Duty to Serve

Evaluation Guidance

2018-2020 Plan Cycle

Guidance 2017-2

Table of Contents

Overview

The Housing and Economic Recovery Act of 2008 (HERA) established a duty for Fannie Mae and Freddie Mac (the Enterprises) to serve three specified underserved markets — manufactured housing, affordable housing preservation, and rural housing — by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for mortgage financing for very low-, low-, and moderate-income families in those markets.

Under the Duty to Serve regulation that implements this statutory requirement,[1] each Enterprise must prepare an Underserved Markets Plan (Plan) describing the specific activities and objectives it will undertake to fulfill its Duty to Serve obligations in each underserved market over a three-year period. This Evaluation Guidance (Guidance) describes the procedures the Enterprises will follow in preparing these Plans, the standard for FHFA issuance of a Non-Objection to the Plans, and the process by which FHFA will evaluate the Plans annually to produce a rating for each Enterprise's impact on each underserved market. This updated Guidance replaces the draft version released for public feedback in January 2017.

FHFA's Evaluation Guidance Objectives: In developing this Guidance, FHFA is seeking to balance several objectives. First, FHFA wants the Enterprises to develop meaningful Plans that help the three underserved markets over a three-year time period. Second, FHFA wants the Enterprises to carry out innovative strategies that make an impact in the underserved markets. Third, FHFA wants to provide transparency to the public, Congress, and the Enterprises about the way in which FHFA will evaluate the Enterprises' performance on an annual basis. Fourth, FHFA wants to build in sufficient flexibility in the design of this Guidance in recognition that the Enterprises' Plans and FHFA's evaluation approach are new processes. To this end, certain changes throughout this Guidance allow for greater flexibility in earlier Plan and evaluation years. FHFA also recognizes that given the new nature of these processes, it may be appropriate to make modifications to this Guidance during the three-year Plan cycle. Any changes to the Guidance would need to balance the objectives described above. FHFA will continue to evaluate how to best balance these objectives and will make changes to the Guidance as appropriate.

Evaluation Guidance Components: There are two major sequential steps involved in implementing the Duty to Serve regulation: (1) implementation by the Enterprises of the activities and objectives described in their Plans; and (2) FHFA annual evaluation of the Enterprises' performance under their Plans. An overview of each step is provided below:

1. **Implementation of the Underserved Markets Plans and Reporting Requirements.** Once an underserved market section in a Plan is in effect after receiving FHFA's Non-Objection, each Enterprise will implement the activities and objectives described in its Plan to meet the needs of that underserved market. Each Enterprise must submit a quarterly report to FHFA within 60

[1] 12 CFR Part 1282

days of the end of the first, second, and third quarters of the calendar year describing its progress in implementing the activities and objectives in its Plan. Each quarterly report must include detailed year-to-date information on the Enterprise's progress as required by FHFA, supported by appropriate transaction level detail. Each Enterprise must submit an annual report to FHFA within 75 days of the end of the calendar year providing, at a minimum, information on all activities and objectives undertaken during the year, including the context necessary for FHFA to evaluate the Enterprise's achievements.

FHFA will make certain information from the quarterly and annual reports available to the public, omitting any confidential and proprietary information and data, at a reasonable time after the end of a Plan year.[2] Additional information regarding these public releases of information from the Enterprises' Duty to Serve reports is described in 12 CFR § 1282.66(d).

2. **Annual Evaluation of Enterprises' Performance**. Upon receipt of each year's annual report from an Enterprise, FHFA will conduct an evaluation of the Enterprise's performance under its Plan pursuant to the requirements of the Duty to Serve regulation and the guidelines specified in Chapter 2 of this Guidance.

   Based on this evaluation, FHFA will provide feedback to each Enterprise on its performance and issue one of the following ratings for each underserved market: Exceeds, High Satisfactory, Low

[2] The only exception to this policy is that in the third year of a Plan, FHFA will make certain information from that year's second quarter report available to the public, omitting any confidential and proprietary information, at a reasonable time after receiving it within the calendar year. This will provide the public with information on the third Plan year as the Enterprises propose and revise their Plans for the next Plan cycle.

Satisfactory, Minimally Passing, or Fails. The first four ratings demonstrate compliance with Duty to Serve requirements, listed in order from highest to lowest rating.

The balance of this Guidance covers the following topics:

- Chapter 1 provides guidance on the process for developing the three-year Plan and FHFA's standard for issuing a Non-Objection to the Plans.

- Chapter 2 describes the process by which FHFA will evaluate the Enterprises' achievements under their Plans each year.

• • •

Chapter 1 Developing Underserved Markets Plans: Contents and Considerations and FHFA Non-Objection Standard

Overview

This Chapter describes the requirements applicable to the Enterprises' Plans, as well as guidance on how to develop effective Plans and FHFA's standard for issuing a Non-Objection to the Plans. It covers the following topics:

- **Plan Structure** – This section describes the overall structure required for the Enterprises' Plans. Each Plan must be divided into separate sections for each of the three underserved markets. Each of these sections must, in turn, include subsections covering: Strategic Priorities Statement, Statutory and Regulatory Activities Considered but Not Included, and Activities and Objectives. The Plans must also include a certification from a senior executive officer of the Enterprise who is responsible for submitting the Plan to FHFA.

- **Plan Contents** – This section provides more details on each of the required subsections, including the requirements applicable to objectives, which must be strategic, measurable, realistic, time-bound, and tied to an analysis of market opportunities (referred to as "SMART" criteria). This section also describes which activities qualify as contributing to residential economic diversity for purposes of awarding extra Duty to Serve credit in the evaluation process.

- **FHFA Non-Objection Determination** – This section provides detail on the standard that FHFA will use to issue a Non-Objection for each underserved market.

- **Plan Process** – This section describes the opportunity for the Enterprises or FHFA to modify the Enterprises' Plans. This section also describes how the Enterprises may protect confidential and proprietary information and data included in their Plans.

- **Additional Guidance for Plans** – This section describes best practices for preparing effective Plans. This section also describes areas in which additional research and development would be useful for meeting underserved market needs, which could be included in an Enterprise's Plan.

Plan Structure

Each Enterprise shall prepare a Plan that describes its planned actions over a three-year period to meet the needs of the three underserved markets: manufactured housing, affordable housing preservation, and rural housing. Each Enterprise's Plan should be divided into three underserved market sections, and each of these three sections should cover the three-year Plan period. FHFA will evaluate an Enterprise's actions annually under the activities and objectives for the applicable underserved market.

The following three subsections should be included in a Plan for each underserved market:

1. **Strategic Priorities Statement** – A brief summary of the Enterprise's strategy and rationale for how the activities and objectives in its Plan will serve the underserved market.

2. **Statutory and Regulatory Activities Considered but Not Included** – A discussion of the Statutory and Regulatory Activities the Enterprise considered but will not undertake in the Plan for the underserved market.

3. **Activities and Objectives** – A description of the activities and objectives the Enterprise will undertake in this Plan cycle to meet the needs of the underserved market.

Each of these three subsections is described in more detail below under Plan Contents. In addition, in the final version of its Plan, each Enterprise must include a certification from a senior executive officer responsible for submitting the Plan to FHFA stating that, to the best of his/her knowledge and belief, the Enterprise's historical information used to set baselines and targets in the Plan is true, correct, and complete.

Plan Contents

1. Strategic Priorities Statement

Each underserved market section in a Plan should begin with a strategic priorities statement that articulates the Enterprise's approach for addressing the needs of the underserved market through the activities and objectives included in the Plan. The statement should provide a rationale for all major decisions by the Enterprise on how it intends to serve the underserved market. The statement should include a description of how any public input informed any of the Enterprise's decisions for the underserved market.

2. Statutory and Regulatory Activities Considered but Not Included

While no single Statutory Activity or Regulatory Activity is mandatory, an Enterprise is required to consider a minimum number of Statutory or Regulatory Activities for each underserved market, as designated by FHFA in this Guidance.[3] To "consider" an activity, an Enterprise must either choose to include the activity and related objectives in its Plan or explain in its Plan the

[3] For reference, a table of activities that have been identified as Statutory Activities or Regulatory Activities is provided in Appendix A.

reasons it has chosen not to undertake the activity. The minimum number of Statutory or Regulatory Activities for each underserved market in this Plan cycle is set forth below:

- **Manufactured housing:** The Enterprises must consider and address in their Plans all four of the Regulatory Activities identified for this market.
- **Affordable housing preservation:** The Enterprises must consider and address in their Plans at least seven of the Statutory and Regulatory Activities identified for this market.[4] FHFA selected this number to reduce the potential burden associated with considering all 16 of the Statutory and Regulatory Activities for the affordable housing preservation market.
- **Rural housing:** The Enterprises must consider and address in their Plans all four of the Regulatory Activities identified for this market.

For example, if an Enterprise decides to include seven Regulatory Activities under the affordable housing preservation market in its Plan, the Enterprise has satisfied the minimum number to consider for that market in its Plan. By contrast, if an Enterprise includes four Regulatory Activities, two Statutory Activities, and one Additional Activity under the affordable housing preservation market in its Plan, then the Enterprise would need to describe why it is not pursuing at least one of the remaining Regulatory or Statutory Activities.

Explanations of why the Enterprises chose not to undertake certain activities will provide FHFA and the public insight about the market conditions, resource availability, or other factors that influenced the Enterprises' decisions on those activities. These explanations, along with input from the public on the proposed Plans, will contribute to a greater understanding of those activities and their potential impacts and limitations, and may inform FHFA's Plan reviews in the future.

3. **Activities and Objectives**

For each underserved market in a Plan, an Enterprise must fully describe the specific activities it will undertake and their related objectives. An Enterprise has broad discretion to select which specific Statutory and Regulatory Activities it wishes to undertake, and whether to include Additional Activities for a given underserved market. A Plan must include activities in each

[4] The following two statutorily-enumerated activities will not count toward the minimum number of activities that the Enterprises must consider in their Plans under the affordable housing preservation market: the HUD Section 811 program and McKinney-Vento Homeless Assistance programs. Because these programs are not structured to make use of Enterprise support, FHFA does not expect the Enterprises to address these two programs in their Plans.

underserved market that serve all three Duty to Serve income categories[5] in each year of the Plan. Any one activity may serve more than one of the income categories.

A. **Activities**

All activities that an Enterprise plans to undertake for Duty to Serve purposes must be described in its Plan, labeled by name and type (i.e., Statutory Activity, Regulatory Activity, or Additional Activity), and have at least one accompanying objective. The Plan must include a description of how the Enterprise will implement its planned activities and achieve the related objectives.

For any Additional Activity included in a Plan, an Enterprise must explain in the Plan how the Additional Activity will be targeted to meet the needs of a particular segment of the underserved market. In addition, an Enterprise must describe how the Additional Activity ensures that there are adequate levels of consumer protections or benefits to tenants or homeowners that are consistent with the requirements of the Statutory and Regulatory Activities in the Duty to Serve regulation.[6]

The Duty to Serve regulation provides that FHFA may, at its discretion, designate one Statutory Activity or Regulatory Activity in each underserved market that FHFA will significantly consider in determining whether to provide a Non-Objection to that underserved market in a proposed Plan. This provision allows FHFA to encourage the Enterprises to consider certain activities that could require more time and effort than other activities to make an impact on the underserved market. For the first Plan cycle (2018-2020), FHFA has not made such a designation in this Guidance.

B. **Objectives**

Objectives are the specific action items underlying each activity that an Enterprise will carry out to accomplish the activity. Objectives are central to the evaluation and rating process described in Chapter 2. The Plan should include any additional information and analysis that explain how the Enterprise set its target for the objective, as well as the extent to which the objective will have an impact in addressing needs of the specific underserved market in light of the challenges, time commitment, and resources involved. This information will inform and contribute to the objective's concept score discussed in Chapter 2. FHFA will provide the Enterprises with an opportunity to describe their views on the concept scores of the objectives prior to FHFA's determination of final concept scores.

---

[5] The three Duty to Serve income categories are: very low-income, low-income, and moderate-income. Very low-income means families having incomes not greater than 50 percent of the area median income. Low-income means families with incomes not in excess of 80 percent of area median income. Moderate-income means families with incomes not in excess of 100 percent of area median income.

[6] The preamble to the final Duty to Serve rule states that: "Additional Activities that are very similar to a Statutory or Regulatory Activity will be subject to higher levels of scrutiny, recognizing that the protections embedded in those activities have been either statutorily enumerated by Congress, or have been subject to the public comment process in the proposed Duty to Serve rule." 81 Fed. Reg. 96242, 96245 (Dec. 29, 2016).

"SMART" Criteria

Objectives must be strategic, measurable, realistic, time-bound, and tied to an analysis of market opportunities. For each objective, an Enterprise should elaborate in its Plan on how the objective will meet each of these "SMART" criteria, as described below.

Setting Objectives
FHFA will consider each objective and the contextual information the Enterprise submits about that objective in making its Non-Objection decision for the Plan, and in evaluating the Enterprise's performance of the objective under Step Two of the evaluation process.

- **Strategic**. The Plan must describe how the objective directly or indirectly maintains or increases liquidity for the underserved market. This description should explain how the objective is strategic in meeting the needs of the underserved market and to what extent achievement of the objective is likely to have an impact on meeting the needs of an underserved market.

- **Measurable**. The Plan must provide a measurable target for the objective that will enable FHFA to determine whether the Enterprise has achieved the objective.

  <u>Loan purchase and investment objectives.</u> For each loan purchase and investment objective, an Enterprise must provide in its Plan both a measurable target for the objective and a baseline representing measurable past performance by the Enterprise.

  - Baselines. The baseline is a measure of past performance by an Enterprise that will facilitate FHFA's evaluation of objectives. An Enterprise must identify a baseline for each loan purchase and investment objective in its Plan, where available, and justify the methodology used to select it. If FHFA disagrees with an Enterprise's baseline, it will disregard the baseline in its final evaluation of the Enterprise's performance. If an Enterprise does not have the data to determine a baseline for a loan purchase or investment objective when submitting its first Plan for Non-Objection, this will not impact FHFA's initial Non-Objection determination. This will allow an Enterprise to proceed without a baseline for the first year of the first Plan cycle, but would make the objective without a baseline ineligible for partial credit under Step 1 of the Evaluation. However, an Enterprise will be required to modify its Plan for years 2 and 3 to include baselines as they are developed.

    - Among other potentially acceptable methodologies for setting baselines for loan purchase and investment objectives, an Enterprise may use an average of its performance data from the three most recent years.[7] This approach helps adjust for fluctuations in annual activity.

- To be acceptable, a baseline methodology must be based on a close analysis of the underlying causes for observed trends in historical data. For example, if an Enterprise sets a baseline at its level of performance in the most recent year (or a straight line projection from that trend line), the Enterprise would need to explain in its Plan the reasons that the level selected will continue into the future and is not subject to annual fluctuations.

- Partial Credit Depends Upon Baselines. If an Enterprise fails to provide a baseline or fails to adopt an acceptable methodology for setting a baseline for an objective in its Plan, FHFA will not award partial credit for performance of that objective. In future years within the Plan cycle, after an Enterprise has collected enough information to establish a baseline for the objective, the Enterprise could request to modify its Plan to include a baseline so that the objective can be eligible for partial credit.

- Targets. In general, FHFA expects that loan purchase and investment objectives will have measurable targets in each Plan year that represent an increase in action relative to the baseline, and for objectives included in multiple years, will have measurable targets that reflect improvements from year to year. FHFA recognizes that Enterprise targets and their relative change in future years will depend, at least in part, on an Enterprise's previous activity level in a specific loan purchase or investment area. For years in which a target would result in loan purchases or investments that are essentially unchanged from or lower than the previous year, the Enterprise should present sufficient justification in its Plan for why the loan purchases or investments will not increase from year to year. FHFA recognizes that market factors, such as rising interest rates or decreased supply, can impact the level at which an Enterprise's target is set.

- Range. If an Enterprise chooses to provide a numerical range for a target in its Plan, in order to protect confidential and proprietary information, FHFA will presume that the Enterprise has set the target at the lowest end of the range for purposes of evaluating the objective. Alternatively, an Enterprise may provide to FHFA on a confidential and proprietary basis the actual numeric target for that objective. Upon releasing its evaluation results of an objective the following year, FHFA will make public any target that is provided on a confidential and proprietary basis.

- Anticipation of Certain Future Events. In setting targets, an Enterprise should not speculate about the possible effects of certain future events, such as legislative

[7] If using a three-year average, an Enterprise should provide the individual data points for all three years.

changes or recessions, that may or may not occur within the Plan cycle. During the evaluation phase, FHFA will consider any effects attributable to specific events that occurred as potentially acceptable reasons for an Enterprise not meeting a target if the events made the target infeasible. Therefore, an Enterprise should not set a lower baseline or a lower target in its Plan due to the possibility that such future events may occur. FHFA will consider the effects of any such events in evaluating the impact of an Enterprise's achievements in Step Two of the evaluation. Additionally, the Enterprise has the option of requesting a modification to its Plan, at any point, if future events effect its ability to achieve Plan objectives. In submitting the modification to FHFA for consideration, the Enterprise would need to provide a sufficient basis and explanation for the modification.

<u>Outreach and loan product objectives.</u> For each outreach and loan product objective, an Enterprise must provide in its Plan both a measurable target for the objective and a baseline representing measurable past performance by the Enterprise, and the expected level of effort to complete the objective.

- Baselines. A baseline is required for each outreach and loan product objective, where available, but will necessarily be less precise than the baselines for loan purchase and investment objectives due to the differing nature of outreach and loan product development. The Plan must describe the justification for the baseline selected based on past similar outreach or loan product actions by the Enterprise. Baselines for these types of objectives will be used primarily to inform the determination of the preliminary concept score rather than to assign partial credit for the objective in Step One of the evaluation. If an Enterprise does not have the data to determine a baseline for an outreach or loan product objective when submitting its first Plan for Non-Objection, this will not impact FHFA's initial Non-Objection determination. This will allow an Enterprise to proceed without a baseline for the first year of the first Plan cycle, but would make the objective without a baseline ineligible for partial credit under Step 1 of the Evaluation. However, an Enterprise will be required to modify its Plan for years 2 and 3 to include baselines as they are developed.

  - For each outreach objective, the baseline must describe the actions of the Enterprise in the past three years that are similar to the actions associated with the objective. This will enable FHFA to understand the extent to which the outreach objective targets are an improvement over prior years.

  - For each loan product objective, the baseline must describe the Enterprise's current loan product rules or policies that the objective is intended to change or enhance. This will enable FHFA to understand the extent to which the loan product objective targets are an improvement over prior policies.

  - Targets. An Enterprise must describe in detail in its Plan the specific steps it will undertake to achieve the target for each objective. FHFA's determination of a concept score for each objective will depend on the extent to which the Enterprise provides FHFA with a clear understanding of how the individual steps underlying each objective will directly or indirectly improve liquidity for mortgages in the underserved market. If an Enterprise fails to fully achieve a target, partial credit will be awarded in Step One of the evaluation based on FHFA's determination of how much the Enterprise achieved. FHFA may award full credit in Step One of the evaluation if an Enterprise achieves its target in a different manner than described in the Plan. This approach balances the goal of having the Enterprises develop specific Plans available to the public while recognizing that changes in strategy might take place as Plans are implemented. For example, if an Enterprise describes a specific loan product change in its Plan but, as a result of market feedback, decides to make a different, yet comparable, loan product change under a specific objective, FHFA could determine to award full credit under Step One.

- **Realistic**. The Plan must explain how the objective is calibrated so that the Enterprise has a reasonable chance of meeting the objective with appropriate effort within the designated time period in the Plan. This should include the basis for the Enterprise's determination and any analysis of the issue undertaken by the Enterprise prior to setting the objective.

- **Time-bound**. The Plan must identify the evaluation year or years in which the objective will be completed. An objective may cover actions within a single year (e.g., purchasing [X] loans in 2018) or actions over multiple years (e.g., conducting outreach on an existing loan product in 2018 and making a change to the loan product in 2019). For multi-year objectives, an Enterprise should clearly identify the actions specified for each year, along with the specific evaluation areas for each year.

- **Tied to Analysis of Market Opportunities**. The Plan must explain how the objective meets one or more of the market opportunities the Enterprise analyzed and identified in that underserved market and demonstrate how safety and soundness was taken into consideration in developing the objective.

Designating One Evaluation Area for Each Objective

The Duty to Serve statute and regulation require FHFA to evaluate separately whether each Enterprise has complied with its Duty to Serve obligations for each underserved market, taking into consideration four evaluation areas: outreach, loan products, loan purchases, and investments and grants. For each objective included in an Enterprise's Plan, the Enterprise must designate one evaluation area under which the objective will be evaluated. This requirement is intended to ensure that objectives are sufficiently focused and is not intended to constrain the Enterprises' actions. An Enterprise may designate an evaluation area for an objective in one year and a different evaluation area for the same objective in a later year within the Plan cycle.

An objective may receive Duty to Serve credit in more than one underserved market in a Plan. For example, an Enterprise may receive credit under both the affordable housing preservation market and the rural housing market for purchasing loans on small multifamily rental housing in rural areas where the objective meets the Duty to Serve regulatory requirements for both underserved markets. However, if an Enterprise would like an objective to receive credit in more than one underserved market, it should identify the objective in each of the applicable underserved market sections in its Plan, adhering to the "SMART" criteria format.

The description in the Plan of any objective that is identified for credit in multiple underserved markets, including any loan purchases that meet the requirements for two separate markets, should address the impact that the objective will have on each market, so that FHFA can determine a separate concept score for that objective in each market. Cross-referenced activities or objectives that do not provide a comprehensive explanation of how the Enterprise's actions will target the specific needs of an underserved market will not receive a preliminary or final concept score or be considered in FHFA's final evaluation. An objective included in multiple underserved markets will be evaluated separately on its impact on meeting needs within each of the underserved markets.

FHFA recognizes that in some instances a single loan purchase or investment may qualify under multiple objectives within an underserved market. In reporting to FHFA, the Enterprises must identify the number of instances where a single loan purchase or investment qualifies under multiple objectives within an underserved market.

NON-OBJECTION DETERMINATION

The Duty to Serve regulation provides for FHFA to issue three Non-Objections for a proposed Plan – one for each underserved market in the Plan -- after FHFA is satisfied that all of its comments on the underserved market have been addressed. A Non-Objection serves as FHFA's determination that a proposed Plan adequately addresses the needs of each underserved market. Issuing a Non-Objection signals to the Enterprise and the public that the Enterprise can commence actions to serve that market for purposes of receiving Duty to Serve credit.

For an underserved market in a Plan to receive a Non-Objection, all of the following requirements must be satisfied:

1. The average of the preliminary concept scores of all of the objectives in the market over the three-year period of the Plan (unweighted by evaluation area) is at least 30.

2. If the average of the preliminary concept scores of all of the objectives in the market for year 2 or year 3 of the Plan is less than 30 for the given year, then that market section of the Plan must be modified through the Annual Plan modification process to ensure that it will have a meaningful impact on the needs of the market for the given year.

3. Each Plan year must contain a minimum number of Activities that include at least one loan purchase objective with a preliminary concept score of at least 30, as set forth in the chart below:

Minimum Number of Activities with a Loan Purchase Objective Scoring at Least 30

Underserved Market	Year 1	Year 2[8]	Year 3[9]
Manufactured Housing	1	1	2
Rural Housing	1	1	2
Affordable Housing Preservation	4	5	5

4. The Enterprise has demonstrated that it made good faith efforts to evaluate the public input received on its proposed Plan and to incorporate it where appropriate and to incorporate the formal comments that FHFA provided to the Enterprise on its proposed Plan.

C. Extra Credit-Eligible Activities

An Enterprise may receive extra Duty to Serve credit for activities that are particularly challenging to accomplish in an underserved market or that serve a segment of an underserved market that is relatively less well-served. The specific activities that are eligible for extra credit for each underserved market are identified in Chapter 2 and include those that promote residential economic diversity.

Residential Economic Diversity Activities

Enterprise activities that promote residential economic diversity are eligible for extra credit under the affordable housing preservation market. A “residential economic diversity activity”

[8] The numbers for years 2 and 3 were selected using the number of regulatory and Statutory Activities each Enterprise had to choose from in Appendix A as a reference point.
[9] Id.

for Duty to Serve purposes means an eligible Enterprise activity, other than an energy or water efficiency improvement activity or other activity that FHFA determines to be ineligible, that supports financing of mortgages on: (1) affordable housing in a high opportunity area; or (2) mixed-income housing in an area of concentrated poverty. For residential economic diversity to be eligible to receive extra credit, it must be identified in a Plan as either an Additional Activity, and meet the Duty to Serve regulation requirements for an Additional Activity, or as an objective that is specifically identified under a Statutory or Regulatory Activity.[10]

The Duty to Serve regulation states that certain components of the definitions of high opportunity area and mixed-income housing would be further specified in the Guidance. These components are discussed below.

High Opportunity Area

The Duty to Serve regulation defines a "high opportunity area" for Duty to Serve purposes generally as:

> (i) an area designated by the Department of Housing and Urban Development (HUD) as a "Difficult Development Area" (DDA) during any year covered by a Plan or in the year prior to a Plan's effective date, whose poverty rate is lower than the rate specified by FHFA in the Guidance; or
>
> (ii) an area designated by a state or local Qualified Allocation Plan (QAP) as a high opportunity area and which meets a definition FHFA has identified as eligible for Duty to Serve credit in the Guidance.

Difficult Development Areas: FHFA has elected to set poverty rate thresholds for DDAs to qualify as high opportunity areas. For this Plan cycle, FHFA will identify the poverty rate of each census tract within a HUD-designated DDA and only include as high opportunity areas those tracts with poverty rates below 10 percent (for metropolitan DDAs) and below 15 percent (for non-metropolitan DDAs). FHFA selected these thresholds to balance the objective of excluding high-poverty DDAs from its definition of high opportunity area with ensuring that the definition covers a reasonable segment of the population. FHFA considered applying the same poverty rate threshold for metropolitan and non-metropolitan DDAs but elected to apply different thresholds because the poverty rate of non-metropolitan DDAs tends to be higher than that of metropolitan DDAs. While approximately 40 percent of metropolitan DDAs have poverty rates in excess of 10 percent, nearly three-quarters of non-metropolitan DDAs have

[10] For residential economic diversity activities that are Additional Activities, an Enterprise must describe how the Additional Activity ensures that there are adequate levels of consumer protections or benefits to the tenants or homeowners that are consistent with the requirements of other Statutory and Regulatory Activities in the Duty to Serve regulation. 81 Fed. Reg. at 96245.

poverty rates above 15 percent. The national poverty rate in the last five years has ranged from 13.5 to 15 percent.

Definitions from Qualified Allocation Plans: For this Plan cycle, to meet the second component of the definition of high opportunity area, FHFA has elected to use state or local definitions of high opportunity areas (or similar terms) contained in Low-Income Housing Tax Credit QAPs or QAP-related materials that meet the following criteria:

1. The definitions are intended to describe areas that provide strong opportunities for the residents of housing funded through the QAP. Use of terminology such as "high opportunity areas," "very high opportunity areas," "areas of opportunity," "opportunity areas," or "economic integration areas" (singular or plural) can be helpful in signaling this intent; and

2. The QAP describes the location of the areas in sufficient detail to enable them to be mapped and/or includes a list(s) or map(s) of such high opportunity areas.

The states that use definitions of high opportunity area in their QAPs that meet these criteria are identified in Appendix D. A data file of the specific census tracts within these states that meet the Duty to Serve definition of high opportunity area will be posted on FHFA's website. In order to avoid awarding Duty to Serve extra credit for Enterprise activities in higher-poverty areas, FHFA will review these areas and, as discussed above, will exclude those areas that have a poverty rate at or above 10 percent in metropolitan areas and at or above 15 percent in non-metropolitan areas.

<u>Mixed-Income Housing</u>

The Duty to Serve regulation provides that FHFA will specify in the Guidance the minimum percentage of units in a multifamily property or development that must be affordable to very low-income families, or to families at lower income levels, as well as the minimum percentage of units that must be unaffordable to low-income families, in order for the property or development to be considered "mixed-income housing." FHFA determined that minimum thresholds for both affordable and unaffordable units would ensure that the mixed-income housing the Enterprises are encouraged to support is affordable to households at a range of income levels.

For this Plan cycle, the minimum thresholds for mixed-income housing, which were specified in the preamble of the Duty to Serve final rule, are the following:

(i) at least 20 percent of the units are unaffordable to families with incomes at 80 percent of area median income; and

(ii) at least 20 percent of the units are affordable to families with incomes at or below 50 percent of area median income, or at least 40 percent of the units are affordable to families with incomes at or below 60 percent of area median income.

Plan Process

Modifications

An Enterprise may request to modify its Plan at any time during the year, but such requests generally should occur only in special circumstances, such as significant changes in market conditions or annual Plan modifications, and should not be routine. A request to modify the Plan should be accompanied by a detailed explanation of why the Plan modification is appropriate. A request for a modification, even if minor, is subject to FHFA Non-Objection. When submitting a modification request, an Enterprise need only submit the portion of its Plan pertaining to the activities that it requests to modify and not the entire market section or the entire Plan.

Plan modifications should be submitted to FHFA at least 90 days before the end of a Plan evaluation year in order to ensure that they can take effect in the subsequent year. For example, in order to modify its Plan for 2019, an Enterprise would need to submit a request for a Plan modification to FHFA by September 30, 2018.

In an annual Plan modification, an Enterprise might request to adjust the numeric targets for certain objectives in its Plan for the subsequent year based on the accomplishment of certain actions or lessons learned during the evaluation year. An annual modification request should include a comprehensive justification for why the Plan modification is appropriate.

FHFA may also require an Enterprise to modify its Plan during the three-year term. Instances in which FHFA might require a modification include significant changes in market conditions, such as unexpected obstacles or opportunities, or safety and soundness concerns.

FHFA and an Enterprise may seek public input on the Enterprise's Plan modification request if FHFA determines that public input would assist its consideration of the proposed modification. FHFA is more likely to seek public input on Enterprise requests to eliminate entirely an activity or objective from a Plan or to make numerous changes to the Plan, as opposed to requests to modify an objective's specific numeric target by a modest amount.

For a modification request to receive a Non-Objection from FHFA, the Enterprise's Plan, as modified, must satisfy all of the requirements to receive a Non-Objection described above, specifically including that the market being modified will maintain an average preliminary concept score of 30 or higher and includes at least the required number of loan purchase objectives with a preliminary concept score of 30 or higher.[11]

Innovation Modifications

In the course of executing its Plan, an Enterprise may identify new opportunities that are not included in its Plan for an underserved market for the current year that have the potential for a positive impact on the needs in the underserved market. An Enterprise may modify its Plan to include one new opportunity as an objective in each underserved market for the current Plan year without being required to submit a modification request to FHFA. Such "innovation modifications" will be deemed to have received a Non-Objection from FHFA under 12 C.F.R 1282.32(h) for the current Plan year only, upon the Enterprise providing written notification to FHFA of the innovation modifications and receipt from FHFA of a preliminary concept score for each objective. Innovation modifications will not be subject to a public input process, or to the preliminary concept score requirements for modifications discussed in the preceding paragraphs.

The innovation modifications process is intended to support the Enterprises' identification of new opportunities during the current Plan year and to facilitate their ability to promptly begin working on those opportunities. The limitation on innovation modifications to one new objective per year in each underserved market is intended to encourage the Enterprises to include their strongest ideas in their proposed Plans, which are subject to public input and prior FHFA Non-Objection.

The Enterprises must publish all modified Plans, including those resulting from innovation modifications, in a timely manner on their respective websites. FHFA will also publish modified Plans on the Agency's website.

[11] For a modification submitted in advance of Years 2 and 3 of a Plan, the average preliminary concept score requirement will be applied for Years 2 and 3 objectives combined. For a modification submitted in advance of only Year 3 of a Plan, the average preliminary concept score requirement will be applied only to Year 3 objectives.

Treatment of Confidential or Proprietary Information and Data

FHFA recognizes that some information and data in the strategic priorities statement and the descriptions of activities, objectives, and narratives for an underserved market in a Plan may be confidential or proprietary. At the same time, FHFA has determined that informed public input on a proposed Plan is important to the Plan development, review, and evaluation processes. FHFA may allow certain information and data in a Plan's strategic priorities statement and a Plan's descriptions of activities, objectives, and narratives in each underserved market to be treated as confidential or proprietary and omitted from the Plan when made public. Any Plan content that an Enterprise believes requires confidential or proprietary treatment should be clearly identified by the Enterprise, and the Enterprise should explain why the information and data should be afforded confidential or proprietary treatment.

Meaningful Objectives

FHFA encourages the Enterprises to include in their Plans objectives that will have meaningful impact, as partial Duty to Serve credit may be awarded for objectives that are not fully achieved. Chapter 2 explains how FHFA's evaluation framework rewards achieving impactful objectives.

Additional Guidance for Plans

The previous sections of this Chapter describe the required elements for each of the underserved markets in a Plan to receive a Non-Objection from FHFA. This section describes content for the Plans that is not required, but is recommended by FHFA. It first summarizes best practices that FHFA views as helpful ways for the Enterprises to construct effective Plans. It then discusses FHFA's recommendation that the Enterprises engage in research that will support the underserved markets.

Best Practices for Developing Underserved Markets Plans

Below are some best practices and suggestions the Enterprises should consider in developing their Plans:

- Given the Duty to Serve goal to improve the distribution of investment capital available for mortgage financing in the underserved markets, many of the activities undertaken by the Enterprises should span the Plan's three-year term, with corresponding objectives that specify incremental steps expected to be achieved in each of the three years.

- There should be a sufficient number of activities included in an underserved market in a Plan such that if a particular activity proves unachievable, the Enterprise still has other activities underway to enable it to meet its Duty to Serve obligations for that market.

- An Enterprise should carefully research and construct its Plan to minimize the need for later modifications of the Plan.

- An Enterprise should consider how to serve a diversity of geographic areas, whether it be a variety of localities, states, or regions, for each activity in its Plan. Activities that serve a geographically diverse set of underserved market needs will be considered favorably when assessing the activities' impact on the underserved market.

- An Enterprise should consider how to serve both single-family and multifamily activities for each underserved market in its Plan.

- FHFA invites the Enterprises to consider undertaking Additional Activities in their Plans. Any Additional Activity should meet a need in an underserved market, be reasonable and achievable based on the Enterprises' capacity and market conditions, and take into account any safety and soundness considerations.[12]

- FHFA recommends that the Enterprises organize multiple similar objectives for an underserved market in their Plans as a single objective where appropriate. For example, combining a similar outreach and loan product objective into a single objective can potentially result in a more robust and higher scoring objective.

- Outreach objectives should include a detailed description of the Enterprise's planned actions that demonstrate the Enterprise has thought deeply about the outreach efforts and how it plans to undertake a robust effort that will add significant value to stakeholders. The description should show that the Enterprise understands the problem it is trying to solve and has a detailed plan for how to address it. The description also should demonstrate that the outreach efforts represent meaningful progress over prior Enterprise outreach efforts in the area, and include an explanation of how the Enterprise plans to translate the lessons learned from the planned outreach into future action. Including a clear deliverable in the Plan, such as producing a report of lessons learned from the outreach, can help strengthen an outreach objective, particularly where the report will be shared publicly.

- Loan product objectives should include a detailed description of the problem that the new product or enhanced product features is designed to solve, and an explanation of how the development of the new or enhanced product will help meet an underserved market need. The description should demonstrate that the objective represents progress over the Enterprise's prior loan product offerings and will lay the foundation for future loan purchases that meet an underserved market need.

---

[12] Id.

Recommendation to Engage in Research that Supports the Underserved Markets
FHFA recommends that the Enterprises consider conducting research – including outreach to stakeholders, market research, pilot testing, and product development – to close any knowledge gaps that currently limit progress towards meeting the needs of each of the underserved markets. FHFA also suggests that the Enterprises consider sharing certain data with the public to provide better information about how to meet the challenges in each underserved market. By collecting and publicly sharing such data, the Enterprises could generate valuable information needed to diagnose challenges and develop solutions. FHFA also notes, however, that research activities are not a substitute for loan purchases and other actions that can increase liquidity in the underserved markets. The Enterprises should make clear efforts to demonstrate in their Plans how their research will supplement or enhance existing knowledge for stakeholders rather than duplicate existing work.

The activities detailed below, which are not a condition for receiving a Non-Objection to an underserved market in a Plan, serve as examples of research objectives with meaningful impact that could significantly assist each underserved market. In addition, FHFA encourages the Enterprises to consider other opportunities to undertake research that will have a meaningful impact on the underserved markets.

A. **Manufactured Housing Market**

Examples of potential research in the manufactured housing market include:

- Research on developing new mechanisms to share credit risk with private investors, developing potential securities structures or other arrangements to sell these loans, and recruiting new counterparties and investors to assist with these efforts.

- Research on how to develop loan products, guidelines, and standards that address potential consumer protection gaps in pad leases under current laws.

- Collecting data on manufactured home appraisals, loan originations, loan servicing (including foreclosure and repossession practices, and the resale markets), and credit enhancements.

B. **Affordable Housing Preservation Market**

Examples of potential research in the affordable housing preservation market include:

- Research on how to develop approaches for more effectively supporting the financing needs of small multifamily properties.

- Research on how to develop financing support mechanisms that help to preserve the long-term affordability and financial viability of multifamily affordable rental properties. Ideally, such mechanisms would: (a) be compatible with long-term affordability covenants of 40 years or more; and (b) reduce the share of properties that require recapitalization during the required affordability period in order to preserve scarce subsidy resources.

- Developing the data needed to effectively underwrite energy or water efficiency improvements and researching opportunities for energy or water savings in both single-family and multifamily housing. Examples of approaches include: collecting and sharing utility usage data, utility benchmarking, and evaluating changes in utility usage stemming from energy or water efficiency improvements in specific types of properties.

- Developing an improved understanding of the challenges involved in purchasing loans on properties developed under inclusionary zoning or other local initiatives and tracking data on the volume of such purchases by the Enterprises, as well as the nature of the affordability restrictions.

- Research on how to meet the housing and services needs of older adults in different age groups through developing loan products that preserve affordable properties that are both physically accessible and provide sufficient services to meet residents' needs.

- Research on how to develop approaches supporting financing of transit-oriented housing, especially transit-oriented housing that includes housing affordable to low-, and very low-income households.

C. **Rural Housing Market**

Examples of potential research in the rural housing market include:

- Considering strategies for collecting and sharing granular data on rural mortgage lending, rural affordable housing loan programs, and market characteristics of rural areas. Collecting and sharing such data with the public could be included as an objective in a Plan. By collecting and publicly sharing such data, the Enterprises could generate valuable information needed to diagnose challenges and develop affordable housing solutions in rural areas.

- Research on how to develop ways to reach specified high-needs rural regions and populations, including market research that can help enhance efforts by the Enterprises and other market participants to facilitate affordable housing for such regions and populations.

- Research ways to develop workable protocols, standards, and documentation for identifying colonias at a more granular level than county-based definitions, for use in Enterprise transactions and for possible adoption by the housing finance industry generally.

D. **Residential Economic Diversity**

Examples of potential research that would support residential economic diversity include:

- Research ways to work with interested stakeholders to gain a broad understanding of how the Enterprises could promote residential economic diversity. Strategies for engaging these stakeholders could be included as an outreach objective in a Plan.

- Research alternative approaches for defining "high opportunity areas" and "areas of concentrated poverty," as well as for identifying work that supports concerted community revitalization plans.

• • •

Chapter 2 Evaluation Process for Scoring Enterprise Performance

Overview

This Chapter describes how FHFA will evaluate and rate the Enterprises' performance under their Plans. FHFA will annually evaluate each Enterprise's performance in each of the three underserved markets, comparing the achievements of the Enterprise against the objectives it established in its Plan for the applicable year. FHFA will only evaluate actions that were identified in an Enterprise's Plan at the time of receipt of FHFA Non-Objection.

To evaluate an Enterprise's performance under its Plan, FHFA will use a three-step process:

- **In Step One**, FHFA will calculate the extent to which the Enterprise achieved each of the objectives it identified in its Plan to determine whether the Enterprise is meeting its statutory Duty to Serve obligations for each underserved market. This step is a quantitative evaluation that will not consider the nature or extent of the impact of the actions taken under an objective in meeting the needs of an underserved market.

- **In Step Two**, FHFA will evaluate the Enterprise's performance under each underserved market in its Plan from a qualitative perspective, assessing the impact the Enterprise achieved in meeting a need of the applicable underserved market through actions taken under each objective.

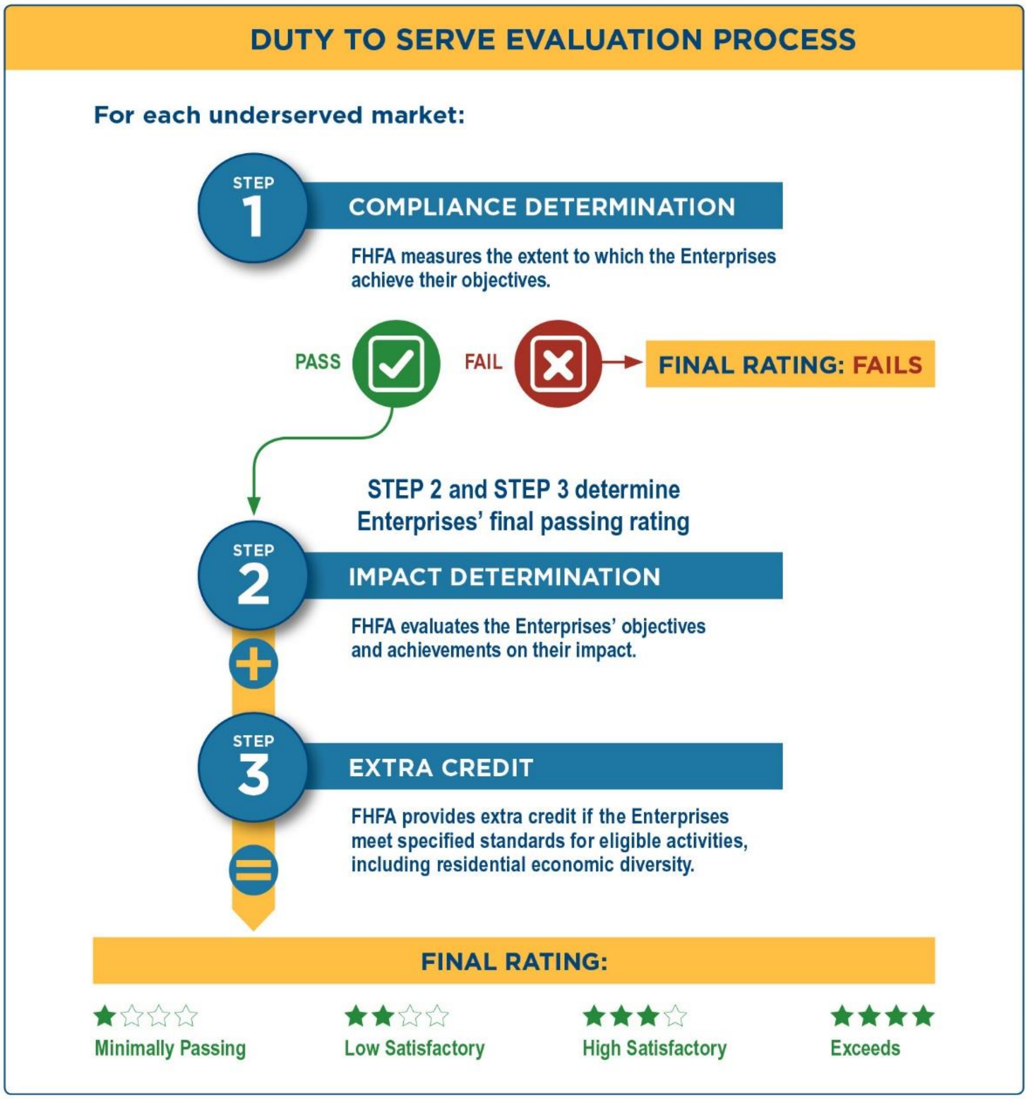
- **In Step Three**, FHFA will determine whether and how much *extra credit* to award for achievement of eligible activities that may be particularly challenging or that may serve a segment of an underserved market that is relatively less well-served.

The purpose of Step One is to determine whether the Enterprise is in compliance with its Duty to Serve obligations for each underserved market. If FHFA determines under Step One that an Enterprise is in compliance and therefore eligible for a passing rating, FHFA will then determine the Enterprise's final passing rating through the evaluations in Step Two and Step Three. The four possible passing ratings are:

- Minimally Passing;
- Low Satisfactory;
- High Satisfactory; and
- Exceeds.

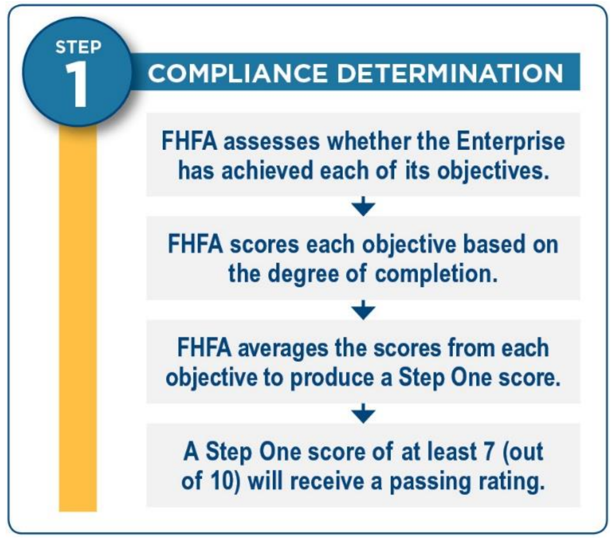
If FHFA determines under Step One that an Enterprise did not achieve compliance, the Enterprise will receive a rating of Fails. In this circumstance, FHFA nonetheless will complete an impact assessment of the Enterprise's performance under Step Two and an extra credit evaluation under Step Three in order to provide complete feedback to the Enterprise and Congress in FHFA's Annual Housing Report to Congress.

The evaluation steps are described further below.



Step One: Compliance Determination (Quantitative Evaluation of Enterprise Performance)

Under Step One, FHFA will calculate the extent to which an Enterprise has accomplished each of the objectives identified in each underserved market in its Plan, in order to determine whether the Enterprise is in compliance with its statutory Duty to Serve obligations for the underserved market.



Step One is a quantitative evaluation designed to determine whether the Enterprise should receive a passing or failing rating, and will not consider the nature or extent of the impact of the objectives in meeting the underserved market needs.

FHFA will conduct the quantitative evaluation of the Enterprise's performance of each objective by assigning a score of 10, 7.5, 5, 2.5, or 0 to the objective based on the extent to which the Enterprise accomplished the objective, as follows:

10	Enterprise accomplished all of the objective.
7.5	Enterprise accomplished a substantial amount of the objective.
5	Enterprise accomplished a limited amount of the objective.
2.5	Enterprise accomplished a minor amount of the objective.
0	Enterprise did not accomplish at least a minor amount of the objective.

For objectives under the loan purchase and investment evaluation areas that an Enterprise did not fully accomplish, FHFA will review the extent to which the Enterprise's actual level of performance exceeded the applicable baseline identified in its Plan.[13] FHFA will then compare the Enterprises actual level of performance to the difference between the objective's target and its baseline to determine whether the Enterprise accomplished a substantial, limited, or minor amount of the objective and award a score of 7.5, 5, 2.5, or 0, according to the following standards:

[13] FHFA will not award partial credit for objectives where the Enterprise failed to provide baselines or failed to adopt an acceptable methodology for setting a baseline.

Step One Partial Credit

Level of Enterprise Achievement	Accomplishment Percentage	Credit Earned
Accomplished all of the objective	100	10
Accomplished a substantial amount of the objective	75 -99	7.5
Accomplished a limited amount of the objective	50-74	5
Accomplished a minor amount of the objective	25-49	2.5
Did not accomplish at least a minor amount of the objective	0-24	0

For example, if an Enterprise's target for a loan purchase objective in its Plan is to purchase 12,000 loans and the baseline for the objective in its Plan is 10,000 loans, the Enterprise's actual purchase of 11,600 loans would be considered a substantial amount at 80% of the target and the objective would receive a score of 7.5. Even though the Enterprise missed the target, its purchase of 11,600 loans exceeded the baseline by 1,600 loans, which is between 75%-99% of the difference between the target and the baseline it established under the objective. Thus, it is eligible for 7.5 points of partial credit. In contrast, purchasing 10,600 loans (an increase of just 600 over the baseline) would be 30% of the target, which is between 25%-49% of the difference between the target and the baseline, and therefore is eligible for 2.5 points of partial credit.

For objectives under the outreach and loan product evaluation areas that an Enterprise does not fully accomplish, FHFA will analyze the level of effort expended for the completed tasks and compare it to the level of effort required to complete the entire objective. This assessment will do more than a simple tally of the different components of an objective and how many the Enterprise achieved. For example, FHFA would not decide that completing three of the five components automatically equals accomplishment of 60% of the objective. Instead, FHFA will analyze the time and resources expended towards completing each of the components of an objective. FHFA will then determine whether the Enterprise's performance of the objective constituted a substantial, limited, or minor amount of accomplishment and assign a score of 7.5, 5, 2.5, or 0, accordingly.

In order to facilitate evaluation of partial credit, it is essential that an Enterprise fully describe the anticipated work product(s) in its Plan. For example, if a pilot is proposed in an Enterprise's Plan under the loan product evaluation area, the Enterprise needs to describe the expected size of the pilot, the work product(s) expected, the types of lenders intended to be engaged, the location of the pilot (if known), the populations expected to be served and their incomes, the timeline (milestones occurring within the Plan evaluation year), and how the Enterprise will determine if the pilot is successful. In considering the level of effort expended, FHFA will consider the effort expended towards unfinished actions – for example, a draft but not final report – as long as the Enterprise agrees to complete the work product promptly and deliver it in the next calendar year. FHFA will then determine whether the Enterprise accomplished a substantial, limited, or minor amount of the objective and assign a score of 7.5, 5, 2.5, or 0 accordingly, based on a comparison of the objective's achieved level of completion against its target in the Plan.

Feasibility

If underserved market conditions or other extenuating circumstances outside of an Enterprise's control substantially interfere with the Enterprise accomplishment of an objective, the Enterprise may request in its Annual Duty to Serve Report to FHFA that FHFA disregard the objective in its performance evaluation of the applicable underserved market for that year. An infeasibility request may be subject to a 30-day public input period, in FHFA's discretion. FHFA is more likely to seek public input on Enterprise requests of infeasibility based on a claim of weak underserved market conditions, as opposed to requests based on circumstances such as internal Enterprise operational capacity issues.

If FHFA agrees that the infeasibility request is reasonable, FHFA will exclude the objective from the Enterprise's performance evaluation under Steps One, Two, and Three.[14] As a result, if an objective is determined to be infeasible, failure to complete the objective will not harm or benefit the Enterprise's rating for its Duty to Serve obligations under Step One. However, all of the objective's underlying actions will also be excluded from contributing to the Enterprise's performance score under Steps Two and Three.

Averaging of Scores

After FHFA has assigned a Step One score to each objective in an underserved market, FHFA will average the scores for all of the objectives in that market to produce an overall score for the market. An overall score of at least 7 will constitute a passing score, or compliance, for the underserved market. An overall score of less than 7 will receive a rating of Fails, or noncompliance, for the underserved market, and the Step Two evaluation will not impact this decision. Appendix C contains multiple examples illustrating how an Enterprise might achieve a minimum score of 7.

In selecting 7 out of 10 points as a passing score, FHFA has sought to balance two goals:

- Holding the Enterprises accountable for accomplishing a substantial amount of objectives in their Plans, and

[14] FHFA recognizes that the Enterprises could request that every objective in an underserved market be deemed infeasible. If FHFA finds that the request is reasonable under the circumstances after considering public input, FHFA would be unable to evaluate the market in the Annual Housing Report to Congress. In this scenario, FHFA would discuss in the report the reasons why it found all of the market's objectives to be infeasible due to the market conditions, and explain why it was inappropriate to rate the Enterprises' performance for that market.

- o Encouraging the Enterprises to establish objectives that achieve meaningful impact in addressing the underserved market's needs.

If FHFA required a minimum score higher than 7 to pass, the Enterprises might have a disincentive to set objectives with greater impact in order to ensure they meet the high bar for compliance. On the other hand, setting the minimum passing score lower than 7 could be too low, because partial credit will be awarded if an Enterprise accomplishes part but not all of an objective's target.

After determining compliance or noncompliance under Step One, FHFA will qualitatively assess the impact of the Enterprise's performance of its objectives under Step Two and Step Three. If FHFA determines that an Enterprise achieved compliance under Step One, then Step Two and Step Three will determine the Enterprise's final performance score and rating. If FHFA determines that an Enterprise did not achieve compliance under Step One, then the Enterprise will receive a final rating of Fails, but FHFA will still complete a qualitative assessment of the impact of the Enterprise's performance under Step Two and Step Three in order to provide complete feedback to the Enterprise and Congress in FHFA's Annual Housing Report to Congress.

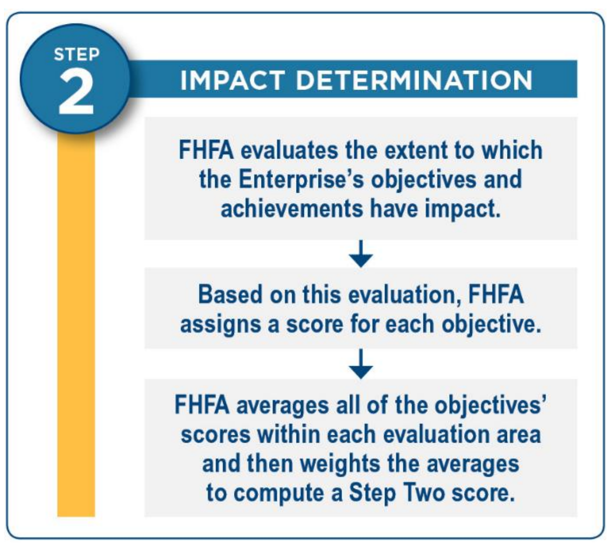
While the Step One analysis is limited to evaluating the extent to which an Enterprise met its Plan objectives, Step Two and Step Three include nuanced analyses of the impact achieved by the Enterprise's performance of the objectives in addressing the needs of the underserved market.

Step Two: Impact Determination (Qualitative Evaluation of Enterprise Performance)

Under Step Two, FHFA will evaluate an Enterprise's performance under its Plan from a qualitative perspective. This evaluation will assess the impact of the Enterprise's performance of its objectives in addressing the needs of the underserved markets.

A. **Evaluating Each Objective**

Under Step Two, FHFA will evaluate an Enterprise's performance of each objective in its Plan by assessing its impact on the needs of the underserved market. FHFA will consider information provided by the Enterprises in their Duty to Serve Plans and reports, research by FHFA or external parties, and input from stakeholders in evaluating impact. Based on this evaluation, FHFA will assign an impact score from 0 to 50 for each objective, using the criteria described in



Appendix B. Under this scale, an impact score of 30 indicates that an objective's achievements represent meaningful impact on a need of the underserved market.

FHFA's evaluation of impact will focus on one of two different kinds of impact, depending on the nature of the objective: direct impact or future impact. Each is described below:

- ***Direct Impact***. In evaluating direct impact, FHFA will consider the extent to which an Enterprise targets and achieves an impact that addresses a present need in an underserved market. This evaluation will apply the levels of impact outlined in Appendix B, which include a focus on the size or difficulty of the objective. The difficulty of an objective may involve, for example, the extent to which the Enterprise is serving a sub-market that has a high need for housing assistance (for example, purchasing loans in Appalachia versus purchasing loans in rural areas that are comparatively better served).

- ***Future Impact***. In evaluating future impact, FHFA will consider the extent to which the Enterprise's actions under an objective lay the groundwork for future actions and improvements that would achieve a meaningful impact in addressing an underserved market need. These early steps could include, for example, undertaking a pilot, developing a new lending platform, meeting with stakeholders to develop new lending relationships, or collecting needed data. FHFA will apply the levels of impact outlined in Appendix B, which include a focus on the size or difficulty of the objective.

Concept Score

Before issuing a Non-Objection to an Enterprise's proposed Plan, FHFA will determine a preliminary concept score of 0, 10, 20, 30, 40, or 50 for each objective included in an Enterprise's Plan. The preliminary concept score will measure the expected level of impact that achievement of an objective would represent, in light of the information available to FHFA at that time. The final concept score will similarly measure the expected level of impact that achievement of an objective would represent, in light of the information available to FHFA at that time, but will be closer in time to the actual evaluation. The final concept score will inform FHFA's ultimate evaluation of the actual impact of the Enterprise's achievement of the objective.

While reviewing an Enterprise's proposed Plan, FHFA will provide feedback to the Enterprise on those objectives FHFA believes do not reach the level for meaningful impact (i.e., the level of impact required to receive a preliminary concept score of 30). Additionally, FHFA will provide the Enterprise with a preliminary concept score for each objective at the time FHFA issues its Non-Objection for each of the underserved markets in the Plan.[15]

[15] If the Enterprise requests to modify its Plan to completely eliminate an objective from its Plan, that request will be subject to heightened scrutiny by FHFA and possibly to public input. For more information on Plan modifications, please see the "Plan Process" section in Chapter 1.

FHFA will finalize the concept scores in December of the performance evaluation year for the applicable objectives. For example, the concept score for an objective for the 2018 Plan year will be finalized in December of 2018. Notice of final concept scores will inform the Enterprises' development of their Annual Reports for the Plan year.

FHFA will provide the Enterprises an opportunity to share their views on the preliminary concept scores for objectives prior to FHFA's determination of final concept scores.

Impact Scoring of Each Objective
Based on FHFA's evaluation of impact, FHFA will assign an impact score of 0, 10, 20, 30, 40, or 50 to each objective as part of its performance evaluation. In this evaluation, FHFA will use the final concept score for the objective as a reference point for determining the impact score for the objective as follows:

- If an Enterprise achieved but did not significantly outperform the objective's target, the impact score for that objective will be the same as the objective's final concept score.

- If an Enterprise underperformed the objective's target, the impact score for that objective will be lower than the objective's final concept score.

- If an Enterprise significantly outperformed the objective's target, the impact score for that objective will be averaged with the objective's final concept score. This is intended to encourage the Enterprises to include well-designed and rigorous objectives in their Plans.

The examples below demonstrate how this scoring process will work.

Outperforming an Objective's Target
If an Enterprise included in its Plan an objective that represents meaningful impact if fully achieved, FHFA will assign the objective a final concept score of 30. FHFA will then evaluate the Enterprise's actual achievements and impact on the underserved market need being addressed. If FHFA determines that the Enterprise significantly outperformed the objective's target and achieved a level of impact corresponding to the criteria in Appendix B for an impact score of 50, FHFA will average the final concept score of 30 with the impact score of 50, assigning that objective a final impact score of 40 (the average of 30 and 50). Averaging the final concept score with the impact score will provide an incentive for the Enterprises to set ambitious objectives in their Plans.

Underperforming an Objective's Target

To ensure that the Enterprises are not penalized for setting difficult objectives with meaningful or greater impact, objectives can earn impact scores even if not fully achieved.

For example, if an Enterprise included in its Plan an objective that, according to the criteria in Appendix B, represents substantial impact, FHFA will assign that objective a final concept score of 50. If FHFA subsequently determines, in reviewing the Enterprise's actual achievement of the objective and impact on the underserved market need being addressed, that the Enterprise did not fully accomplish the objective but still achieved a meaningful impact, FHFA will assign the objective an impact score of 30 because it met the criteria for meaningful impact described in Appendix B.

Impact Scores of Objectives

Although every objective could potentially receive an impact score of 50 if it achieves or lays the foundation for achieving substantial impact, certain objectives can have a greater impact. For example, Low-Income Housing Tax Credit (LIHTC) equity investments serving high-needs rural regions and populations may be eligible for a higher impact score than similarly-sized investments in rural regions with stronger existing markets for LIHTC equity investments.

B. **Developing a Weighted Average Score**

After the impact of an Enterprise's performance of each objective has been scored under Step Two, FHFA will average the impact scores of all of the objectives grouped under each evaluation area (outreach, loan products, loan purchases, investments and grants) to produce a single numerical score for each evaluation area.

The numerical score for each evaluation area will then be multiplied by the applicable weight in the graphic below to produce an overall Step Two performance score for the Enterprise for each underserved market.

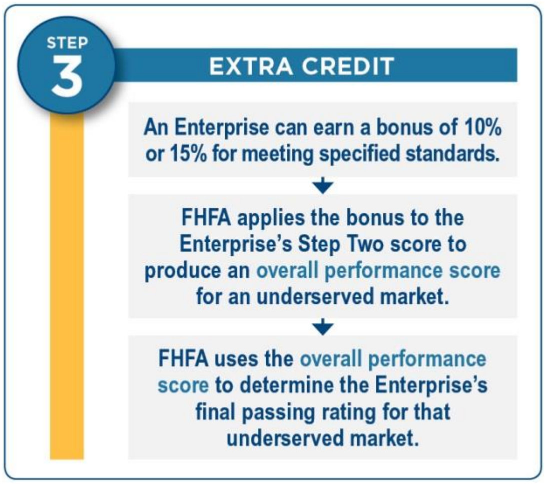
If an Enterprise has not included any activities within a particular evaluation area in its Plan, the weights will be adjusted to preserve the same ratios among the remaining weights.[16]

At the conclusion of Step Two, FHFA will have completed its detailed analysis of how well each Enterprise met an underserved market's needs and will have determined an overall performance score between 0 and 50 for each underserved market.

[16] For example, if an Enterprise does not include any activities under investments and grants, the weights for the remaining objectives will be increased proportionately to total 100%, as follows: outreach (23.5%), loan products (35.3%), and loan purchases (41.2%).

Under Step Three, described below, FHFA may apply an upward adjustment to an Enterprise's Step Two overall performance score for performance of extra credit-eligible activities and objectives under certain standards.

Step Three: Extra Credit Evaluation



An Enterprise may receive an extra credit adjustment to its Step Two overall performance score for successfully undertaking certain eligible activities that FHFA considers particularly challenging or undertaking activities in a segment of an underserved market that is relatively less well-served. FHFA has determined that the activities set forth below are extra credit-eligible activities for this Plan cycle. An Enterprise's final score calculated under Step Two will be eligible for an extra credit adjustment if an Enterprise undertakes one or more of these eligible activities. Additionally, each activity must achieve a cumulative impact score of at least 70 points[17], according to the criteria in Appendix B (meaning that the sum of the impact scores assigned to objectives for a single extra credit-eligible activity equals at least 70 points).

MANUFACTURED HOUSING

- Regulatory Activity 1: Manufactured homes chattel pilot initiative

AFFORDABLE HOUSING PRESERVATION

- Residential Economic Diversity Activity

RURAL

- Regulatory Activity 1: High-needs rural regions

- Regulatory Activity 2: High-needs rural populations

For this Plan cycle, an Enterprise's Step Two overall performance score will be adjusted upwards under the following circumstances:

- For the rural housing market -- The Enterprise's Step Two overall performance score will be adjusted upward by 10 percent if it receives a cumulative impact score of at least 70

[17] FHFA will not count any objective receiving an impact score of 10 towards this total in order to ensure that when only minimal progress is made, it will not result in extra credit being awarded.

points for one of the extra credit-eligible activities, or by 15 percent for addressing both extra credit-eligible activities where each activity receives a cumulative impact score of at least 70 points. For example, if a Plan includes a high-needs rural region activity with two objectives, and one objective received an impact score of 30 and the other objective received an impact score of 40, the activity would qualify for an extra credit adjustment of 10 percent because the cumulative impact score is 70 (30+40). In contrast, if a Plan includes a high-needs population activity with two objectives, and one objective received an impact score of 20 and the other objective received an impact score of 30, the activity would not qualify for an extra credit adjustment because the cumulative impact score is only 50 (20+30).

- For the affordable housing preservation market and manufactured housing market -- Because there is only one extra credit-eligible activity in each of these markets, extra credit will be assessed in a slightly different manner. FHFA will total the impact scores for each objective that qualifies under the manufactured homes chattel pilot initiative (for the manufactured housing market) or for residential economic diversity (for the affordable housing preservation market). For these purposes, it does not matter whether the objectives are listed as an Additional Activity or as a distinctly labeled objective under a Statutory or Regulatory Activity. The Enterprise's Step Two overall performance score will receive an upward adjustment of 10 percent if the activity's objectives receive a cumulative impact score of at least 70 points, and an upward adjustment of 15 percent if its objectives receive a cumulative impact score of at least 120 points.[18]

Applying the Results of the Evaluation to Determine a Final Performance Rating

FHFA will compute an Enterprise's final performance rating for each underserved market as follows:

1. **Compliance determination.** If an Enterprise receives a Step One score of at least 7, it will be considered in compliance with its statutory Duty to Serve obligations for the underserved market, but will not receive a rating until the Enterprise's performance under Steps Two and Three is evaluated. If an Enterprise receives a Step One score of less than 7, it will be considered in noncompliance with its statutory Duty to Serve obligations for the underserved market and will receive a rating of Fails. In this circumstance, FHFA nonetheless will evaluate the Enterprise's performance under Steps Two and Three in order to adequately describe these components to the Enterprise and Congress in FHFA's Annual Housing Report to Congress. An Enterprise's Step One score, whether

[18] FHFA will not count any objective receiving an impact score of 10 towards this total in order to ensure that when only minimal progress is made it will not result in extra credit being awarded.

demonstrating compliance or noncompliance, will not be used for any other part of the evaluation and rating process.

2. **<u>Conversion of final performance scores to ratings</u>.** For an Enterprise that achieved compliance under Step One, FHFA will convert its final performance score after completion of Steps Two and Three into one of four passing ratings, as provided in the following conversion chart:

Ratings Chart for Final Performance Scores[19]

Rating	Minimally Passing	Low Satisfactory	High Satisfactory	Exceeds
Final Performance Score	< 30	30-35	35-40	≥ 40

Appendix C contains examples illustrating how the results of an evaluation of Enterprise performance in an underserved market might be reflected in a final rating.

• • •

[19] Minimally Passing (<30); Low Satisfactory (30-34.99); High Satisfactory (35-39.99); Exceeds ≥40.

Appendix A: Duty to Serve Statutory and Regulatory Activities

Activities	UNDERSERVED MARKETS		
	Manufactured Housing	**Affordable Housing Preservation**	**Rural Area**
Statutorily-Enumerated Activities	None	1. Section 8 2. Section 236 (rental and cooperative housing) 3. Section 221(d)(4) (moderate-income and displaced families) 4. Section 202 (elderly) 5. Section 811 (persons with disabilities) 6. Permanent supportive housing projects (homeless assistance) 7. Section 515 (rural rental) 8. Low-Income Housing Tax Credits (LIHTCs- debt) 9. Comparable state or local affordable housing programs	None
Regulatory Activities	1. Support manufactured homes titled as real property 2. Support manufactured homes titled as personal property 3. Support manufactured housing communities owned by government instrumentalities, nonprofits, or residents 4. Support manufactured housing communities with specified tenant pad lease protections	1. Support small multifamily rental properties financing 2. Support multifamily energy efficiency improvements financing 3. Support single-family, first lien energy efficiency improvements financing 4. Support affordable homeownership preservation (shared equity) financing 5. Support HUD's Choice Neighborhoods Initiative (CNI) 6. Support HUD's Rental Assistance Demonstration (RAD) Program 7. Support purchase or rehabilitation financing of distressed properties	1. Support housing in high needs rural regions: • Middle Appalachia • The Lower Mississippi Delta • Colonias • Rural tracts in persistent poverty counties 2. Support housing for high-needs rural populations: • Native Americans in Indian Areas • Agricultural workers 3. Support rural small financial institution financing 4. Support rural small multifamily rental property activity

Appendix B: Assigning Impact Scores to Each Objective Under Step Two

Under Step Two, FHFA will conduct a qualitative evaluation of the impact of an Enterprise's performance under each of the objectives for the activities in an underserved market in its Plan. For each objective, FHFA will assign an impact score from 0 to 50 using the criteria specified in the table below.

The table details the criteria for assigning impact scores for objectives after a Plan year concludes. FHFA will focus on the extent to which the objective has a direct impact or has laid the foundation for future impact on an underserved market need, depending on which type of impact is more appropriate for that objective. An objective must fully meet the specified criteria for an impact score in order to receive that impact score. Based on these criteria, a single impact score will be provided for each objective.

As noted in this Guidance, in assessing the level of challenge represented by an objective, FHFA will consider both the size of the impact (or potential future impact) and the extent to which the objective addresses a particularly challenging need (such as purchasing loans to residents in Appalachia or serving very low-income households without the benefit of a deep subsidy).

Score	**Impact**	
	Direct Impact	**Foundation for Future Impact**
0	The objective represents less than minimal progress in addressing an underserved market need and/or the objective does not meet the minimum requirements identified in the Guidance or in the Duty to Serve regulation.	
10	The objective represents minimal progress in addressing an underserved market need. The objective seeks minimal improvement relative to the market need. The Enterprise has not demonstrated that it would encounter significant difficulty in doing more.	The objective represents a minimal contribution to future impact in addressing an underserved market need. The Enterprise has not shown how the objective is tied to a theory of change in which its actions under the objective would generate anything above minimal impact.
20	The objective will receive a score of 20 if it exceeds the criteria for a score of 10, but does not meet the criteria for a score of 30.	
30	The objective represents meaningful progress in addressing an underserved market need. Meaningful progress is a sizable improvement over the prior level of activity that, generally, is moderately challenging to achieve. In addition, to qualify for a 30, the objective must be implemented in a manner that reflects a serious and good faith attempt to achieve a significant impact.	The objective makes meaningful progress in laying the foundation for a sizable future impact in addressing an underserved market need; generally, this is moderately challenging to achieve. In addition, to qualify for a 30, the objective must be implemented in a manner that reflects a serious and good faith attempt to achieve a future impact. The Enterprise must further show that it is open to incorporating what it learned through the activity into its current or future loan purchase or investment practices to help meet an underserved market need.
40	The objective will receive a score of 40 if it exceeds the criteria for a score of 30, but does not meet the criteria for a score of 50.	
50	The objective represents substantial progress in addressing an underserved market need. Substantial progress is a very large improvement over the prior level of activity that, generally, is very difficult to achieve given the challenges, time commitment, and resources involved. In addition, to qualify for a 50, the objective must be implemented in a highly effective manner that demonstrates a deep commitment to achieving a substantial impact.	The objective represents substantial progress in laying the foundation for a very large future improvement in addressing an underserved market need. Generally, this is very difficult to achieve given the challenges, time commitment, and resources involved. In addition, to qualify for a 50, the objective must be implemented in a highly effective manner that demonstrates a deep commitment to achieving a substantial impact. The Enterprise must further commit to incorporating what it learned through the activity into its current or future loan purchase or investment practices to help meet an underserved market need.

Appendix C: Illustrating the Evaluation Process

This Appendix provides two hypothetical scenarios illustrating how an Enterprise could receive a passing score under the scoring process in Step One. This Appendix also includes four hypothetical scenarios demonstrating how an Enterprise's final performance score is calculated in Steps Two and Three and converted into one of the four passing ratings.

Step One (Compliance Determination)

In Step One, FHFA will measure the extent to which an Enterprise has achieved each of the objectives in an underserved market in its Plan, in order to determine whether the Enterprise is in compliance with its statutory Duty to Serve obligations for the underserved market.

For example, assume that an Enterprise included seven objectives in an underserved market in its Plan for a given year.

If the Enterprise met two of its objectives, accomplished a substantial amount of two objectives, and accomplished a limited amount of three objectives, it would achieve a passing score of 7 under Step One, as shown below.

Objective	Level of Accomplishment	Score
1	Accomplished all of the objective	10
2	Accomplished all of the objective	10
3	Accomplished a substantial amount of the objective	7
4	Accomplished a substantial amount of the objective	7
5	Accomplished a limited amount of the objective	5
6	Accomplished a limited amount of the objective	5
7	Accomplished a limited amount of the objective	5
	Average Score =	**7.0 (Pass)**

The Enterprise could alternatively receive a passing score of 7 in Step One if it meets four of its objectives, accomplishes a limited amount of one objective, and accomplishes a minor amount of two objectives, as shown below.

Objective	Level of Accomplishment	Score
1	Accomplished all of the objective	10
2	Accomplished all of the objective	10
3	Accomplished all of the objective	10
4	Accomplished all of the objective	10
5	Accomplished a limited amount of the objective	5
6	Accomplished a minor amount of the objective	2.5
7	Accomplished a minor amount of the objective	2.5
	Average Score =	**7.14 (Pass)**

Step Two (Impact Determination) and Step Three (Extra Credit Evaluation)

If FHFA assigns a passing score under Step One to an Enterprise, FHFA will then use Steps Two and Three to determine a final performance score for the Enterprise in each underserved market. The final performance score will then be converted into one of the four passing ratings. This section illustrates how this process would work in four hypothetical scenarios.

For example, assume an Enterprise included seven objectives in an underserved market in its Plan for a given year: three loan purchase objectives, two loan product objectives, one outreach objective, and one investments objective.

Objective	Evaluation Area
1	Loan purchase
2	Loan purchase
3	Loan purchase
4	Loan product
5	Loan product
6	Outreach
7	Investments

The examples below show how different outcomes for this set of objectives would result in different passing ratings.

Example One

- Step One: The Enterprise met the threshold for compliance.
- Step Two: The Enterprise received an average impact score of:
  - 40 on its loan purchase objectives
  - 35 on its loan product objectives
  - 40 on its outreach objective
  - 40 on its investments objective
- Step Three: The Enterprise qualified for a 10 percent upward extra credit adjustment.

FHFA converts the final performance score after Steps Two and Three into one of four passing ratings. For ease of reference, the conversion chart is repeated at the end of this Appendix.

Step One	Achieves Compliance
Step Two[20] overall performance score	38.5
Step Three final performance score	42.35
Final Rating:	**Exceeds**

Example 1 illustrates that an Enterprise needs to receive an average impact score of at least 40 on some of its objectives in order to receive an Exceeds rating. In the example, some of the Enterprise's objectives received a score of 40 or 50, evidenced by averages for all of the evaluation areas that are above 30. The Enterprise also qualified for a 10 percent upward extra credit adjustment, meaning that the Enterprise included one extra credit-eligible activity that received a cumulative impact score of at least 70 on its underlying objectives, pushing the final performance score into the Exceeds range.

Example Two

- Step One: The Enterprise met the threshold for compliance.
- Step Two: The Enterprise received an average impact score of:
    - 32 on its loan purchase objectives
    - 35 on its loan product objectives
    - 40 on its outreach objective
    - 30 on its investments objective
- Step Three: The Enterprise qualified for a 15 percent upward extra credit adjustment.

Step One	Achieves Compliance
Step Two overall performance score	34.2
Step Three final performance score	39.33
Final Rating:	**High Satisfactory**

Example 2 illustrates that if an Enterprise receives average impact score of above 30 in some of the evaluation areas and a 15 percent extra credit adjustment, its final performance score after Step Three will likely fall within the range for a High Satisfactory rating.

Example Three

- Step One: The Enterprise met the threshold for compliance.

[20] The weights are: 35 percent for loan purchase objectives, 30 percent for loan product objectives, 20 percent for outreach objectives, and 15 percent for investments and grants objectives. These weights are applied to the average impact score of the objectives under each evaluation area.

- Step Two: The Enterprise received an average impact score of:
  - 30 on its loan purchase objectives
  - 30 on its loan product objectives
  - 30 on its outreach objective
  - 30 on its investments objective
- Step Three: The Enterprise qualifies for a 15 percent upward extra credit adjustment.

Step One	**Achieves Compliance**
Step Two overall performance score	30
Step Three final performance score	34.5
Final Rating:	**Low Satisfactory**

Example 3 illustrates that if an Enterprise receives an average impact score of 30 for its objectives under each evaluation area, its Step Two overall performance score will qualify for a passing rating of Low Satisfactory. If the Enterprise also receives a 10 percent or 15 percent upward extra credit adjustment under Step Three, its final performance score will still fall within the range for a Low Satisfactory rating.

Example Four

- Step One: The Enterprise met the threshold for compliance.
- Step Two: The Enterprise received an average of:
  - 20 on its loan purchase objectives
  - 25 on its loan product objectives
  - 20 on its outreach objective
  - 20 on its investments objective
- Step Three: The Enterprise qualified for a 10 percent upward extra credit adjustment.

Step One	**Achieves Compliance**
Step Two overall performance score	21.5
Step Three final performance score	24.73
Final Rating:	**Minimally Passing**

Example 4 illustrates that average impact scores much lower than 30 for each of the evaluation areas may result in a Step Two overall performance score that falls in the range for a Minimally Passing rating. If enough evaluation areas average much lower than 30, as in this example, then neither a 10 nor 15 percent upward extra credit adjustment under Step Three could push the Enterprise's final performance score into the range for a Low Satisfactory rating.

These four examples all apply the following chart for converting final performance scores into one of the four passing ratings:

Ratings Chart for Final Performance Scores[21]

Rating	Minimally Passing	Low Satisfactory	High Satisfactory	Exceeds
Final Performance Score	< 30	30-35	35-40	≥ 40

[21] Minimally Passing (<30); Low Satisfactory (30-34.99); High Satisfactory (35-39.99); Exceeds ≥40

Appendix D: Eligible State Definitions from Qualified Allocation Plans

FHFA has determined that the following states have definitions of high opportunity areas in their Low-Income Housing Tax Credit QAPs that qualify as high opportunity areas for purposes of the Duty to Serve program:

California
Connecticut
Delaware
District of Columbia
Florida
Illinois
Indiana
Iowa
Louisiana
Maine
Maryland
Minnesota
Mississippi
Ohio
Oregon
South Dakota
Utah
Virginia
Washington

FHFA will develop and publish on its website a list of census tracts in these states that qualify as high opportunity areas for purposes of the Duty to Serve program, along with a narrative explanation of the basis for the identification of these census tracts.