHPI community, people with disabilities, families with children and other covered classes under the Fair Housing Act, then we begin to develop the mindset needed as effective Fair Housing practitioners.

Today I am going to ask you to think about another way that Fair Housing is more than just words. That is your role in narrowing the homeownership gap in racial lines. The homeownership is our nation's wealth gap with wide disparities in homeownership rates and the financial return that's associated with owning a home.

Let me ask you a question. Did you know that the median white household, they have eight times the wealth of the average Black family? And five times the wealth of the average Latinx family. Did you know that? These are really sobering effects that actually should alarm us when we are talking about investing in a piece of this great nation through homeownership and knowing that the appraised value of the home is just as essential to achieving the American dream.

Now let me say personally, my brother and I inherited our parents' home, and we are just two of the countless Black individuals who sold the family home for far little than it was worth because of devaluation that, actually, exists in Black neighborhoods and communities.

Fortunately, the Biden/Harris administration and HUD are working with you and other partners to narrow the homeownership and wealth gaps. An action plan detailing real changes government is taking to enhance oversight accountability of the appraisal industry and to empower homeowners and home buyers to take action when they receive a valuation that is lower than expected. And you can learn more about how you can get involved and pave by going to PAVE.HUD.gov. That's our property, appraisal, valuation, equity, right? That's what those letters stand for.

We also recently laid out key actions to increase sufficient supply of affordable housing across a range of income levels and locations to meet consumers' needs. But this is a critical component to improving access to homeownership. And you can learn more about that and about this work by going to HUD.gov/equity. That equity plan was just rolled out throughout the federal government, just last week. And FHAO colleagues over here at Fannie Mae and through the FHA office we have at HUD they have been rolling out a number of actions to help close the homeownership gap as it relates to first time home buyers and sustaining homeownership, especially through a pandemic. Getting a home for the first time is big. Staying in it is also big as well.

Now today, we are proud to again meet with you to engage in a conversation on another key tool that's in this arsenal to help us ensure equity, and that is special purpose credit programs. Now, in December HUD released guidance on this powerful tool that creditors can actually use to better serve communities, often Black and brown, better serve communities that have historically been prevented from accessing credit.

Today we are thankful to be joined by HUD's Deputy General Counsel Enforcement of Fair Housing, Sasha Samberg-Champion. As you listen to Sasha, think about ways you might help connect the dots to increase homeownership free from discrimination in your own communities. And I also want to thank my buddy, Frank. I want to extend a thanks to Frank, really, he's a real partner in this world. He's at a different agency. He's at CFPB. Also want to thank Cerita Battles of JPMorgan Chase for the expertise and the perspective she is going to bring to today's conversation.

With that, I am going to step back. I am going to wish you all a wonderful, effective, and efficient Fair Housing Month. I'm going to turn it back to you, Cashauna.

CASHAUNA HILL [0:08:05]: Thank you, Demetria. As we move on, I will share the learning objectives for today's forum. Together we will know more about the need for special purpose credit programs, describe an SPCP and how it works. Understand the guidance from, I'm-- sorry. Understand the guidance about SPCPs from HUD and the Consumer Financial Protection Bureau. Recognize how SPCPs increase equitable access to credit. Understand how SPCPs impact Fair Housing practitioners' work, and how SPCPs may be used to affirmatively further Fair Housing. Understand how SPCPs advance the goals of the Community Reinvestment Act.

At this time, I will introduce our panel speakers and we will begin. I know that we are all eager to learn from the experiences of the speakers, so we will get started with very limited introductions. But you should all feel free to check out the speaker bios on the forum page of the NFHTA website.

Joining us today we have Frank Vespa-Papaleo, Sasha Samberg-Champion and Cerita Battles. Later in the forum we will move into a question-and-answer session. You all can submit questions for our panelists at any time today via the Q&A box. Please note that we may not have time to address all questions and personal questions will not be addressed.

Lastly, as a reminder, this event is being recorded. The slide deck is already available on the forum page of HUD Exchange and other materials including the event recording will be available on the HUD Exchange site soon after this event.

With that, I am now going to hand things over to Frank to kick us off. Frank.

FRANK VESPA-PAPALEO [0:10:10]: Thank you, Cashauna. Good afternoon and good morning, everyone. I am Frank. I am the principal Deputy Director in the Office of Fair Lending at the CSPB, the Consumer Financial Protection Bureau. I do want to take a moment to thank Cashauna for moderating this event and for HUD for hosting this event, a special shoutout to Demetria, our very close collaborator and friend. Thank you for your efforts on advancing this very important issue during Fair Housing Month.

I'm a former FHEO employee. I worked in Region 2 as the enforcement director in FHEO for a number of years, so this is a place dear to my heart here. I was also a FHAP director in New Jersey. So, I hope what we provide will be helpful as you do your work to advance Fair Housing and fair lending.

I will start, though with a disclaimer. I am an attorney, so I want to make sure I have my disclaimer in. But I will be presenting this, my portion on behalf of the CFPB, on behalf of the bureau. It does not constitute legal interpretation, guidance, or advice of the bureau. The CFPB is participating in today's event as the federal agency with primary authority to supervise and enforcement compliance with the equity opportunity act which I will be talking more about, regulation B for entities within the bureau's enforcement jurisdiction and to issue regulations and guidance to interpret ECOA and civil reg B. The bureau has not endorsed any of the financial products or programs that you may hear about today, discussed about other panelists.

So, why don't we begin with a flip to the second slide in this deck. And I will be talking about the Equal Credit Opportunity Act. Following George Floyd's murder and other social and racial injustices in recent years that has come to light, the calls for social justice have catalyzed billions of dollars in commitments by lenders to close the racial inequality gaps and promote racial, ethnic and gender equity. For nearly 45 years special purpose credit programs permitted under the Equal Credit Opportunity Act or ECOA as I will call it, and it's implementing regulation which is called regulation B have presented an unheralded tool to address historical injustices and continuing systemic racism in the credit markets.

And more broadly in racial wealth and inequity.

Before we get into the details about the programs and the requirements of SPCPs, I want to give folks a little bit of -- a few basics about ECOA itself for those who may be less familiar with this law. ECOA is a federal civil rights statute that prohibits discrimination during any aspect of a credit transaction based on nine characteristics: Race, color, religion, national origin, sex, which also includes sexual orientation and gender identity, marital status, age, receiving money from public assistance and exercising in good states your rights under the consumer protection act. Those are the nine characteristics.

There are some differences with the federal Fair Housing Act I want to point out.

Specifically ECOA covers all types of credit. Whereas the Fair Housing Act prohibits discrimination in residential real estate transaction. So, ECOA covers other credit like auto lending and small business lending and credit cards which are not covered by the Fair Housing Act.

But also some differences in, sort of, characteristics. For example, the FHA covers race and color and religion and sex and national origin but also covers disability and familial status. ECOA does not cover either of those categories. So, Equal Credit Opportunity Act does not cover disability specifically or familial status. But those other ones, they do.

In addition, to specifying what discrimination is prohibited, ECOA statutes clarifies what actually is not discrimination. In these provisions under Section 701C of ECOA, and specifically congress clarified that it does not constitute discrimination under ECOA for a creditor to refuse to extend credit offer pursuant to a special purpose credit program. So the statute also grants the authority to prescribe the standards for SPCPs and we outline those in regulation B. SPCPs provide targeted means by which lenders can meet special social needs and benefit economically disadvantaged groups. The special credit programs allow nonprofit and for-profit organizations wide latitude in designing credit assistance programs that both increase access to credit and provide favorable terms and conditions to economically disadvantaged groups. And after 45 years of it being in the law, we hope this is the time for special purpose practice and to finally move forward even more.

Next slide, please. Thank you. Under regulation B, the following types of special purpose credit programs are permitted. First, any credit assistance program that's authorized by federal or state law, which must be for the benefit of an economically disadvantaged class of persons. So, this includes programs, offers pursuant to federal, state, or local statute, regulation or ordinances or pursuant to a judicial or administrative order. But also includes any credit assistance program offered by non-for-profit organization, which must be for the benefit of its members or for the benefit of an economically disadvantaged class of persons.

Any program offered by a for-profit organization or in which such an organization participates to meet special social needs must meet certain standards prescribed by the bureau in regulation B. So there are additional burdens and responsibilities for for-profits to meet and specify the special purpose credit provisions of the regulation.

Next slide, please. This is slide 4. So, Section 1002.8 of regulation B describes the requirements of the program. And there are different requirements for SPCPs, depending on whether the creditor or the lender is a nonprofit or a for profit organization. For nonprofit organizations, such as credit unions or certain community development, financial institutions, CDFIs, a special purpose credit program only has to consist of a credit assistance program that, quote, benefits either its members or an economically disadvantaged class of persons. That's all they have to do.

In contrast, programs offered by a for-profit organization or in which it participates to meet special social needs, requires more. It requires a written plan, and, two, the purpose of extending credit to class of persons likely to otherwise be denied or receive credit on less favorable terms. So in contrast to the requirements that apply for for-profits, reg B and its official interpretation do not require a written plan or any evaluation of the nonprofit organization's customary standards of creditworthiness upon a class of persons to classify an obligation. It's important to note that requiring an SPCP to be for the benefit of an economically disadvantaged person or to meet special social means, means that the program must be advantageous to the identified class and not predatory and that's a very important point. The goal of special purpose credit programs is not for banks or lenders to harm the people that the law is intended to help.

Also, SPCPs offered by nonprofits and for-profit organizations may, they are allowed to require participants to share one or more common characteristics, such as race, national origin or sex. By permitting the consideration of what's otherwise a prohibited basis such as race, national origin or sex with the SPCP, congress protected a broad array of programs specifically designed to preferred members of economically disadvantaged classes and to increase access to the credit markets to those persons previously foreclosed from private access.

So, example of some of these programs include the government sponsored housing credit subsidies for the aged or the poor. And programs offering credit to a limited clientele, such as credit union programs and educational loan programs.

Next slide, please. So, on December --21st of 2020, the bureau, the CFPB issued an advisory opinion on SPCPs. This opinion applied only to for-profit organizations, which as you will recall, have extra requirements is to satisfy their obligation if they are to establish an SPCP. The advisory opinion is available on our website, and we will also embed the link -on in-- the chat for those that want to read that.

Next slide, please. Specifically the advisory opinion on SPCPs clarified that the content that a for-profit organization must include in its written plan. You will recall the written plan is one of the obligations to satisfy for establishing an SPCP for for-profit lenders. So, it went into detail about what goes into that written plan. I will go through that in a minute as well, in more detail.

And it also lays out with more specificity the type of research and data that might be appropriate to inform a for-profit organization's determination that it needs a special purpose credit program to benefit a certain class of persons. So, I will go through those specifics in the next slide, please.

Thank you. So, as described in greater detail in our guidance, there are four components to a written plan for a for-profit lender considering a special purpose credit program. First, the written plan must specifically define the class of persons, as it says, that the program is designed to benefit. That is the class of people who would otherwise be denied credit or would receive it on less favorable terms but for this SPCP. The plan must also explain whether the class of people will be required to demonstrate a financial need or share a common characteristic. For example, a for-profit organization's written plan might identify class of persons as minority residents as a low to moderate income census tract or residents of majority Black census tract or operators of small farms in rural counties or minority or women owned small business owners, consumers with limited English proficiency or residents living in tribal lands. Those are the kinds of connections that are to be included in a written plan.

The second thing that the written plan needs besides identifying the class of persons is a description of the procedures and standards adopted for extending credit under this program, under this special purpose credit program. And explain -- and an explanation of how these procedures and standards will actually increase credit availability with respect to this identified class of persons. So, if they identify in the plan that they are aiming this particular program to residents or operators of small farms in a rural census tract, they need to describe the procedures and standards to increase how they will actually increase credit availability to that particular targeted community.

The class is required to share common characteristics, the plan may also explain whether the organization will request and consider information that's otherwise prohibited under ECOA. I hope that makes sense. So, you know, if the special purpose credit program is, as its purpose meant to address a dearth of lending in a particular census tract, majority Black census tract, then the program can be established so that individuals can be Black residents or homeowners in that census tract. And that would ordinarily be prohibited under ECOA, but in this case if it's done in this way, it would not be prohibited under ECOA.

The third part of a written plan that a for-profit- -- is a description of the duration of the program. How long will it last? This could be a specific period of time for which the program will lost or a statement regarding when the program will be reevaluated to determine if there's still a need for it, if it needs to be adjusted in some way. Or it can be a combination of the terms that say this will be for a period of 2 1/2 years and as long as it meets a certain targeted increase in lending to this census tract, for example, of this community, it will then expire or it may be extended, depending on the circumstance. But you need to define and discuss the duration of this special -purpose - because- it doesn't happen in perpetuity.

Fourth, the written plan must describe, it is very important, the analysis that supports the need for the program. This part only applies, again, to for-profit entities that are seeking to establish a special purpose credit program. This does -not - this- is not a requirement for nonprofits that establish SPCPs under the law.

This determination of need can be based on a broad analysis using the organization's own data or research or data from outside sources, for example, HMDA data they could use, including governmental reports and studies. For example, for-profit organization's analysis might consider research or data that are already in the public domain. I said HMDA data is one type of example.

Other governmental or academic reports and academic studies exploring the historical and societal causes and effects of discrimination could also be considered as part of the analysis that's necessary for this written plan.

While they can apply a broad range of research or data, the analysis must specifically show, though how the proposed program that they are establishing relates to the lender's creditworthiness standards or put another way, how a class of people would otherwise be denied -- who would otherwise be denied credit or would receive it in less favorable terms under the organization's customary credit standards.

So, for example, a creditor who identifies a class of certain applicants that do not have sufficient savings to meet mortgage requirements or who receive such loans in less favorable terms could offer such applicants down payment assistance funds pursuant to a special purpose credit program. In that example the creditor can demonstrate under its own standards of creditworthiness, for example, either insufficient cast is listed as a principal reason for denial of a similar mortgage loan application among a class of applicants, or requirements regarding minimum amounts of cash to close or liquid assets will probably impair credit access for the identified class of applicants. Of.

And finally the advisor opinion characterizes that in a common characteristic, for example, race, national origin or sex, a creditor can request and consider information regarding that common characteristics in determining the person's eligibility for the program as we previously discussed.

Next slide. I think I have two more slides. The next slide is about an idea that happened in February of this year, February 22nd, 2022. The CFTB along with several other agencies issued the historic interagency statement encouraging the use of special purpose credit programs. This is the first time the CFPB, HUD, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the FDIC, the National Credit Union Administration, the NCUA, and the Office of the Controller of the Currency, OCC, as well as Department of Justice and the Federal Housing Finance Agency, FHFA have spoken with one voice on special purpose credit programs. And that's available on our website or it will be embedded as a link on this program.

The interagency statement on the SPCPs that we have just issued in February calls attention to the programs as one way to expand access to critical financial services, including mortgage lending. And it highlights the 2020 guidance that I mentioned earlier, the opinion, as well as something that Sasha will be talking about that's very important, HUD guidance that was just issued a few weeks ago, concerning the interplay between special purpose credit programs under ECOA and the Fair Housing Act.

Next slide, please. The interagency statement further encourages creditors to explore these opportunities to develop SPCPs consistent with ECOA and reg B. And while the CFPB and other federal agencies do not determine whether a specific program qualifies for special purpose credit status, the statement does encourage lenders to consult with Tulare appropriate regulatory agency if they have questions about any aspect of ECOA or regulation B's SPCP provisions.

And last, I think -you will be given in the presentation deck that's available in -the - after the event a list -of - a- slide that has a list of resources, including ones that I mentioned already, plus some additional items that you're welcome to peruse at your leisure. I would highly recommend that folks read the SPCP provisions of regulation B carefully if they are interested in understanding more and the guidance that HUD will be talking about momentarily, which is critically historically important. We look forward to staying engaged with all stakeholders including nonprofits, state, local, regulatory agencies, academic, consumer advocate, civil rights groups, of course, our federal partners including HUD and others, as we try to address racial wealth inequity more deeply. Thank you very much and I very much appreciate this opportunity to share this.

CASHAUNA HILL [0:33:09]: Thank you so much, Frank. That was very helpful and personally helpful for me as an introduction to SPCPs because I certainly don't have much experience there. So, thank you. And we have already got lots of questions coming in. So, we are going to build on that introduction that you have shared and we will move on to our next panelist, and I do just want to remind all of our attendees that Frank's slides as well as all of the slides reviewed today are currently available on the NFHTA forum page of the HUD Exchange site. And also a recording of today's event will be posted there soon after the session ends.

With that, our next panelist, Sasha Samberg-Champion will discuss HUD's guidance and legal opinion on special purpose credit programs, how SPCPs relate to Fair Housing practitioners' work and how these programs can affirmatively further Fair Housing. Sasha.

SASHA SAMBERG-CHAMPION [0:34:20]: Thank you and thank you, Frank, for the great introduction to the topic as well. I'm Sasha Samberg-Champion, I'm HUD's deputy general counsel for enforcement and Fair Housing and I am going to talk to you today, I would say I am mostly going to be talking to you about two things. One is what has HUD done regarding special purpose credit programs, but the other one, building on that, is going to be to start giving you some thoughts about what you can do in your practice with respect to special purpose credit programs in your Fair Housing practice and as you start thinking about how municipalities and others can affirmatively further Fair Housing.

Next slide, please. Let me back up to the beginning and answer the most basic question. Why did we issue a legal opinion on special purpose credit programs which is not a topic that HUD has weighted into before very recently. The larger context is, of course, the vastly increased recognition of and interest in the historical lack of credit and lack of opportunities for homeownership that have led to the racial wealth gap and racial homeownership gap that Demetria and Frank have already described.

As we came in, in the new administration, that was one of the things that was -- that immediately we set about to work on, that general issue. Of course, as Demetria mentioned, part of that work has been, for example, the PAVE task force or work on appraisals and many other things. And this fits right into it.

One thing that has been very nice is the great interest not only from advocates regarding this issue, but also from lenders, who want to know how they can make a difference in remedying this homeownership gap and credit gap, frankly. And many of them, what they came to us and they said they have seen the CFPB guidance that Frank described, that excellent guidance, and it gave them some reassurance in terms of what they need to do to pass muster under the law under ECOA if they want to put together a special purpose credit program. But that left them wondering, if we put together a special purpose credit program that is as we go under ECOA are we still going to be exposed to liability under the Fair Housing Act and some assurance from us that they would not be.

So, we took a very close look at that question. And before I go into the nuts and bolts of it, I will say in terms of what our opinion does and doesn't say.

Next slide, please. Here's what it does say. In general, if a lender fashions a special purpose credit program that complies with ECOA and its regulations and, of course, that's an important premise, right? Frank just described what you need to do to have a lawful special purpose credit program. You have to identify the need. You have to identify the mechanics by which it will work. You will have to have a written plan. If you have done that, what our legal opinion says, then you will also comply with the Fair Housing Act.

Let me say what we are not saying. We are not saying anything about a plan that doesn't pass muster under ECOA. We are not saying anything about what will pass muster under ECOA and its implementing regulations and the CFPB guidance. That's the CFPB's turf and not ours. We are just saying assuming that you have a special purpose credit program that passes muster under ECOA, it will also be lawful, generally speaking, under the Fair Housing Act.

Next slide, please. And the basis for our opinion predominantly is the text of the two statutes. I think most people on here are familiar with the relevant language of the Fair Housing Act. The key thing here is that this operative language, which is to say it bars discrimination against such a transaction is essentially the same as the language in ECOA which then has the clarification that Frank described, which is to say discrimination does not include the making of a proper special purpose credit program.

So, part of our reasoning was if that doesn't constitute discrimination under ECOA, well, we have the same operative language under the Fair Housing Act and so the Fair Housing Act is most naturally read that that also does not constitute discrimination under the Fair Housing Act.

Next slide, please. And of course a key takeaway from what I just said was we are not saying that's discrimination but it's legal. We are saying it's not discrimination at all, as long as you have satisfied those requirements under ECOA.

I have a few slides here that go through the similarities and differences between ECOA and the Fair Housing Act. And Frank touched on a lot of it. So I am not going to spend so much time here. I am going to say as a takeaway, the big takeaway is that both ECOA and the Fair Housing Act, they both apply in, basically, the same way. They apply the same nondiscrimination mandate to a large swath of transactions where they overlap. And those most importantly include the making of home loans and the offering of credit for home loans.

Next slide, please. And I'm going to skip another slide. Skip another slide. And those are all things that will be in your materials if you want to see the similarities and differences between the two statutes but I'm not going to walk you through them here.

Another big piece of our reasoning is that as I just described, the two statutes have worked hand in glove for a very long time, and that's something that congress contemplated from the very beginning of the relevant ECOA language. Since 1976, ECOA has had this provision, and remember, ECOA was passed after the Fair Housing Act, it has this provision that says, no person aggrieved by both statutes shall recover under -- shall recover under both statutes for the same transaction. So, congress well understood that in many cases these two statutes work together. They essentially impose the same nondiscrimination mandate. And they often provide very similar remedies.

Next slide, please. And the bottom line is the two statutes have harmoniously coexisted for more than 40 years. We saw no reason under these circumstances to think that if you take a course of conduct that ECOA explicitly authorizes, that is to say, the making of these special purpose credit programs that have been carefully defined by CFPB and its regulations, if you have this conduct that ECOA explicitly authorizes, we concluded the Fair Housing Act does not bar.

Next slide, please. One thing that all of this leads to is we conclude that if you have an ECOA authorized special purpose credit program offered by a for-profit organization, and I will bracket that because the rules for nonprofit organizations, as Frank said, are different and we didn't get into that very much in our legal opinion. These programs, when offered by for-profit organizations are really a means of remedying the historic exclusion of people and others from the mortgage credit markets and that's why they are not a form of discrimination that violates the Fair Housing Act. And important to that concept is the requirements that Frank set out where a special purpose credit program has to meet and be designed to remedy a document in need.

Next slide, please. I want -- and we cited one case that we thought supported this proposition, which I am going to return to the issue of special purpose credit programs as remedies in a minute. But I want to flag now, while we are still talking about what's in our legal opinion. We mentioned United States v. KleinBank, which is a case that DOJ brought against a bank for redlining, and in settling that redlining case under the Fair Housing Act and under ECOA, the remedy, as part of the settlement included the creation of two special purpose credit programs to help residents of majority/minority tracts establish consumer credit and help them get home improvement loans on a more affordable basis than they outside would.

So, we looked at this as further evidence that historically credit programs fit into the scheme of the Fair Housing Act as well as ECOA as part of the way you can remedy, not necessarily discriminatory conduct as it was in this case. We certainly don't mean to suggest that there has to be -- you have to be able to point to specific discrimination by a bank or someone else in order to justify them. But certainly, as a remedy for the sort of legacy of inequality that we see all over the country.

Next slide, please. Here is the general rule. I said it before but I'm going to put it up in your materials as the rule. A nonprofit organization's special purpose credit program established to serve an economically disadvantaged class of persons or a for-profit institution's SPCP designed and implemented in compliance with ECOA and regulation B generally will not violate the Fair Housing Act. That's what we said. That was the bottom line.

Next slide, please. We also at the same time -so, that was what the Office of General Council at HUD did. Meanwhile, FHEO put out a statement and Demetria put that in the chat, if you want to read the whole thing. But the bottom line is it's a call on lenders too, in light of- this review the current and historic barriers to credit and other homeownership that are faced by people of color and other underserved communities. And where it's appropriate utilize SPCP as part of your toolkit to assist those who historically have been locked out of homeownership opportunities.

Next slide, please. Were people have been asking how does this relate to the affirmatively furthering Fair Housing requirement. And I have on the screen that's the statutory language of AFFH and as many of you know, that obligation currently applies to the recipients of HUD funding, although we don't currently have any planning rule in effect. We will be planning to issue a planning rule in short order, notice of proposed rulemaking that will explain in considerably greater detail how municipalities, PHAs and others need to satisfy their affirmatively furthering Fair Housing requirement.

As it applies to SPCPs, what flows from the principles that I just set out is if in that planning the absence of credit or the inequities and the availability of credit and homeownership are identified as a Fair Housing issue in a community, SPCPs can be part of the remedy if a municipality, for example, wants to work with lenders to establish SPCPs, that can be part of what they do to satisfy their AFFH application. Obviously, we will be able to talk about that more in the coming months ahead, especially after we put out our proposed rule. But it's something to keep in mind that conceptually they fit into the AFFH framework in terms of identification of an issue and then setting goals to remedy them.

Next slide, please. So, in light of all this, what can Fair Housing advocates do? Most of the people on this- in this training session, I assume, are not lenders. You are Fair Housing advocates for the most part. You identify Fair Housing issues- and you often bring HUD complaints or sue or talk to potential defendants to try to get them to remedy the situation without having to resort to such things.

Next slide, please. I have already shown you the KleinBank example from the U.S. I want to give you another example of special purpose credit programs as remedies for Fair Housing Act violations. Another one is U.S. V union savings bank. In this case the DOJ alleged that the bank engaged in redlining and settled with the bank by requiring two SPCPs.

Next slide, please. And I put on the screen an example of a very brief summary of the terms of those special purpose credit programs. And one thing I want to highlight is how different. If you remember the KleinBank example that I put on the screen earlier, how different this remedy looks. Here we have SPCPs to provide home repair or other grants to assist homeowners who experienced financial distress or deferred maintenance, in addition to credit financial homeownership or foreclosure prevention services and low or no cost access to homeownership.

My point is just there is an enormous amount of flexibility in the way that these can be structured and certainly Cerita will talk in a minute about her experience in putting together special purpose credit programs. But you have an enormous amount of flexibility working with banks on how this -- how these programs can be structured nor to remedy the actual violations or violations in some cases, but or just lack of credit that you are confronting.

Next slide, please. And here's another example from the same case. There's also a loan subsidy program for residents operating in majority African American census tracts and small businesses operating in majority African American census tracts. You can see the connection between this remedy and a red line violation of course. Because redlining is the deprivation of credit from specific geographic areas. So here you have a loan subsidy program that's targeted at those areas. There's a very tight nexus between the documented need, what could be a potential violation and then the remedy for it.

Next slide, please. And here you have another piece of the remedy which is a little bit different. Here is a credit repair program that could include debt forgiveness of up to $15,000 per loan. Very different piece of the remedy. Just to give you another tool in the toolkit. I'm offering this because we do a lot of talking about special purpose credit programs and very abstract way without giving you a clear idea of what they could look like. So, here -the- nice thing about public settlements is they give me an opportunity to get under the hood and show you some of what they could potentially look like.

Next slide, please. And the last example I'm going to give you is one that was developed by a very good friend of HUD, the Fair Housing center of central Indiana. They brought a case in which they allege that old National Bank engaged in redlining and when they settled that case, the settlement provided that it could potentially include the development of an SPCP.

Next slide, please. This is similar. The loan subsidy fund as part of the settlement could include that development.

Next slide, please. Were so, those are just some examples. And, of course, I couldn't say that much about the Indiana example because not that much is in the public papers. Certainly, it is up to them to talk about in the coming weeks and months ahead, how well that worked out. But that's an example of how you can use your authorities and potential authorities, of course. You don't actually have to sue a bank or bring a complaint against a bank to strongly encourage it to put into place a program like this.

So, I will just leave you with where I began, which is that all of this is -all of this is happening with a very good connection being made between members of the community, Fair Housing advocates, lenders, and the regulatory agencies, which I didn't include in here. And we are all, sort of, trying to work together to figure out creatively how these SPCPs can be offered. So, I don't know -that - one nice thing about this is I don't think that it necessarily has to put you and other Fair Housing advocates in an adversarial role to lenders. It could find a very willing partner if you reach out to a lender regarding this. With that, I will turn it back to Cashauna-. Thank you.

CASHAUNA HILL [0:52:06]: Thank you so much, Sasha. We are continuing to get great questions from today's attendees. Continue to submit the questions and we will get to them at the end of the conversation.

One last reminder that all of the slides reviewed and discussed today are available on the forum page, on the HUD Exchange website. And also a recording of the event will be posted there soon after today's session ends.

Our final panelist, Cerita Battles, will discuss the opportunities and challenges of implementing special purpose credit programs and how SPCPs advance the goals of the Community Reinvestment Act. I think this next section will be of particular interest to several of our attendees as we have already had some questions coming in about what motivations a financial institution might have for creating one of these programs and we have also got some questions around what design of a program like this might look like. So, Cerita, we are very excited to hear from you on those topics as well. Cerita.

CERITA BATTLES [0:53:17]: Thank you, Cashauna. And first of all, I just want to say good afternoon to everyone. I am delighted to be a participant on the panel and representing JPMorgan Chase. I want to also say thanks to Frank and Sasha for the background and the setup for me to talk about our strategy and the execution of an SPCP.

I do not have any slides because I am going to be talking a little bit about our strategy and how we execute against that. So, obviously, if you take some copious notes and just listen intently and the fact that it's going to be recorded, you will be able to go back and really gain some good nuggets here.

I will say that we launched our special purpose credit program in January of 2021. We began strategizing around the program in early 2020. So, when you think about our goal as a lender, our goal was really to increase access to homeownership for Black and Hispanic customers and communities. We also have a racial equity commitment that is out there that is, you know, for five years. It's $30 billion with about $26 billion focused in on homeownership and advancing that among Blacks and Hispanics.

We did leverage key data points from the CFPB's research regarding increased rates and fees for Blacks and Hispanics, versus that of other segments. We also leveraged insights from HMDA data, such as majority versus minority tract lending. We also looked at the homeownership rates. We also looked at DTIs or debt to income and LTV. So the higher the DTI, the higher the LTV, we saw some different things that were going on from a standpoint of Blacks and Hispanics in comparison to other segments.

We also leveraged some key data points, even some of our own data to really kind of build our written plan, that we put together to make sure that we were honoring some of the things that you have heard already, being able to put together that written plan, which outlined the details of our plan, our process and how we would monitor the effectiveness and timeline for our program.

From a sales perspective, we are leveraging both consumer originations channels, so both our field sales, which are the loan officers that are on the street, as well as our centralized sales folks that are on the phone and typically deal with a lot of online applications. We are also leveraging our nondelegated correspondent distribution model because it also enables us to see liquidity to smaller and regional banks that have a footprint within the communities and customers that we are seeking to serve.

In the consumer originations channel, we decided to leverage the SPCP in the form of a grant, which helps to minimize the gap in down payment assistance and closing costs which are two of the biggest barriers to homeownership among minority customers.

Within our correspondent channels, specifically in nondelegated, the SPCP provides greater correspondent eligibility, an expanded credit box and fee waivers as well as improved pricing. So that we can be able to leverage our correspondent lenders that already have a stretch and a reach into these communities to be able to advance homeownership among minorities as well.

We found in previous experience that structuring an SPCP around a customer's race was difficult to operationalize, because from a tracking perspective, you have to ensure that the intended beneficiaries receive the SPCP. This is somewhat difficult, given most Black and Hispanic borrowers choose not to populate the government monitoring information pertaining to race and we are seeing an increase in checking the "Does not wish to furnish" box on the application.

And additionally in a world of digitalization, this becomes a bit more prominent because of the distrust in the lending industry. So, that's one headwind that we have to be able to manage through, especially when we think about SPCPs.

With that said, we decided to focus on minority census tracts and lean into Black census tracts, as well as lending tracts based on the outgrowth of our data and analysis.

This is where 50% or more of the population living in that tract are Black and where 50% or more Blacks are purchasing homes. This covers approximately 6700 census tracts for us, with about 200 of them being lending tracts.

And we have been able to track successfully via technology. So, our ability to serve all purchasing within those tracts receive the SPCP. So, the tracking component is critical because we want to make sure that everybody that this is intended for, that they are receiving it and that we have the ability to track it and also track the effectiveness of the SPCP.

Our SPCP is available on conforming conventional, FHA, and VA purchase loans. And it's available in any one of the 6700 tracts. It is not restricted to LMI customers or LMI tracts. This program is available on any purchased property within Black census tracts or lending tracts. Our data suggests that regardless of income, the majority of Black borrowers have down payment and closing cost barriers as a result of the wealth gap.

We understand that gentrification is a potential unintended consequence of providing an SPCP in a Black tract. However, we established a robust monitoring process to ensure that the SPCP is benefiting minority customers, particularly Black home buyers. And it is also accretive to stabilize in predominantly -- I'm sorry -- predominantly minority or Black communities. So, the monitoring process gives us an opportunity to make adjustments should we observe trends that may be suggestive to gentrification risk.

Lastly, it is not the SPCP alone that helps to serve minority customers in communities. We leverage this program with a more holistic strategy, which is to ensure we have diverse sales force so folks that mirror the markets that we are seeking to serve, that we create visibility and presence within those minority communities so that folks know that we are open for business as a lender. We also partner with key influencers in those communities. Always say that JPMorgan Chase is a national firm. So, we have -- you know, we spread -- cast a wide net and we catch a lot of fish but it's important for us to be very intentional. So therefore we have to work with partners such as Realtors, builders, nonprofit organizations, housing counseling organizations as well, as well as other community groups that have a stretch and a reach in those communities.

In addition to that, we also have to make sure that we are participating in marketing and outreaching efforts in these communities to dispel myths around homeownership, as well as build trust and consideration among a community that has traditionally been underserved by lenders. So, it's very important that we do all of those tactics and that they all work together so that we have an opportunity to create access to credit through our products and programs, which is inclusive of SPCP.

So, again, making sure that you're doing all of this because it is a multifaceted approach to ensure that not only are you just going into the communities with an SPCP program because people probably won't even hear you if they don't know you. So, again, it's just as important for us to create that visibility, that awareness, that care and concern for the communities that we are seeking to serve so that we can open the door and that they will listen to some of the programs that we have so that they can make an informed decision about their home financing needs.

So, again, as I close, I would say this. We have been out and we have been talking about this a lot, throughout the industry, about our decision to participate in this. We have solicited the input from our legal teams, from others that have been supportive of the work that we are doing in this particular space. And we encourage other lenders to also get in the game to address the home financing needs of minorities across the full economic spectrum with respect to leveraging an SPCP program.

So, again, I don't want to say too much because I'm sure there's going to be a lot of questions that we will have the opportunity to discuss and talk about. But I just wanted to give you just some of the key nuggets that we leveraged in order to make the decision to participate in this program. We are having tremendous success today, but that success is also contingent upon the rest of our strategic approach around just building infrastructure to make sure that when we are in the market supporting this specific program, that we have the right people in the market, in the right places with the right partners doing all that we need to do in order to promote this opportunity.

So, again, thank you for the opportunity and back to you, Cashauna.

CASHAUNA HILL [1:03:45]: Thank you so much, Cerita. And as we jump right into the Q&A session - section of today's conversation, I would, actually, like- to start with a follow up question for you. I think I heard the answer to this, kind of, implicit in some of what you were saying and also- implicit in what Sasha and Frank shared earlier. But Cerita, could you share your perspective around what the incentives would be for financial institutions to voluntarily adopt SPCPs?

CERITA BATTLES [1:04:20]: Yeah. There are various different incentives. I would say first and foremost is the ability to ensure that folks know that you're open for business and that you are there to meet their specific needs. So, that's first and foremost. Because you just want to serve your customers and you want to be in position to be able to do so.

The other opportunity that this provides is not only an opportunity just to meet low to moderate income or care for CRA, although we didn't just put our focus in that space, but it's also an opportunity to care for some of the fair lending needs. When you think about minority tract lending and you look at majority versus minority tract lending and how sometimes you can be imbalanced in that space, but this also gives us an opportunity to make sure that we are doing -- you know, we have tactics, we have tools, we have products, we have programs that really meet the needs of some of the minority communities that have traditionally been underserved.

And then I would say the last thing that this does is it definitely helps to win trust and consideration. Because at the end of the day if you are not available in these markets with the right products and programs or being able to offer an array of products and programs so that they can make an informed decision, they won't hear you if you're not there and if they don't see you, feel you and trust you. So I think it just provides a lot of ability to not only look at this as a means of being able to meet regulatory requirements, but it's a business opportunity.

And I say so ultimately from a lender perspective, I think looking at this as a business opportunity, that enables you to be able to serve all is a huge opportunity to be able to participate in SPCP.

CASHAUNA HILL [1:06:14]: Thank you. Cerita. Sasha or Frank, do either one of you have any follow-up comments or thoughts on what incentives there are for financial institutions to create these programs?

SASHA SAMBERG-CHAMPION [1:06:28]: The only thing I would add to that, certainly Cerita knows her business model better than I do. I would just say from a legal standpoint, what we were trying to do and which I think is consistent with what Cerita just said is to make it clear that creating a special purpose credit program can often be a means of satisfying your legal obligations, you know, whether that's the CRA, the Fair Housing Act, other laws, and it will not unnecessarily add to your liability. I mean, certainly if you're a lender you also take that into account, is this going to increase or decrease my liability and we are trying to make it clear that it's not going to increase your liability, as long as you do it right in accordance with the standards that the CFPB were has set up.

CASHAUNA HILL [1:07:15]: Thanks, Sasha. Frank, anything to add there? No?

FRANK VESPA-PAPALEO [1:07:21]: Just a little nuance. Certainly the SPCPs are meant to address circumstances where lenders are not doing the right thing. I mean, they only exist because lenders are not doing the right thing at times. So, hopefully lenders do a better job of making these opportunities available across the board and ensuring that fair and equitable access to credit is happening every day. And when they get caught, sometimes special purpose credit programs are a great remedy but they are not the only remedy, obviously. Obviously we still have enforcement mechanisms and other tools.

So I want to caution that this is not a panacea. It is really meant to be a tool to use as a remedy, but it exists because lenders are overall not doing a good enough job of making these loans available across the board and racial equity is still a concern across -- you know, not just in mortgage markets, but other credit lending markets as well. So I would just say that.

CASHAUNA HILL [1:08:34]: Thanks, Frank. That's great. So, I would like to, as we continue answering questions, back up just (continue answering) because we did have a question and there seems to be maybe just a little bit of uncertainty around the types of agencies and organizations that can create these programs.

So, we have a question from an attendee about what kinds of organizations can create these programs. Is it something that can come from federal, state or local government agency? You know, places like a state housing mortgage finance agency. Is it nonprofit institutions? And I know, Frank, that I certainly spoke to this. Is it lending institutions? Just what is the -what are the kinds of organizations that can create and operate- these special purpose credit programs, if any of you could speak a little bit more to that.

FRANK VESPA-PAPALEO [1:09:39]: I can start with this. I would say yes, yes, yes, and yes, Cashauna. You gave great examples of all the different kinds of entities that can establish special purpose credit programs in a lawful way. Certainly private lenders, like traditional banks can certainly establish these, for example, right? But nonprofit organizations can establish these. CDFIs can establish these. Credit unions can establish these programs. Governmental agencies can establish - and quasi-governmental agencies can also establish- such programs.

And whether it's at the state, local or federal level, those are all options. And there are, you know, different requirements, depending on their status as a for-profit or not-for-profit, as I laid out there. But there are requirements that all must meet, whether it's a nonprofit or a for-profit entity or a governmental entity to establish such programs. So, it can be complex, but it can also be a very open-ended in terms of what kinds of organizations can do so.

There's no limitation on the size of the institution or, you know, how long the institution has been in existence or anything like that. But, obviously, you know, those are all very important elements to consider.

CASHAUNA HILL [1:11:06]: Great, thanks, Frank. Cerita, Sasha, anything to add about the kinds of agencies and organizations that can create SPCPs?

SASHA SAMBERG-CHAMPION [1:11:17]: Not from me. Thank you, Frank.

CERITA BATTLES [1:11:19]: Yeah, no.

CASHAUNA HILL [1:11:20]: Moving on, we have a question about examples of special purpose credit programs. And I know, Cerita, that you certainly already shared that. But I wanted to give an opportunity for any of the panelists to speak more about specifics, if you can, about how these programs can look. An attendee has asked for just a little bit more clarity there. And they were wondering whether things like housing choice voucher program, is that something that could be considered, or the housing choice voucher program, is that something that could be considered a special purpose credit program? Just what are more specific examples, if any of you could share?

SASHA SAMBERG-CHAMPION [1:12:06]: I will address the very specific question and I think Cerita knows much more than I do about some of the examples that are out there in the field.

The HCV program we would not consider to be a special purpose credit program. It just, sort of, on a different axis. It's not an offer of credit at all. But, yeah.

CASHAUNA HILL [1:12:30]: Thank you, Sasha.

CERITA BATTLES [1:12:31]: And then the other thing I would say is, we did ours as a form of a grant, so down payment assistance and/or closing costs. There are other opportunities for us to look at, you know, whether or not we will leverage it from a price perspective. So, you know, whether or not we have lower price or rates in specific areas or two specific customers, Blacks or Hispanics.

The other thing that we also think about oftentimes is just expansion of credit. So, really I have seen some out there from some of the smaller entities that have really embedded SPCP in the form of a product offering. So, whether or not that product offering has higher DTI or, you know, in some cases it might have a lower credit score. There might be higher LTVs. You could potentially, you know, do things like lesser on the two months' requirement of principal and interest payment. But you can definitely, based on the data, and I think, again, data has to be the driver in what you determine, because sometimes you can create something and it does not even meet the needs or you don't see the increase in productivity in those communities or to those customers. So, making sure you understand where those true barriers are, and then being able to build or create something that enables you to be able to address that.

And would I also say, don't be afraid of piloting. When we went out with our SPCP program, we went out and we went specifically into Black communities because that raised to the top when we looked at all of the data components. But Hispanics -- the Hispanic segment was a fast follow. Therefore, you know, I would say six months ago, with our correspondent program, we not only went into Black census tracts but we went into Hispanic census tracts but we did it in a more intentional way. We went into specific markets. We are looking at that now from a consumer originals perspective. So, again, always being able to be in position to be able to pilot, see the effectiveness or if it's a lack of effectiveness, the things that you can do differently. In some cases people have said, why don't you increase your grant program from 5000 to 10,000. I mean, those are all things that we have the opportunity to look at. But I think the main thing is just starting and giving yourself the opportunity to see, gain some learnings and adjust accordingly.

CASHAUNA HILL [1:15:20]: Thank you, Cerita. Frank, did you have something to add?

FRANK VESPA-PAPALEO [1:15:23]: Sure, yes. A couple of other examples and just, sort of, first of all say that because special purpose credit programs by law do not get approved or disapproved by any government agency, there's no, sort of, one list where you can go to see where they are, where they exist. Okay?

So, many institutions keep confidential programs that -- product offerings that really satisfy the special purpose credit program requirements. And others are very public and open about them. So, there's no, sort of, single place where you can find this information out, like a comprehensive list of every special purpose credit program that exists, that does not exist, to my knowledge, because no agency actually approves, has to have a stamp of approval for the programs or disapprove them. So, that's one.

If you look at the regulations- the regulation B, which is 12 CFR -1000 - 1002.8, in that part of the regulation about special purpose credit programs there's staff commentary which actually gives some examples of special purpose credit programs that would satisfy certain elements of the requirements. So, here, too, one is an energy conservation program to assist the elderly. In that circumstance the creditor can ask the applicant's age since it's- limited to the elderly.

Another example is a program under the minority enterprise small business investment corporation. And you can consider the applicant's minority status as a small business owner there.

So, sometimes there are clues by looking at the regulation, the commentary to the regulation of examples. If folks want to dive a little deeper, there's a place to look for that.

CASHAUNA HILL [1:17:29]: Thanks, Frank. Thanks, Cerita for your insight as well.
Our next question is about the design of SPCPs. And we have actually gotten this question from a couple of attendees. And I know that our speakers, you all have mentioned examples of SPCPs that are based on the population of the census tracts, right? So, for example, some of you referred to programs that benefit or are designed to benefit majority people of color census tracts.

And the question is whether SPCPs can be restricted to individuals of certain races or national origin, rather than at the census tract level. And would those kinds of programs that are based on or restricted to the race or national origin of the individuals, would those kind of programs pass muster under ECOA and/or the Fair Housing Act?

CERITA BATTLES [1:18:47]: I will start. And I think I mentioned this in -you know, in my comments. You can do that. I mean, you can restrict it to the race of an individual or the ethnicity of an individual. What I would say from a lender perspective, and I can only speak from a lender standpoint, very difficult- to track and operationalize that. And the reason being is because when the application is done, typically a lot of our applications today are done online. Very few are done face to face with the customer, just because of how, you know, our industry has changed.
As a result of that, as well as a bit of distrust that is still out there, that's a myth that needs to be dispelled, but there's distrust out there that a lot of, and I would say minority customers, whether this be Black, Hispanic, I have also seen others, within other segments that have selected to choose on that application does not wish to furnish. You can't make it up. So, if they

choose does not wish to furnish, you can't go back and try to get them to give you that information.

Now, obviously, if it's face to face then from a regulatory perspective we have to be able to say as a loan officer, because of, you know, I have to be able to - if you're not giving me this information and I have to be able to articulate, you know, what race I think you are, we don't have that as much today because a lot of it is digitized and online. So, when those customers -select -you know, choose to select does not wish to furnish, it's very difficult to ensure that the purpose of the program or the beneficiary of the program receives it. So, that's one of the reasons why we selected to go into minority tracts, Black tracts, Hispanic tracts to ensure that we could track that if anybody purchased a property in this particular tract, we had the ability to track it and ensure that they received it. So, from a technology standpoint, that's easy. -Right?

The other part is more difficult. So we started here. It's not to say that we stay here. But this is where we started, unless we can come up with tools and other things, other mechanisms to be able to identify it more holistically by race.

That's our best means of being able to do it and we have seen benefits in doing it that way, especially when you're in markets where it's 50% or more that are living in that particular market. And in other cases we have looked at lending tracts where 50% or more that are Black or Hispanic are choosing to purchase. So, we looked at both. And as a result of that, we were able to incorporate both into our SPCP plan.

CASHAUNA HILL [1:21:56]: Thank you, Cerita. I think that's great. Sasha or Frank, anything additional to add? No?

SASHA SAMBERG-CHAMPION [1:22:09]: I would defer to Frank on this, just because, as I said before, you know, we are going to look to the CFPB to be the primary regulator who says what is and what is not lawful under ECOA. So I will leave it up to him.

FRANK VESPA-PAPALEO [1:22:27]: Sure, thank you, Sasha, and thank you-- oh, did I --okay. I'm on. Sorry I was having an issue with the mute button.

The provisions of reg B do allow the class of persons to be targeted to be very broad or very narrow. So certainly, you know, it is a common practice where I have seen it enough times that the community impacted by the special purpose credit program is based on a census tract. That certainly is an understandable, you know, strategy. But it can be targeted to specific class of persons based on their race. That's explicit in regulation B or any characteristics, whether it's race or age or sex. So, we have seen programs targeting women business owners. So, the lender finds ways to verify that those that participate in the special purpose program are women business owners. There are a number of ways to verify that.

I do think it is incumbent upon the institution to develop the program. But there are ways that some institutions are finding even in this environment of online lending, to find the tools and the mechanisms to verify who is actually participating in the programs that they set out. Because as was said earlier, demonstrating that if it works or doesn't work is something that is required as part of the program, right? Because you may recall one of the requirements is setting forth the duration of time that the program will exist. So- and the reason is to then assess, after that period of time, whether what was intended actually happened. Did we see more lending in that community to that particular targeted, you know, group or not? And if not, adjustments can be made. And if so, you know, extensions can be added as well.

So, it gives a lot of flexibility to institutions. So, I would just want to see if folks are interested in this a little bit more, that, again, the details of how this works out are contained largely in this advisory opinion from December of 2020, and I recommend that you take a look at that and read that closely, because that gives you more examples of the types of ways that it's worked out.

CASHAUNA HILL [1:25:35]: Great. Thanks. And thank you, Frank, for that reminder that there are other bases on which to build these programs other than race, giving us that larger view is helpful. I am, though, going to narrow us back down and ask another question about the topic of race when it comes to these program design because that's where the majority of the questions are.

So, Cerita, I'm sorry, because I feel like you have been on the spot a lot. But aid like to start with you again and ask you about gentrification or displacement concerns, right? And so, I would guess that this is something that you all have thought about at JPMorgan Chase in developing the program.

So, a question from an attendee is whether JPMC is at all ensuring in any way that SPCP participants in majority Black or majority Latinx neighborhoods are not white borrowers who may be contributing to displacement and gentrification. Is that kind of analysis happening with regard to the program at your institution?

CERITA BATTLES [1:26:58]: The answer to that question is yes. And I'm, actually, responsible for that. So, as the head of community and affordable lending and having a strategy team that is embedded in home lending, these are the things that we look at. We look at the effectiveness of the strategies that we deploy.

What I will say in this particular space, this is always a subject of conversation. It is always a question that comes up. And it is always something that we look at on -and we tend to look at this on a weekly basis. So we are always looking at the applications, the fundings that we have in this space. We look at them by MSA to make sure, are we seeing the increase that we are expecting, particularly from Black- and/or Hispanic customers?

I will say to you today that I would say closely somewhere between 57 to 60% of our SPCP has gone to Black and Hispanic customers with our focus on minority tracts and that's a national percentage. So, we are doing fairly well. But this is market by market. Some markets are at 70 to 80%. Some markets are at 30 to 40%. So, what we are seeing is there's a differentiation in those marketplaces.

The other thing that we are also recognizing is we are trying to dig deep to say, okay, so why is that? Is it truly gentrification? Because, again, the census only comes out every 10 years. So, everybody is anxiously waiting on 2020. So, that we can see what changes, so on and so forth. And therefore, our plan may need to change as a result of the 2020 census.

But the other thing that is also critically important is when we look at the effectiveness of the strategies, we also have to look at our infrastructure. So, I said that we rolled this out into 6700 tracts. Our bank is only there as far as brick and mortar, our banks are probably only available in maybe 250 of those tracts. So, although we spread a large- we casted a large net because, again, we knew this was a huge opportunity for us to lean in and advance minority homeownership. We are only in a certain segment of those markets where you have the people, the presence, the partners, all of- those different things.

What I will tell you is when we have that multifaceted approach, we see an increase specifically in those Black and Hispanic communities and we also see uptick to Black and Hispanic customers or borrowers. So, again, depending on how you're situated in the community and this is one thing that I will say because this is a lesson learned. We just rolled this out a year ago. But one of the lessons learned is that you got to have infrastructure to support the SPCP program because those are the folks that ensure that they are talking to the right people, they are out there marketing and outreaching. They are having home buyer seminars with the nonprofits and things of that nature. They are educating people about the SPCP program. So therefore, you see more Blacks and Hispanics receiving the program versus the other.

So, again, there is this possibility that there is others that are in the majority segments that are receiving this. But I think the other piece that I am also mindful of is not only are we meeting the needs of the Black and Hispanic customers, we are also stabilizing minority communities. So, again, I think it's just having that balanced approach around the community that they are living in and then also making sure that we are serving those that are choosing to stay within those communities. And if they are seeking to move out into other communities, we are also looking at expanding our program with that. So, if they are currently living in a community or a minority community and you happen to be Black and Hispanic and you move out of that community or it's just someone that lived in a minority community and they moved out into a majority community, does that $5000 grant follow them. And those are certain things that we are continuously looking at, as not so much whether or not we want to implement it. But can we operationalize it and track it appropriately. So, those are all of the key components that you have to do or have to make sure that you -that you're validating- throughout your usage of SPCP is the tracking is just as critical as the offering.

CASHAUNA HILL [1:31:41]: Great. Thank you so much, Cerita. And now, Sasha, I will move the heat over to you for just a bit. I'd like to start with you about whether financial institutions need to check in with HUD and Frank also I would like to ask you if financial institutions need to check in with the CFPB before they implement any special purpose credit programs and if the answer is no, if institutions don't have to check in with HUD or CFPB, is there someone within these agencies that institutions can speak with to get feedback on program design?

SASHA SAMBERG-CHAMPION [1:32:30]: The answer, yeah, the answer to the first question is no. There's no requirement to talk to HUD, to CFPB or to anybody else before you set up a special purpose credit program. And none of us are in the position of approving in any formal way what you are doing.

Now, is there somebody to talk to? That is something that we have been- I will just say that we have had that under discussions and the answer is right now I will say I don't know. And I will say I don't know because we are being very careful about whether we want to have people come to us preemptively. That is, sort of, under discussions. So- I will leave it at that right now.

I know that other agencies have been more out there in terms of having lenders come to them with -even on an informal basis. We are not the primary regulator of lenders and we don't want to put ourselves in a position where we are being looked at as primary regulators. So- I will leave it at that.

CASHAUNA HILL [1:33:36]: Great. Thanks, Sasha. Frank, from your side, do institutions have to talk to CFPB before they implement these programs and is there anyone at CFPB that they can speak to before implementing these programs?

FRANK VESPA-PAPALEO [1:33:52]: That's a great question. That's, actually, a little bit of something that's addressed in the interagency statement that I referred to. The interagency statement encourages institutions that have a question or organizations because I'm from the financial institutions, it could be a nonprofit organization that wants to partner with a financial institution, for example. If they have questions, the financial institution should contact their primary regulator. So, whether it's the NC way, if it's a natural credit union, whether it's the OCC or the FDIC or the bureau. There are mechanisms and this does happen at times where institutions, through their supervisory, confidential supervisory process, you speak to their bank examiners about their special purpose credit program ideas that they are about to implement and sometimes after it's been implemented, they, you know, provide briefings about what they are looking to do with the program. So, there are lots of ways to communicate to their regulator. And that's certainly not discouraged. It's part of the general process of engaging with the regulator about all aspects of compliance with all the different regulatory provisions that they have.

So, the bureau does have folks that they would contact. The bureau's supervisory authority differs -I mean, differs. So- we have supervisory authority over large institutions that are 10 billion or more. Other regulators have supervisory authority of different sized institutions so they would know who their regulator is, depending on the type of institution and the size of the institution and the nature of the organization itself. They should feel comfortable to contact their regulator. That's one of the call-outs in the interagency statement, is inviting any institutions to contact their regulator to talk about special purpose credit programs and if they contact the bureau, ordinarily that would be through that process. They would contact their regulator point of contact at the bank -from the bank to the bureau-.

So, that really is encouraged, not required. There's no -as Sasha said, there's no requirement to even let us know or let any agency know that an institution is embarking on the special purpose credit program. There's no list, there's no approval required- or no list of who has special purpose credit programs unless you happen to know about them.

CASHAUNA HILL [1:36:55]: Thank you both. Moving on, we have a question about what kinds of protection will be offered to financial institutions with an authorized SPCP if and when they are subjected to discrimination complaints being filed with HUD.

But I read into that question an assumption that these kinds of complaints will be filed. So, Sasha, I would like to start with you about whether, if you know, HUD has received so far any discrimination complaints related to special purpose credit programs. And then also if you know whether there will be any protections for financial institutions on the basis of these programs.

SASHA SAMBERG-CHAMPION [1:37:47]: The answer to the first of those questions is that as far as I know, we have never received a Fair Housing Act complaint challenging the lawfulness of a special purpose credit program. Any fears that a lender might have about getting involved in this, at least from the HUD perspective so far are- there's no evidence to support it. No one has even filed a complaint of that sort, let alone had it adjudicated- by HUD or investigated by HUD in any fashion.

Now, if we -- if we were to receive such a complaint, that's where the guidance that we issued, I think, is very important, because that guidance makes clear that HUD is generally not going to view these as discriminatory under the Fair Housing Act. So, I think a lender would have very easy recourse to get that addressed, assuming that they are, in fact, in compliance with the ECOA, as I described.

CASHAUNA HILL [1:38:49]: Thanks, Sasha. And, Frank, I would like to pose the same question to you. Are you aware of any complaints that have been filed with the CFPB against an institution that has implemented a special purpose credit program?

FRANK VESPA-PAPALEO [1:39:05]: I'm not aware of any complaints that have been failed with the bureau alleging that an institution did something illegal because- as a result of a special purpose program. That doesn't mean we haven't received anything. I think since the bureau's founding a little over 10 years ago, we have now received over 2 1/2 million complaints. So, it's- possible, but I'm not aware of any.

I would say, you know, similar to what Sasha said, a provision in the law, in the regulation under

ECOA that may declare that a properly done special purpose credit program that's compliant with ECOA and reg B will not be discrimination. I would caution one thing, though, as I said earlier, one thing that's important is the SPCP is for the benefit of an economically disadvantaged person or group to meet social needs. So, it's really important that the institution- I mean, you can imagine a scenario, I don't know if this happened or not- but you can imagine a scenario where a program was created under- in a sense, false pretenses, right? Where the data was not accurate- that they relied on. So, the work -the documentation necessary to support the creation of the special purpose credit program wasn't really valid. So, the program itself, I could imagine, could be problematic in that kind of a scenario. So, I don't know if that's happened or not. Again, I don't know this from any personal knowledge but I can imagine that being a scenario, being a lawyer, coming up with -every kind of version of what could go wrong, that could go wrong.

And also if you can imagine a scenario where you set up a program and it turns out to be a predatory program and it ends up at the end of the day harming those that it was intended to help, and the institution not being aware of sufficiently enough what harm it was creating by establishing the program with the procedures and the process or not monitoring it sufficiently to know whether it's working or not. So, it could go awry. But I haven't seen any complaints about it. But I can imagine that being a problematic issue that an institution should be very careful of. That's, I think, why being careful -you know, carefully consulting with counsel and compliance officers and personnel is very important- so that --avoid those concerns in the future.

But no complaints that I'm aware of. But I could imagine there being some.

CASHAUNA HILL [1:42:14]: Thanks, Frank. Cerita, from your perspective, actually, you know, working with these kinds of programs, are you aware of institutions that are fighting off lawsuits related to implementation of special purpose credit programs?

CERITA BATTLES [1:42:33]: No, I'm not aware of any. I know there are a lot that want to, but, you know, are concerned about how to, right? So, haven't heard of anything. And I think, you know, one of the other things, and I would just say this for anybody that is working with a lender or if the lender is on the fence about this. I think one of the things to leverage is to make sure that you're talking to your legal teams, your office of - you know, we have our Office of Fair Lending and compliance. So, you know, when we did this, it was a village. We came together collectively to make sure we were dotting all Is and crossing all Ts as much as we possibly could. And we developed a written plan that we always refer back to. Because if we begin to do something that is out of scope of that written plan, that written plan stops us. Again, just being very intentional, making sure that you leverage all of the support and the resources that you have around you. Making sure that you also talk to some of your -outside - there's- outside counsel, there's outside nonprofit organizations and advocacy groups that can also give you some insights and some thoughts around these types of things. But making sure you leverage your village and stay in scope of your written plan. You do those things appropriately, I think you cover yourself. And then just remember the data always leads the way. That's part of your written plan. If you start getting outside of yourself and it's not the data that's moving you but more of an emotional type thing, you might find yourself in trouble.

So, again, just leveraging your resources and executing your strategy.

CASHAUNA HILL [1:44:18]: Thank you, that's helpful. Thank you all. I would like to ask a question now about how these programs might apply to tribal members, actually. So, the question is from an attendee who works with many tribal members who have shares in trust status land which is land that is either owned by a federally recognized tribe or tribal member and the title to that land is held in trust by the U.S. federal government.

So, according to the attendee, these land shares amount to no asset, benefits or access to credit improvement. And due to the number of shareholders, oftentimes no opportunities exist for building on the trust land. So, the attendee states that it would be very beneficial for tribal members to have access to credit and funding to mediate among shareholders in order to increase home building and homeownership in Indian country.

Are any of you aware of any credit and/or lending programs that can work with tribal members who hold shares in trust land? I know that's very specific. But did want to ask whether any of you are aware of any of these programs working to benefit tribal members or indigenous folks across the country.

CERITA BATTLES [1:46:03]: Go ahead, Frank.

FRANK VESPA-PAPALEO [1:46:04]: No. Go ahead, please, after you.

CERITA BATTLES [1:46:06]: I was going to say in a lender perspective, the one program that I am aware of and I don't know -I don't think it's an SPCP but it's- dedicated to tribal land usage or purchases or building on tribal land, which is HUD1 84. And we do have usually some lenders that are participating in that, most of which are very local to the areas where you have tribal land or tribal country. So, again, that's- what I know about.

And then the other thing that I would say is, and I think Frank said this earlier, so when we were thinking about a special purpose credit program being able to leverage data, insights and inputs that really speak to the purpose of you leveraging special purpose credit, being able to reflect that the market is underserved, those customers, those communities are underserved, but being able to, you know, again, pull together that written paper that speaks to that. It would appear to me that SPCP could be utilized in that space. I think for me it's a takeaway, because I think right now our focus has been primarily on Black and Hispanic homeownership which aligns to our commitment, which also aligns to when we are looking at homeownership rates and things of that nature, just in fee simple land, there's a -you- know, they are being underserved. So, the focus has been in that area, but I think that that's a takeaway for us to, you know, potentially do some research and see whether or not there are other things that we can do.

Today, we don't participate in HUD 184. But, again, I know that there are other lenders that are closer to tribal land, tribal country that are participating in that particular program that could be correspondent lenders of ours. But today I am not aware or sure of, you know, what that may look like from a JPMorgan Chase perspective.

CASHAUNA HILL [1:48:16]: Thank you, convene. Frank, did you have something to add?

FRANK VESPA-PAPALEO [1:48:22]: Sure. To answer the question directly, no, I'm not aware of a specific special purpose credit program usage in that context. Though, I do believe that the law regulation B would permit, you know, a special purpose credit program to advance lending in Indian country. I don't know about the specifications of that detailed program that you were suggesting. But it's definitely a worthy, you know, thing to consider.

There is an entity at the -in terms of, as Cerita was mentioning, conducting research to support the establishment of such a program, there is an entity I'm aware of at the Federal Reserve Bank of Minneapolis called the center for Indian country development and they do quite a bit of research in Indian- -regarding issues in the Indian- country, not just lending issues, but also different issues. So, there might be some research that they have done that could serve as a basis or jumping off point if something is interested in opening up or considering an SPCP to address that particular community-. That would be a place to start, I would suggest.

CASHAUNA HILL [1:49:42]: Great. Thank you. So, we have got time for just a few more questions and I do have what I think will be a quick one. Is there a resource that people can check out that lists which institutions offer special purpose credit programs. Is anyone aware of a resource like that?

FRANK VESPA-PAPALEO [1:50:06]: I am not aware of that. As I mentioned earlier, since there is no requirement for the federal government to approve a special purpose credit program, I am not aware of anyone, sort of, that's maintained a list of those. There have been news reports, obviously, of certain institutions that have established programs. So, no, there's no --to my knowledge, there is no such lists or resource like that, you know, kept.

SASHA SAMBERG-CHAMPION [1:50:44]: I would say the same thing but I also want to take- and that's something that greatly hinders the moving forward in this field that so much of it is happening in ways that are hard to collect all the information. So, I, actually, want- to take a moment to give a shout-out to Cerita and JPMorgan Chase for the fact that they are doing this in such a transparent way and sharing their -what they are doing and what they are thinking about. I actually think it's very, very important that you're doing that. So, I just wanted to say thank you.

CERITA BATTLES [1:51:18]: Thank you.

CASHAUNA HILL [1:51:22]: Great. Thanks. Thank you, Cerita, were you going to jump in with regard to the question about a resource or --

CERITA BATTLES [1:51:32]: No, I don't know of any. But I will say this. There are several lenders that are participating on different collaboratives. Whether it's the OCC project reach, whether it's the national housing conference Black collaborative. I think those are the two that I know I'm participating on. I know the Mortgage Bankers Association. Everyone is trying to collect insight and intel around this. Several lenders are a part of those collaboratives that are either participating in SPCP or considering it. So, those are three entities that I think that may be helpful or helpful resource where they may be aware of those that are participating and those that are considering to participate.

CASHAUNA HILL [1:52:24]: Thank you, Cerita. Sasha, as we get close to wrapping up I would like to pose a question to you about affirmatively further Fair Housing. As I'm sure you know, some municipalities are currently seeking ways to address and redress their historic exclusion of Black and brown people from homeownership opportunities with race-based policies that specifically benefit those community members.

Do you have any thoughts about whether HUD might issue guidance that specifically speaks to these kinds of policies anytime soon?

SASHA SAMBERG-CHAMPION [1:53:12]: I am not going to promise guidance on that any time soon. I will promise you that we will have in relatively short order a notice of proposed rulemaking regarding the sorts of planning in particular that municipalities and other recipients of HUD funding are going to be required to do in order to satisfy their AFFH obligation.

I will say a couple more things with respect to the way you posed that question. The first is, I will just say as a lawyer, I will remind people that if a governmental entity were to itself offer one of these programs, it adds AOL legal overlay which is the question of whether any of this is constitutionally permitted which is something that is not at play with respect to private entities offering the programs.

I don't know that anyone has done an analysis regarding what that overlay adds to it, but I will just make sure that you are aware of it. If it's being done directly by a governmental entity.

But the second thing I would say is I think the AFFH planning process is likely to be a type that would really move the ball down the field in terms of thinking about a special purpose credit program in that you would have a good way of assessing the needs of the community in a lot of areas, including a lack of credit and a lack of homeownership opportunities. And that's the kind of thing that could lead one to explore ways to see to it that SPCPs are established.

CASHAUNA HILL [1:54:52]: Thank you, Sasha. Frank, did you have anything to add about that affirmatively further Fair Housing? I'm asking because I saw you take yourself off mute, so --okay. Great. Not to put you on the spot and ask you to become an affirmatively further Fair Housing expert. I did not mean to do that.

Our last question, I would like to just ask you all, we have been talking about these programs and how they can be so beneficial. And I think it might be helpful before we wrap up to share information about the scope of these programs.

Cerita, I know you have spoken to this on some level. But do you all have any information to share about how many individuals have been served by SPCPs over the past two years? What kinds of beneficial impacts have been made in communities across the country? Are there regions of the country where the programs are more heavily or less heavily utilized and are there any areas for improvement? Just wanted to pose that last question about the impact that these programs are actually having. If anyone would like to share.

CERITA BATTLES [1:56:07] So, my overarching statement would be that these programs are impactful if intentional, right? So, that's the first thing that I would say.

The second thing is, I can speak in terms of JPMorgan Chase and the fact that we rolled this out last year. So, when we rolled this out last year, what's important, because of the specificity of the program and the uniqueness of the program, what was very important for us is to make sure that we educated our internal folks, as well as our loan officers and others, because although this was a grant, it can be a bit uncomfortable to say that this grant is only available in minority communities or in Black census tracts, so on and so forth. So folks were not willing to go out and talk about it as much because they didn't really understand the program.

And then there were also some myths that we had to bust about the program as well. So, when you're able to do that and folks understand the purpose and the reason behind what it is that you're doing, and so there may be some data points that you have to call out. But when folks understand that, I think we have seen tremendous progress. It didn't start, once we opened a special purpose credit program in January it wasn't that the floodgates opened and people came it wasn't like the field of dreams. It wasn't like that. So, we had to truly educate along the way. And even in some of the markets, what do you mean? You're just going to give me $5000 for purchasing this property? Like, what's the catch? So, there's a lot of education that you have to do both inside the house and outside of the house to be able to make a difference.

I will say that just based on what we have done and what we have seen over the last year, is we have been able to serve close to about 2,000 households as a result of this. And, again, it continues to grow. As we continue to leverage our partners, like realtors, you know, making sure that the properties that they have available in these markets, just putting a sign out in the yard to say, this property qualifies for $5000 is an opening. Builders, nonprofits, all of those, but just working together with all of them is the opportunity that we have to do more in this particular space.

So, again, we have seen some success. But we expect to see much more as we get acclimated and really grounded in the markets that we are serving.

CASHAUNA HILL [1:58:38]: Thank you so much, Cerita. Sasha, Frank, anything to add?

SASHA SAMBERG-CHAMPION [1:58:44]: No, just thank you for a great job moderating.

CASHAUNA HILL [1:58:47]: Thank you. I have to say I was slightly terrified because today's conversation because I don't know very much about this area at all. And now I feel like an expert (chuckles). So, I would like to thank you all for your time, your candor, and your insight today. Each of your presentations and remarks today have been so informative and I know I have certainly learned a lot and I hope that all of our attendees have learned a lot as well. With that, we will have to close out today's discussion again to our esteemed panelists, it has been a pleasure to speak with you and learn from you today.

Thank you all to our attendees for your participation in today's conversation. We hope that you will join us for the next event. Please check out the NFHTA website for a description and for important information on registration for upcoming forums. Please also connect with the national Fair Housing Training Academy on LinkedIn for insights and information about upcoming events, including future forums and courses. Thanks to everyone who made today's event possible, including our panelists, our tech team and, as always, our interpreters.

Finally, please be on the lookout for a survey which will pop up when this training ends. The survey will allow all of our attendees to provide feedback on today's event. Your feedback is critical to improving these forums and it shouldn't take you very long to complete this anonymous survey. We highly value your input.

Thank you all again. And we look forward to seeing you on the next NFHTA forum. Take care.