July 23, 2026

Clinton Jones
General Counsel
Attention: Comments
Enterprise Duty to Serve Underserved Markets
RIN 2590–AB64
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20219

Dear Mr. Jones:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to comment on proposed changes to the regulations implementing the Enterprise Duty to Serve (DTS) Underserved Markets, RIN 2590-AB64. The DTS regulations help ensure that the Government Sponsored Enterprises (GSEs), Fannie Mae and Freddie Mac, target their product development, outreach, and loan purchase activities to traditionally underserved markets including rural areas, affordable housing preservation, and manufactured housing. The DTS regulation must measure whether the GSEs are fulfilling their statutory duties to "increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets."[1] Accordingly, the FHFA must improve the rigor of its proposed rule so it can accurately measure the GSEs' activities in underserved markets and encourage an increase in those activities.

NCRC supports aspects of the proposed rule such as requiring the GSEs to formally respond to public comments and eliminating abuse of the plan modification process. However, we urge the FHFA to reconsider major aspects of the proposed rule which could reduce financing for the populations with the most pressing needs by relaxing income targets and instituting a vague ratings regime. The proposed ratings system could make it easier for the GSEs to pass their DTS requirements while not increasing and possibly reducing their financing of lending activity to the DTS underserved markets. Under the proposed ratings system, the GSEs would receive passing or failing numerical ratings that measure their activities (loan product development, outreach, loan purchases, investments and grants) in each of the three DTS markets of rural areas, affordable housing preservation, and manufactured housing. As described in detail below, the

[1] 12 U.S. Code § 4565 - Duty to serve underserved markets and other requirements, Cornell Law School, Legal Information Institute, https://www.law.cornell.edu/uscode/text/12/4565

proposed ratings system lacks objective measures of performance which could likely result in subjective and inflated ratings.

NCRC is a coalition of more than 750 community-based organizations fighting for a just economy. For nearly 30 years, NCRC has worked to create opportunities for people and communities to build and maintain wealth. NCRC members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, fair housing and civil rights groups, minority and women-owned business associations, and housing counselors from across the nation. Our community members need the GSEs to help facilitate access to credit and wealth building opportunities for modest income neighborhoods and communities of color.

Our comment will make the following major points:

- The proposed elimination of a prescribed list of activities for DTS plans and evaluations is likely to result in the GSEs choosing activities that are less impactful in terms of leveraging financing for the DTS markets. The rule must not allow the GSEs to re-label their regular activities as those targeted at DTS markets. This would result in a significant loss of impactful activities that would leverage more investment capital for mortgages serving DTS markets.
- The relaxation of income targets in the proposed rule would encourage the GSEs to decrease their focus on populations with the most housing needs in favor of higher income populations for which financing housing is not as difficult.
- NCRC supports the FHFA's proposed requirements regarding the GSEs' obligations to help banks comply with Community Reinvestment Act (CRA) obligations and to help create an institutional infrastructure for financing affordable housing that includes nonprofit organizations and state and local governments.
- While NCRC supports the FHFA requirement that the GSEs explicitly respond to public comments on their draft DTS plans, NCRC requests that FHFA lengthens its proposed public comment period from 45 to 60 days.
- As part of DTS plan development, NCRC supports the FHFA's proposal to make it more difficult for the GSEs to modify plan requirements. The current procedure is prone to manipulation in the form of weaking plan goals to avoid GSE failure to achieve plan requirements.
- NCRC reiterates our long-time position that a two-year plan is more feasible than a three-year DTS plan for the GSEs to achieve. A two-year plan would also reduce the need for modifications and would also provide more opportunities for public input.

- NCRC generally supports the FHFA's proposed dissemination of DTS-related documents and annual reports, but we suggest improvements to the proposal.
- The FHFA proposed rating system for the DTS plans and annual performance is too subjective with an absence of measurable outcomes and benchmarks. The FHFA's proposed new activities such as program management on DTS evaluations will also likely increase subjectivity and inconsistencies in ratings. The result could be ratings inflation that reward stagnant or declining levels of financing in the DTS markets.

Elimination of Prescribed List of Activities Would Reduce GSE Attention to Impactful Activities

Under the current DTS regulations, the GSEs are required to specify goals for an established set of statutory and regulatory activities for each DTS market (the GSEs have to choose activities within the established set of activities). For example, under the affordable housing preservation market, GSEs are required to develop goals for loan production, outreach, loan purchase, or investments and grants for activities such as financing Section 8 properties, Section 515 properties, or Low-Income Housing Tax Credit (LIHTC) properties for lower income households. The GSEs can also propose additional activities that would receive favorable consideration upon the approval of the FHFA.

The FHFA is proposing to delete these lists of activities and allowing the GSEs to propose their own activities that will promote financing of affordable housing preservation, manufactured housing, and housing in rural areas. The FHFA would then approve or reject these proposed activities.[2] The FHFA believes that the current procedure of established lists stifles innovation and causes the GSEs to chase a list of predetermined activities that might not be the most responsive to need.

The FHFA states that the list of activities "may have incentivized a 'compliance-centric' mindset that prioritizes the fulfillment of granular regulatory benchmarks over meaningful market impact."[3] The FHFA continues that the agency, "is also concerned that prescribing Activities, some of which focus on narrow geographies or specific populations, may have had the unintended consequence of limiting the Enterprises and their ability to support the holistic health of the broader secondary market for very low-, low-, and moderate-income families."[4]

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[2] Federal Housing Finance Agency (FHFA), Notice of Proposed Rulemaking (NPR), Enterprise Duty to Serve Underserved Markets, RIN 2590–AB64, Federal Register, Vol. 91, No. 120, Wednesday, June 24, 2026, p. 37850
[3] FHFA, NPR, 37852
[4] FHFA, NPR, 37852

The FHFA, however, ignores the history of the development of the activities. Over several years, the FHFA had proposed several iterations of the DTS regulation and solicited input from stakeholders via comment periods and during forums. Under previous agency directors, the FHFA carefully developed the list of activities by considering the views of the GSEs, community-based organizations, lenders, and public sector entities regarding the activities' importance in responding to housing needs. Discarding the current activity list in favor of allowing the GSEs to propose their own activities replaces a set of activities that had achieved stakeholder consensus regarding their importance with a set of activities chosen by the GSEs which might be responsive to needs but could primarily facilitate GSE business activities driven by their profit considerations.

An example of a seemingly arbitrary removal of prescribed activities is the deletion of required water and energy efficiency activities. The FHFA cites an Executive Order that mandates the deletion of incentives for "costly energy efficiency and water use requirements" from regulation.[5] Yet, the FHFA offered no data or analysis concluding that costs of energy efficiency improvements outweighed the benefits. Borrowers can probably better afford their mortgages if home improvement loans for energy efficiency resulted in considerable savings on utility bills. A study conducted by the UNC Center for Community Capital found that homeowners of energy efficient homes are 32 percent less likely to default than those not in energy efficient homes.[6] In addition, the U.S. Department of Energy estimates that its weatherization program saves households an average of $372 annually on utility payments.[7] Based on this evidence, it is likely that, GSE purchases of loans that included improvements and rehabilitation geared towards energy and water efficiencies would improve the performance of loans in the GSEs' portfolios or in Mortgage-Backed Securities (MBS) purchased by investors.

The proposed FHFA's role of reviewing the activities selected by the GSEs might offer some level of protection against activities biased towards GSE business considerations. However, the process would be dominated by interactions between the GSEs and the agency with a lesser role played by community stakeholders in influencing the activities. Community stakeholders would be able to comment on draft GSE DTS plans but the emphasis would now be on GSE-selected activities instead of GSEs responding to a list of activities developed in public processes over several years. The proposed GSEs' top-down process would bias the selection of activities to the imperatives of the GSEs as opposed to broader public needs.

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[5] FHFA, NPR, 37853
[6] UNC Center for Community Capital, Home Energy Efficiency and Mortgage Risks, March 2013, https://imt.org/wp-content/uploads/2018/02/IMT_UNC_HomeEEMortgageRisksfinal.pdf, p. 1
[7] U.S. Department of Energy, Weatherization Assistance Program, https://www.energy.gov/cmei/scep/wap/weatherization-assistance-program

In addition, the proposal to require the GSEs to develop a list of activities may not be successful as suggested by the track record of CRA strategic plans. Financial institutions prefer a consistent set of rules such as reacting to a prescribed list of activities to a strategic planning process in which they develop their own plans for satisfying community needs for affordable housing. Over the years, banks have opted for regular CRA exams much more frequently than strategic plans under which they establish their own goals. In 2025, for example, the agencies conducted 1,145 exams but evaluated just 20 strategic plans. For all the exam records over the years maintained by the Federal Financial Institutions Examination Council, the agencies conducted 83,727 exams but evaluated just 264 strategic plans.[8] In other words, strategic plans are not a popular choice as revealed by their frequency of less than 1 percent of all CRA exams.

CRA exams assess bank performance on established criteria for lending, investing, and services in low- and moderate-income communities. In contrast, strategic plans require banks to develop their own goals and performance measures for evaluating their success in achieving their goals. The FHFA is pushing the GSEs to adopt an evaluation regime that resembles the CRA strategic plan that benefits neither the GSEs nor communities as much as the current evaluation system.

Finally, the proposal to provide the GSEs with discretion to establish their activities may encourage the GSEs to label their regular activities serving mainstream markets as activities designated for DTS markets. The current prescribed list identified activities that often required institutional partnerships and flexible products so that they could successfully reach DTS markets. Removing this list potentially allows the GSEs to substitute activities that will not serve DTS markets as well because they lack institutional support and flexibility. This would reduce the volume of GSE supported financing for the DTS markets. This adverse outcome could be accelerated if the proposed rating system with subjective measures of performance is finalized as described below.

Proposed Relaxation of Income Targets Would Skew GSE DTS Activities Away from Borrowers and Communities with Most Pressing Needs

The FHFA proposed changes for loan eligibility for GSE purchases in rural areas and for manufactured homes would probably result in a GSE loan portfolio with fewer loans for families with the most needs. For rural areas, the FHFA is proposing that it use the highest of national, county, or state-wide nonmetropolitan income medians for purposes of calculating percentage of median incomes and qualifying loans for borrowers with incomes that are lower than a threshold percentage (such as 80 percent of area median income).

[8] Review of CRA ratings and types of exams accessed on July 3, 2026 on website of the Federal Financial Institutions Examination Council, https://www.ffiec.gov/data/cra/ratings

The FHFA believes that the current procedure of not considering national medians artificially depresses GSE rural loan purchases and does not meaningfully target purchasing activity towards those borrowers with lower incomes. The agency cites data analysis suggesting only a modest increase of a few thousand dollars of the median income of borrowers that would be served in the rural market due to its proposal.[9] Firstly, this analysis suggests that the change may not be meaningful because it results in borrowers having just modestly higher incomes.

Alternatively, the proposal may be detrimental. The FHFA did not consider the impact on the incidence of housing problems such as housing affordability or substandard housing by its proposed change. It is possible that a borrower distribution tilted towards a higher income mix could be experiencing a lower level of housing problems. The modestly higher income level of about $4,500 for the typical borrower due to the proposal could make a significant difference in the borrower's ability to afford monthly housing cost or repairs to convert housing from substandard to habitable.[10] Thus, the proposal could divert affordable finance away from lower income borrowers more in need of the financing.

Housing needs are local, not national. Analysts should not compare housing needs or monthly costs in a rural county to national needs and costs that are often quite different. Likewise, median income levels in a rural community should not be compared to rural national median income levels, which could be quite different. The FHFA's proposal ignores the interaction between local borrower income levels and rental or mortgage costs, which are influenced by supply and demand on a local level, and not a national level. Considerably lower income in some rural communities could be matched by considerably lower rents or mortgages due to lower costs to build and maintain housing. Thus, making more borrowers eligible for GSE rural financing by using a national income median might be inappropriate and target borrowers with higher incomes that can more easily afford local rents or mortgages. The FHFA does not offer any analysis that considers local housing market dynamics of this sort.

The FHFA offers the example of Puerto Rico and a few other outliers to say that the current procedure not allowing comparisons to national medians dramatically depresses the number of loans that the GSEs can purchase in rural areas.[11] However, an untested assumption is that increases in loan purchases are automatically a beneficial impact of the proposed change without analyzing whether increases in loan purchases might crowd out financing for borrowers or families with more pressing needs. If the agency had demonstrated the absence of crowding out

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[9] FHFA, NPR, 37865
[10] FHFA, NPR, 37865
[11] FHFA, NPR, 37865

in some geographical areas, it could analyze which other market conditions were present and could establish a rule allowing for use of national medians in those markets only.

The FHFA also proposes the same change for determining DTS eligibility for metropolitan areas. The agency will compare the income of the borrower to the highest of the metropolitan area median income, the State median income including metropolitan areas, or national median income including metropolitan areas.[12] For reasons similar to the case of rural areas, NCRC strenuously opposes the proposed change as resulting in reduced targeting for the lower income and needier households and families.

As with rural areas, the FHFA proposed a change for manufactured housing that lacks complete analysis and could result in reduced access for the households with the most needs. Under current procedures, the agency considers a loan purchase to be DTS eligible for manufactured housing that is in census tracts with incomes at or below median income levels. The agency proposed deleting this location requirement and instead presume that all loan purchases for manufactured housing are eligible under DTS rules. Its data analysis suggests that most purchasers of manufactured housing have low incomes. However, it did not consider that most purchasers are low-income because of the current census tract restriction. That is, most households with limited incomes are unlikely to cast a wide geographical net while house hunting and may reside mostly in lower income census tracts that are more likely to have manufactured housing. The FHFA does not consider this possibility.

Moreover, instead of merely lifting the current census tract restriction, the agency could have considered establishing a mortgage dollar limit based on data analysis that would instead target the GSE manufactured home activity towards lower income households. The median mortgage amount currently for manufactured home communities could be increased with inflation. This would ensure continued targeting of manufactured home communities that serve lower income households and families.

Eliminating targeting mechanisms ensuring that DTS activity in manufactured housing is focused on households with lower income levels and the most pressing needs does not guard against future market developments that may skew away from modest income borrowers. For example, manufactured housing communities may enter other markets including middle-income markets as zoning and other regulatory rules change.

[12] FHFA, NPR, 37872.

Changes to Rural High Needs Regions and Populations Need to be Implemented Carefully

Just as any changes to income targets need to be judicious, the FHFA should proceed cautiously with changing the definitions of high needs rural populations and deleting reference to Native Americans and agricultural workers. NCRC is concerned that removing explicit references to Native Americans and agricultural workers could weaken the focus on populations that the current DTS framework identifies as having distinct housing needs.

The FHFA suggests that under the rural activity category, the GSEs focus almost entirely on high needs rural areas which are currently defined to include Appalachia, the Lower Mississippi Delta, persistent poverty counties, and Colonias on the Texas Border.[13] By retaining the current high needs rural areas in the rural category as well as making it clear that the GSEs are to serve all rural areas, the FHFA intends for the GSEs to address a broad array of needs in rural areas. Yet, expansion could divert GSEs activities away from high needs rural areas.

A potential compromise is to retain the current high needs areas, make it clear that the GSEs can serve other rural areas, but also map and identify other rural counties exhibiting the highest incidence of cost burdens and substandard housing. The FHFA could then assess the distribution of GSE purchases across rural counties and provide higher ratings to the GSE that purchases higher percentages of loans in the counties with the highest incidence of cost burden and inadequate housing in addition to purchases in the current high needs rural areas. The FHFA should assess the results of any changes carefully and should revise its approach if both GSEs end up purchasing most of their loans in rural counties without the highest needs.

Similarly, the FHFA should carefully evaluate any changes it makes to the definitions of high needs rural populations. NCRC opposes the proposed deletion of agricultural workers and Native American populations for the reasons detailed by the Housing Assistance Council and the National American Indian Housing Council.

If the agency deletes references to Native Americans as a high needs rural population, it should examine whether GSE loan purchases are higher in Native American areas which the agency proposes to add to the high needs rural areas category.[14] NCRC found that tribal areas are lending deserts so we appreciate that FHFA is proposing to add Native American areas as a needs category.[15] However, FHFA should also track lending trends to Native Americans to make sure

[13] FHFA, NPR, 37855
[14] FHFA, NPR, 37855
[15] Dave Castillo, Bruce C. Mitchell, Jason Richardson, Jad Edlebi, Redlining The Reservation: The Brutal Cost Of Financial Services Inaccessibility in Native Communities, NCRC, December 23023, https://ncrc.org/wp-content/uploads/2023/11/Tribal-Lands-Report-v14.pdf

the GSEs are not neglecting this traditionally underserved category of borrowers. Likewise, it should track purchases of loans financing housing for agricultural workers if it deletes agricultural workers from the high needs population category.[16] As much as possible, data should be used in this assessment as well as interviews with stakeholders providing farm worker housing and social services to agricultural workers.

The FHFA should use the current level of GSE loan purchases and other activities in high needs rural areas and to high needs rural populations as a baseline in its evaluation of changes to the definitions and regulatory requirements. It should establish an expectation that the GSEs should not diminish activities and loan purchases to the current high needs rural areas and populations but should at least maintain the baseline level of activities if they seek to serve other areas with pressing needs.

Lastly, the FHFA should proceed cautiously regarding its proposal to relax the restriction on GSE Low Income Housing Tax Credit (LIHTC) for rural areas only.[17] Large metropolitan areas with several bank headquarters probably do not need GSE LIHTC assistance since CRA requirements are encouraging high levels of bank LIHTC activity in these areas. However, it is possible that smaller metropolitan areas are more in need of GSE LIHTC financing. The FHFA should expect the GSEs to retain and increase their current level of rural LIHTC financing while targeting urban financing to those areas that would receive little LIHTC financing but for the financial assistance of the GSEs. The GSEs should document the "but for" test in the LIHTC part of their DTS plans. In other words, for the urban LIHTC deals, the GSEs should describe how their financing was pivotal for executing the deals.

Plan Requirements Regarding CRA and Description of Mortgage Products Will Assist in Making GSEs More Effective in Serving DTS Markets

In contrast to the loosening of income target requirements, FHFA's proposed requirements for developing institutional strategies will facilitate GSEs serving DTS markets. The FHFA proposes to require the GSEs to not only discuss "the challenges faced by insured depository institutions in meeting their CRA obligations and general affordability concerns in low-income areas," but to also develop specific plans for helping banks meet CRA obligations and affordability challenges.[18] In other words, the plans would probably need to discuss the building of institutional relationships with banks and products that GSEs would develop with banks that help them meet CRA requirements and ease affordability challenges for borrowers. Ultimately, CRA

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[16] FHFA, NPR, 37853
[17] FHFA, NPR, 37854
[18] FHFA, NPR, 37858

works best if primary and secondary institutions collaborate more effectively with community and public sector entities. To the extent that the DTS plans promote more collaboration, lower income populations should receive more access to affordable credit.

Moreover, the FHFA's proposal emphasizes development of institutional relationships and partnerships with a wide variety of stakeholders. It states:

> In brief, proposed § 1283.3(b) would require the Enterprises to: (i) design programs and products that facilitate the use of federal, state, and local governments assistance programs; (ii) develop relationships with nonprofit and for-profit organizations that develop and finance housing with state and local governments; (iii) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and assist insured depository institutions to meet their CRA obligations; and (iv) develop the institutional capacity to help finance low- and moderate-income housing, including for first-time homebuyers.[19]

This proposed language must be finalized. In addition, the FHFA should clarify that under the loan product and outreach criteria, the GSES should describe programs and products developed with public sector entities and nonprofit community-based organizations. The description of the programs and products should also focus on how they will be directed to modest income neighborhoods and communities of color as well as first-time homebuyers.

The proposed list of tables will likewise boost transparency and facilitate stakeholder understanding of the GSE products and activities that would serve DTS markets. The FHFA proposes to require the GSEs to provide:

- A list of mortgage products that will reach underserved markets,
- Descriptions of GSE activities under the four statutory criteria of loan products, outreach, loan purchases, and investment and grants, and
- A separate table of all loan purchase targets over the three years.[20]

This is similar to current requirements but nevertheless is important to maintain and require for future plans.

[19] FHFA, NPR, 37856
[20] FHFA, NPR, 37858

Plan Development and Public Comment Procedures Are a Good Start but Should be Strengthened

The proposed rule appropriately replaces GSE discretion in responding to public comments with a requirement that the GSEs respond to the substantive points raised in the public comments. Specifically, the FHFA states:

> The existing regulation provides that each Enterprise "may, in its discretion, make revisions" based on public input, but does not require the Enterprise to respond to stakeholder concerns. To enhance transparency and ensure a meaningful exchange of information, the proposed rule would replace this discretionary standard with a requirement that the Enterprises provide a reasoned response to substantial points raised during the public comment period. This element is intended to promote accountability and provide the public with a clearer understanding of the technical, operational, or policy constraints informing the Enterprises' final determinations.[21]

Over the years, NCRC and our member organizations have made several recommendations on draft plans regarding improving data analysis, identifying needs, and more effective targeting of borrowers and communities with pressing needs. These substantiative comments often went unanswered and a succession of draft DTS plans suggested that the GSEs did not seriously consider or incorporate them in their DTS plan development.

When the GSEs and/or the FHFA did not appear to seriously consider comments, either incorporating suggestions or explaining why they did not, the GSEs and/or FHFA undermine the public's trust in the process. The result was less robust DTS plans that generate fewer and less insightful public comments for improvement. We are pleased the FHFA signals that public comments should receive the respect that they deserve and we urge the FHFA to retain these instructions in the final regulation about the importance of responding to comments in their final rule.

The FHFA would improve upon its insistence on the importance of public comments if it changes its proposed 45-day period to 60 days for receiving public comments on draft DTS plans.[22] NCRC itself is a coalition of 750 member community-based organizations. Engaging our members in outreach and conference calls regarding complicated DTS draft plans takes a significant amount of time that a 45-day comment period cannot accommodate. First, NCRC and our member organizations wishing to comment must develop their responses to provisions in

[21] FHFA, NPR, 37858
[22] FHFA, NPR, 37859

lengthy draft DTS plans. Then NCRC and our members hold conference calls to further flesh out and revise our opinions. A minimum of a month to a month and a half is needed for this process. This is followed by drafting comment letters and reviewing them, which takes at least another month. In order for FHFA to receive thoughtful input from coalitions like NCRC, a comment period must be a minimum of 60 days.

NCRC is just one example of the thousands of stakeholders that would want to review DTS plans, both organizations that are involved in coalitions as well as interested members of the public that are not formally in coalitions. The FHFA seeks to solicit input from a wide variety of organizations ranging from community-based organizations, public sector agencies, to primary lending institutions and their trade associations. Moreover, several organizations located in rural and other underserved areas have less access to the internet and the policy milieu based in Washington DC. To more fully solicit the views of communities that are the intended targets of DTS plans, the FHFA must provide a 60-day comment period. The FHFA itself must undertake strenuous efforts in outreach and information sessions that are better accommodated by a 60-day comment period.

The FHFA is proposing a six-month period for the development and revisions of draft DTS plans. Increasing the public comment period from 45 to 60 days would not interfere with achieving a six-month development period and would benefit the plans by generating more insightful suggestions for improving their effectiveness in reaching underserved markets.

After plans are finalized, the FHFA must ensure that the GSEs implement them faithfully by instituting effective monitoring processes. The first step is to widely disseminate GSE annual reports in which the GSEs report on their progress in achieving the DTS plan goals. NCRC supports the FHFA proposal to require the GSEs to place their annual reports on their websites.[23] However, we urge the FHFA to widely publicize when the GSEs do this, and to encourage the public to review the plans. The FHFA should hold information sessions on the annual reports and receive public comments regarding GSE performance.

The FHFA proposes deleting publication of quarterly data by the GSEs as redundant.[24] NCRC does not agree with the assertion that such reporting is onerous since the GSEs must routinely collect data. A potential compromise is to require reporting halfway through the year in addition to the annual report. Thus, the GSEs would report data twice a year instead of four times. The FHFA should make the six-month data publicly available. This would increase the chances of GSE goal attainment by increasing the public accountability of the GSEs.

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[23] FHFA, NPR, 37861
[24] FHFA, NPR, 37861

Increasing public accountability would have an additional benefit of making the GSEs increase their efforts at achieving plan goals and lessen their habit of seeking plan modifications during the year when they realize they will not meet their annual or three-year plan goals. The FHFA proposes to reduce the tendency of GSEs to request frequent plan modifications (about 15 modification requests annually for each GSE) by establishing a higher bar for modification requests. The FHFA proposes that it would grant modification requests only in response to special circumstances such as "significant market disruptions" or a "systematic financial crisis."[25]

As well as supporting the FHFA tightening of plan modifications to avoid DTS plan manipulation, NCRC reiterates our suggestion that the plan term be two years instead of three years. A three-year plan presents difficulties for goal attainment because economic forecasting used for GSE goal establishment is more uncertain for three-years than two-years in the future. In addition, two-year plan cycles create more opportunities for public comment, engagement, and partnership building with the GSEs.

The FHFA itself understands challenges of a three-year planning cycle. It states, "However, FHFA recognizes the difficulty in projecting loan purchase targets up to three years in the future."[26] Instead of contemplating "narrow" GSE loan purchase modification requests in the fourth quarter of the prior year for the next year, the FHFA should instead institute a two-year DTS plan requirement.[27]

New Evaluation System and Ratings Likely to Inflate Performance and Result in Reduced DTS Activities

The FHFA proposes to discard the current ratings for evaluating compliance with GSE DTS plans and replace them with an under-developed ratings system that in its proposed form would probably lead to ratings inflation. If not bolstered, the proposed ratings system would result in reduced GSE financing of rural housing, manufactured housing, and preservation of the low- and moderate-income housing stock.

The FHFA is correct in assessing that the current rating system is confusing. The difference between impact and concept scores under the current rating system is baffling for stakeholders. However, the point system corresponding to the current ratings allows for more gradations in

[25] FHFA, NPR, 37859
[26] FHFA, NPR, 37860
[27] FHFA, NPR, 37860

ratings and more transparency in depicting differences in performance. NCRC therefore urges the FHFA to retain a point system for its proposed ratings.

The Proposed Five Ratings are Needed for a Rigorous Scoring System

The FHFA proposes establishing a ratings system from 1 to 5 with 1 indicating the best performance and 5 indicating the worst performance. The FHFA asserts the proposed numerical ratings system is consistent with CAMELSO, the rating system used by the FHFA for other compliance exams and consistent with compliance exams for banks.[28] NCRC approves of the five ratings because they are better able to reveal gradations in performance than the four ratings on CRA exams (in contrast, the component tests on CRA exams have five ratings which are more revealing of distinctions in performance). However, NCRC also urges the FHFA to assign words to each of the numerical ratings such as the CRA component test ratings of Outstanding, High Satisfactory, Low Satisfactory, Needs-to-Improve, and Substantial Noncompliance. The public has a better understanding of words than numbers for ratings.

NCRC supports the FHFA proposal that the two worst numerical ratings, not just the worst rating, indicate failure of the exam. As the FHFA states:

> FHFA believes that the Enterprises have now had ten years of experience with developing and implementing Plans, such that performance previously justifying a Minimally Passing should not, in the future, be deemed as complying with the Duty to Serve. FHFA does not intend the Enterprises to target "minimal" performance; it intends the Enterprises to provide meaningful support to the underserved markets.[29]

These assertions are correct since the GSEs have had a decade of experience with DTS plans. Moreover, banks are subjected to failure on CRA exams if they receive one of the two worst ratings, not just if they receive the worst rating. This proposal would help level the playing field among banks and the GSEs by expecting the GSEs to achieve ratings that more accurately reflect compliance with DTS requirements.

Proposed Activities for Evaluating GSEs are Flawed and Subjective

The FHFA proposes to assign a rating for each of the three DTS underserved markets (rural, manufactured housing, and affordable housing preservation), based on how the GSEs perform on each of the required activities. The activity categories include current activities, which are loan

[28] FHFA, NPR, 37862
[29] FHFA, NPR, 37862

purchases, loan product development, investments and grants, and outreach.[30] The current activities are clear and can be readily evaluated and rated.

However, the FHFA proposes adding two more activities, program requirements and program management, that are not well defined and would probably lead to ratings inflation. Program requirements, according to the proposed rule, regards the "effort and execution" of the GSE to meet the DTS requirements.[31] The proposal does not provide any further explanation of how effort and execution would be measured, which suggests that judging this activity could be subjective and arbitrary. Assessing effort is also redundant since the outcomes under the four existing activities such as loan purchases is the best way to measure effort. If a GSE does not meet loan purchase targets, for example, it merits a low rating. There is no reason to assess a GSE's effort in addition to achievements under the existing activities.

Likewise, the FHFA intends to assess program management by evaluating the extent to which a GSE's board and senior staff are involved in the DTS programs.[32] Evaluating program management is redundant because the performance under the existing activities suggests the extent to which the board and management are involved. It is unlikely that a GSE could meet its loan purchase goals if the board and senior staff are not involved in the DTS program. The results on the loan purchase activity would speak for itself, suggesting the program management activity is unnecessary. It is possible that if a GSE is performing poorly under the existing activities, the FHFA could use subjective judgements under program requirements and management to artificially boost a rating to one of the passing ratings. Alternatively, if the FHFA is not favorably disposed towards the GSEs for some reason, good performance on the existing activities could be dragged down by unfairly harsh judgements on these proposed subjective activities. The possibilities of exam manipulation should be eliminated by not adopting the program requirement and management activities.

The last proposed activity is any additional activity that the FHFA judges worthy of evaluating. The FHFA would add any new activity in the year prior to the first year of a DTS plan.[33] The proposal is unclear about when the agency would add an activity. The GSEs need ample lead time regarding the activities under which they will be evaluated so they can adequately develop their DTS plans. A lack of clarity regarding when the agency would adopt additional activities makes this proposal flawed. Furthermore, the additional activity option could introduce exams that evaluate a different range of activities in different time periods, making it difficult to judge

[30] FHFA, NPR, 37862
[31] FHFA, NPR, 37862
[32] FHFA, NPR, 37862
[33] FHFA, NPR, 37862

whether the GSEs are improving over time in their DTS activities. In the history of either DTS, Affordable Housing Goals, or CRA exam for banks, NCRC is not aware of criteria being added to exams at any time outside of a rulemaking process involving public comment periods. The FHFA must not implement this potentially arbitrary feature to DTS evaluations.

NCRC not only urges the FHFA to refrain from adding new activities but also should assign weights to the existing activities. Loan purchases are the most important activity since purchasing loans from primary market lenders and providing more resources for lenders to make more loans is the reason why the GSEs exist. Accordingly, loan purchases should be weighted at 50 percent.

Loan product development is also important because without continual innovations in underwriting and assessing borrower creditworthiness, the GSEs will not adapt to changes in the primary market and cannot be as effective in purchasing loans. Accordingly, a weight of 20 percent is appropriate for this activity. Twenty percent would also be appropriate for investments and grants because this activity builds an infrastructure for making loans. Grants support housing counseling agencies that produce creditworthy borrowers. Similarly, housing-related investments build and maintain the housing stock which ultimately generates more lending opportunities.

Finally, outreach is important but would be weighted less at 10 percent. If a GSE is not performing outreach to find banks, non-bank lenders, nonprofit community-based organizations, and public sector entities with which to do business, it will not be successful under the loan purchase activity. Therefore, outreach would be a natural byproduct of needing to excel on loan purchase activity. GSEs wishing to do well on their DTS evaluations would automatically engage in rigorous outreach, which does not therefore need as high a weight for motivating the GSEs to engage in this activity.

A Lack of Standards for Judging GSE Activity Performance Likely to Inflate Ratings

The proposal to create two ratings indicating failure is seriously undercut by a lack of standards for assessing how GSE performance corresponds to the proposed ratings. The proposed standards for awarding the ratings to various activities are subjective and unclear. For example, the FHFA states that "A rating of "1" could be achieved if the Enterprise demonstrated exceptional leadership in the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families in the underserved market."[34] The key words, "exceptional leadership," are not defined. Would the leadership be exceptional if the loan product development was judged to be

[34] FHFA, NPR, 37863

more innovative, flexible, and responsive compared to the other GSE or to the other GSE and primary lenders, for instance. The proposal lacks benchmarks for creating objective judgments and ratings.

The lack of benchmarks is a pressing issue for the loan purchase category. There is no reason why benchmarks could not have been proposed similar to benchmarks used on CRA exams. For rural housing, for example, a performance measure such as the percentage of purchases that qualified as rural purchases could have been developed and this percentage could have been compared to the other GSE and the primary market. Another comparison also could have been a demographic benchmark such as the percentage of households or homeowners that reside in rural areas. Alternatively, a benchmark measuring loans per household in rural areas could have been developed and compared against the other GSE and the primary market. A rating of “1” could have been assigned if a particular GSE’s performance based on an objective benchmark exceeded the other GSE and the primary market. A rating of “2” could have been awarded if the particular GSE was better than the other one and was at least comparable to the primary market on the benchmark. Further guidelines for the other ratings could also have been developed by comparing the GSEs to industry peer and demographic benchmarks.

Other benchmarks for judging performance could include objective comparisons with GSE past performance. Under the loan purchase category, for example, is the GSE DTS plan committing the GSEs to increasing their loan purchases compared to past performance and did the GSE achieve these increased loan purchases?

Another problematic aspect of the proposed rule is that there is no standard for determining how many component ratings would correspond to the overall rating. For instance, the proposed rule says that to achieve a “1,” a GSE would need to have a “1” rating for most components of a DTS market.[35] The proposal could have eliminated the ambiguity surrounding the word “most” by proposing a certain percentage of the component ratings would need to be a “1.” NCRC submits that to receive the highest rating, the GSE must have the highest rating on at least 60 percent of the component tests and preferably 70 percent. A similar grading system should have been developed for the other overall ratings.

The FHFA must not finalize this proposed rule without developing benchmarks and standards for evaluating GSE performance. The FHFA should either re-propose this rule or propose guidance subject to public comment that contains objective standards for assigning ratings. If the FHFA does not take these steps, the public does not have an objective means for assessing whether this proposed rule would enhance or worsen GSE compliance with their DTS obligations.

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[35] FHFA, NPR, 37863

Annual Dissemination of Ratings

NCRC approves FHFA's proposal to codify the publishing of DTS market ratings in its annual report. It is also positive that the FHFA is proposing to produce narrative describing GSEs' performance.[36] The narrative should guide readers to assessing strengths and weaknesses in the GSEs' performance. NCRC suggests that the narrative would be more interactive if it also published substantive public comments received by the GSEs or FHFA during the year and the GSEs' response to those comments.

Conclusion

While the FHFA proposes reforms that would bolster the importance of public comments and accountability, other proposed changes would overwhelm the positive proposals and result in more subjective DTS exams. The totality of the changes would probably reduce the amount of GSE financing of housing in rural areas, manufactured housing, and preservation of the affordable housing stock. The FHFA proposes that the two worst ratings instead of just the worst rating would cause a GSE to fail its exam. This would provide a significant incentive to improve performance but is undercut by a lack of objective performance measures and benchmarks, and too much discretion for the GSEs to choose the activities against which they would be evaluated.

Likewise, it is commendable that the FHFA proposes to require the GSEs to respond thoughtfully to substantive public comments on draft plans and reduce exam manipulation by decreasing permissible modifications to DTS plan goals. Again, however, these positive proposals are undermined by relaxed requirements to target and verify that regions and borrowers with the lowest incomes and most pressing needs are the focus of DTS plans.

On balance, if the FHFA does not make significant changes to its proposed rule, future GSE financing of DTS market needs will decrease. These harmful outcomes would be driven by the proposals that would decrease the focus on the communities with pressing needs, increase the subjectivity of exams, and provide too much discretion to the GSEs for choosing activities for the DTS evaluations in place of a public process for choosing activities for evaluation. The FHFA must not finalize a rule that would make it too easy for the GSEs to label their activities for mainstream markets as those for DTS markets. This would result in the GSEs not adhering to the "but for" maxim in that if it were not for the GSE financing, the DTS markets would continue to be underserved.

[36] FHFA, NPR, 37863

Thank you for the opportunity to comment on this important matter. If you have any questions, you can email me on jvantol@ncrc.org or Josh Silver, Senior Fellow and author of this comment, on endredline77@gmail.com.

Sincerely,

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