BILLING CODE: 8070-01-P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590-AB21

2023-2024 Multifamily Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA or the Agency) is issuing a proposed rule with request for comments on the multifamily housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2023 and 2024. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act) requires FHFA to establish annual housing goals for mortgages purchased by the Enterprises. Under FHFA's existing housing goals regulation, the multifamily housing goals for the Enterprises include benchmark levels through the end of 2022 based on the total number of affordable units in multifamily properties financed by mortgage loans purchased by the Enterprise each year. This proposed rule would amend the regulation to establish benchmark levels for the multifamily housing goals for 2023 and 2024 based on a new methodology – the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year.

DATES: FHFA will accept written comments on the proposed rule on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590-AB21, by any one of the following methods:

- *Agency website*: www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal*: https://www.regulations.gov. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590-AB21.
- *Hand Delivered/Courier*: The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590-AB21, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service*: The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590-AB21, Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Associate Director, Housing and Community Investment, Division of Housing Mission and Goals, (202) 649-3157, Ted.Wartell@fhfa.gov; Padmasini Raman, Supervisory Policy Analyst, Housing and Community Investment, Division of Housing Mission and Goals, (202) 649-3633, Padmasini.Raman@fhfa.gov; Kevin Sheehan, Associate General Counsel, Office of General Counsel, (202) 649-3086, Kevin.Sheehan@fhfa.gov. These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street, SW., Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments germane to the proposed rule into consideration before issuing a final rule. Copies of all such comments will be posted without change, including any personal information you provide such as your name, address, e-mail address, and telephone number, on FHFA's public website at http://www.fhfa.gov. In addition, copies of all such comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

Commenters are encouraged to review and comment on all aspects of the proposed rule, including the proposed multifamily housing goals benchmark levels and the proposed new multifamily housing goals methodology based on the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year.

II. Background

A. Statutory and Regulatory Background for the Housing Goals

The Safety and Soundness Act requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.[1] The achievement of the annual housing goals is one measure of the extent to which the Enterprises are meeting their public purposes, which include "an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return."[2]

Since 2010, FHFA has established annual housing goals for Enterprise purchases of both single-family and multifamily mortgages by rulemaking, consistent with the requirements of the Safety and Soundness Act. FHFA's most recent rule, issued in December 2021, amended the housing goals regulation to establish benchmark levels for the single-family housing goals for 2022 through 2024 and benchmark levels for the multifamily housing goals for 2022 only.[3] FHFA established the multifamily housing goals for a single year in response to the uncertainty in housing markets associated with COVID-19 and the potential for unforeseen changes to multifamily market conditions in 2023 and 2024. FHFA also considered comment letters submitted in response to the 2021 proposed rule that urged the Agency to establish one- or two-year multifamily goal benchmark levels, in part due to those same factors.

B. Adjusting the Housing Goals

---

[1] *See* 12 U.S.C. 4561(a).
[2] *See* 12 U.S.C. 4501(7).
[3] *See* 86 FR 73641 (December 28, 2021).

If, after publication of the final rule establishing the multifamily housing goals for 2023 and 2024, FHFA determines that any of the single-family or multifamily housing goals or subgoals should be adjusted in light of market conditions to ensure the safety and soundness of the Enterprises, or for any other reason, FHFA will take any steps that are necessary and appropriate to adjust the goal(s) such as reducing the benchmark level(s) through the processes in the existing regulation. FHFA may also take other actions consistent with the Safety and Soundness Act and the Enterprise housing goals regulation based on new information or developments that occur after publication of the final rule.

For example, under the Safety and Soundness Act and the Enterprise housing goals regulation, FHFA may reduce the benchmark levels in response to an Enterprise petition for reduction for any of the single-family or multifamily housing goals or subgoals in a particular year based on a determination by FHFA that: (1) market and economic conditions or the financial condition of the Enterprise require a reduction; or (2) efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Enterprises' charter acts.[4]

The Safety and Soundness Act and the Enterprise housing goals regulation also take into account the possibility that achievement of a particular housing goal or subgoal may or may not have been feasible for an Enterprise to achieve. If FHFA determines that a housing goal or subgoal was not feasible for an Enterprise to achieve, then the statute and regulation provide for no further enforcement of that housing goal or subgoal for that year.[5]

---

[4] *See* 12 CFR 1282.14(d).
[5] *See* 12 CFR 1282.21(a); 12 U.S.C. 4566(b).

If FHFA determines that an Enterprise failed to meet a housing goal or subgoal and that achievement of the housing goal or subgoal was feasible, then the statute and regulation provide FHFA with discretionary authority to require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to improve its housing goals or subgoals performance.

The actions described in this section provide some flexibility for FHFA to respond to new information or developments that occur after publication of the final rule. The new methodology proposed here and discussed further below, which would set the benchmark levels as a percentage share of goal-eligible units backing mortgages acquired by each Enterprise, could reduce the likelihood that FHFA will be required to modify the benchmark levels in response to unexpected market developments after publication of the final rule.

C. Housing Goals under Conservatorship

On September 6, 2008, FHFA placed each Enterprise into conservatorship. Although the Enterprises remain in conservatorship at this time, they continue to have the mission of supporting a stable and liquid national market for residential mortgage financing. FHFA has continued to establish annual housing goals for the Enterprises and to assess their performance under the housing goals each year during conservatorship.

III. Proposed Change in Methodology for Measuring the Multifamily Housing Goals

Since publication of the December 2021 final housing goals rule, FHFA has considered alternative ways to measure Enterprise performance on the multifamily housing goals. As a result, FHFA is now proposing multifamily housing goals for both

2023 and 2024 that would measure Enterprise performance as the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprises, rather than using the current methodology of measuring performance based on the absolute number of affordable units in the properties. The requirements for determining which multifamily mortgage purchases are counted, or not counted, continue to be defined in the existing housing goals regulation and this proposed rule would not make any changes to those requirements. This proposed rule specifically requests comment on the proposed new methodology for measuring Enterprise performance on the multifamily housing goals, as well as on the proposed benchmark levels for 2023 and 2024 under this new methodology.

The multifamily goals, as defined under the Safety and Soundness Act, include categories for mortgages on multifamily properties (properties with five or more dwelling units) with rental units affordable to low-income families and mortgages on multifamily properties with rental units affordable to very low-income families. The Enterprise housing goals regulation also includes a small multifamily low-income subgoal for properties with 5 to 50 units. Under the current regulation, the performance of the Enterprises on the multifamily goals is evaluated based on the number of affordable units in properties backing mortgages purchased by an Enterprise.

Under the proposed rule, the Enterprises would continue to report on the number of multifamily units acquired each year, including data on units that are affordable to low-income households, very low-income households, and low-income households in small multifamily properties. In order to meet each of the multifamily goals, each Enterprise would be required to ensure that the percentage of units that are affordable meets or exceeds the benchmark level. By changing to a percentage share of the total multifamily units in properties securing goal-eligible mortgages acquired by each Enterprise in a year, the proposed multifamily housing goals would adjust automatically to the volume of the Enterprise's multifamily business each year, while ensuring that each Enterprise's focus remains on affordable segments.

FHFA is not proposing any changes to the current rules in §§ 1282.13, 1282.15, and 1282.16 of the Enterprise housing goals regulation for determining which multifamily mortgages are eligible to be counted towards the goals, and of those, which meet the affordability criteria. FHFA is proposing technical revisions to § 1282.15 to reflect the new proposed methodology. Section 1282.15(c) would be revised to express the percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprises in terms of a defined numerator and denominator. Proposed § 1282.15(c) would mirror the description of the single-family housing goals that currently exists in § 1282.15(a), which already measures the single-family housing goals as percentages.

In addition, proposed § 1282.15(e)(3) would clarify the treatment of rental units with missing affordability information. Under the current regulation, an Enterprise is permitted to estimate the affordability of such units, up to a maximum of 5 percent of the total number of rental units in properties securing multifamily mortgages purchased by the Enterprise in the current year. Rental units with missing affordability information are not counted for purposes of the multifamily housing goals to the extent that the number of such units exceeds the nationwide maximum of 5 percent. Rental units also are excluded if it is not possible to estimate the affordability of such units. The proposed rule would clarify that under the new methodology, any units with missing affordability information in excess of the 5 percent nationwide maximum would be excluded from the numerator of the multifamily goals but would be included in the denominator. This treatment would be consistent with the objective of the current regulation to encourage the Enterprises to obtain affordability information whenever possible. The proposed rule would exclude rental units with missing affordability information from both the numerator and the denominator if it is not possible to estimate the affordability of such units. This treatment would reflect the fact that the availability of information needed to estimate affordability is outside the control of the Enterprises.

In this preamble, "goal-eligible units" is used as a synonym for "denominator," to refer to all dwelling units that are financed by mortgage purchases that could be counted for purposes of the multifamily housing goals and subgoals. "Goal-qualifying units" is used as a synonym for "numerator," to refer to the goal-eligible units that meet the respective affordability requirements of each multifamily goal.[6] The counting rules in § 1282.16(b) exclude certain types of mortgages from eligibility for housing goals credit, such as multifamily mortgages with federal guarantees and subordinate lien multifamily mortgages. FHFA specifically requests comment on whether any other changes to the existing rules for counting multifamily mortgages should be made to address any unintended interactions that the proposed change to the methodology for measuring the multifamily housing goals might have on the market or affordable market segments.

The proposed change to the methodology would address recurring issues that arise under the existing housing goals structure. Under the current methodology, FHFA

[6] *See* 12 CFR 1282.15(c).

sets the multifamily housing goal benchmark levels based on the absolute number of units in properties securing goal-eligible mortgages that the Enterprise acquire in order to meet the benchmark levels. This requires FHFA to be able to forecast the multifamily market and the Enterprise volume of multifamily mortgage purchases when setting the benchmark levels. Attempting to forecast multifamily market conditions and Enterprise purchase volumes three or four years into the future is an exceedingly difficult exercise, made even more complicated by the lack of a comprehensive dataset of multifamily loan origination volume similar to the Home Mortgage Disclosure Act (HMDA) data available for the single-family mortgage market. Under the proposed new methodology, FHFA would set the benchmark levels as a percentage share of the goal-eligible units in properties securing mortgages acquired by each Enterprise in a year. This would encourage the Enterprises to continue focusing on serving low-income renter families in a prudent and deliberate manner within the context of their loan acquisitions. The proposed new percentage-based benchmark levels would also mean that the absolute number of affordable units needed to meet each of the housing goals each year would adjust automatically based on the Enterprise's multifamily loan purchase volume and reflect actual multifamily market conditions, as the number of goal-qualifying units needed would scale up or down in proportion with Enterprise loan acquisitions. Operationally, the proposed change to the methodology would have minimal impact as it would not change the existing counting rules, reporting requirements, or definitions used for the housing goals in the housing goals regulation.

Setting the multifamily goal benchmark levels as the percentage of affordable units among all goal-eligible units backing mortgages acquired by the Enterprise is consistent with the percentage-based methodology followed for the single-family housing goals and should be familiar to both Enterprises and external stakeholders. The proposed change in methodology would continue to allow FHFA to track, report, and verify data on multifamily units backing mortgages purchased by the Enterprises, including data on affordable units by income level.

Although FHFA believes the proposed change to the methodology for measuring the multifamily housing goals will make the multifamily housing goals more responsive to market conditions and minimize operational impact on FHFA and the Enterprises, FHFA recognizes that there may be some drawbacks associated with the proposed change. For example, by setting the benchmark levels as a percentage share of goal-eligible units, the benchmark levels will no longer specify a minimum number of affordable units backing mortgages acquired by the Enterprises.

However, there are a number of other factors that support the proposed change to percentage-based multifamily housing goals. For example, the existing methodology for measuring the multifamily housing goals does not incentivize or require that an Enterprise continue to acquire mortgages backed by goal-qualifying units after the Enterprise has purchased enough mortgages to meet the minimum numeric benchmark levels. The proposed percentage-based benchmark levels would require the Enterprises to continue to support the affordable segment of the market as their mortgage acquisitions increase, rather than potentially reducing their focus on supporting affordable multifamily properties once the minimum numeric benchmark levels are achieved.

Furthermore, the proposed change in methodology for measuring the multifamily housing goals would help address concerns raised in a number of comment letters received in response to the 2022-2024 Enterprise housing goals proposed rule published in August 2021.[7] FHFA received several comment letters suggesting that the Agency create and implement an alternative multifamily goal structure. A trade association proposed an alternative goal structure to align the multifamily housing goals, the Conservatorship Scorecard cap on multifamily volume, which includes requirements for supporting affordable multifamily properties, and limits on multifamily lending under the January 14, 2021 letter agreements amending the Preferred Stock Purchase Agreements (PSPAs)[8] into a single set of standards, as these three standards are not aligned and measure Enterprise multifamily loan purchase performance differently. A policy advocacy group similarly suggested aligning the multifamily housing goals with the Conservatorship Scorecard requirements for supporting affordable multifamily properties, stating that fixed-unit goals do not vary based on the actual size of the market and could lead the Enterprises to stretch to meet the goals, particularly in an inflationary or rising interest rate environment. Another trade association commented that fixed-unit goals require periodic adjustment to incorporate unknown market factors, can become disjointed from actual market conditions, and can incentivize erratic Enterprise competitive behavior. In addition to the comments received in response to the 2022-2024 proposed rule, FHFA has received comments in response to prior rulemakings suggesting

[7] *See* comments received in response to the 2022-2024 Enterprise Housing Goals Proposed Rule, 86 FR 47398 (August 25, 2021), https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Comment-List.aspx?RuleID=706.

[8] FHFA announced on September 14, 2021, that certain provisions of the January 14, 2021 letter agreements, including the limits on multifamily lending, were being suspended pending further review. *See* FHFA Press Release, "FHFA and Treasury Suspending Certain Portions of the 2021 Preferred Stock Purchase Agreements," https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-and-Treasury-Suspending-Certain-Portions-of-the-2021-Preferred-Stock-Purchase-Agreements.aspx.

that the multifamily goals should be flexible based on market dynamics.[9]

FHFA specifically requests comment on the proposal to change the methodology for measuring the multifamily housing goals from a fixed number of goal-qualifying units to a goal-qualifying percentage share of all goal-eligible units, as well as any other changes that might be appropriate if a change to percentage-based multifamily housing goals is adopted in the final rule.

IV. Multifamily Housing Goals

A. Factors Considered for the Proposed Multifamily Housing Goal Benchmark Levels

In proposing benchmark levels for the multifamily housing goals for 2023 and 2024, FHFA has considered the statutory factors outlined in section 1333(a)(4) of the Safety and Soundness Act. The statutory factors are:

1. National multifamily mortgage credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market;
2. The performance and effort of the Enterprises in making mortgage credit available for multifamily housing in previous years;
3. The size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;

[9] *See* comments received in response to the 2015-2017 Enterprise Housing Goals Proposed Rule, 79 FR 54481 (September 11, 2014), https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Comment-List.aspx?RuleID=498.

4. The ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for multifamily housing affordable to low-income and very low-income families;
5. The availability of public subsidies; and
6. The need to maintain the sound financial condition of the Enterprises.[10]

This section analyzes key data related to several of the factors that impact each of the multifamily goals, including the overall economic outlook, multifamily mortgage market conditions, affordability concerns in the multifamily mortgage market, the role of the Enterprises in supporting the multifamily mortgage market, and the need to maintain the sound financial condition of the Enterprises. The following sections include additional analysis specific to each multifamily goal and subgoal, including data on the past performance of the Enterprises and the size of the market for each multifamily goal and subgoal.

Overall economic outlook. There are many factors that impact the affordable housing market as a whole, and changes to any one of them could significantly impact the ability of the Enterprises to meet the housing goals. FHFA will continue to monitor the affordable housing market and take these factors into account when considering the feasibility of the goals.

On June 15, 2022, the Federal Reserve noted that despite recent strong job gains and a low unemployment rate, inflation remains elevated.[11] The Federal Reserve noted that the invasion of Ukraine by Russia and related events are causing additional upward pressure on inflation and affecting global economic activity. The Federal Reserve added

[10] *See* 12 U.S.C. 4563(a)(4).
[11] *See* https://www.federalreserve.gov/newsevents/pressreleases/monetary20220615a.htm.

that COVID-19 pandemic-related lockdowns in China are likely to worsen supply chain disruptions. In an effort to achieve maximum employment and inflation of 2 percent in the long run, the Federal Open Market Committee (FOMC) raised its target range for the federal funds rate to 1.5 percent to 1.75 percent, with plans to increase the target range as appropriate until its goals are achieved.[12]

Interest rates are very important determinants of mortgage market trajectory. Moody's May 2022 consensus forecast projects that 30-year fixed-rate mortgage interest rates will rise from an annual average rate of 3.0 percent in 2021 to 4.8 percent in 2022, then stabilize at 4.9 percent in 2023 and 2024. As of June 16, 2022, the weekly average rate for a 30-year fixed-rate mortgage was 5.78 percent.[13] Moody's forecast also projects that the unemployment rate will be 3.6 percent from 2022 to 2024. In addition, Moody's projects a modest increase in per capita disposable nominal income growth – from $55,700 in 2021 to $61,400 in 2024. Furthermore, Moody's forecast estimates that the annual average inflation rate will decline from a projected 40-year high of 6.9 percent in 2022 to 2.2 percent in 2024. The year-over-year inflation rate for May 2022 was 8.6 percent.[14]

Table 1. Historical and Projected Trends of Key Macroeconomic Variables

[12] Ibid.
[13] *See* https://www.freddiemac.com/pmms/docs/historicalweeklydata.xls.
[14] *See* https://data.bls.gov/timeseries/CUUR0000SA0&output_view=pct_12mths.

	Historical Trends						Projected Trends		
	2016	2017	2018	2019	2020	2021	2022	2023	2024
Real GDP Growth Rate…………………………	1.7	2.3	2.9	2.3	-3.4	5.7	3.1	2.3	2.1
Unemployment Rate……………..……………	4.9	4.4	3.9	3.7	8.1	5.4	3.6	3.6	3.6
Labor Force Participation Rate…………………	62.8	62.8	62.9	63.1	61.8	61.7	62.4	62.6	62.7
Inflation Rate (Change in CPI)…………………	1.3	2.1	2.4	1.8	1.2	4.7	6.9	3.1	2.2
Consumer Confidence Index……………………	99.8	120.5	130.2	128.3	101.0	112.7	110.1	113.9	114.7
30-Year Mortgage Fixed Rate……………………	3.6	4.0	4.5	3.9	3.1	3.0	4.8	4.9	4.9
Per Capita Disposable Income (1,000s $)………..	$43.6	$45.3	$47.5	$49.1	$52.5	$55.7	$56.2	$58.7	$61.4

Note: Historical values and projected trends are provided by Moody's Analytics.

Multifamily mortgage market. FHFA's consideration of the multifamily mortgage market addresses the size of, and competition within, the multifamily mortgage market, as well as the subset of the multifamily mortgage market affordable to low-income and very low-income families. In July 2022, the Mortgage Bankers Association (MBA) forecast that multifamily mortgage originations would decline from the 2021 record of $487 billion to $436 billion in 2022, and would rise to $454 billion in 2023.[15]

Rising interest rates, rising rent growth, and the decline of alternative real estate investment opportunities such as commercial and retail lending during the pandemic have resulted in an influx of new market participants and competition in the multifamily market. Renewed interest from debt funds and other institutional investors in the multifamily market has created additional competition for the Enterprises, particularly around their ability to compete for multifamily affordable deals.

Low vacancy rates in the multifamily market pushed rents upwards in 2021. Based on the nationwide CoStar data, on a year-over-year basis, rent growth increased sharply from less than 1 percent in 2020 during the COVID-19 pandemic to 11.3 percent in 2021.[16] CoStar's 2022 Q1 Base Case forecast projects national rent growth to be 6.6

[15] *See* https://www.mba.org/news-and-research/newsroom/news/2022/07/19/higher-rates-economic-uncertainty-to-slow-commercial-multifamily-lending-in-the-second-half-of-2022.
[16] FHFA tabulations of CoStar data.

percent in 2022, then slow down to 3.5 percent by 2024. While rent increases were most significant for 4 & 5 Star properties, which had a rent increase of 13.9 percent in 2021, the more affordable buildings also experienced significant rent increases.[17] For example, 3 Star building rents increased by 11.7 percent in 2021, and are projected to increase by still-strong 6.7 percent in 2022, and by 5.2 percent and 3.5 percent in the following two years, respectively. In addition, 1 & 2 Star building rent growth is forecast to rise from a two-decade high of 5.2 percent in 2021 to 5.7 percent in 2022, and remain high at 5.1 percent in 2023. The 1 & 2 Star building rents are forecast to grow by 3.6 percent in 2024.

Vacancy rates are expected to remain low through 2024, only increasing from 4.8 percent in 2021 to 5.3 percent in 2023 then slightly declining to 5.2 percent in 2024. As with rents, this tightening can be observed in all building classes, including the more affordable segments. Vacancies in 3 Star properties are forecast to expand from 4.3 percent in 2021 to 4.9 percent in 2023, then decline to 4.6 percent in 2024, while 1 & 2 Star property vacancies are expected to rise from a very tight 3.8 percent in 2021 to 4.1 percent in 2024.

The path for these various economic trends is uncertain, and whether the projected trends materialize remains to be seen. In this context, the Federal Reserve's monetary policy, other domestic economic policies, and developments in the global economy will also have an impact on the multifamily mortgage market.

Affordability in the multifamily mortgage market. There are several factors that impact the affordable share of the multifamily mortgage market in any given year, such

---

[17] CoStar building ratings definitions are available at https://www.costar.com/docs/default-source/brs-lib/costar_buildingratingsystem-definition.pdf.

as the overall multifamily mortgage market origination volume, competition between purchasers of mortgages within the affordable multifamily mortgage market segment, and the availability of affordable housing subsidies.

The Safety and Soundness Act requires FHFA to determine affordability for purposes of the Enterprise housing goals based on a family's rent and utility expenses not exceeding 30 percent of area median income (AMI).[18] Using this measure, affordability for families living in rental units has decreased in recent years for many families. The Joint Center for Housing Studies of Harvard University's (JCHS) *State of the Nation's Housing Report 2022* noted the growing presence of cost-burdened renters in certain income segments.[19] The report shows that the share of cost-burdened renters rose by 2.6 percent -- from 43.6 percent in 2019 to 46.2 percent in 2020.[20] The report states that 82.6 percent of renters earning less than $15,000 and 77.9 percent of renters earning between $15,000 and $29,999 were cost-burdened in 2020. The share of cost-burdened renters earning between $30,000 and $44,999 increased the most, rising approximately 9.0 percent -- from 49.2 percent in 2019 to 58.3 percent in 2020.[21]

Multifamily housing assistance is primarily available in two forms – demand-side subsidies which either directly assist low-income tenants (*e.g.*, Section 8 vouchers) or provide project-based rental assistance (*e.g.*, Section 8 contracts), and supply-side

---

[18] *See* 12 U.S.C. 4563(c).
[19] *See* "The State of the Nation's Housing 2022," Joint Center for Housing Studies of Harvard University, June 2022, p.6, *available at* https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf.
[20] *See* "The State of the Nation's Housing 2022: Appendix and Web Tables," Joint Center for Housing Studies of Harvard University, June 2022, Table W-2, available at https://www.jchs.harvard.edu/sites/default/files/interactive-item/files/Harvard_JCHS_State_Nations_Housing_2022_Appendix_Tables_0.xlsx.
[21] Ibid.

subsidies which support the creation and preservation of affordable housing (*e.g.*, public housing and low-income housing tax credits (LIHTC)). The availability of public subsidies impacts the overall affordable multifamily housing market, and significant changes to long-standing programs could impact the ability of the Enterprises to meet the housing goals. The Enterprises also play a role in providing liquidity to facilitate the preservation of public subsidies such as expiring Section 8 Housing Assistance Payment contracts and LIHTC properties reaching the end of the use-restricted affordability period.

Financing for affordable multifamily buildings, particularly those that are affordable to very low-income families, often uses an array of state and federal housing subsidies, such as LIHTC, tax-exempt bonds, Section 8 rental assistance, or soft subordinate financing.[22] Investor interest in tax credit equity projects of all types and in all markets has been strong in recent years, especially in markets in which bank investors are seeking to meet Community Reinvestment Act (CRA) goals. Consequently, there should continue to be opportunities in the multifamily mortgage market to provide permanent financing for properties with LIHTC during 2023 and 2024. Additionally, there should be opportunities for market participants, including the Enterprises, to purchase mortgages that finance the preservation of existing affordable housing units (especially for restructurings of older properties that reach the end of their initial 15-year

[22] LIHTCs are a supply-side subsidy created under the Tax Reform Act of 1986 and are the main source of new affordable housing construction in the United States. LIHTCs are used for the acquisition, rehabilitation, and/or new construction of rental housing for low-income households. LIHTCs have facilitated the creation or rehabilitation of approximately 2.4 million affordable units since inception of the program in 1986.

LIHTC compliance periods, and for refinancing properties with expiring Section 8 Housing Assistance Payment contracts.)

The need for public subsidies persists as the number of cost-burdened renters remains high, at over 20.4 million renter households in 2019.[23] The Center for Budget Policy Priorities estimates that only one in four households eligible for federal housing assistance currently receives it.[24]

Role of the Enterprises. In proposing the multifamily housing goal benchmark levels for 2023 and 2024, FHFA has considered the ability of the Enterprises to lead the market in making multifamily mortgage credit available. The share of the overall multifamily mortgage origination market that is purchased by the Enterprises increased in the years immediately following the financial crisis, but their share has declined more recently in response to growing private sector participation. The share of the multifamily mortgage origination market that was purchased by the Enterprises was over 70 percent in 2008 and 2009, compared to 36 percent in 2015.[25] The total share was at 40 percent or higher from 2016 to 2020.[26] In 2021, a record multifamily volume year, the combined Enterprise share was estimated to have been around 29 percent.[27] [28] [29]

---

[23] "America's Rental Housing 2022," Joint Center for Housing Studies of Harvard University, January 2022, p.32, *available at* https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf.
[24] *See* https://www.cbpp.org/research/housing/more-housing-vouchers-most-important-step-to-help-more-people-afford-stable-homes.
[25] *See* Fannie Mae, "Multifamily Business Information Presentation," May 2022, pg. 3, available at https://multifamily.fanniemae.com/media/9131/display.
[26] Ibid.
[27] *See* https://www.mba.org/news-and-research/newsroom/news/2022/07/19/higher-rates-economic-uncertainty-to-slow-commercial-multifamily-lending-in-the-second-half-of-2022.
[28] *See* https://freddiemac.gcs-web.com/news-releases/news-release-details/freddie-mac-hits-2021-multifamily-cap-707-billion-total-housing.
[29] *See* https://multifamily.fanniemae.com/news-insights/multifamily-wire/fannie-mae-multifamily-reports-2021-financial-results.

FHFA recognizes that there are numerous Enterprise activities that impact how the Enterprises contribute to and participate in the multifamily market, including through their Duty to Serve Underserved Markets Plans, their Equitable Housing Finance Plans, and the mission-driven elements of the Conservatorship Scorecard. FHFA will continue to monitor these initiatives and priorities to ensure appropriate focus by the Enterprises and compliance with the Enterprises charter acts and safety and soundness considerations.

FHFA expects the Enterprises to continue to demonstrate leadership in multifamily affordable housing lending by providing liquidity and supporting housing for tenants at different income levels in various geographic markets and in various market segments. This support should continue throughout the economic cycle, with the Enterprises providing steady support even as the overall volume of the multifamily mortgage market fluctuates.

Maintaining the sound financial condition of the Enterprises. In proposing multifamily housing goals benchmark levels for 2023 and 2024, FHFA must balance the role that the Enterprises play in providing liquidity and supporting various multifamily mortgage market segments with the need to maintain the Enterprises' sound and solvent financial condition. The Enterprises have served as a stabilizing force in the multifamily mortgage market. During conservatorship, the Enterprises' portfolios of loans on multifamily affordable housing properties have experienced low levels of delinquency and default, similar to the performance of multifamily loans on market rate properties.

FHFA continues to monitor the activities of the Enterprises in FHFA's capacity as safety and soundness regulator and as conservator. As discussed above, FHFA may take any steps it determines necessary and appropriate to address the multifamily housing goals benchmark levels to ensure the Enterprises' continued safety and soundness.

B. Proposed Multifamily Housing Goals Benchmark Levels

Based on FHFA's consideration of the statutory factors described above and the performance of the Enterprises described in this section, the proposed rule would establish the benchmark levels for the multifamily housing goal and subgoals for 2023 and 2024 as follows:

Goal	Criteria	Proposed benchmark for 2023 and 2024
Low-Income Goal	Percent of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI	61%
Very Low-Income Subgoal	Percent of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI	12%
Small Multifamily Low-Income Subgoal	Percent of all goal-eligible units in multifamily properties of all sizes financed by mortgages purchased by the Enterprises that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI	2%

Before finalizing the benchmark levels for the multifamily housing goals, FHFA will review any additional data that becomes available about the multifamily housing goals performance of the Enterprises, any other information about the multifamily mortgage market or other factors, and comments received in response to the proposed rule.

Each of the proposed multifamily housing goals benchmark levels is discussed further below.

1. Multifamily Low-Income Housing Goal

The proposed multifamily low-income housing goal would be based on the percentage of rental units in multifamily properties financed by mortgages purchased by the Enterprises in that year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The proposed rule would set the annual benchmark level for this goal for both 2023 and 2024 at 61 percent of goal-eligible units acquired. For example, if an Enterprise acquires 100,000 goal-eligible multifamily units in 2023, 61 percent of those goal-eligible units (or 61,000 units) must be for low-income households in order to meet the goal. FHFA has calculated what the Enterprise performance would have been in previous years if the multifamily housing goals had been based on this percentage-based approach. The historic performance average for the pre-pandemic years of 2017-2019 would have been 65.1 percent for Fannie Mae and 67.3 percent for Freddie Mac. FHFA believes the proposed benchmark level of 61 percent is appropriate to ensure a strong focus on affordability by the Enterprises in 2023-2024 while recognizing the increased competitive pressures described above. The proposed benchmark level of 61 percent would take into account the rising interest rate environment and the additional challenges the Enterprises currently face in the competitive market, without diminishing the Enterprises' focus on affordability.

Table 2 shows the Enterprise acquisitions of goal-qualifying low-income multifamily units, as well as the goal-qualifying low-income units as a percentage of the total goal-eligible units that were acquired in each year. It is difficult to compare the proposed benchmark level of 61 percent to the current numeric benchmark level of 415,000 units because the percentage depends on the volume of Enterprise business as well as the composition of that business. However, the recent performance of the Enterprises indicates that the number of goal-qualifying units in properties backing mortgages purchased by the Enterprises varies more widely from year-to-year than the percentage of goal-qualifying units, as seen in Table 2. This is especially true as the market expands and contracts from year-to-year illustrating one of the major advantages of shifting from numeric benchmark levels to percentage-based benchmark levels.

The proposed benchmark level of 61 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 61 percent, the role of the Enterprises in this market, and any other matters related to the multifamily low-income housing goal.

Table 2. Multifamily Low-Income Housing Goal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Low-Income Multifamily Benchmark	300,000	300,000	300,000	315,000	315,000	315,000	315,000	415,000	61%	61%
Fannie Mae Performance										
Low-Income Multifamily Units	307,510	352,368	401,145	421,813	385,763	441,773	384,488			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Low-Income % Total	65.6%	63.7%	63.6%	67.1%	64.7%	69.3%	69.0%			
Freddie Mac Performance										
Low-Income Multifamily Units	379,042	406,958	408,096	474,062	455,451	473,338	373,225			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Low-Income % of Total Units	73.7%	68.1%	64.8%	68.2%	68.9%	70.9%	68.7%			

2. Multifamily Very Low-Income Housing Subgoal

The proposed multifamily very low-income housing subgoal would be based on the percentage of rental units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI. The proposed rule would set the annual benchmark level for this subgoal for 2023 and 2024 at 12 percent of goal-eligible units acquired. FHFA has calculated what the Enterprise performance would have been in previous years if the subgoal had been based on this percentage-based approach. The average performance of the Enterprises under this subgoal during the pre-pandemic years of 2017-2019 would have been 13.1 percent for Fannie Mae and 15.6 percent for Freddie Mac. FHFA believes that the proposed benchmark level of 12 percent is appropriate to ensure that the Enterprises continue to adequately serve very low-income families while accounting for the challenges associated with increasing interest rates and uncertain economic conditions.

It is difficult to compare this proposed benchmark level of 12 percent to the current numeric benchmark level of 88,000 units because the percentage depends on the volume of Enterprise business as well as the composition of that business. Nevertheless, Table 3 lays out the percentage shares and the number of units that qualify for the very low-income subgoal at both Enterprises from 2015 to 2021. As with the multifamily low-income goal, the recent performance of the Enterprises on the multifamily very low-income subgoal indicates that the number of goal-qualifying units in properties backing mortgages purchased by the Enterprises varies more widely from year-to-year than the percentage of goal-qualifying units.

The proposed benchmark level of 12 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 12 percent, the role of the Enterprises in this market, and any other matters related to the multifamily very low-income housing subgoal.

Table 3. Multifamily Very Low-Income Subgoal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Very Low-Income Multifamily Benchmark	60,000	60,000	60,000	60,000	60,000	60,000	60,000	88,000	12%	12%
Fannie Mae Performance										
Very Low-Income Multifamily Units	69,078	65,910	82,674	80,891	79,649	95,416	83,459			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Very Low-Income % of Total Units	14.7%	11.9%	13.1%	12.9%	13.4%	15.0%	15.0%			
Freddie Mac Performance										
Very Low-Income Multifamily Units	76,935	73,030	92,274	105,612	112,773	107,105	87,854			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Very Low-Income % of Total Units	15.0%	12.2%	14.6%	15.2%	17.1%	16.0%	16.2%			

3. Small Multifamily Low-Income Housing Subgoal

The proposed small multifamily low-income housing subgoal would be based on the percentage of rental units in all multifamily properties financed by mortgages purchased by the Enterprises that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The Enterprise housing goals regulation defines a small multifamily property as a property with 5 to 50 units. The proposed rule would set this subgoal as a percentage of the overall Enterprise multifamily loan purchases each year rather than as a percentage of the small multifamily properties only, consistent with the objectives FHFA has previously expressed for this subgoal. The proposed rule would set the annual benchmark level for affordable units in small multifamily properties for 2023 and 2024 at 2 percent of goal-eligible units in all multifamily properties securing mortgages acquired by an Enterprise each year.

This subgoal was created in the 2015-2017 housing goals rulemaking to position the Enterprises to respond quickly to potential need in this segment.[30] Due to increased private sector financing and current market conditions in the small multifamily market, FHFA is interested in ensuring that the Enterprises remain positioned to support this market when needed without crowding out other sources of financing for small multifamily properties. The proposed benchmark level would be set as a share of total goal-eligible units and not the affordable share of units in small multifamily properties to ensure that the Enterprises maintain a minimum level of engagement in the small multifamily segment of the market.

The small low-income multifamily housing market historically has been challenging to size and monitor. FHFA is aware that conditions in the small multifamily market may have changed recently in part due to the return of private sector financing since its pandemic-related slowdown in 2020.[31] As a result, the need for a significant presence by the Enterprises in this market may no longer be necessary. Furthermore, as reflected by the different numeric benchmark levels for each Enterprise in the 2021 final rule, FHFA recognizes that the Enterprises have different multifamily business models and each Enterprise sets its own credit risk tolerance for multifamily products. As a result, Fannie Mae and Freddie Mac perform very differently on this subgoal.

Taking all of these factors into account, FHFA is proposing a benchmark level for this subgoal for each Enterprise of 2 percent of goal-eligible units in all multifamily

---

[30] *See* 80 FR 53392 (Sept. 3, 2015).

[31] *See* https://www.walkerdunlop.com/insights/2021/07/19/small-balance-multifamily-sizable-and-resilient/. FHFA defines small multifamily properties as properties with 5 to 50 units, while this article defines small multifamily properties to include properties with 5 to 99 units and multifamily properties with a principal loan balance at origination between $1 and $10 million.

properties securing mortgages acquired by an Enterprise each year. FHFA believes that this proposed benchmark level would reflect a reduced level of Enterprise participation that would adjust with Enterprise loan acquisitions but also maintain Enterprise participation in this small, but specialized, segment. Furthermore, the benchmark level could be increased in future notice-and-comment rulemaking should the need arise.

It is difficult to compare the proposed percentage-based benchmark level to the current numeric benchmark level of 17,000 units for Fannie Mae and 23,000 units for Freddie Mac because the percentage depends on the volume of Enterprise business as well as the composition of that business. Table 4 shows Enterprise performance on this subgoal both in terms of the actual numeric benchmark levels applicable through 2022, as well as the proposed subgoal metric that would be based on percentages.

The proposed benchmark level of 2 percent may be adjusted as needed in the final rule based on any comments received and any new information that becomes available before the publication of the final rule. FHFA welcomes comments on the proposed benchmark level of 2 percent, the effectiveness of this subgoal, small multifamily market dynamics, and the role of the Enterprises in this market.

Table 4. Small Multifamily Low-Income Subgoal

	Performance									
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**
Fannie Mae Benchmark	6,000	8,000	10,000	10,000	10,000	10,000	10,000	17,000	2%	2%
Freddie Mac Performance	6,000	8,000	10,000	10,000	10,000	10,000	10,000	23,000	2%	2%
Fannie Mae Performance										
Small Low-Income Multifamily Units	6,731	9,312	12,043	11,890	17,832	21,797	14,409			
Total Small Multifamily Units	11,198	15,211	20,375	17,894	25,565	36,880	25,416			
Total Multifamily Units	468,798	552,785	630,868	628,230	596,137	637,696	557,152			
Small Low-Income % of Total Small Multifamily Units	60.1%	61.2%	59.1%	66.4%	69.8%	59.1%	56.7%			
Small Low-Income % of Total Units	1.4%	1.7%	1.9%	1.9%	3.0%	3.4%	2.6%			
Freddie Mac Performance										
Small Low-Income Multifamily Units	12,801	22,101	39,473	39,353	34,847	28,142	31,913			
Total Small Multifamily Units	21,246	33,984	55,116	53,893	46,879	41,275	41,874			
Total Multifamily Units	514,275	597,399	630,037	695,587	661,417	667,451	543,077			
Small Low-Income % of Total Small Multifamily Units	60.3%	65.0%	71.6%	73.0%	74.3%	68.2%	76.2%			
Small Low-Income % of Total Units	2.5%	3.7%	6.3%	5.7%	5.3%	4.2%	5.9%			

V. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted the proposed rule to OMB for review.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act and FHFA certifies that the proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the regulation only applies to Fannie Mae and Freddie Mac, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the Preamble, under the authority of 12 U.S.C. 4511, 4513, and 4526, FHFA proposes to amend part 1282 of Title 12 of the Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER E—HOUSING GOALS AND MISSION

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

1. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561-4566.

2. Amend § 1282.13 by revising paragraphs (b) through (d) to read as follows:

§ 1282.13 Multifamily special affordable housing goal and subgoals.

* * * * *

(b) *Multifamily low-income housing goal*. The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 61 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

(c) *Multifamily very low-income housing subgoal*. The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to very low-income families shall meet or exceed 12 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

(d) *Small multifamily low-income housing subgoal*. The percentage share of dwelling units in small multifamily properties financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 2 percent of the total number of dwelling units in all multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2023 and 2024.

3. Amend § 1282.15 by revising paragraphs (c) and (e)(3) to read as follows:

§ 1282.15 General counting requirements.

* * * * *

(c) *Calculating the numerator and denominator for multifamily housing goals*. Performance under the multifamily housing goal and subgoals shall be measured using a fraction that is converted into a percentage. Neither the numerator nor the denominator shall include Enterprise transactions or activities that are not mortgage purchases as defined by FHFA or that are specifically excluded as ineligible under § 1282.16(b).

(1) *The numerator*. The numerator of each fraction is the number of dwelling units that count toward achievement of a particular multifamily housing goal or subgoal in properties financed by mortgages purchased by an Enterprise in a particular year.

(2) *The denominator*. The denominator of each fraction is the total number of dwelling units in properties financed by mortgages purchased by an Enterprise in a particular year.

* * * * *

(e) * * *

(3) The estimation methodology in paragraph (e)(2) of this section may be used up to a nationwide maximum of 5 percent of the total number of rental units in properties securing multifamily mortgages purchased by the Enterprise in the current year. Multifamily rental units with missing affordability information in excess of this maximum shall be included in the denominator for the multifamily housing goal and

subgoals, but such rental units shall not be counted in the numerator of any multifamily housing goal or subgoal. Multifamily rental units with missing affordability information for which estimation information is not available shall be excluded from both the numerator and the denominator for purposes of the multifamily housing goal and subgoals.

* * * * *

/s/ 8/15/2022

Sandra L. Thompson Date

Director, Federal Housing Finance Agency.