

## *Transcript of FHFA Duty to Serve Proposed Rule Webinar – December 22, 2015*

Jim: Our thanks to all the stakeholders who are making time in your busy schedules to participate in this Duty to Serve webinar. Please note that the presentation is being recorded today and a link to the PowerPoint slide will be emailed to all the webinar participants immediately following today's presentation. This presentation, along with the questions asked, the identities of the questioners and FHFA responses, will all be included in the public comment record for this rule making.

Today we will cover a lot of ground on the proposed rule. We will summarize it and then answer questions. Our summary will follow the structure of the proposed rule. First we will describe the framework of the rule, which is based on a strategic planning concept. Second, the bulk of this presentation will be going through each of 3 underserved markets: manufactured housing, affordable housing preservation, and rural housing, and summarizing certain activities that Freddie Mac and Fannie Mae will be required to consider in constructing their plan. Note that Freddie Mac and Fannie Mae are sometimes collectively referred to as "the enterprises" in this presentation.

Third, we will briefly summarize the process for evaluating Freddie Mac and Fannie Mae's performance on their plans. Finally, we will answer the pre-submitted questions. We encourage all of you to comment on the rule by submitting written comments by the deadline on March 17, 2016. The proposed rule would not prohibit or authorize any government sponsored enterprise activities. The proposed rule only determines which activities are eligible for Duty to Serve credit.

I will now turn it over to Mike Price, who will summarize how today's webinar will work. Mike?

Mike: Thank you, Jim. First, the FHFA staff will summarize the rule. Following the summary, we've selected 13 questions to answer from the pool of pre-submitted questions. We chose questions that would help clarify the contents of the rule. We will read the question and provide a response, and the question will be shown on the screen. Jim will now give you an overview of the rule making.

Jim: Thank you, Mike. Before we proceed to the rule, there are 3 important things to understand about what is included in the Duty to Serve and what is excluded. First, we are only talking about a specific Duty to Serve requirement created by Congress in the Housing and Economic Recovery Act of 2008. This term, "Duty to Serve," is often used by stakeholders engaged in the debate on housing finance reform. Today we are not talking about the enterprises' broad Duty to Serve in the context of housing finance reform. We are only talking about a specific statutory requirement.

Second, this specific statutory Duty to Serve addressed in this proposed rule requires Fannie Mae and Freddie Mac to serve very low, low, and moderate income families. Activities that assist families above the moderate income level are not eligible for Duty to Serve credit. This is one of the important differences between the Duty to Serve and the enterprise's housing goals, where loan purchases in certain neighborhoods receive credit, regardless of the income of the borrower.



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Third, under the statute, Duty to Serve credit is only available for activities that help families rent or buy homes in three specified underserved markets: manufactured housing, affordable housing preservation, and rural housing. Please keep these statutory constraints in mind as we go through this presentation on the proposed rule.

This is important enough that I want to recap the statutory constraints once more. Duty to Serve means only the things covered in the statute, not the enterprise's general duties in the market. Duty to Serve means only very low, low, or moderate income families. Finally, Duty to Serve means it must be manufactured housing, affordable housing preservation, or rural housing, nothing else. For those of you who were familiar with the original Duty to Serve proposed rule, there are important differences between that and this new proposed rule. I will not summarize all of the changes, but there are 2 that I want to draw your attention to.

First, this proposal would require the enterprises to seek public input on their plans. Right now, FHFA is seeking public comment on this proposed rule, but if this rule is adopted as proposed, every 3 years, when Fannie Mae and Freddie Mac prepare a draft plan, that plan will require public input.

Second, this proposed rule has the concept of core activities that the enterprises are required to consider in drafting their plan. If an enterprise chooses not to include any one of the core activities, public stakeholders will get to see the reasons the enterprise chose not to include that core activity when the enterprise seeks public input on its plan.

Our final overview point is that FHFA has the responsibility, under the law, to annually evaluate and rate Fannie Mae and Freddie Mac's performance in each of these 3 underserved markets, and report the results to Congress. I will now turn it over to John Foley, who will take the first major piece of this presentation and outline the framework for the Duty to Serve, which is based on an underserved markets plan concept that John will explain.

John: Thank you, Jim. Slide 4 illustrates the underserved markets plan development process. The proposed rule would require each enterprise to prepare an underserved markets plan, describing in detail how it would meet its Duty to Serve obligations. Plans would cover 3-year periods. After an enterprise has prepared a draft plan, an approximately 6-month review process would commence. The first step in the process would be to post the draft plan, with confidential and proprietary information removed, on FHFA's web page for a 45-day public input period.

During the input period, interested parties could submit written input on the plan. Please note that the draft plan public input period is part of the plan approval process, and is not part of the proposed Duty to Serve rule making. Underserved markets plan preparation would occur after the affected date of the final Duty to Serve rule.

After the close of the public input period, FHFA would formally comment on an enterprise's draft plan. An enterprise would then revise its plan based on FHFA's

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comments, as applicable. Any public input could be considered by both FHFA and an enterprise. We anticipate that the formal FHFA comment process would involve a back-and-forth exchange of multiple draft plans. A plan would become final after FHFA completes its review and issues a non-objection to the plan. An enterprise and FHFA would then post the final plan on their respective websites.

Slide 5 illustrates the roles of statutory, regulatory, and additional activities. Underserved markets plans would comprise separate Duty to Serve activities. Each activity must be directed at 1 or more of the 3 underserved markets. Activities represent the most important aspect of the Duty to Serve framework. The core activities in the proposed rule are 9 categories of statutory activities set forth in HERA, and 11 regulatory activities developed by FHFA in the proposed rule.

Each of these activities will be discussed later in the presentation. While an enterprise would not be required to include every statutory and regulatory activity in its plan, if a plan omits a statutory or regulatory activity, the plan must include a written explanation for its omission. In addition, to statutory and regulatory activities ... The proposed rule gives the enterprises the ability to incorporate additional activities into their underserved markets plans.

We believe that the enterprises will be able to use additional activities to creatively develop other ways to serve underserved markets, and to keep the Duty to Serve current, as markets evolve. The enterprises currently offer financing in each of the 3 underserved markets, and then years of experience should give them insights into additional ways to enhance their support for the underserved markets.

Next, slide 6 discusses objectives, which are the sub-components of activities in the proposed rule. Once an enterprise determines its plan activities, each activity then would comprise specific, measurable objectives that provide deliberate steps for accomplishing the activity. Each objective must incorporate 1 of the 4 HERA statutory assessment factors: outreach, loan products, loan purchase, or grants and investments. Now, Chris Tawa will explain an additional criteria.

Chris: Thank you, John, and hello, America. In addition to the 4 statutory assessment factors that John just described, the proposed rule would include residential economic diversity as a non-mandatory additional criteria. Under it, Fannie Mae or Freddie Mac may earn extra credit under the proposed rule's rating system for activities supporting existing affordable housing properties in high opportunity areas, or for existing mixed-income properties in areas of concentrated poverty, as those areas are declined by HUD.

Inclusion of this criteria in the proposed rule is intended to support federal housing policies addressing deconcentration of poverty and creating mixed-income housing communities.

Next we turn to manufactured housing, which is the first of the 3 underserved markets that are specified in the statute. The proposed rule would divide manufactured housing into 2 parts: financing for the units themselves, and financing for manufactured housing

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rental communities. Mike Price will discuss the unit-financing proposals, after which I'll discuss the rental communities proposals. Mike?

Mike: Thank you, Chris. As most of you know, manufactured housing units can be titled and financed either as real estate or as personal property, also known as chattel. The proposed rule would provide Duty to Serve credit for manufactured housing units financed as real estate but not as chattel. FHFA believes that Fannie Mae and Freddie Mac may be able to use their market presence to expand the use of real estate financing for manufactured homes. In fact, the CFPB estimated that 65 percent of borrowers who owned their land, and who took out a loan to buy a manufactured home between 2001 and 2010, ended up with a chattel loan.

Now, the advantage of real estate financing are first, that these mortgages perform well, and second, that borrowers benefit from some consumer protection laws unavailable for chattel borrowers. Of course, we are also concerned that chattel loans have historically performed very poorly. Although chattel loans would be ineligible for Duty to Serve credit under the proposed rule, the proposed rule seeks public comments on this. This concludes the summary of the manufactured housing unit portion of the presentation. Chris Tawa will now summarize how the proposed rule addresses financing for manufactured housing communities.

Chris: Thank you, Mike. This is for slide 8. As everyone knows, both Fannie Mae and Freddie Mac purchased blanket mortgages on manufactured housing rental communities, with Fannie Mae having participated in this market segment for about 15 years, and Freddie Mac having entered it about a year and a half ago. The proposed rule would encourage the enterprises to focus their blanket mortgage activities on 3 specific types of manufactured housing communities.

First is to provide Duty to Serve credit for enterprise purchases of blanket mortgages on small manufactured housing communities of 150 pads or less. Communities of this size comprise over 80 percent of all manufactured housing communities in the country, and most are owned by local and regional operators, but the enterprises' purchases of loans are disproportionately on larger sized manufactured housing communities owned by national operators and REITs. This provision would encourage the enterprises to offer the benefits of the blanket mortgage purchases to a broader range of manufactured housing communities.

Second is to provide Duty to Serve credit for enterprise purchases of blanket mortgages on communities with specialized ownership, defined as communities owned by their residents, by a non-profit, or by a government instrumentality, any of which will preserve the community as an affordable housing resource. This is admittedly a very small segment of the manufactured housing community market at this time, but we expect it to grow in the future, especially with the enterprises' support.

Third is to provide Duty to Serve credit for enterprise purchases of blanket mortgages on manufactured housing communities that include certain tenant protections in the pad leases used at the property, although let me emphasize and correct certain reports



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that have circulated, that inclusion of these provisions would not be required as a condition of obtaining an enterprise back blanket mortgage, and is not a precondition for applying for one.

The protections specified in the proposed rule include a tenant's right to sublease the pad in connection with the sale of their unit, and a tenant's right to notice of a planned sale or closure of a manufactured housing community. Our research shows that these communities are subject to a broad range of state tenant protection laws with some much weaker than others, and that certain basic protections, such as those proposed in the rule, should be universal and could be adopted more broadly with the enterprises' support.

Lastly, the proposed rule includes an estimation methodology for determining the affordability of a community, given the limited information that is available about tenant incomes and their total housing costs.

Next, I'll discuss the second underserved market specified in the statute, which is affordable housing preservation, and this is slide 9. The rule proposes activities that would support affordable housing preservation, both the multifamily and single family housing markets. First, I'll discuss the proposed multifamily preservation activities that are listed in this slide.

The statute specifies 9 categories of affordable housing subsidy programs for the enterprises' support, and the rule proposes an additional 4 multifamily preservation activities or programs that FHFA believes are consistent with the larger goal of affordable housing preservation. The topics on slide 9, we'll go into some detail in the following slides.

Slide 10 shows the statutorily enumerated activities that were included in the statute. Fannie Mae and Freddie Mac are most active in the HUD Section 8 Rental Assistance Program, and in financing projects which use federal low income housing tax credits. Many of these projects also include comparable state and local affordable housing programs. The statute, however, also makes reference to certain other HUD subsidy programs, grant programs, and FHA insurance programs. We believe that the statute intended for Fannie Mae and Freddie Mac to provide financing that supports the preservation of affordable housing that was created under these programs, and we see comments, another way the enterprises can support preservation of affordable housing properties that are funded under these programs.

Slide 11 states a proposed regulatory activity supporting small multifamily rental properties. Small multifamily properties of 5 to 50 units are a primary source of market rate housing that is affordable to low and moderate income renters. The proposed regulatory activity would have the enterprises buy pools of loans from small community and regional banks and running intermediaries to support these institution's ability to make new loans. The size of the institution as proposed, as stated on the slide, is something for which FHFA seeks comment under the proposed regulation.



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Slide 10 discusses multifamily energy efficiency. Rental housing affordability is determined by adding both the cost of rent and the cost of tenant paid utilities as a percentage of a tenant's income. If energy efficiency improvements to reduce energy consumption and thus energy expenses, that can help preserve housing affordability to a tenant.

There are 3 requirements for this proposed activity. First, that projections must show that the energy efficiency improvements will reduce energy and water consumption by at least 15 percent below current usage. Secondly, that there's a showing that the reduced utility costs that would derive from reduced consumption would not be upset by other charges from the landlord, specifically a rent increase, and thirdly, that the reduced utility costs that come from the improvements and the reduced expenses for utilities must offset the upfront costs of the improvements within a reasonable period of time.

On slide 13 we show 2 other multifamily affordable housing preservation programs that we propose be included as a Duty to Serve activity. These are both HUD programs. First, the Rental Assistance Demonstration Program, otherwise known as RAD, and secondly, the Choice Neighborhoods Initiative. Both are HUD programs as I mentioned, and they may very well have been included in HERA, had they existed at that time.

RAD addresses distressed public housing. It converts the property's operating funds to project-based vouchers for Section 8 rental assistance contracts. This allows housing authorities to leverage other sources of capital for rehabilitation and preservation of public housing units.

The second HUD program, as we have identified in the proposed reg as a regulatory activity is the Choice Neighborhoods Initiative. Choice Neighborhoods is a successor to the HOPE VI program. Under this initiative HUD provides grants for both planning and implementation in support of developing mixed-income housing, and neighborhood upgrades and amenities. Financing that preserves affordable housing under either of these programs would be a regulatory activity. This wraps up the slides on affordable housing preservation multifamily activities. I will now turn it over to Matt Douglas, who will discuss the first of the 2 affordable housing preservation single family activities.

**Matt:** Thanks, Chris. There are 2 regulatory activities for affordable housing preservation on the single family side: energy efficiency and shared equity. I will summarize the energy efficiency core activity, which is similar to the multifamily energy efficiency activity just described by Chris.

As with multifamily rental properties, preservation of affordable single family properties, both home ownership or rental, may also encompass lower income energy costs. Lowering energy costs can help a home owner to continue to afford mortgage payments and other housing costs and remain in their home, or to help a tenant afford their rent. For a property to qualify for the single family energy efficiency activity, it must be a single family, 1 to 4 unit home, where the loan is in first-lien position. To qualify for Duty to Serve credit, there must be verifiable and reliable projections or



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expectations that the improvements financed by the loan will reduce energy and water consumption by the home owner or tenant by at least 15 percent.

In the case of a single family rental property, the reduced utility costs must not be offset by higher rents or other charges imposed by the property owner. Lastly, the reduced utility costs derived from the reduced consumption must offset the upfront costs of the improvements within a reasonable time period.

Now, Jim Gray will discuss the other affordable housing preservation single family activity, shared equity.

Jim: Thank you, Matt. Shared equity is included in the proposed rule to encourage long term preservation of affordable home ownership units to complement preservation of affordable rental housing, already discussed. To be eligible, a shared equity program would have to be administered by one of 3 types of eligible program sponsors, and eligible programs must do 3 things.

First, the 3 types of qualifying shared equity sponsoring organizations are: community land trusts, other non-profit organizations, and state or local governments or instrumentalities. Second, the 3 activities that all qualifying shared equity programs would have to do to get Duty to Serve credit under the proposed rule are, first, ensure affordability for 30 years. Longer is permissible if permitted by state law. Second, monitor the units to ensure affordability is preserved over resales, and third, support the homeowners to promote successful home ownership.

The slide that you see outlines the 3 principal strategies for preserving affordable ownership: deed-restricted programs, community land trusts, and shared appreciation loan programs. I'll offer a brief explanation of each.

Deed-restriction programs are where a restricted covenant is attached to the deed when a home is purchased at a below market price. The covenant ensures that when the property is resold, it will be at an affordable price, usually below market value, to another eligible household.

Community land trusts is where a land trust retains ownership of the land using a ground lease. A resale formula in the ground lease preserves affordability by stipulating a below market value price for which the homeowner may sell the home to an income-eligible buyer in the future.

Shared appreciation loans are when a home is sold at market value to an income-eligible purchaser, but the program provides a no-payment, second mortgage loan that is fully due upon sale, and typically at 0 percent interest. The loan document stipulates the home owners share of the appreciation upon resale. The share of the appreciation that goes to the program is used to increase the shared appreciation loan amount and make the home affordable for the subsequent buyer.

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Proprietary shared appreciation loans, where an investor receives part of the equity in exchange for making the home affordable for a single buyer only, do not preserve affordability, and are excluded from Duty to Serve. This concludes the summary of the core activities for the affordable housing preservation market. Please remember that the enterprises may also propose additional activities to serve underserved markets. Next, I turn it over to Bob Witt to summarize the third and final specified underserved market, rural housing.

Bob: Thanks, Jim. The first rural market slides addresses the need for a rural area definition so that FHFA can evaluate the enterprises' activities in rural markets, and measure their performance under their underserved market plans. The proposed definition is intended to give the enterprises broad flexibility to undertake and receive credit for activities in rural markets.

FHFA considered 3 main criteria in developing a rural area definition. The definition must include rural residents living in outlying counties of metropolitan areas, remain stable over time, and be easy to implement by the enterprises. In developing its definition of rural area, FHFA considered other agency definitions of rural. However, each definition we looked at lacked one or more of the criteria set forth in developing a Duty to Serve definition.

The proposed rule would define a rural area as a census tract outside of a metropolitan statistical area or MSA, designated by OMB, or a census tract in an MSA, but outside of the MSA's urbanized areas and urban clusters, as designated by the USDA's Rural-Urban Commuting Area codes.

The next slide covers 2 categories of rural housing activities: activities that serve rural areas generally, and activities that serve high-needs rural regions and populations. Under the first activity, the enterprises would be required to evaluate their current activities in rural areas, and identify opportunities to increase those activities. This evaluation could include the enterprises working through federal and state programs and with local stakeholders to address liquidity needs in rural markets.

The proposed rule defines eligible activities as enterprise activities that facilitate a secondary market for mortgages on rental residential properties for very low, low, or moderate income families in rural areas. Examples of activities could include modifying their underwriting guidelines for rural loans eligible for purchase, increasing loan purchases in these areas, or developing strategies for extending education, outreach, and technical assistance to groups that support housing in these areas.

These groups would include small and rural lenders, community banks, local housing finance agencies, and community development financial institutions, as well as non-profit and for-profit organizations serving rural markets. Other activities could also include enterprise marketing to lenders in rural areas in an effort to increase the number of approved lenders in those areas.



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The enterprises have increased their purchases of mortgage loans in rural markets over the past 5 years and have expanded their outreach to community banks and other rural lenders over the past year. However, there continues to be a need for outreach, support, and capacity building for rural lenders to facilitate their origination of loans for housing in rural areas, which the enterprises could purchase.

The enterprises would also receive Duty to Serve credit for enterprise support of financing of income eligible housing for high-needs rural regions and high-needs rural populations. This activity would represent a regulatory activity, so the enterprises would have to address high-needs regions and populations in their underserved market plans by indicating how they choose to undertake the activity, or the reasons why they will not undertake the activity. The proposed rule would include definitions of high-needs rural regions and high-needs rural populations.

A high-needs rural region is defined as any of the following regions, provided they are located in a rural area. These regions are Middle Appalachia, the Lower Mississippi Delta Region, and colonias. Colonias are primarily located within 150 miles of the U.S.-Mexico border in Arizona, New Mexico, Texas, and California. These states, and some counties within these states, identify these communities as colonias for various housing purposes and programs.

The proposed rule would define high-needs rural populations as any of the following federally defined populations, provided they are located in a rural area. These populations are members of an Indian Tribe located in an Indian area, or migrant and seasonal agricultural workers. FHFA chose these rural regions and populations because they are characterized by a high concentration of persistent poverty and substandard housing conditions. The other activities previously mentioned that serve rural areas generally would also be creditable activities in these high-needs regions and populations.

This concludes the summary of the rural housing markets. Now I'll turn it back over to John Foley, who will summarize how Fannie Mae and Freddie Mac would be evaluated in their performance under the Duty to Serve. John?

John: Thank you, Bob. You will recall that we began this summary of the proposed Duty to Serve rule by setting out the Duty to Serve framework, which largely revolves around underserved markets plans. Then we summarized regulatory activities in each of the 3 specified underserved markets. Now I'll summarize how FHFA proposes to evaluate and rate Fannie Mae and Freddie Mac's Duty to Serve performance, which is shown on slide 19.

HERA requires FHFA to annually evaluate and rate each enterprise's Duty to Serve performance, and to report its conclusions to Congress. FHFA would evaluate an enterprise's Duty to Serve performance based on how well the enterprise has implemented its plan during the evaluation year. FHFA would set forth its evaluation criteria in a separate FHFA prepared evaluation guide, covering each enterprise's Duty to Serve Plan activities for each evaluation year.



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Evaluation guides would be posted on the respective enterprise's website and on FHFA's website. Evaluation guides would allocate a range of potential scoring points. For example, a maximum of 10 and a minimum of 0 to each plan activity. The total number of scoring points that could be allocated to all plan activities grouped under a particular underserved market would be 100 points. At the end of the evaluation period, FHFA would compare the evaluation guide criteria to an enterprise's actual performance under its plan, and assign a final score to each plan activity. The final scores for all the plan activities grouped under each underserved market would then be summed to produce an overall composite score ranging from 0 to 100. The composite scores would be compared to a grid provided for in the evaluation guide.

Depending on where an underserved market's composite score fell on the grid, an enterprise would receive an overall rating of "Exceeds," "High Satisfactory," "Low Satisfactory," or "Fails" for that underserved market. During the evaluation year, each enterprise would provide FHFA with quarterly data feeds. Each enterprise would also meet with FHFA each quarter, to discuss their progress. Finally, each enterprise would prepare reports for FHFA describing its Duty to Serve activities during the preceding year.

That concludes the overview of the proposed rule. I'll now turn the discussion back to Jim.

Jim: Thank you, John. There are a few points I want to reiterate before the question and answer period. First, Duty to Serve only applies to activities serving very low, low, and moderate income people in 3 market segments: manufactured housing, affordable housing preservation, and rural housing. Second, you need to submit a written comment to have your view considered by the agency in the development of the final rule. Your comments must be submitted by March 17, 2016. Comments may be submitted electronically to the web portal shown in slide 20 or in writing to the mailing address in the proposed rule. Please do not use the mailbox that you use to register for this webinar to submit your comments.

The presentation we have just been through will be emailed to each of you at the conclusion of the webinar, and the presentations will also be posted on FHFA's website, along with links to the press release, the fact sheet, and the proposed rule itself.

Now we will address some of your questions submitted in advance. 90 questions were submitted in advance. We chose questions that we thought would be of most interest to a broad audience, trying to cover all 3 of the markets in the questions that we address. Whether or not the question that you emailed us is addressed on today's webinar, it will become part of our rule making public comment record. We invite you to submit a public comment through our web portal or through the mail.

We will first address questions on rural housing, then affordable housing preservation, then manufactured housing, and finally 2 more general questions.



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All right, the first question was submitted by the National Rural Housing Coalition. "Findings from the Economic Research Service show that more than 50 percent of all rural individuals and families live within Metropolitan Statistical Areas or MSA's. What share of that population would be targeted by the enterprises' strategic plan for rural housing? Our interpretation is that areas within MSA's with populations greater than 2500 would be excluded from the definition of 'rural area.'" I will turn to Bob Witt to answer that question.

Bob: Thanks, Jim. The proposed rule definition of "rural area" is a census tract that is outside of an MSA as designated by OMB, or a census tract that's in an MSA but outside of the MSA's urbanized areas and urban clusters, as designated by the USDA's Rural Urban Commuting Area codes. The population cut-offs are embedded in the definition of the RUCA codes. Specifically, an urban cluster must have at least 2500 people, so areas within MSA's that have populations of up to 2500 are included in the proposed definition of "rural area." The proposed definition of "rural area" is intended to provide the enterprises with broad flexibility to undertake and receive Duty to Serve credit for activities in rural markets. The proposed definition of "rural area" would cover approximately 24.7 percent of the population in the U.S. and Puerto Rico.

Jim: The second question was submitted by the U.S. Department of Agriculture. "Would Duty to Serve credit be available for any activities that include collaboration with the U.S. Department of Agriculture's Section 502 Direct or Guaranteed Single-Family Housing Loan Programs?" Bob?

Bob: Yes, each enterprise is encouraged to propose additional activities that serve the rural markets generally, and this could include loan purchases under the USDA Section 502 Direct or Guaranteed Single-Family Housing Loan Programs. In fact, most of the USDA programs which serve multifamily and single family housing are potentially eligible for Duty to Serve credit, so long as they serve very low, low, moderate income families in rural areas, as defined in the proposed rule.

Jim: The third question was submitted by the National Rural Housing Coalition. "Should the definition of 'high-needs rural regions' be expanded to include rural persistent poverty counties?" Bob?

Bob: The specific high-needs rural regions and populations identified in the Duty to Serve proposed rule were proposed because they're characterized by a high concentration of persistent poverty and substandard housing conditions. The proposed rule requests comment on whether there are other high-need rural regions and populations that should be specified in the rule, and how they should be defined.

The proposed rule would not limit the enterprises to activities supporting these specific high-need rural regions and populations in order to receive Duty to Serve credit under the rural markets. The proposed rule simply identifies these high-need rural regions and populations as a regulatory activity that the enterprises must consider in developing their underserved market plans. If an enterprise believes that very low, low, or moderate income families in rural markets would benefit from enterprise activities



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involving other specific rural regions and populations, the enterprises may propose those as additional activities in its plan.

The proposed rule also would provide extra Duty to Serve credit for mixed-income housing located in areas of concentrated poverty, defined in the proposed rule as census tracts designated by HUD as qualified census tracts. If those qualified census tracts are located in rural areas as defined in the proposed rule, an enterprise would receive extra Duty to Serve credit for supporting mixed-income housing in those areas of concentrated poverty under the rural markets.

Jim: The next few questions pertain to affordable housing preservation. Question 4 was submitted by the National Rural Housing Coalition. "Would refinancing of Section 515 or 514 mortgages to maintain their affordability status fall within the scope of preservation activities for affordable rental housing?" Chris Tawa?

Chris: Absolutely. If Fannie Mae or Freddie Mac provide permanent financing that helps preserve affordable housing properties that were developed under the rural housing programs of the USDA, that would qualify as a housing preservation activity under the proposed rule.

Jim: Question 5 was submitted by Freddie Mac. "Why has FHFA limited Duty to Serve credit to pool purchases from small banks and community-based lenders, and would FHFA consider larger banks?" Chris?

Chris: Our research into the small multifamily property market shows that smaller community and regional banks are a primary source of financing for properties with 5 to 50 units, especially in smaller metro areas and in secondary and tertiary markets. However, these loans are often placed in the bank's portfolio, which limits the bank's ability to provide liquidity to this sector. If Fannie Mae and Freddie Mac purchase loan pools from these banks, it would give them new liquidity and make more loans to smaller properties in the areas they serve.

Fannie and Freddie already offer retail lending programs through their lenders for permanent financing on small multifamily properties from which they receive regulatory credit under the housing goals rule. As to the question of the larger banks, the proposed rule would not limit the enterprises' to purchasing loans on small multifamily and rental properties from smaller, community-based lenders in order to receive Duty to Serve credit. The proposed rule simply identifies this activity as a regulatory activity that the enterprises must consider in developing their underserved markets plan.

If an enterprise believes that very low, low, or moderate income families in the affordable housing market would benefit from the enterprise's purchasing loans on small multifamily properties from larger lenders, the enterprise may propose that as an additional activity in its plan, and indeed, we solicit comments during the comment period on the appropriate size of regional banks and community-based lenders which we should consider within the reg.



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Jim: Question 6 was submitted by Novogradac & Company. "If FHFA were to allow the enterprises to become Low-Income Housing Tax Credit equity investors again, does FHFA intend to place any limits on such investments? If so, what limits?" Chris?

Chris: Jim, in recognition of the current Low-Income Housing Tax Credit equity market conditions, FHFA has not included anything in their proposed rule that would permit the resumption of tax credit equity investments or guarantees by the enterprises. However, since the Duty to Serve statute specifically lists Low-Income Housing Tax Credits under the affordable housing preservation market criteria, and it includes investments generally as one of the assessment criteria, FHFA is requesting comment in the proposed rule on whether it should consider permitting the enterprises to make tax credit equity investments, and if so, on what terms.

We are particularly interested in learning if there are underserved segments of the tax credit equity market, such as for properties located in rural or non-CRA areas, or for mixed-income properties that may benefit from the enterprise-resumed participation in tax credit equity investment.

Jim: Okay, the next few questions pertain to manufactured housing. Question 7 was submitted by the Manufactured Housing Association for Regulatory Reform. "How does FHFA justify a Duty to Serve proposal that on its face would serve no more, and most likely significantly less, than 22 percent of the manufactured housing market?" Mike Price?

Mike: The enterprises may be able to use their market presence to expand the use of real estate financing for manufactured homes. The Consumer Financial Protection Bureau estimates that 65 percent of borrowers who own their land finance their units as chattel rather than as real estate. The Manufactured Housing Institute states that growing numbers of buyers are opting to place their homes on land they are purchasing or already own.

Safety and soundness concerns have played a significant role in our decision to propose excluding the purchase of chattel loans on manufactured homes from receiving Duty to Serve credit. Chattel loans historically have performed poorly with significant consequences for their borrowers. However, we are requesting comment in the proposed rule on whether the enterprises should receive Duty to Serve credit for the enterprise development and implementation of a pilot initiative to purchase chattel loans that is approved by FHFA.

Jim: Okay. Question 8 was submitted by the Manufactured Housing Institute. "Will FHFA consider changes to the Fannie Mae and Freddie Mac Selling Guides on manufactured homes titled as real estate to allow financing of property damage insurance, liberalize maximum Loan-to-Value calculation criteria, and allow financing of homes without data plates and/or the Department of Housing and Urban Development tags?" Mike?

Mike: Fannie Mae and Freddie Mac draft their Selling Guides. FHFA does not draft the Selling Guides for them. FHFA cannot pre-judge the specific items mentioned in this question



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without knowing more about them, and going through an evaluative process. However, in general, in evaluating Fannie Mae's and Freddie Mac's Duty to Serve performance, the statute requires FHFA to consider their development of loan products, more flexible underwriting dialogues, and other innovative approaches to providing financing to each underserved market.

Jim: Question 9 was submitted by the Manufactured Housing Institute. "How does the FHFA envision the process for considering and implementing a chattel loan pilot program?"  
Mike?

Mike: As proposed, the rule would not provide Duty to Serve credit for the enterprises for supporting chattel lending. However, we are requesting comment in the proposed rule on whether the enterprises should receive credit for enterprise development and implementation of a chattel loans pilot initiative that is approved by FHFA. If Duty to Serve credit for such a pilot is authorized in the final rule, the enterprises would need to determine whether they want to undertake such an initiative and develop and submit a proposal through FHFA for approval.

Jim: Question 10 was submitted by Reinvestment Partners. "Would the application of the Real Estate Settlement Procedures Act (RESPA)-required procedures, or other types of consumer protection laws, be a basis for adding to the types of manufactured housing that are relevant for the Duty to Serve?" Mike?

Mike: We have requested comment in the proposed rule on whether the enterprises should receive Duty to Serve credit for enterprise development and implementation of a chattel loans pilot initiative. However, there may be substantial difficulties in developing disclosures for borrowers analogous to those required under RESPA, particularly the prohibition on unearned referral fees and the requirements for disclosures to borrower's closing costs. There may also be difficulties in institutionalizing these disclosures among market participants.

Beyond these operational concerns, developing RESPA-like protections may require legislative and regulatory changes. The same may be true for mandating that chattel borrowers have protections and remedies analogous to those that state law affords real estate borrowers in foreclosure.

Jim: Question 11 was submitted by the American Commerce Bank. "If the changes include the right for homeowners to try to sell their homes in the manufactured housing community, what if the potential purchaser does not meet the community requirements to lease the pad? How would that conflict be resolved?" Mike?

Mike: The purpose of the proposed provision is to prevent any requirement that the unit owner must first relocate the unit outside the manufactured housing community in order to sell it. The proposed rule does not address any restrictions manufactured housing community owner might impose on the prospective purchases of these units. We welcome comments on the proposed rule's provisions related to manufactured housing communities.



## *Transcript of FHFA Duty to Serve Proposed Rule Webinar – December 22, 2015*

Jim: The next question pertains to residential economic diversity. Question 12 was submitted by Fannie Mae. "The proposed rule makes numerous references to 'residential economic diversity' or mixed-income development. Can FHFA provide more guidance as to what would qualify under this term and what would not?" Chris?

Chris: Absolutely. Residential economic diversity is a concept in federal housing policy that seeks to encourage the development or preservation of affordable housing in high opportunity areas, and mixed-income housing in areas of concentrated poverty, with the goal of decreasing concentrated levels of poverty. The Duty to Serve proposed rule would encourage the enterprises to support residential economic diversity in one or more of the underserved markets, by providing credit in connection with mortgages on affordable housing preservation properties in high opportunity areas and in mixed-income housing in areas of concentrated poverty.

Those terms are proposed to be defined in the rule. A high opportunity area would be defined as an area designated by HUD, by HUD regulation I should say, as a difficult development area. Mixed-income housing would be defined as a multifamily property with the government, that may include or comprise single family units that serve very low, low, or moderate income households where at least 25 percent of the units are affordable, to households with incomes above moderate income levels. Area of concentrated poverty would be defined in the census tract, designated by HUD regulation as a qualified census tract.

Jim: The final question was added by FHFA staff. "How does this proposed rule interplay with the housing goals rule for the enterprises?" Our answer is that the housing goals and Duty to Serve rules have the common policy objective of facilitating a secondary market for mortgages on property that serve lower income families. The different approaches in the 2 rules complement each other in important ways.

By setting specific numeric loan purchase or unit goal targets, the housing goals ensure that a portion of enterprise loan purchases are targeted to mortgages on housing that is affordable to very low and low income families. In contrast, the Duty to Serve statute prohibits FHFA from setting specific quantitative loan purchase targets in the Duty to Serve rule. However, the enterprises may propose their own quantitative loan purchase targets for very low, low, and moderate income families.

In addition, the Duty to Serve statute requires the enterprises to focus their efforts in the 3 specified underserved markets, encouraging the enterprises to engage in a broad range of activities to serve these families.

This concludes the question and answer portion of the webinar. We want to remind everyone that public comments are due by March 17, 2016. Everyone is encouraged to submit a comment. Thank you very much for your participation in this webinar. Goodbye.

