

(e) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination that—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to a permitted payment stablecoin issuer regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the permitted payment stablecoin issuer.

The term does not include examiner observations, suggestions, or other informal comments.

§ 19.261 FinCEN consultation.

(a) *Consultation and consideration requirement.* Before initiating an AML/CFT enforcement action or a significant AML/CFT supervisory action against a permitted payment stablecoin issuer, the OCC will provide the FinCEN Director an opportunity to review the action and consider any input offered by the FinCEN Director on the action, which may include any view as to the effectiveness of the permitted payment stablecoin issuer's AML/CFT program.

(b) *Notice requirement.* To provide the FinCEN Director an opportunity to provide a view under paragraph (a)(1) of this section, the OCC will:

(i) Send written notice to the FinCEN Director of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the Comptroller of the Currency, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the permitted payment stablecoin issuer to the OCC, other than information over which the permitted payment stablecoin issuer may claim privilege under Federal or State law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the FinCEN Director regarding the proposed action.

§ 19.262 Enforcement and supervision policy.

(a) *In general.* Except with respect to a significant or systemic failure to

implement an effective AML/CFT program in accordance with applicable regulations at 31 CFR chapter X, a permitted payment stablecoin issuer that has established an effective AML/CFT program in accordance with applicable regulations at 31 CFR Chapter X will not be subject to an AML/CFT enforcement action or to a significant AML/CFT supervisory action.

(b) *Program establishment violations.* Nothing in this section may be construed to restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to any failure to establish an effective AML/CFT program.

(c) *Criminal Enforcement Unaffected.* Nothing in this subpart may be construed to affect criminal enforcement under applicable law.

Jonathan V. Gould,

Comptroller of the Currency.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1282 and 1283

RIN 2590-AB64

Enterprise Duty To Serve Underserved Markets

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA or Agency) proposes to rescind its regulation on Duty to Serve Underserved Markets and replace it with a new rule. If adopted as proposed, the new rule would enable the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) to better serve the needs of very low-, low-, and moderate-income families in the manufactured housing, affordable housing preservation, and rural housing markets through greater innovation and with less administrative burden.

DATES: FHFA will accept written comments on the proposed rule on or before July 24, 2026.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590-AB64, by any one of the following methods:

- *Agency Website:* <https://www.fhfa.gov/regulation/federal-register>.

- *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 email 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-AB64.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590-AB64, 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. EST.

- *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-AB64, 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: For general questions, please contact MediaInquiries@FHFA.gov. For technical questions, please contact Leda Bloomfield, Senior Associate Director, Office of Affordable Housing and Community Investment, Division of Housing Mission and Goals, 202-649-3415, Leda.Bloomfield@fhfa.gov; Marcea Barringer, Supervisory Policy Analyst, Office of Affordable Housing and Community Investment, Division of Housing Mission and Goals, 202-308-1089, Marcea.Barringer@fhfa.gov, or Dinah Knight, Assistant General Counsel, Office of General Counsel, (202) 748-7801, Dinah.Knight@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.

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I. Request for Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Comments, including any personally identifiable information such as name and contact information, will be posted to the electronic rulemaking docket on the FHFA public website at <https://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA will not redact personally identifiable information once it is submitted. Commenters who do not wish to be identified by their comments may submit their comments anonymously. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal rulemaking file and will be considered as required by all applicable laws. Commenters who would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's *FOIA Reference*

Guide at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

II. Statutory and Regulatory Background

A. Statutory Background

When the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) was enacted, Congress found that the Enterprises “have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families.”¹ Consistent with this obligation, the Housing and Economic Recovery Act of 2008 amended the Safety and Soundness Act to impose on the Enterprises a duty to serve certain borrowers in three markets deemed by statute to be underserved.² Specifically, to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for the manufactured housing, affordable housing preservation, and rural housing markets, the Enterprises are required to provide leadership in developing loan products and flexible underwriting guidelines that facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in those markets (the Duty to Serve).³

The Safety and Soundness Act imposes requirements on both the Enterprises and FHFA with regard to the Duty to Serve. Each Enterprise must design programs and products that facilitate the use of assistance provided by federal, state, and local governments; develop relationships with nonprofit and for-profit organizations that develop and finance housing and with state and local governments; take affirmative steps to 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 obligations under the Community Reinvestment Act (CRA) of 1977;⁴ and develop the institutional capacity to help finance low- and moderate-income housing, including for first-time homebuyers.

FHFA must establish by regulation a method for evaluating the Enterprises' compliance with the Duty to Serve and

rating the extent of such compliance.⁵ FHFA must evaluate each Enterprise's compliance with respect to each underserved market, taking into consideration the Enterprise's development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing to the underserved market; the extent of the Enterprise's outreach to qualified loan sellers and other market participants in the underserved market; the volume of loans purchased by the Enterprise in the underserved market relative to the market opportunities available to the Enterprise; and the amount of investments and grants made by the Enterprise in projects that assist in meeting the needs of the underserved market.⁶

B. The Existing Duty To Serve Regulation

Rulemaking process. FHFA established the existing Duty to Serve Program through a series of rulemakings. In 2009, FHFA published an Advanced Notice of Proposed Rulemaking (ANPR) to request comments on the types of Enterprise transactions and activities that should be considered under the Program, and how such transactions and activities should be rated for the purpose of determining Enterprise performance in the underserved markets.⁷ In 2010, FHFA published a proposed rule that took into consideration the 100 comments received on the ANPR.⁸ FHFA received 4,019 comments on the 2010 proposed rule from a variety of stakeholders, including individuals, trade associations, advocacy groups, nonprofits, corporations, and government entities. FHFA then evaluated the comments and issued a new proposed rule in 2015.⁹ After considering the 1,567 comments received on the 2015 proposed rule, FHFA adopted a final rule in 2016.¹⁰ Since 2016, the regulation has been amended once to make minor changes to definitions applicable to the rural housing market.¹¹

Overview of the current regulation. The existing regulation requires each Enterprise to adopt a three-year Underserved Market Plan (Plan), subject to FHFA review and non-objection. FHFA thereafter monitors Enterprise

⁵ 12 U.S.C. 4565(d)(1).

⁶ 12 U.S.C. 4565(d)(2).

⁷ 74 FR 38572 (Aug. 4, 2009).

⁸ 75 FR 32099 (June 7, 2010).

⁹ 80 FR 79182 (Dec. 18, 2015).

¹⁰ 81 FR 96242 (Dec. 29, 2016); 12 CFR part 1282, subpart C.

¹¹ 88 FR 23559 (Apr. 18, 2023).

¹ 12 U.S.C. 4501(7).

² 12 U.S.C. 4565(a)(1).

³ 12 U.S.C. 4565(a). The terms “very low-income,” “low-income,” and “moderate-income” are statutorily defined in 12 U.S.C. 4502(24), (14), and (16), respectively.

⁴ 12 U.S.C. 2901 *et. seq.*

performance against their Plans, assigns annual performance ratings for each underserved market, and, based on those ratings, determines whether the Enterprise has complied with its Duty to Serve in each underserved market. The regulation's planning and evaluation process requirements are supplemented by Evaluation Guidance published periodically by FHFA. If an Enterprise fails to comply with its Duty to Serve any underserved market, FHFA may bring a statutorily prescribed enforcement action.

Plan development; selection of eligible activities. Each Plan must state the activities the Enterprise will undertake in each underserved market to fulfill its Duty to Serve, along with one or more objectives (*i.e.*, specific actions) the Enterprise will carry out to complete each activity.¹² Notably, the existing regulation specifies activities that are eligible to be included in Enterprise Plans for each underserved market. The activities are divided among three categories: Statutory Activities, Regulatory Activities, and Additional Activities (each an "Activity"). The category of Statutory Activities is applicable to the affordable housing preservation market only and covers activities related to eight federal affordable housing programs listed in the Safety and Soundness Act or a comparable state or local program.¹³ Regulatory Activities cover fifteen activities that FHFA determined by regulation are eligible for Duty to Serve credit in the designated market.¹⁴ Additional Activities are other activities proposed by an Enterprise in its Plan and determined by FHFA on a case-by-case basis to be eligible for Duty to Serve credit.¹⁵

For each Plan cycle, the existing regulation requires FHFA to publish Evaluation Guidance that, among other things, specifies the minimum number of Statutory or Regulatory Activities the Enterprises must consider for each underserved market.¹⁶ For this purpose, "consider" means that the Enterprise must explain in its Plan how it will undertake the Activity or why it will not undertake the Activity.

Each Activity that will be undertaken must be supported by at least one

objective that is described in the Plan.¹⁷ Objectives must be strategic, measurable, achievable considering market opportunities, realistic considering the effort required for achievement, and time bound.¹⁸ For each objective, the Enterprise must designate in its Plan one of four statutory evaluation areas—outreach, loan product, loan purchase, or investments and grants—under which the Enterprise is seeking Duty to Serve credit.¹⁹

FHFA review and non-objection. The existing regulation establishes a review and non-objection process that begins with each Enterprise submitting its proposed Plan to FHFA. Thereafter, FHFA must publish the proposed Plans for public comment.²⁰ The Enterprises may revise their proposed Plans based on public input and must address FHFA's comments before FHFA issues a non-objection.²¹ After FHFA is satisfied that all of its comments on an underserved market in a proposed Plan have been addressed, FHFA will provide a non-objection to the Plan for that market. Ultimately, FHFA issues three non-objections to each Enterprise, one for each underserved market in the Plan.

The existing regulation allows an Enterprise to request to modify its Plan at any time during the three-year term, subject to FHFA review and non-objection.²² FHFA may also require an Enterprise to modify its Plan during the three-year term.²³ Instances in which FHFA might require modification include significant changes in market or regulatory conditions, such as unexpected obstacles or opportunities, or safety and soundness concerns. In practice, FHFA has established an annual process where an Enterprise aggregates its requests to modify its Plan and submits all requests to FHFA on or before a date specified in the Evaluation Guidance.

FHFA evaluation and ratings.

Consistent with the statutory requirements, the existing regulation establishes a framework for FHFA to evaluate and rate each Enterprise's compliance with the Duty to Serve in each underserved market. Under that framework, FHFA annually evaluates each Enterprise's performance under its Plan, based on quantitative and qualitative assessments of the

Enterprise's accomplishment of the objectives for each underserved market, and considers any opportunities FHFA provided for the Enterprises to earn extra credit.²⁴

The existing regulation also requires FHFA to describe in the Evaluation Guidance how it will conduct quantitative and qualitative assessments, the role of extra credit, how final ratings will be determined, and other matters.²⁵ In practice, FHFA updates the Evaluation Guidance from time to time to describe its expectations for what should be included in the Plans and related procedures, in addition to describing the content required by regulation. Over three Plan cycles between 2017 and 2025, FHFA published eight versions of the Evaluation Guidance.

C. FHFA Review of the Current Program

Scope of review. Since the existing regulation was finalized in 2016, FHFA has taken steps to assess its impact as part of widescale regulatory reviews and targeted initiatives focused on the Duty to Serve Program. In accordance with Executive Order 13579 (Regulation and Independent Regulatory Agencies), every five years FHFA solicits public comment on the operation of its existing significant regulations to make the Agency's regulatory program more effective or less burdensome in achieving statutory and regulatory objectives.²⁶ More recently, Executive Order 14219 (Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative),²⁷ required each agency including FHFA to undertake a comprehensive review of its regulations considering, among other things, the statutory bases for the authority expressed and interpreted and significant regulatory costs imposed on private parties in light of the public benefits conferred.

Specifically with regard to the Duty to Serve Program, in the past ten years FHFA has hosted 24 public listening sessions and engaged with members of the public, industry participants, and other stakeholders on the successes and challenges of the Program. FHFA also routinely engages with the Enterprises to better understand impediments to the development and execution of their Plans and other barriers to the provision of mortgage liquidity in the underserved markets. While that work has been

¹² 12 CFR 1282.32.

¹³ 12 CFR 1282.34(c); *see also* 12 U.S.C. 4565(a)(1)(B)(i)–(ix).

¹⁴ 12 CFR 1282.33(c), 1282.34(d), and 1282.35(c).

¹⁵ 12 CFR 1282.33(d), 1282.34(e), and 1282.35(d).

¹⁶ 12 CFR 1282.32(d) and Appendix A in the Duty to Serve Evaluation Guidance 2025–8 (August 18, 2025), (*hereinafter* "Evaluation Guidance"), available at <https://www.fhfa.gov/document/dts-evaluation-guidance-2025-8.pdf>.

¹⁷ 12 CFR 1282.32(e).

¹⁸ 12 CFR 1282.32(e).

¹⁹ 12 CFR 1282.36(b).

²⁰ 12 CFR 1282.32(g).

²¹ 12 CFR 1282.32(g)(4), (5).

²² 12 CFR 1282.32(h).

²³ *Id.*

²⁴ 12 CFR 1282.36(c).

²⁵ 12 CFR 1282.36(d).

²⁶ *See* 77 FR 10351 (Feb. 22, 2012), setting forth FHFA's Regulatory Review Plan.

²⁷ 90 FR 10583 (Feb. 25, 2025).

ongoing, the fortuitous timing of the issuance of Executive Order 14394 (Removing Regulatory Barriers to Affordable Home Construction) (“E.O. 14394”) has enabled FHFA to also consider the policies and priorities of that E.O. in reviewing the existing regulation and developing the proposed rule.²⁸ Among other things, E.O. 14394 directs FHFA to take action to reform and eliminate unduly burdensome or costly energy efficiency improvement standards for Duty to Serve properties and to consider eliminating unduly burdensome rules and reforming programs that constrain residential development and impede housing affordability, including with respect to regulations like the Duty to Serve regulation that apply to personal property (chattel) loans for manufactured housing.

Market context. The current condition of the underserved markets provides useful context for FHFA’s review of the regulatory framework and engagements with stakeholders. Each market poses a unique set of opportunities and challenges. The manufactured housing market is inherently affordable, but significant financing hurdles prevent many buyers from entering the market.²⁹ Borrowers, particularly those seeking personal property (chattel) loans, face a 65.6% denial rate compared to just 8.8% for site-built homes. Even when approved, these borrowers are often subject to higher interest rates—averaging 9.24% for personal property

loans versus 6.63% for traditional mortgages—creating a “financing gap” that frequently offsets the lower purchase price of the home itself.³⁰

Communities in the rural housing market often lack a robust banking infrastructure, leaving residents with fewer mortgage products and services than their urban counterparts. Supply of quality housing is limited due to an aging housing stock that often exceeds its useful life.³¹ By some estimates home prices in rural areas increased by more than 35 percent between March 2020 and March 2023—double the rate of appreciation seen in the three years preceding the COVID–19 pandemic. While price appreciation has since moderated, the compounding effect of higher values and a significantly higher interest rate environment has been a worsening of affordability.³² The annual income required to afford a median-priced home in rural counties has more than doubled; as of late 2025, households may need to earn approximately \$75,000 to afford a home, compared to roughly \$36,000 in 2019.³³ This shift clearly places significant pressure on low-to-moderate-income families seeking to remain in or move to rural communities.³⁴

³⁰ FHFA analysis of 2024 Home Mortgage Disclosure Act (HMDA) data. *See also* The Urban Institute, “Challenges to Obtaining Manufactured Home Financing” (June 2018), available at https://www.urban.org/sites/default/files/publication/98687/challenges_to_obtaining_manufactured_home_financing_0.pdf.

³¹ Recent analysis of Home Mortgage Disclosure Act (HMDA) data indicates that mortgage denial rates and pricing in rural areas remain elevated compared to urban areas, largely due to credit history and appraisal challenges. *See* National Rural Housing Coalition, “Barriers to Affordable Rural Housing” (December 18, 2012), available at <https://ruralhousingcoalition.org/barriers-to-affordable-rural-housing/>; *See* Consumer Financial Protection Bureau, “2023 Mortgage Market Activity and Trends” (December 13, 2024), available at <https://www.consumerfinance.gov/data-research/research-reports/2023-mortgage-market-activity-and-trends/>.

³² *See* Consumer Financial Protection Bureau (CFPB), “Data Spotlight: The Impact of Changing Mortgage Interest Rates” (September 17, 2024), available at <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-the-impact-of-changing-mortgage-interest-rates/#:~:text=Effects%20of%20elevated%20interest%20rates,%202C399>.

³³ *See* Redfin News, “The Housing Affordability Crisis Is Accelerating Fastest in Rural America” (November 20, 2025), available at <https://www.redfin.com/news/press-releases/the-housing-affordability-crisis-is-accelerating-fastest-in-rural-america/#:~:text=Rural%20homebuyers%20need%20to%20earn,than%20big%20cities%20and%20suburbs>.

³⁴ *See* Fannie Mae, “Moving to the Country: Unpacking the Persistent Increase in Rural Housing Demand Since the Pandemic” (November 8, 2024), available at <https://www.fanniemae.com/research-and-insights/publications/housing-insights/unpacking-persistent-increase-rural-housing-demand-pandemic>; *See* Redfin News, “The Housing Affordability Crisis Is Accelerating Fastest

Finally, the preservation of existing affordable housing stock is reaching a critical point. The supply of deeply affordable rental options has significantly contracted; between 2014 and 2024, the market saw a net loss of 2.5 million units with inflation-adjusted rents below \$600 (affordable to a household earning \$24,000 annually).³⁵ As the nation’s rental stock ages at an unprecedented rate, a growing number of low-income households are increasingly restricted to substandard housing options. This physical deterioration creates a secondary crisis: the capital required for necessary rehabilitation is often so high that it threatens the financial viability of maintaining the units’ long-term affordability.³⁶

Compounding the physical decline in affordable housing units is a looming “subsidy cliff,” with over half a million Low-Income Housing Tax Credit (LIHTC) properties set to exit their compliance periods between 2025 and 2038.³⁷ This expiration places hundreds of thousands of units at risk of converting to market-rate pricing, potentially displacing low-income tenants. To combat this, industry participants are diversifying their preservation strategies beyond traditional tax credits, increasingly utilizing private-activity bonds and specialized products, such as Freddie Mac’s Workforce Housing Preservation tool, to maintain long-term affordability.³⁸

Areas for improvement. FHFA regulatory and program reviews, interactions with stakeholders, and evaluation of market context reveal that, while the Enterprises have made

in Rural America” (November 20, 2025), available at <https://www.redfin.com/news/press-releases/the-housing-affordability-crisis-is-accelerating-fastest-in-rural-america/>.

³⁵ *See* Harvard University Joint Center for Housing Studies, “America’s Rental Housing 2026” (2026), available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2026.pdf.

³⁶ *See* Harvard University Joint Center for Housing Studies, “America’s Rental Housing 2024” (2024), available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf.

³⁷ *See* Yardi, “Yardi Matrix Focuses on Upcoming LIHTC Affordability Restriction Loss” (March 3, 2025), available at <https://www.yardi.com/news/press-releases/yardi-matrix-focuses-on-upcoming-lihtc-affordability-restriction-loss/#:~:text=Yardi%20Matrix's%20new%20affordable%20housing,also%20expire%20in%20that%20time>.

³⁸ *See* Affordable Housing Finance, “Saving the Stock” (September 29, 2025), available at <https://www.housingfinance.com/developments/saving-stock>; *See* Freddie Mac, “Workforce Housing Preservation,” available at <https://mf.freddie-mac.com/docs/workforce-housing-preservation.pdf>.

²⁸ 91 FR 13207 (Mar. 18, 2026).

²⁹ The existing regulation focuses on manufactured homes as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401 *et. seq.*), which are commonly referred to as “HUD Code homes” because they must meet standards set by the U.S. Department of Housing and Urban Development (HUD). The manufactured housing market serves over 20 million American families as a vital source of unsubsidized affordable housing. Cost-efficiency remains its primary driver; the average cost per square foot for a manufactured home ranges from \$79 for single-section to \$87 for multi-section units, significantly lower than the \$169 average for site-built housing. While production has grown steadily over the last decade, current volumes remain well below the peaks of the 1980s and 1990s, when these homes represented a full quarter of all single-family construction. *See* MH Insider, “Manufactured Housing Industry Trends and Statistics” (April 28, 2025), available at <https://mhinsider.com/manufactured-housing-industry-trends-statistics/>; *See* Texas Manufactured Housing Association, “Manufactured Home vs Site-Built Cost Comparison 2024—Price Per Square Foot Analysis” (July 29, 2025), available at <https://www.texasmha.com/manufactured-home-vs-site-built-cost-comparison-price-per-square-foot-analysis>; *See* Harvard University Joint Center for Housing Studies, “Five Barriers to Greater Use of Manufactured Housing for Entry-Level Homeownership” (January 23, 2024), available at <https://www.jchs.harvard.edu/blog/five-barriers-greater-use-manufactured-housing-entry-level-homeownership>.

meaningful progress in serving the underserved markets, the need for housing that is affordable to very low-, low-, and moderate-income families in those markets continues to be acute, structural barriers persist, and reforms to the Duty to Serve Program can help address these challenges. These indicia of the persistent need for affordable housing in the underserved markets support a renewed and heightened focus on regulatory efficiency, to ensure that Enterprise resources are used to benefit low- and moderate-income households and are not diverted unnecessarily to meet administrative requirements. They also support a reconsideration of regulatory effectiveness, to ensure that the Duty to Serve regulation encourages innovation with respect to the types of activities identified by statute as beneficial. Those principles—improving regulatory efficiency to maximize the benefit of Enterprise Duty to Serve resources to very low-, low-, and moderate-income families, and encouraging the Enterprises to innovate with regard to activities set forth by statute—informed FHFA’s development of the proposed rule.

FHFA believes there are several areas where the existing Duty to Serve regulation could be improved. In brief, the existing regulation may impose higher than necessary administrative costs with diminishing returns for the underserved markets and may impose regulatory compliance obligations that spread the Enterprises’ resources too thin or otherwise impeding their ability to deploy the scale of capital necessary to significantly improve the secondary market in any single underserved market.

By setting forth Statutory and Regulatory Activities in regulation, specifying the minimum number of Activities, by category, that each Enterprise must address in its Plan,³⁹ and awarding points based on the completion of objectives underlying those Activities, the current approach was designed to reduce uncertainty and ensure coverage of certain markets. However, it may have incentivized a “compliance-centric” mindset that prioritizes the fulfillment of granular regulatory benchmarks over meaningful

market impact. For example, the Enterprises’ current Plans collectively describe 44 Activities and 72 objectives supporting these Activities, each of which must be aligned with parameters established by the existing regulation and the Evaluation Guidance, and many of which may have limited market impact.

FHFA 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. Although the existing regulation permits the Enterprises to propose Additional Activities, and thus is not intended to stifle innovation, it is undeniable that its primary focus is on the listed, prescribed, Statutory and Regulatory Activities. And the sheer volume of disparate mandates—ranging from specific energy-efficiency targets to niche preservation silos—could create excessive administrative overhead that limits the Enterprises’ ability to pivot toward emerging market needs.

Additionally, FHFA has observed how certain regulatory provisions may present unintended impediments to providing mortgage liquidity to the underserved markets. One example is the calculation of median income under the existing regulation, which is used to determine whether a loan purchase supports a very low-, low-, or moderate-income family. This calculation has resulted in the exclusion of loans to families whose income, calculated in accordance with the existing regulation, is above the area median but lower than the national market. This occurs in rural communities and other underserved areas where concentrations of low-income families or persistent poverty depress the median income. For example, Freddie Mac developed its HeritageOne product to provide conventional financing in Indian areas, which have long been lacking in credit availability in part due to the lack of products. Even as lenders have adopted the product, many loans are ineligible for Duty to Serve credit because the widespread poverty in Indian areas lowers median income (as calculated under the existing regulation) such that a family that would be low-income in other parts of the country is above the required threshold in the Indian area. This occurs not only in Indian areas, but also other rural communities and underserved areas where there are concentrations of low-income families,

which is itself a statutory geographic focus that the Enterprises must serve.

Another unintended impediment is the complex calculation required to assess affordability of manufactured housing communities required by the existing regulation. While the calculation has not impeded either Enterprise from purchasing manufactured housing community blanket loans, it adds an unnecessary cost burden to the Enterprises and FHFA given that manufactured housing is a naturally occurring source of affordable housing.

III. Overview of the Proposed Rule

The proposed rule aims to encourage and enable the Enterprises to better serve the needs of very low-, low-, and moderate-income families in the underserved markets through greater innovation and with less administrative burden. To those ends, FHFA is proposing to remove prescribed Activities and instead would permit each Enterprise to take any “eligible action,” meaning any action that is consistent with carrying out the statutory Duty to Serve and that has not been determined to be ineligible by FHFA, by regulation or after review. As in the existing regulation, the proposed rule would identify some ineligible actions (which are discussed more fully below).

Other changes would also encourage innovation and reduce burden. FHFA is proposing to remove unnecessary conditions on eligible loan purchases, revise the method for calculating median income to more appropriately address families in areas of concentrations of low-income families, update the approach to determining affordability for manufactured housing communities, and reduce procedural requirements for developing and reviewing Plans. FHFA is also proposing revisions to its evaluation and rating process to better focus on whether the Enterprise met the needs of each underserved market, rather than whether it met its self-identified Plan goals; and to incorporate throughout the regulation a number of “best practices” identified in the Evaluation Guidance that have become current practice and could be expressed in regulation. Finally, for the convenience of practitioners, FHFA is proposing to remove regulatory provisions that are no longer relevant because they address submission of the Enterprises’ first Underserved Markets Plans, and to relocate all regulatory requirements related to the Enterprises’ Duty to Serve from subpart C of part 1282, Enterprise

³⁹ For example, for the Enterprises’ current Underserved Markets Plans, FHFA required each Enterprise to address all four Regulatory Activities related to manufactured housing; a total of five Statutory and Regulatory Activities related to the affordable housing preservation market (for which the existing regulation sets forth nine Statutory Activities and seven Regulatory Activities); and all four Regulatory Activities related to rural housing. See Evaluation Guidance, Appendix A and p. 6., available at <https://www.fhfa.gov/document/dts-evaluation-guidance-2025-8.pdf>.

Housing Goals and Mission, to a new part 1283, Enterprise Duty to Serve.

This section details several technical and administrative revisions intended to streamline the regulation, including the restriction on eligible activities, the introduction of interpretive definitions, and the relocation of the Duty to Serve rule from 12 CFR part 1282 to part 1283. While this section focuses on the rationale for these rescissions and structural changes, the Section-by-Section Analysis provides a detailed discussion of the proposed new regulatory text.

Removal of prescribed Activities. A significant proposed change is the removal of the Activities framework, which would include eliminating the lists of Statutory and Regulatory Activities, as well as the related concepts of Additional Activities, “extra credit,” and consideration of a “minimum number” of Activities. In their place, FHFA proposes to permit an Enterprise to undertake any action that (1) is consistent with its Duty to Serve and (2) has not been deemed ineligible by FHFA by regulation or after case-by-case review. For transparency, as in the existing regulation, FHFA intends to list ineligible actions and conditions or characteristics that would make an action ineligible in the regulation to the greatest extent practicable.⁴⁰

By eliminating a list of Activities prescribed in regulation and eliminating the requirement that each Enterprise address a certain number of Activities in its Plan, FHFA intends to encourage each Enterprise to focus on innovative, high-impact initiatives that target the liquidity needs of each underserved market as a whole, rather than pursuing a high volume of disparate, generally small-scale Activities that are encumbered by regulatory requirements. FHFA also notes that removing Regulatory Activities related to water and energy efficiency improvement is consistent with policies of E.O. 14394, which seeks to reform or eliminate unduly burdensome or costly energy-efficiency, water-use, or alternative energy requirements in the Duty to Serve Program.

If the Activities framework is removed, related definitions set forth in the existing regulation would also be removed. For example, if Regulatory Activities related to “small multifamily rental properties” are removed, there is no need for a definition of “small multifamily rental property” or for other

defined terms uniquely used in the description of that Activity (such as “community development financial institution”).⁴¹ Similarly, if Regulatory Activities related to housing for “high-needs rural populations” and financing by “small financial institutions” of housing in rural areas are removed, there is no need for a definition of “high-needs rural population” and its two components, members of a “Federally recognized Indian tribe” or “agricultural worker,”⁴² or for a definition of “small financial institution.” Likewise, removing the concept of “extra credit” would also lead to removal of the definitions “residential economic diversity activity,” “high opportunity area,” “mixed-income housing,” and “area of concentrated poverty.”⁴³

FHFA recognizes that the removal of some Regulatory Activities, such as the rural market Regulatory Activity for high-needs rural populations, which is directed to the housing needs of members of Federally recognized Indian tribes located in Indian areas and agricultural workers, could appear to negatively impact the populations addressed.⁴⁴ FHFA does not believe there would be any disadvantage to those populations if part 1283 were adopted as proposed. To the contrary, eliminating the Regulatory Activity would remove administrative hurdles to serving those populations and other residents in rural areas at the targeted income levels. For example, instead of directing resources to verify that borrowers are agricultural workers, an Enterprise would be able to direct resources to developing loan products that best serve all families at the targeted income levels who live in rural areas. Moreover, to ensure that residents of an “Indian area” are not overlooked, the definition for “high-needs rural region” would be expanded to include Indian areas, and, as described below, changes would be made to the “rural area” definition to emphasize that segment of the rural market. Unlike members of federally recognized Indian tribes living in Indian areas, agricultural workers are increasingly less tied to a specific geography. In the past twenty years there has been a marked shift to “off-farm” housing for agricultural workers; currently 83 percent of farmworkers live in private market housing, and only 14 percent of

farmworkers live in grower-owned units.⁴⁵ Nonetheless, agricultural workers continue to be among the poorest rural populations in the country, often living in overcrowded and unaffordable conditions.⁴⁶ FHFA encourages the Enterprises, who have made investments of \$132 million supporting 829 units for agricultural workers in rural areas,⁴⁷ to continue to work to increase housing opportunities for the lowest-income rural populations, including agricultural workers.

Removal of “extra credit-eligible activities.” Consistent with the removal of prescribed lists of Statutory and Regulatory Activities, FHFA is proposing to eliminate the concept of “extra credit-eligible activities” set forth in the existing regulation at § 1282.36(c)(3). Currently, FHFA may provide extra credit for residential economic diversity activities included in a Plan and may designate other Regulatory or Statutory Activities for extra credit in Evaluation Guidance. In contrast, under the proposed approach, if there is no bounded set of actions, there are no actions to which “extra” credit may be applied. Specific incentives for “residential economic diversity” activities would no longer be necessary: the Enterprises could pursue such activities where they advance statutory objectives, and FHFA would evaluate them based on the results achieved.

Removal of certain conditions on eligible loan purchases. FHFA is proposing to remove the restriction at § 1282.37(b)(3) on subordinate multifamily liens (which, for Duty to Serve purposes, were limited to subordinate liens originated for certain energy and water improvements) to instead provide the Enterprises with expanded flexibility to support financing multifamily properties. Although FHFA previously noted that the use of subordinate loans to preserve affordability was not standard practice and may not be an effective tool,⁴⁸ over the past decade subordinate liens have increasingly become an important tool to preserve affordability. Since the existing regulation was finalized in

⁴⁵ See Housing Assistance Council, “Creating a Better Understanding of Farmworker Communities and Their Housing Conditions” (April 2024), p. 16, available at https://ruralhome.org/wp-content/uploads/2024/05/HAC-FW-Rural-Research-Brief_Final_4.30.24.pdf.

⁴⁶ See Housing Assistance Council, “Creating A Better Understanding of Farmworker Communities and Their Housing Conditions” (April 2024), pp. 14–18, available at https://ruralhome.org/wp-content/uploads/2024/05/HAC-FW-Rural-Research-Brief_Final_4.30.24.pdf.

⁴⁷ FHFA data.

⁴⁸ 81 FR at 96288.

⁴⁰ In the existing regulation, see, e.g., 12 CFR 1282.37(b), listing activities that receive no credit; and (c)(1), listing conditions or characteristics of permanent construction take-out loans that must be met for an Enterprise to receive credit.

⁴¹ See 12 CFR 1282.34(d)(1) and 1282.35(c)(4); see also 12 CFR 1282.1.

⁴² See 12 CFR 1282.1, 1282.35(c)(2), and 1282.35(c)(3).

⁴³ 12 CFR 1282.32(d)(3), 1282.36(c), 1282.36(c)(3), 1282.38(e)(2), 1282.38(f), and 1282.38(f)(2).

⁴⁴ 12 CFR 1282.35(c)(2).

2016, multifamily construction and operating costs have increased substantially; in particular, during the COVID-19 pandemic, construction costs increased by 17.5 percent and operating costs increased by 10.4 percent.⁴⁹ The cost increases have further compounded the need for additional financing to fully fund development or preservation of multifamily properties; these subordinate funding sources often include affordability restrictions.⁵⁰

The Agency also proposes to remove the restriction at § 1282.37(b)(5) that permitted LIHTC equity investments only in rural areas, to expand eligibility for LIHTC equity investments to all underserved markets.⁵¹ The Agency believes the expanded eligibility will help drive liquidity and innovation in the underserved markets. Finally, FHFA is proposing to remove the statement at § 1282.39(f) that the purchase of a seasoned mortgage will be treated as a mortgage purchase because it was unnecessary, and those purchases continue to be eligible for credit.

Removal of outdated requirements. Some provisions in the existing regulation are outdated because they address the development and submission of the Enterprises' initial Duty to Serve Plans in 2018. These provisions would not be included in new part 1283 and would be effectively removed from the Duty to Serve regulation. This includes provisions in § 1282.32(g) concerning the submission process, public input period, and FHFA

review of the first proposed Plans, as well as provisions in § 1282.36(d) regarding timelines for issuing Evaluation Guidance for the initial Plans. As the Duty to Serve Program has been operational since 2018, references to these initial procedures are no longer applicable or relevant.

Relocation of regulatory requirements. Finally, FHFA is proposing to remove all regulatory requirements related to the Enterprises' Duty to Serve from part 1282, Enterprise Housing Goals and Mission, and locate them in new part 1283, Enterprise Duty to Serve. FHFA believes a new part dedicated to the Enterprises' Duty to Serve could make locating relevant regulatory requirements and associated definitions easier for practitioners. Distinct parts would acknowledge that regulations implementing Enterprise housing goals and Duty to Serve are established by different legal authorities and operate under different functional models. Specifically, Duty to Serve operates (and would continue to operate) through a strategic planning process involving multi-year plans and qualitative evaluations, while housing goals are primarily defined by annual numerical targets. If new part 1283 is adopted, part 1282 would be renamed Enterprise Housing Goals.

Part 1282 is structured so that all definitions appear at § 1282.1 (subpart A). In conjunction with relocating all Enterprise Duty to Serve regulatory requirements from part 1282 to new part 1283, FHFA proposes to remove from part 1282 definitions of terms used exclusively for Duty to Serve provisions. Those definitions would serve no purpose in part 1282 because the terms defined would no longer be used in that part. This is a housekeeping step and would not impact the operation of subpart B ([Enterprise] Housing Goals) or subpart D (Reporting requirements) of part 1282.

IV. Section-by-Section Analysis of Proposed Part 1283

A. Authority and Purpose—§ 1283.1

Section 1283.1 explains that the proposed rule would implement section 1335 of the Safety and Soundness Act, 12 U.S.C. 4565, which establishes the Enterprise's duty to serve and requires FHFA to establish, by regulation, a method for annually evaluating and rating each Enterprise's compliance with this duty.

B. Definitions—§ 1283.2

(1) Overview

Proposed § 1283.2 contains definitions of terms that would be used

in part 1283, including new terms and terms relocated from part 1282 that relate exclusively to the Duty to Serve Program. Definitions of other terms in part 1282 that are used for both Enterprise housing goals and Enterprise Duty to Serve, which would also be used in new part 1283, and which FHFA intends to be applied consistently across both parts, would be restated in new § 1283.2.

In developing this proposal, FHFA has also observed that some terms used in the existing regulation and defined in § 1282.1 are not necessary to define in proposed part 1283 because the term either is already defined by statute, by FHFA in part 1201, General Definitions Applying to All [FHFA] Regulations, or has a commonly understood meaning. FHFA is not proposing to relocate those terms and definitions to new part 1283; however, it is also not proposing to remove them from § 1282.1 at this time.

(2) Underserved Markets and Related Terms

Underserved markets. FHFA is proposing to define *underserved market* and each of the three statutory underserved markets for the convenience of the reader. These definitions are intended to fully implement, but not to limit or expand, statutory descriptions of the markets each Enterprise has a duty to serve. The existing regulation uses the term "underserved markets" but does not define it. In addition, the existing regulation incorporates statutory matter describing each underserved market in regulatory provisions addressing that market (*see* §§ 1282.33, on the manufactured housing market; 1282.34, on the affordable housing preservation market; and 1282.35, on the rural housing market).

Affordable housing preservation market. FHFA proposes to define the *affordable housing preservation market* as the market for preserving residential housing that is affordable to very low-, low-, and moderate-income families by preserving existing affordability restrictions and supporting sustainable affordability mechanisms. FHFA believes that definition is consistent with the statutory description at 12 U.S.C. 4565(a)(1).⁵²

(3) Manufactured Housing Market and Related Terms

FHFA proposes to define the *manufactured housing market* as the market for residential properties that provide housing for very low-, low-, and moderate-income families in

⁴⁹ Michael J. Novogradac, "Affordable Housing Developers Facing Increased Development Challenges," Novogradac Journal of Tax Credits 15(5) (2024), available at <https://www.novoco.com/periodicals/articles/affordable-housing-developers-facing-increased-development-challenges>.

⁵⁰ Jenna Davis and Sarah Karlinsky, "The Cost of Fragmentation: A Comparison of State Affordable Housing Finance Governance Systems," UC Berkeley Turner Center for Housing Innovation (2026), <https://turnercenter.berkeley.edu/blog/the-cost-of-fragmentation-a-comparison-of-state-affordable-housing-finance-governance-systems/>.

⁵¹ In this regard, FHFA notes that the preamble to the 2016 final rule states FHFA's interpretation that the affordable housing preservation statutory activity related LIHTC, 12 U.S.C. 4565(a)(1)(B)(viii), "appl[ies] to debt, as it requires the Enterprises to 'develop loan products and flexible underwriting guidelines to facilitate a secondary market' to preserve LIHTC-subsidized properties." 81 FR at 96264. In reasoning that the Enterprises' statutory obligation with regard to preserving LIHTC-subsidized properties addressed debt only (*i.e.*, did not impose any obligation with regard to LIHTC equity investments), FHFA's interpretation supported a separate policy decision to limit Enterprise DTS-eligible LIHTC equity investments to rural areas "to drive Enterprise innovation in rural markets" in particular. *Id.* at 96282. In sum, in 2016 FHFA did not interpret 12 U.S.C. 4565(a)(1)(B)(viii) to prevent the Enterprises from making equity investments in LIHTC-subsidized properties to preserve affordable housing, provided such investments are otherwise permitted by the Enterprises' charter acts and are safe and sound.

⁵² 12 U.S.C. 4565(a)(1)(B).

manufactured homes and manufactured housing communities.⁵³ The terms *manufactured home* and *manufactured housing community* would be relocated from the existing regulation to § 1283.2 without substantive change.

Under the existing regulation, the term *manufactured home* is defined to include only HUD Code homes. FHFA recognizes that other types of non-site-built homes, including modular homes, serve as a source of new affordable supply and are often constructed in the same factories as traditional HUD manufactured homes. The Agency requests comment on whether the definition of *manufactured home* should be expanded to include a broader array of non-site-built homes such as modular homes, panelized homes, and other types of factory-built homes that are subject to state or local building codes. FHFA does not believe that appropriate methodologies exist for assuring the structural integrity of pre-HUD Code homes and is not reconsidering including those homes in the *manufactured home* definition at this time.⁵⁴

(4) Rural Housing Market and Related Terms

FHFA proposes to define the *rural housing market* as the market for residential properties that provide housing for very low-, low-, and moderate-income families in rural areas. The term *rural area* is used and defined in the existing regulation; the definition of that term would be relocated to new part 1283 and, if amended as proposed, expanded in scope.

Specifically, FHFA is proposing to revise the *rural area* definition to include *high-needs rural regions* and thereby make clear that those regions are a segment of the rural housing market. The proposed rule would also amend the definition of *high-needs rural region* to include *Indian area*. Other terms defined in § 1282.1 and used in the definitions *rural area* and *high-needs rural region* would be relocated to § 1283.2. These proposed changes are discussed below.

High-needs rural region. The existing regulation identifies activities that support housing in *high-needs rural regions* (defined in the existing regulation as Middle Appalachia,⁵⁵ the

Lower Mississippi Delta, colonia census tracts, and persistent poverty counties)⁵⁶ and housing for *high-needs rural populations* (defined as members of a Federally recognized Indian tribe located in an Indian area and agricultural workers living in rural areas) as two of the four Regulatory Activities eligible for credit in the rural market.⁵⁷ Although the Safety and Soundness Act does not limit the rural market that the Enterprises have a duty to serve, historically these Regulatory Activities have been their focus. By eliminating those Regulatory Activities and revising the definition of *rural area*, FHFA aims to direct the Enterprises' efforts towards the rural market as a whole. This change, along with expanding the definition of *high-needs rural region* to include additional geographic areas associated with high-needs populations, is intended to balance the widespread need for liquidity in the rural market with the acute housing needs of households in the high-needs rural regions.

Households in *high-needs rural regions* as defined in the existing regulation face challenges such as a lack of affordable housing, lower wages, and limited access to credit.⁵⁸ Private capital is often scarce due to small deal sizes, limited CRA incentives, and limited lender participation due to perceived risk.⁵⁹

Members of federally recognized Indian tribes living in an *Indian area* face similar issues.⁶⁰ In addition, Indian

areas pose unique challenges with land titling and lack of housing supply, among other things.⁶¹ For those reasons, FHFA believes it is appropriate to include *Indian area* within the *high-needs rural regions* definition. During the 2016 rulemaking, both Enterprises proposed this approach in comments on the proposed rule.⁶² FHFA, at the time, rejected this proposal on the basis that it “would be over-inclusive and would direct support away from the [targeted] population.”⁶³ Given the Agency's experience with the Duty to Serve Program over the past decade and the continuing housing needs in Indian areas, including on fee simple property, FHFA now believes those concerns are unfounded. Because the term *Indian area* is already used and defined in the existing regulation, FHFA is proposing to relocate that definition from part 1282 to new part 1283.

FHFA also considered whether any other region should be identified as a *high-needs rural region*, generally understood as a rural area with a high concentration of poverty, substandard housing conditions, and particularly acute financing needs for affordable housing for low-income households.⁶⁴ FHFA observes that identifying additional regions could result in missing some areas and that maintaining a complete list in a regulation could prove infeasible. On the other hand, FHFA is not currently proposing to remove identified regions from the rule because by naming some areas FHFA better informs the public of those types of regions it considers to be *high-needs rural regions*. For those reasons, FHFA invites comments on whether the rule should identify additional areas as *high-needs rural regions*, and if so what those areas would be. FHFA also requests comment on whether the Enterprises should be permitted to treat regions as *high-needs rural areas* in their Plans, that are in

⁵⁶ When the existing regulation was finalized in 2016, FHFA committed to provide the Enterprises, and to post on FHFA's website, a data file that lists all of the census tracts that are covered by the definitions of Middle Appalachia, the Lower Mississippi Delta, or are “persistent poverty areas.” 81 FR at 96274, 96275, and 96277. In practice, FHFA publishes maps and data sets that depict all high-needs rural regions, also including colonia census tracts, on its website. FHFA plans to continue that practice if new part 1283 is finalized as proposed.

⁵⁷ The other Regulatory Activities eligible for credit in the rural market are financing by small financial institutions of rural housing and small multifamily rental properties in rural areas.

⁵⁸ See National Low Income Housing Center, “Rural America Cannot Address Housing Needs without Federal Investments” (2025), available at <https://nlihc.org/sites/default/files/UTF-8Rural%20Housing%20Needs%20Factsheet.pdf>.

⁵⁹ See “Duty to Serve: FHFA Presents Snapshots from Fannie Mae's and Freddie Mac's Duty to Serve Underserved Markets Plans for High-Needs Rural Regions and Populations” (2018), available at <https://www.fhfa.gov/sites/default/files/documents/DTS-High-Needs-Rural-Regions-and-Populations.pdf>; See The Federal Reserve Bank of Richmond, “Barriers to Rural Investment” (December 5, 2024), available at https://www.richmond.fed.org/region_communities/regional_data_analysis/regional_matters/2024/rm_12_05_24_barriers_rural_investment.

⁶⁰ See U.S. Department of Housing and Urban Development (HUD), “Housing Needs of American

Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs” (January 2017), available at <https://www.huduser.gov/portal/sites/default/files/pdf/HNAIHousingNeeds.pdf>.

⁶¹ See U.S. Department of Housing and Urban Development (HUD), “Mortgage Lending on Tribal Land: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs” (January 2017), available at <https://www.huduser.gov/portal/sites/default/files/pdf/nahsg-lending.pdf>.

⁶² 81 FR at 96277.

⁶³ *Id.*

⁶⁴ FHFA would also consider identifying such geographies as *high-needs rural regions* even if they are within metropolitan statistical areas, as part 1282 currently does with regard to *colonia census tracts*. See 12 CFR 1282.1.

⁵³ 12 U.S.C. 4565(a)(1)(A).

⁵⁴ 81 FR at 96250. FHFA has “acknowledge[d] the financing needs for owners of pre-HUD Code homes” and stated that it “may reconsider the matter in a future rulemaking if appropriate methodologies can be found for assuring the structural integrity of the homes.”

⁵⁵ Middle Appalachia includes the three regions identified as central (north central, central, and south central).

addition to the regions specifically identified in the rule.

Colonia census tract. FHFA is also proposing an amendment to the *colonia census tract* definition intended to simplify it, and to make a technical amendment to the definition of *high-needs rural region*. These amendments are not intended to change the meaning of either *colonia census tract* or the scope of the *high-needs rural regions*. In 2023, FHFA published a final rule that added *colonia census tract* as a defined term and amended the definition of *high-needs rural region* by substituting *colonia census tract* for *colonia*.⁶⁵ As a result of these amendments, the existing regulation defines *colonia census tract* by cross-reference to the separately defined term *colonia*. FHFA now believes that the definition of *colonia* can be presented as part of the *colonia census tract* definition and that doing so would make the *colonia census tract* definition easier to understand. As proposed, *colonia census tract* would be defined as “a census tract that contains an identifiable community that meets the definition of a colonia under a federal, state, tribal, or local program.” Additionally, prior to the 2023 amendments, the term *colonia* appeared twice in the *high-needs rural region* definition. However, the amended regulatory text inadvertently substituted *colonia census tract* for *colonia* only once. FHFA is proposing a technical amendment to correct that oversight.

(5) Proposed Disposition of Other Terms Used in the Existing Regulation

As previously noted, FHFA is proposing not to define terms in part 1283 that are used and defined in the existing regulation and that would be used in part 1283, which are defined in the Safety and Soundness Act or in FHFA’s General Definitions rule at 12 CFR part 1201. Moreover, some statutorily-defined terms that are used only once in part 1283, such as *HOEPA mortgage*, are not included in proposed § 1283.2 because reference to the statutory definition can be included where the term is used in the regulatory provision. Finally, FHFA does not propose to define in § 1283.2 terms that are used and defined in the existing regulation, which FHFA has determined have commonly understood meanings (such as “day”).

Terms proposed to be used in part 1283 and defined as currently set forth in part 1282 are *balloon note*⁶⁶ *dwelling*

unit; family; lender; low-income; manufactured home; median income; metropolitan area; moderate-income; mortgage; mortgage purchase; mortgage revenue bond; multifamily property; non-metropolitan area; owner-occupied; participation; proprietary information; refinancing mortgage; rent; rental unit; residence; secondary residence; single-family housing; and very low-income. FHFA considered not defining many of these terms because the Agency believes they are commonly understood, and requests comment on which of these terms, if any, do not need a regulatory definition.

C. Enterprise Duty To Serve Program—§ 1283.3

(1) Overview

Section 1283.3 of the proposed rule would set forth the Enterprises’ statutory duty to serve and the statutory requirements for carrying out that duty. This section would also establish the Enterprises’ authority to engage in any “eligible action” to meet their duty to serve obligation.

(2) Duty in General, § 1283.3(a); Program Requirements, § 1283.3(b)

Section 1335 of the Safety and Soundness Act establishes two statutory mandates for the Enterprises: section 1335(a) imposes the duty to serve, while section 1335(b) details requirements for carrying out that duty.⁶⁷ As proposed, § 1283.3(a) and (b) would set forth these statutory mandates. By including substantive statutory requirements in proposed § 1283.3(a) and (b), FHFA aims to provide all stakeholders with a singular reference point for Program expectations, fostering transparency, accountability, and ultimately better outcomes.

In § 1283.3(a), FHFA is proposing a slightly re-phrased version of language contained in section 1335(a) of the Safety and Soundness Act to expressly state the Duty to Serve in the regulatory text.⁶⁸ Section 1283.3(a) would require each Enterprise to provide leadership in

term *balloon mortgage* but uses the term *balloon note*; defines the term *multifamily housing* but uses the term *multifamily property*; and defines the term *owner-occupied housing* but uses the terms *owner-occupied unit* and *owner-occupied property*. Compare 12 CFR 1282.1 and 1282.37(d)(2), 1282.38(d)(2), and 1282(c) and (c)(2), respectively. FHFA proposes to correct the defined terms to *balloon note*, *multifamily property*, and *owner-occupied* in part 1283. At this time, the Agency is not proposing to update the term in part 1282, but may do so in a future rulemaking.

⁶⁷ 12 U.S.C. 4565(a) and (b).

⁶⁸ 12 U.S.C. 4565(a). The re-phrasing primarily involves relocating a clause; no substantive change to the meaning of the statutory language is intended.

developing loan products and flexible underwriting guidelines that facilitate a secondary market for mortgages for very low-, low-, and moderate-income families in those markets, in order to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing in the manufactured housing market, affordable housing preservation market, and rural housing market.

Section 1283.3(b) would incorporate the requirements for carrying out the duty to serve in section 1335(b) of the Safety and Soundness Act.⁶⁹ 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.

(3) Authority To Take Any “Eligible Action”

Section 1283.3(c)(1) of the proposed rule would establish the authority of each Enterprise to take any action that is consistent with the statutory duty to serve and that has not been determined to be ineligible by FHFA, by regulation or after review. Actions determined to be ineligible by regulation would be set forth in part 1283. For transparency, from time to time, FHFA may publish a list of any other actions that it has determined are ineligible with the Duty to Serve after review.

Although proposed § 1283.3(c) would not establish specific “eligible actions,” it reflect the statutory prohibition against considering contributions to the Housing Trust Fund (12 U.S.C. 4568) and the Capital Magnet Fund (12 U.S.C. 4569) and mortgage purchases funded from such grants.⁷⁰ Proposed § 1283.3(c) would also reference FHFA determinations of ineligible loan purchases set forth in § 1283.7 of the proposed rule.⁷¹

⁶⁹ 12 U.S.C. 4565(b).

⁷⁰ 12 U.S.C. 4565(d)(4); see also 12 CFR 1282.37(b)(1).

⁷¹ In proposed § 1283.7, which is discussed more fully below, FHFA proposes to consolidate and update provisions of §§ 1282.37, 1282.38, and 1282.39 of the existing regulation, on loan

⁶⁵ 88 FR 23559 (Apr. 18, 2023).

⁶⁶ In some cases, FHFA is making a technical change to a defined term to align the term with regulatory text. For example, part 1282 defines the

For eligible actions, the standards of “consistent with the Duty to Serve” and “eligible” or “ineligible” are not new; they are the standards FHFA would apply under the existing regulation when reviewing an Additional Activity.⁷² Thus the proposed rule does not assert additional authority or result in FHFA exercising its authority in a different manner.⁷³ Nonetheless, the concept of “any eligible action”—viewed in contrast to prescribed Activities—is intentionally broad and is intended to push the Enterprises to consider new ways they may effectively serve the underserved markets. Although the Enterprises could currently include in their Plans Activities other than the Statutory and Regulatory Activities set forth in the existing regulation, they have infrequently pursued activities outside that defined menu.

FHFA’s experience administering the Duty to Serve Program suggests that identifying Regulatory Activities by regulation may have had the unintended consequence of discouraging innovation, by undermining the need

purchases that are ineligible under the existing regulation.

⁷² See 12 CFR 1282.33(d) (manufactured housing market), 1282.34(e) (affordable housing preservation market), and 1282.35(d) (rural housing market), stating in each case that an Additional Activity is one that is “consistent with” the obligation to serve the particular underserved market, “subject to FHFA determination of whether the [Additional Activity] is eligible to receive duty to serve credit.”

⁷³ Similarly, the proposed approach would not change any statutory obligation an Enterprise has to consider or undertake certain actions to comply with its Duty to Serve in a particular market, such as the obligation to support statutorily-listed federal affordable housing programs as part of serving the affordable housing preservation market. In that regard, FHFA has previously opined that it does not expect the Enterprises to address each of the statutorily-listed programs in each three-year Plan. See 74 FR 38572, 38574 (Aug. 4, 2009) (“[C]ompliance with the duty to assist with

affordable housing preservation is not dependent on whether the Enterprise assists each enumerated program each year, because the needs and opportunities in some programs might change.”); and 75 FR 32099, 32106 (June 7, 2010) (“The Enterprises would not be required to assist each program every year, but could take a step-by-step, concentrated approach. For example, an Enterprise might initially focus on the HUD Section 8, Section 236 and Section 202 programs.”). FHFA has also stated that it did not expect the Enterprises to address two statutory programs—the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013, and the permanent supportive housing projects subsidized under programs under Title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11361 *et seq.*—because they either carried no debt or did not involve debt financing. 81 FR at 96262. FHFA continues to hold these views. If new part 1283 is finalized as proposed, the Enterprises would not be expected to address each of the statutorily-listed federal affordable programs in each Plan or to support a statutorily-listed program that does not involve debt.

for the Enterprises to identify and implement novel or more market-responsive solutions. Likewise, the requirement that each Enterprise explain why it did not select other actions from the Statutory and Regulatory Activities menu may have contributed to the Enterprises favoring actions that are already recognized in regulation over exploring alternatives that could have greater impact. And because the existing regulation requires a minimum number of Activities in each market, the Enterprises may have felt pressure to distribute their efforts across a broad array of lower-impact activities in order to satisfy the numeric threshold, rather than concentrating resources on fewer, higher-impact actions.

If identifying Regulatory Activities constrained innovation, other tools in the existing regulation that were intended to drive innovation have not always worked as desired. For example, FHFA has designated chattel lending as an “extra-credit” opportunity in its Evaluation Guidance every year since the inception of the Duty to Serve Program, yet the Enterprises have not purchased any chattel loans as part of their Duty to Serve Programs.⁷⁴ It would be particularly timely and appropriate for the Enterprises to focus more attention on chattel lending: today approximately 70 to 80 percent of new manufactured homes are titled as personal property, which makes chattel loans the predominant financing option for manufactured homes.⁷⁵ And because manufactured housing is among the most affordable forms of homeownership in the United States, for many households, particularly those in land-lease communities, chattel lending may be a critical means to homeownership.⁷⁶ Despite its

⁷⁴ Both Enterprises have previously undertaken chattel lending pilot initiatives but these initiatives were constrained by insufficient industry data and, as a result, did not achieve the intended outcomes. See Freddie Mac’s 2024 Annual Report on manufactured housing titled as personal property, available at https://www.fhfa.gov/document/mh-chattel_2_a_narrative_2024.pdf and Fannie Mae’s 2019 Annual Report on manufactured housing titled as personal property, available at https://www.fhfa.gov/sites/default/files/reports_11_23/Enterprise%20quarterly%20and%20annual%20reports/2019-DTS-Reports/Fannie%20Mae/MH_Chattel_2_NR_Q1_2019.pdf.

⁷⁵ According to the Manufactured Housing Survey administered by the U.S. Census Bureau, 78% of new homes constructed in 2024 were titled as personal property, with 18% titled as real estate.

⁷⁶ Allaire Conte, “Manufactured Home Loans Explained: Real Property vs. Chattel Financing,” *realtor.com* (October 27, 2025), available at <https://www.realtor.com/advice/finance/manufactured-home-loans-real-vs-personal-property> and ABT Associates “Expanding Resident and Nonprofit Ownership of Manufactured Home Parks,” available

at https://rocusa.org/wp-content/uploads/2024/07/ABT-Policy-Brief_Manufactured-Housing.pdf, importance, however, the chattel lending market remains underdeveloped, with limited liquidity, the absence of a securitization infrastructure, and a lack of robust performance data. These gaps have constrained borrower access to sustainable credit, perpetuated reliance on higher-cost financing, and restricted consumer choice. For these reasons, expanding responsible chattel financing is critical to the Enterprises fully meeting their Duty to Serve.

Relatedly, E.O. 14394 directs FHFA to reform programs that constrain residential development and impede housing affordability, including specifically “FHFA’s guidelines and regulations regarding chattel lending for manufactured housing.” The strategic shift reflected in the proposed rule, away from prescribed Regulatory Activities and toward innovative and market-driven “eligible actions,” is responsive to that direction. It would remove any perceived barriers to chattel lending in the existing regulation and present a new opportunity for the Enterprises to direct their attention to establishing appropriate underwriting standards, risk management protocols, and the securitization infrastructure necessary to expand their impact in the chattel lending market. Consistent with E.O. 14394, FHFA expects the Enterprises to develop and implement robust, responsible chattel financing initiatives and will assess them on their progress in expanding liquidity, supporting sustainable credit, and enhancing consumer choice in the manufactured housing market.

In sum, FHFA’s proposed focus on “any eligible action” is intended both to give the Enterprises greater flexibility to undertake actions that respond to market needs and to encourage innovation that supports meaningful outcomes. The transition to a more flexible approach does not signal a retreat from past, proven interventions that have stabilized or expanded liquidity in the underserved markets. Rather, the Agency anticipates that the Enterprises will leverage their accumulated institutional knowledge, proven strategies, and data-driven insights to iterate upon and scale high-impact activities from earlier Plan years. By grounding future innovation in the successes of the previous decade, the Enterprises can ensure that novel strategies are additive rather than duplicative. FHFA is committed to a regulatory environment that fosters the evolution of successful models while

at https://rocusa.org/wp-content/uploads/2024/07/ABT-Policy-Brief_Manufactured-Housing.pdf.

providing the Enterprises the autonomy to pivot as market dynamics shift and believes the proposed approach better supports those goals.

D. Duty To Serve Plan—§ 1283.4

(1) Overview

Section 1283.4 of the proposed rule would establish requirements for each Enterprise's Underserved Markets Plan (now called a Duty to Serve Plan to match current industry and Enterprise naming practices) and procedures for FHFA to review those Plans, reflecting FHFA's experience implementing the requirements and procedures set forth in § 1282.32 of the existing regulation. The proposed rule would continue to require each Enterprise to prepare a three-year plan, which would identify actions the Enterprise would undertake in each underserved market to meet its duty to serve. However, FHFA is proposing significant changes to the Plan content provisions.

(2) Plan Content

Section 1283.4(b) of the proposed rule would require each Enterprise to incorporate seven elements in its Duty to Serve Plan: (i) a needs and opportunities assessment; (ii) the actions an Enterprise will undertake to address the identified needs; (iii) measurable targets for each action; (iv) a description of how the Enterprise will fulfill the statutory program requirements reflected in proposed § 1283.3(b); (v) a description of public engagement activities; (vi) a list of Enterprise mortgage products that support housing for very low-, low- and moderate-income families in each underserved market; and (vii) summary reference tables.

If new part 1283 is finalized as proposed, FHFA expects that the needs and opportunities assessment would be based on rigorous, empirical research, and could produce data and insights beneficial to the public. FHFA expects that the actions identified in the Plans will explicitly and logically tie to the needs and opportunities assessment, reflecting a comprehensive and data-driven understanding of underserved market needs and the Enterprise's ability to meet those needs, given its prominence and role in the mortgage market. The proposed rule reflects that expectation by requiring each Enterprise, in its Plan, to set forth intended actions "to address the identified liquidity and investment capital needs, risks, and opportunities." In practice, under the existing regulation, FHFA has observed that both Enterprises routinely assess market

needs and opportunities when developing their Plans. The proposed rule codifies this practice by requiring such assessment, and would ensure that it serves as a basis for the development of Plan actions. This proposed change ensures that the Enterprises' actions are anchored in a transparent, evidence-based understanding of market conditions. FHFA believes that a systematic assessment enables the Enterprises to focus their efforts where they can achieve the greatest impact.

The Enterprises would also be required to describe how they expect to fulfill the statutory program requirements reflected in proposed § 1283.3(b). FHFA is proposing this addition to more closely align Enterprise planning efforts with statutory intent and to make that alignment more transparent. Since program inception, FHFA has not observed the Enterprises taking sustained action to address certain statutory requirements FHFA now proposes to set forth in § 1283.3(b). For example, although both Enterprises have discussed the challenges faced by insured depository institutions in meeting their CRA obligations and general affordability concerns in low-income areas, neither Enterprise has identified any specific Plan actions that address these statutory requirements directly. If the final rule is adopted as proposed, the Agency expects each Enterprise would describe the specific programs, products, initiatives, or other actions it is taking to meet each program requirement, together with a discussion of how those actions will carry out the duty to serve in the three-year Plan period.⁷⁷

The public engagement element would require the Enterprise to describe its public engagement activities, the significant input received from those activities, and how the Enterprise considered and addressed substantial points raised by the public. 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.⁷⁸ 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.

FHFA recognizes that public input may, at times, be conflicting. The Enterprises would retain the discretion to exercise their professional judgement and expertise in determining which suggestions to adopt. However, the proposed rule would require the Enterprises to conscientiously engage with public feedback by considering and responding to public recommendations and proposals.

The proposed inclusion of a list of mortgage products that support housing for the underserved markets and summary reference tables is intended to provide FHFA with information to facilitate its evaluation. Loan product development is one of the enumerated statutory activities; a list of the full suite of available products that have been developed to facilitate lending in the underserved markets would assist FHFA in determining whether the available products meet the identified needs. A list of products may also be useful to lenders and other market participants seeking to assist these markets.

Likewise, the summary reference tables assist the Agency during Plan review and non-objection and performance evaluation. These tables are currently recommended as a best practice in FHFA's Evaluation Guidance and Fannie Mae has provided these tables in its most recent Plan. FHFA is now proposing to make what has been an optional best practice a regulatory requirement. As described in the Evaluation Guidance, the first table provides the Enterprise's view of which actions correspond to the four statutory activity categories (loan product development, outreach, loan purchases, and investments and grants), which, as described in more detail below, are assessed separately. The second table provides a single view of all loan purchase targets over the three Plan years, which otherwise would be spread across multiple pages throughout the Plan.

(3) Plan Procedures

Establishment of Regulatory Deadlines. Proposed § 1283.4(c) seeks to replace existing "floating" compliance dates, previously determined at the discretion of FHFA or triggered by *ad hoc* events such as website postings,

⁷⁷ When finalizing the existing regulation in 2016, FHFA noted that "it is reasonable to make Enterprise research and development activities eligible for Duty to Serve credit under the loan product or outreach evaluation areas because of their importance in encouraging innovation and creative solutions to the challenges that exist in the underserved markets." 81 FR at 96247. This continues to be FHFA's position.

⁷⁸ 12 CFR 1282.32(g)(4).

with fixed dates to the extent feasible for Enterprise Plan submission, FHFA review and Objection or Non-objection, and Plan publication. When FHFA was developing the existing regulation, the lack of program experience necessitated a flexible approach to scheduling. However, after a decade of operational experience, FHFA now possesses sufficient data to propose a permanent schedule. Fixed dates would provide the Enterprises and market participants with greater operational certainty and facilitate long-term strategic planning.

Based on a retrospective review of the Plan process, FHFA has determined that the current review cycle routinely exceeds eight months and is unnecessarily protracted. The proposed rule would establish a streamlined six-month review period from Enterprise submission of the proposed Plans to final adoption. This expedited schedule reflects the increased proficiency of both FHFA and the Enterprises in navigating the Duty to Serve Program framework, and anticipates reductions in procedural steps if aspects of this proposed rule are ultimately adopted. For example, FHFA anticipates the elimination of Activities and supporting objectives may result in more focused Plans. At the same time, FHFA recognizes that circumstances may arise that indicate more time for review or submission is warranted. For that reason, the proposed rule would authorize FHFA to extend regulatory deadlines, as necessary.

The proposed rule would require each Enterprise to submit its Plan by June 30 of the year prior to the first year for which the Plan is applicable. Following submission, FHFA expects to conduct an initial assessment, including reviews necessitated by the current conservatorship status of the Enterprises, and launch public engagement efforts within 15 days of receipt of the Plans (*i.e.*, by July 15).

Generally, the Agency has held Listening Sessions and released Requests for Input and intends this practice to continue. Requests for Input would likely include a 45-day public comment period (*i.e.*, until roughly the end of August). Although the existing regulation provided a 60-day comment period for the Enterprises' initial Underserved Markets Plans, it also provided FHFA discretion to establish the deadline for public input on subsequent Plans.⁷⁹ FHFA believes that a 45-day period would be appropriate and effective because public stakeholders and FHFA have gained

familiarity with the Duty to Serve Program since 2016.

Throughout the input period, FHFA will provide ongoing feedback to the Enterprises based on the Agency's own review. The proposed rule would establish October 1 of the year prior to the first year for which the Plan is applicable as the date for each Enterprise to resubmit its proposed Plan to FHFA. This means that the Enterprises would have approximately 30 days (essentially, the month of September) to evaluate public input and Agency feedback, make necessary Plan adjustments, and resubmit the Plans to FHFA. FHFA is requesting public comment on whether the proposed timing provides sufficient time for commenters to review and provide feedback, and for the Enterprises to incorporate such feedback into their Plans.

FHFA would then have approximately 45 days following Plan resubmission to finalize its review and determine whether to issue an objection or non-objection to the Plans (*i.e.*, by November 15 prior to the first year the Plan is applicable). The Agency would conduct a review for objection or non-objection to an Enterprise's Plan based on standards relating to: (i) regulatory compliance, including eligibility of proposed actions, addressing public input, and other Plan content requirements; (ii) likelihood of achieving Duty to Serve compliance upon implementation; (iii) consistency with the Enterprises' charters; and (iv) safety and soundness. FHFA review would also include an evaluation of whether the Enterprise demonstrated a good faith effort to evaluate Agency feedback; however, an Enterprise's decision not to incorporate the feedback is not grounds for objection *per se*. If the rule is adopted as proposed, FHFA intends to communicate potential grounds for objection as early as possible to allow an Enterprise the maximum time to revise, resubmit, and obtain FHFA non-objection to its Plan so that it can become effective on the following January 1. However, the failure to receive a non-objection to a Plan prior to January 1 of the first year the Plan is applicable does not relieve the Enterprise of its obligation to comply with its Duty to Serve for that Plan year.

Deadlines fixed in regulation are intended to hold both the Agency and the Enterprises accountable for a timely, transparent, and predictable regulatory process. While the Agency intends to adhere strictly to those deadlines to ensure Plans are in place by January 1 of the first Plan year, the proposed rule

would include a "safety valve" to provide flexibility when necessary, permitting FHFA to extend any regulatory deadline or time period upon providing written notice to an Enterprise.

Finally, similar to the existing regulation, the proposed rule would require an Enterprise to publish its final Plan on its website as soon as practicable. Unlike the existing regulation, the proposed rule would further specify that each Plan be published no later than 10 days after the Enterprise receives FHFA's non-objection notification.

Plan Modifications. Under § 1282.32(h) of the existing regulation, an Enterprise may modify its Plan at any time subject to FHFA Non-Objection. The existing regulation does not provide a specific standard or threshold for such requests, which has led to a practice of frequent, routine modifications. The proposed rule would limit an Enterprise's ability to request a Plan modification to the occurrence of a "special circumstance."

In practice, FHFA established an annual process for the Enterprises to request Plan modifications that has become administratively burdensome for both FHFA and the Enterprises and that dilutes the stated objectives in the Plans. FHFA has observed that each Enterprise *annually* requests approximately 15 modifications to its Plan. These routinely include downward adjustments to loan purchase targets during the final quarter of the calendar year. In many instances, these modifications appear designed to align Plan targets with realized outcomes rather than to address fundamental shifts in market strategy. The Agency is concerned that the current modification practice creates a risk of inappropriately moving the performance goal posts rather than driving the Enterprises toward the ambitious objectives established at the Plan's inception.

The proposed rule would significantly narrow the circumstances under which an Enterprise may request a Plan modification. Under the proposal, modifications would be permitted only in response to extraordinary and significant market disruptions, such as a global pandemic or a systemic financial crisis (a "special circumstance"). The concept of a "special circumstance" is not intended to encompass ordinary market volatility, such as routine fluctuations in interest rates, seasonal shifts in housing supply, or foreseeable economic cycles, or circumstances that only affect one or two of the underserved markets.

⁷⁹ 12 CFR 1282.32(g)(3).

Procedurally, an Enterprise would submit a request to FHFA to modify its Plan, including both the modification(s) requested and the basis for the Enterprise's assessment that special circumstances exist. Similar to the existing regulation, the proposal would retain FHFA's discretion to seek public input on proposed modifications. Modifications would become effective after FHFA review and non-objection.

The proposed modification process would not preclude an Enterprise from addressing or explaining the impact of unforeseen market volatility of a more usual nature (*i.e.*, not a special circumstance). Under the proposed rule, if an Enterprise misses a target due to ordinary market volatility, it may address the shortfall in its Annual Performance Report, explaining the market conditions that caused the shortfall and any mitigating actions taken, including actions that were not originally contemplated in the Plan. FHFA will take those market conditions and the Enterprise's mitigating actions into consideration when evaluating how the Enterprise met the needs of the underserved market relative to actual conditions.

A primary rationale for this proposed change to the modification process is the evolution of FHFA's evaluation framework, as discussed further below. The proposed evaluation process focuses on whether an Enterprise successfully addressed the needs of the underserved market, rather than on a narrow technical determination of whether they met all the Plan targets. Under the proposed rule a high rating would be predicated on impactful performance relative to market conditions, such that late-year corrections to Plan targets (as are permitted under the existing regulation) would not be necessary for an Enterprise to demonstrate compliance or receive a favorable evaluation.

By restricting what has become a routine, resource-intensive modification process under the existing regulation, the proposed rule would redirect Enterprise capacity toward Plan execution. This proposed framework would better ensure that the Plans remain a stable roadmap for market support and are not treated as fluid documents to be adjusted to accommodate underperformance.

However, FHFA recognizes the difficulty in projecting loan purchase targets up to three years in the future, and requests comment on whether narrow updates to loan purchase targets for future years of the Plan should be allowed during the fourth quarter of the prior calendar year. Annual goal setting

related to loan purchase targets would potentially result in more challenging, but realistic targets that take into account the most recent market developments. Further, FHFA requests comment on whether these updates should be subject to the modification review procedure (without the need to show "special circumstances") and should require FHFA non-objection.

FHFA review and Objection or Non-objection. FHFA proposes to issue a single, consolidated determination of Non-Objection or Objection for each Enterprise's three-year Duty to Serve Plan. This approach is a change from the current regulation which requires that FHFA non-object or object separately to an Enterprise's Plan for each underserved market. The change is intended to reduce unnecessary process complexity, while preserving FHFA's ability to require revisions if any portion of the Plan does not meet regulatory standards.

FHFA also proposes to refine the bases for Objection to focus on whether a Plan meets statutory and regulatory requirements, includes feasible and well-supported activities, and presents reasonable and supportable targets. These changes clarify the threshold necessary for FHFA Non-Objection.

If FHFA does not issue a Non-Objection before January 1 of the first Plan year, FHFA proposes to permit the Enterprise to begin implementing those parts of the proposed Plan for which FHFA did not raise specific concerns on the Plan effective date, in coordination with FHFA staff. Concurrently, the Enterprise should promptly submit any revisions that FHFA may require to issue a Non-Objection to the pending Plan. FHFA expects an Enterprise to maintain continuity in its Duty to Serve activities during this period. This clarification is intended to reinforce that an Enterprise's statutory responsibility to carry out its duty to serve does not depend on the timing of FHFA's Non-Objection and to ensure there is no gap in statutory compliance or support for the underserved markets. Even if a Non-Objection is provided after January 1 of the first Plan year, FHFA evaluation will consider the Enterprise's Duty to Serve activities in the underserved markets over the entire calendar year.

E. Performance Monitoring and Reporting—§ 1283.5

(1) Ongoing Monitoring

Proposed § 1283.5(b) would codify FHFA's existing expectation that each Enterprise monitor Plan performance and report on such performance to its board of directors and senior

management, and the existing practice of Enterprise participation in ongoing monitoring discussions with FHFA. It would require each Enterprise to conduct ongoing monitoring and assessment of its completion of actions and achievement of targets under its Plan. FHFA expects each Enterprise's board of directors and senior management to provide oversight and support of the Enterprise's Duty to Serve obligations. This may be demonstrated by, among other things, incorporating Duty to Serve ratings into corporate objectives and scorecards, ensuring the Program is adequately resourced, and by acting promptly to address poor Duty to Serve performance.

Although the existing regulation does not expressly require the Enterprises to participate in FHFA ongoing monitoring activities, in practice, FHFA routinely meets with the Enterprises to hold them accountable throughout the year, rather than waiting until year-end evaluations when course corrections or adjustments may no longer be possible or meaningful. The proposed rule would require such participation.

(2) Annual Reports

Similar to the existing regulation, proposed § 1283.5(b)(1) would require each Enterprise to submit an annual report to FHFA. The proposed rule would accelerate the annual report submission date from 75 days after the end of the calendar year (*i.e.*, March 15) to March 1 of the year after the close of the applicable Plan year. FHFA believes shortening the time to develop and submit the annual report is appropriate and would not cause additional burden due to improvements in Enterprise data reporting automation.

(3) Quarterly Reports

Proposed § 1283.5(b)(2) would retain the requirement in the existing regulation that the Enterprises submit first, second, and third quarter reports on their progress. Specifically, as proposed, each Enterprise must submit to FHFA a report no later than May 15, August 15, and November 15 of the applicable Plan year. The proposed rule would accelerate the submission deadline for quarterly reporting from 60 to 45 days, again based on improvements in data automation. For simplicity, the proposed rule would change the submission date for each from "within 60 days" of the end of the respective quarter to specific dates.

In each report, the Enterprise would be required to describe the completion of actions and achievement of targets under its Plan for each underserved market for the applicable quarter and

include such other information and data as may be required by FHFA. To permit FHFA to modify reporting requirements from time to time so that it only collects information that is necessary and appropriate, the proposed rule does not set forth details on data required to be reported but anticipates FHFA establishing specific reporting requirements periodically, outside of a rulemaking.

(4) Publication of Information on Enterprise Performance

The proposed rule's provisions on publication of information about Enterprise Duty to Serve performance would be a significant change from the existing regulation and FHFA practice. The current regulation requires FHFA to publish "certain information" from quarterly reports "at a reasonable time after the end of the calendar year for which they apply" and to publish "certain information" from each annual report "at a reasonable time after receiving them."⁸⁰ In practice, FHFA publishes information from the quarterly reports at the same time as it publishes the annual reports, with each separate action having its own self-contained "mini-report" comprised of reports over the four quarters. While the quarterly reports demonstrate progress on Plan actions over the year, they do not introduce new information considering what is provided in the annual report. FHFA believes that the requirement to publish quarterly reports creates an unnecessary administrative burden associated with aggregating and compiling multiple "mini-reports," without providing a commensurate benefit to the public. Thus, FHFA now proposes that only Enterprise annual reports be published (which would continue to exclude confidential and proprietary information and data).

Additionally, FHFA proposes that each Enterprise publish the annual report on its website as soon as practicable but no later than March 30, and maintain it on the website thereafter. That proposal shifts responsibility for public disclosure from FHFA to the Enterprises. This reflects the Agency's position that the Plans and the resulting performance data are Enterprise products. Requiring the Enterprises to host and maintain their own reports on their respective websites reinforces the perception that the primary authors of Plan strategies are accountable to the public in their performance results. FHFA is also proposing to require that the Enterprises' published annual reports

comply with Section 508 of the Rehabilitation Act to ensure accessibility.

F. Evaluations and Ratings—§ 1283.6

(1) Overview

The proposed rule would set forth evaluation and ratings requirements, which FHFA is required by statute to establish by regulation.⁸¹ The proposed rule would substantially change the evaluation and rating procedures and standards in the existing rule, and would incorporate in regulation some evaluation procedures that are described in the separate Evaluation Guidance FHFA has previously provided to the Enterprises.

(2) The Current Process

The current evaluation framework is a two-step process, consisting of an assessment and the assignment of any extra credit.

In Step One, FHFA calculates an Enterprise's achievement of the objectives in its Plan to determine compliance. This step is a quantitative and qualitative evaluation to determine the impact of achievement for each objective to meet the needs of the particular underserved market. FHFA assigns an impact score of 0, 10, 20, 30, 40, or 50 to each action based on an evaluation of both direct impact and future, potential impact. After assigning an impact score for each objective, FHFA averages the impact scores for all objectives in that underserved market. The result of this calculation, the impact average, is a single numerical score for each underserved market which serves as the measure of impact that an Enterprise had on the underserved market.

Until August 2025, FHFA also assigned a concept score of 0, 10, 20, 30, 40, or 50 to each action based on future, potential impact during the initial review of its Plan. FHFA then averaged impact and concept scores for each objective in cases where the impact score exceeded the concept score. The resulting score was then used to calculate a simple average for objectives grouped by evaluation area (outreach, loan products, loan purchases, and investments and grants). Then, the averages were weighted by evaluation area and summed to form an overall performance score for each underserved market.

Revisions to the guidance in August 2025 eliminated the calculation to average the impact and concept scores, which could penalize an Enterprise for

outperforming targets. The revisions also removed the weighted average calculations, which could have unintended consequences, such as overemphasizing the importance of an objective when there was only one objective in an evaluation area. Instead, under the revised procedure, FHFA performs a simple average of the impact scores for the objectives in an underserved market, which it could then adjust upwards for extra credit.

In Step Two, FHFA determines whether, and if so how much, extra credit to award for the Enterprise's achievement of extra credit-eligible activities. FHFA then computes a final performance score for each underserved market, incorporating any extra credit awarded, which is converted into a rating of Fails (for final performance scores below 25), Minimally Passing (23–30), Low Satisfactory (30–35), High Satisfactory (35–40), or Exceeds (above 40).

FHFA has observed a number of challenges associated with the current process that suggest it could be improved. The Agency believes the current evaluation framework, by focusing on the impact of individual activities and requiring a minimum level of activity "points," may not fully capture an Enterprise's overall impact on an underserved market, and may incent the Enterprises to identify a high volume of low-impact activities to meet the outlined standards, instead of focusing on a smaller volume of ambitious goals that are designed to have a high impact.

FHFA has also observed that the mathematical averaging of scores may have unintentionally discouraged the expansion of Duty to Serve activities. In the current framework, an Enterprise has a disincentive to add new, potentially riskier, or smaller-scale activities to a market sector if there is a risk that these activities could mathematically "drag down" the average of high-scoring existing activities. Similarly, the use of weighted averages has tended to flatten the distinct impact of specific high-value actions, such as investments and grants, obscuring their significance. The rating procedures in place for the majority of the program also penalized the Enterprises for deviating from a Plan even if the ultimate market impact of the deviation was significantly more positive than the impact of executing on the original proposal would have been.

(3) The Proposed Process

The proposed rule moves from an inputs-based model to an outcome-based model that holistically assesses

⁸⁰ 12 CFR 1282.66(d).

⁸¹ 12 U.S.C. 4565(d).

all of the Enterprise's activities in each market. In contrast to the current regulation, in the proposed framework, Plans would serve as a facilitative instrument for achieving statutory objectives and a primary vehicle for communicating Enterprise strategies to stakeholders. In this context, FHFA's non-objection would provide a preliminary assessment of prospective alignment with statutory and regulatory requirements, signaling that the proposed activities are likely to result in compliance if executed as designed. However, FHFA's non-objection would not constitute a prospective determination of compliance nor create a "safe harbor;" rather, final determinations would be contingent upon the totality of an Enterprise's realized actions and their substantive impact on the underserved markets.

Consistent with its current approach, FHFA is proposing to continue to assign a rating to each Enterprise for each underserved market—manufactured housing, affordable housing preservation, and rural housing—based on an evaluation and rating of component factors. As one change from the current approach, however, the proposed rating system would be aligned with CAMELSO,⁸² the rating system used by FHFA examination divisions, which is similar to other federal financial and consumer compliance rating systems. Under that system, FHFA assigns a "1" rating for the lowest degree of supervisory concern, and a "5" rating to the highest level of supervisory concern. By adopting a rating framework, methodology and scale comparable to that used by FHFA's other divisions and by other federal financial regulatory evaluations, FHFA would help ensure that the Enterprises and other stakeholders share a uniform understanding of each rating's significance and the severity of any associated deficiencies.

(4) Component Ratings

Proposed § 1283.6(b) would retain the evaluation areas, or components, of the existing regulation, and add three additional components: program requirements, program management, and other factor(s) identified by the FHFA Director. FHFA will continue to assess specific components of each Enterprise's duty to serve performance in each underserved market.

Under the proposed rule, FHFA would assign a component rating to an Enterprise's loan product development,

outreach, loan purchases, investments and grants, program requirements, program management, and any other factor or factors identified by the FHFA Director, for each underserved market.

FHFA reviews of the loan product development, outreach, loan purchase, and investments and grants components would be similar to those reviews currently. For the loan product development component, FHFA reviews the Enterprise's actions to develop new and modify existing loan products, and to develop more flexible guidelines and other innovative approaches to providing financing in each underserved market. For the outreach component, FHFA reviews the Enterprise's actions to listen, collaborate, educate, and respond to market participants. For the loan purchase component, FHFA reviews the Enterprise's goal settings and volume of loan purchases in the context of past performance, market conditions, and market opportunities. For the investments and grants component, FHFA reviews the number of the Enterprise's investments and grants in projects which assist meeting the needs of such underserved markets, as well as the overall and efficient deployment of funds.

For the proposed program requirements component, FHFA would review the effort and execution by an Enterprise to meet the statutory and regulatory program requirements for Duty to Serve. Inclusion of the program requirements component ensures that the Enterprises focus on these specific, statutory program requirements (which, as noted above, would be set forth in regulation for transparency, completeness, and ease of reference).

For the program management component, FHFA would review the capability and willingness of the board of directors and management to ensure the Enterprise meets its Duty to Serve. The Agency believes inclusion of a program management component will reinforce the importance of Enterprise governing bodies integrating Duty to Serve obligations and compliance into the Enterprise's core business strategies. Sound program management serves as the structural foundation for the entire framework; without robust board oversight, senior management accountability, and the dedicated allocation of personnel and resources, even the most innovative loan products or purchase targets are unlikely to achieve sustained success. FHFA also believes that a program management component will incentivize a culture of transparency and Enterprise proactive engagement with FHFA, reducing

operational and compliance risk and ensuring that the Enterprises maintain the agility necessary to make mid-course strategic adjustments. Ultimately, prioritizing program management reinforces the principle that long-term, impactful service to very low-, low-, and moderate-income families requires a governance structure that is as sophisticated and well-resourced as any other primary business line within the Enterprise.

Finally, the Agency proposes to include as an assessment component any other factor identified by the Director in the year prior to the Plan year subject to evaluation. This component provides the Agency with the flexible opportunity to identify additional focus areas that reflect key or emerging policy priorities.

(5) Market-Level Ratings

Similar to the existing regulation, proposed § 1283.6(c) would use a five-scale rating system to assign a rating based on FHFA's assessment of Enterprise performance. Instead of a scale of qualitative descriptions, however, FHFA now proposes a numeric scale similar to that it uses for assigning a safety and soundness composite rating. Thus, under the proposed framework, FHFA would assign an overall composite rating for each underserved market, considering each component and the component rating assigned. A market-level rating of "1," "2," or "3" would constitute compliance by the Enterprise with its Duty to Serve the underserved market. A market-level rating of "4" or "5" would constitute noncompliance. Notably, the existing regulation established four "passing" ratings (Exceeds, High Satisfactory, Low Satisfactory, and Minimally Passing). 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.

FHFA does not propose to state a standard for assigning a particular component or market-level rating in regulation, but may publish guidance that describes how FHFA plans to conduct the evaluation and ratings process (and may publish guidance on other topics, as appropriate). As context for the proposed rule, however, and so that the public and the Enterprises may

⁸² See <https://www.fhfa.gov/supervision/examiner-resources/camelso>.

better understand how FHFA intends to implement the proposed numeric rating scale, FHFA is offering a description of performance justifying ratings of “1,” “3,” and “4” below.

To receive a market-level rating of “1,” FHFA expects the Enterprise’s demonstrated actions and impact in the particular market to be strong in every respect, typically shown by the Enterprise having received a rating of “1” for most components with no rating less than a “2.” 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. The Agency further anticipates that an Enterprise’s actions would have a significant impact on the liquidity of mortgage investments and distribution of investment capital available for single-family and multifamily mortgage financing in the underserved market. Plan actions would also include creative and novel solutions that have the capacity for scale. Finally, FHFA would expect an Enterprise’s actions to be grounded in rigorous, proactive market analysis and research informed by robust stakeholder engagement across a wide variety of stakeholders.

A market-level rating of “3” would indicate that the Enterprise’s demonstrated actions and impact in the duty to serve market needs improvement. The Agency anticipates that an Enterprise receiving a composite “3” rating for an underserved market will typically demonstrate performance warranting a “3” or better in most components, with no individual component rated lower than a “4.” FHFA expects to assign a composite “3” to an Enterprise that has demonstrated moderate leadership in developing loan products and flexible underwriting guidelines. While the Enterprise’s actions contributed to market liquidity and the distribution of investment capital, the scope of this impact was moderate and may not fully address the breadth of underserved market needs. Enterprise actions, while supported by adequate market analysis and stakeholder engagement, would be generally inconsistent or reactive, with impacts that are uneven or not sustained.

In contrast, a market-level rating of “4” would be assigned when the Enterprise’s demonstrated actions and impact in the underserved markets is determined by FHFA to be weak and deficient. The Agency anticipates that

this rating would reflect minimal leadership in developing the loan products or flexible underwriting guidelines necessary to facilitate a secondary market for very low-, low-, and moderate-income families in the underserved market. Furthermore, FHFA expects that for an Enterprise receiving a “4,” actions intended to support the underserved market would have had minimal impact on the liquidity of mortgage investments or the distribution of investment capital, and were generally not designed to be scalable. The Agency anticipates observing a programmatic approach that is minimally grounded in market analysis or novel research, and with minimal stakeholder impact.

(6) Failure To Comply

There is a specific statutory process for enforcing the Enterprises’ Duty to Serve.⁸³ Similar to the existing regulation, FHFA proposes to state that the FHFA Director will follow the procedures in 12 U.S.C. 4566(b) if an Enterprise fails to comply with its duty to serve in proposed § 1283.6(d).⁸⁴ Because a market-level rating of “4” or “5” would indicate non-compliance with the Duty to Serve, FHFA could invoke those statutory remedies if an Enterprise achieved either such rating, or if FHFA deems there is a substantial probability that the Enterprise would achieve a rating of “4” or “5.”

(7) Publication of FHFA Evaluation and Ratings

Section 1283.6(e) of the proposed rule would codify FHFA’s current practice of publishing a market-level rating and compliance determination for each Enterprise, for each underserved market, in FHFA’s Annual Housing Report. Proposed § 1283.6(e) would also require FHFA to publish a narrative assessment of each Enterprises’ performance; this addition is designed to increase transparency.

G. Requirements for Eligible Loan Purchases—§ 1283.7

(1) Overview

Proposed § 1283.7 would address criteria a loan purchase must meet to qualify as an “eligible action” under proposed § 1283.3(c), set forth rules for determining affordability to very low-, low-, and moderate-income families, and address transactions that FHFA believes should be treated as loan purchases. Some proposed provisions are drawn from similar provisions in the existing regulation at § 1282.37, on

general requirements for credit, and §§ 1282.38 and 1282.39, on general and special requirements for loan purchases, including determining that the loan is affordable to the targeted income group. Proposed changes are intended to improve logical flow and clarity and to update the affordability requirements to facilitate serving underserved households.

(2) Eligible and Ineligible Loan Purchases

Proposed § 1283.7(a)(1) would set forth criteria a loan purchase must meet to be an “eligible action”: it must be secured by a dwelling unit; it must finance housing that is affordable (whether owner-occupied or rental); and it must not be a type of loan purchase determined ineligible by FHFA by regulation, as set forth at proposed § 1283.7(a)(2). In proposing specific types of ineligible loan purchases, FHFA has considered the general and special requirements for loan purchases in §§ 1282.38 and 1282.39, respectively, of the existing regulation as well as the general requirements for credit set forth at § 1282.37 of the existing regulation. Those provisions establish a credit-based framework in which FHFA determines whether an Enterprise receives credit or extra credit for its Activities. Activities are evaluated within multiple evaluation areas, and their structure relies heavily on how credit is assigned. This approach was appropriate for a Duty to Serve evaluation process centered on numerical credit but would not be aligned with FHFA’s proposed, updated evaluation framework.

Because the Duty to Serve framework FHFA is now proposing would no longer award “credit” or “extra credit,” expressing requirements in terms of “credit” would no longer be appropriate. However, FHFA has determined that some of the existing regulation’s requirements for credit generally, and some general and special requirements for loan purchases specifically, address types of actions or features of a loan purchase that would make it an ineligible action. In that light, FHFA has considered each of the requirements in §§ 1282.37, 1282.38, and 1282.39 to assess whether it describes a product or action that would be ineligible for consideration generally when FHFA evaluates an Enterprise’s Duty to Serve compliance, or describes a feature of a loan purchase that should make that purchase ineligible for consideration. FHFA has also considered the structure of those sections and observes that their content does not always align with the section

⁸³ 12 U.S.C. 4566.

⁸⁴ Compare 12 CFR 1282.40.

heading (*e.g.*, § 1282.37, on general requirements for credit generally, addresses in paragraph (d) of that section requirements for loan purchases, which are also addressed in § 1282.38, on general requirements for loan purchases). FHFA believes that the regulation could be structured in a more transparent manner.

To that end, in structuring the proposed rule, FHFA proposes to include in proposed § 1283.3(c) types of actions that are ineligible for consideration under *any* evaluation area and that were previously set forth in § 1282.37(b) of the existing regulation.

In contrast, various provisions in §§ 1282.37, 1282.38, and 1282.39 of the existing regulation state that Duty to Serve credit will not be awarded for *purchases of loans* due to certain loan features (such as, for example, purchases that finance secondary residences⁸⁵). In the proposed rule, FHFA intends to address ineligible loan purchases in one section (proposed § 1283.7(a)(2)). FHFA is seeking comment on whether any of the eligibility requirements for loan purchases should apply to any other evaluation area.

Many features that would make a loan purchase ineligible for Duty to Serve consideration in the proposed rule align with outcomes in the existing regulation. In § 1283.7(a)(2) FHFA proposes to deem “ineligible” purchases of mortgages loans that finance any dwelling units that are secondary residences;⁸⁶ refinancing mortgages that are not arms-length transactions or borrower driven;⁸⁷ single-family refinancing mortgages that result from conversion of balloon notes to fully amortizing notes, if the Enterprise already owns or has an interest in the balloon note at the time the conversion occurs;⁸⁸ purchases of single-family mortgage covered by section 103(bb) of the Home Ownership and Equity Protection Act, 15 U.S.C. 1602(bb) (HOEPA mortgages);⁸⁹ purchases of single-family mortgages for which the income of the mortgagor(s) is unavailable;⁹⁰ purchases of mortgages or interests in mortgages that received Duty to Serve “credit” under any underserved market within the five years immediately preceding the current performance year;⁹¹ purchases of mortgages where the property or any

units within the property have not been approved for occupancy,⁹² except for “single close” single-family construction to permanent loans in the construction phase; purchases of any interests in mortgages that FHFA determines will not be treated as interests in mortgages;⁹³ and purchases of state and local government housing bonds, except as provided in proposed § 1283.7(c)(5).⁹⁴ For the “single-close” exception, the proposed regulation would recognize that construction-to-permanent loans are an important product tool to finance new affordable supply.

Conversely, FHFA has determined that other types of actions, or some types of loan purchases, that were ineligible for credit under the existing regulation are too restrictive and in fact should not make an action or purchase ineligible. For example, as described above, FHFA has reconsidered the existing restriction on subordinate liens on multifamily properties and believes the Enterprises should have expanded flexibility to support financing multifamily properties. To that end, in contrast to the existing regulation, subordinate liens on such properties would not be “ineligible” *per se*,⁹⁵ but would be subject to specific affordability requirements that preserve lasting and sustainable homeownership opportunities. FHFA has also reconsidered and is not reproposing the existing restriction on permanent construction take-out loans in order to provide the Enterprises with flexibility to use this loan type in all evaluation areas (rather than just affordable housing preservation);⁹⁶ and has reconsidered and is not reproposing the existing restriction limiting LIHTC equity investments to rural areas, to expand eligibility for LIHTC equity investments to all underserved markets.⁹⁷ FHFA has observed the continued need for investment in older LIHTC properties in non-rural areas, especially outside of the largest cities that are in the CRA footprints of multiple bank investors.

(3) Affordability Requirements

As noted above, in the proposed rule as in the existing regulation, a loan purchase must meet regulatory affordability requirements to be considered for Duty to Serve. To determine affordability in the proposed

rule, FHFA proposes to retain many core elements of the existing regulation. These include affordability requirements for owner-occupied and rental properties, such as using borrower and renter income relative to median income, and using market-rent determinations for unoccupied units.

For mortgage purchases financing owner-occupied single-family properties, in the proposed rule (as in the existing regulation) affordability would be determined for each income group based on the income of the mortgagor(s) compared to the applicable median income at the time the mortgage was originated. For mortgage purchases financing rental units, affordability would be determined by comparing the unit rent to the applicable median income, adjusted for unit size. These proposed provisions are similar to those set forth in the existing regulation.⁹⁸ In each case, a mortgage would be affordable if it did not exceed the percentage of applicable median income provided in a table currently set forth in subpart B of part 1282, developed for Enterprise housing goals and currently adopted by reference into subpart C of that part, for Enterprise Duty to Serve. As in the existing regulation, FHFA proposes to adopt those tables by reference. FHFA is also proposing a change to calculating median income intended to ensure that persistent poverty in many geographies does not unfairly disqualify individual borrowers; and would add assumptions for determining affordability with regard to properties with federal affordability requirements and for blanket loans on manufactured housing communities.

The proposed rule’s requirements for the timeliness of borrower income and area median income information are also carried over from the existing regulation. After the existing regulation was finalized, however, data collection has advanced; for that reason, the Agency is proposing to make ineligible any loan for which there is missing data and information to determine loan affordability.

(4) Affordability Assumptions

The first assumption that FHFA is proposing would recognize that all units with federal housing program affordability restrictions must be occupied by families earning no more than 100 percent of area median income (as calculated by the federal affordability program). FHFA is proposing to recognize these restrictions and would not require the Enterprises to

⁸⁵ 12 CFR 1282.37(d)(1).

⁸⁶ Compare 12 CFR 1282.37(d)(1).

⁸⁷ Compare 12 CFR 1282.39(g).

⁸⁸ Compare 12 CFR 1282.37(d)(2).

⁸⁹ Compare 12 CFR 1282.37(b)(2).

⁹⁰ Compare 12 CFR 1282.38(c)(2).

⁹¹ Compare 12 CFR 1282.37(d)(3).

⁹² Compare 12 CFR 1282.37(d)(4).

⁹³ Compare 12 CFR 1282.37(d)(5).

⁹⁴ Compare 12 CFR 1282.36(d)(6).

⁹⁵ Compare 12 CFR 1282.37(b)(3).

⁹⁶ Compare 12 CFR 1282.37(b)(6).

⁹⁷ Compare 12 CFR 1282.37(b)(5).

⁹⁸ Compare 12 CFR 1282.38(c)(1) and (d)(1).

reconfirm affordability for Duty to Serve purposes.

Separately, the proposed rule would change the affordability requirements for the purchase of blanket loans on manufactured housing communities. Under the existing regulation, the manufactured housing community must meet specific affordability tests. The tests use a census tract-based income analysis as a proxy for affordability. Under this framework, all homes in the community are treated as affordable if the median income of the census tract where the community is located is at or below the area median income. If the median income of the census tract exceeds the area median income, the number of homes treated as affordable is reduced. Alternatively, manufactured housing communities owned by government instrumentalities, non-profits, or residents may qualify based upon the existence of specific underlying documentation requiring affordability.

In the proposed rule, FHFA would replace these bifurcated and administratively intensive tests with a presumption of affordability. Under this revised standard, manufactured housing community is presumed to meet the affordability standard unless FHFA determines otherwise.

This shift is supported by research from HUD showing that manufactured housing is the nation's primary source of unsubsidized affordable housing.⁹⁹ Research from the Consumer Financial Protection Bureau (CFPB) using HMDA data showed that the median household income for manufactured housing borrowers was \$52,000 for chattel loans and \$53,000 for mortgage loans, compared to \$83,000 for site-built housing.¹⁰⁰ More recent 2021 HMDA data cited by the Urban Institute showed that the median income for manufactured housing borrowers was \$57,000, compared to \$93,000 for site-built borrowers.¹⁰¹ This data

demonstrates that the manufactured housing market inherently serves the lowest deciles of the housing market, making tract-by-tract income analysis a redundant verification of a self-evident economic reality.

The primary objective of FHFA's proposed revision is to alleviate the "compliance friction" that has historically disincentivized the financing of high-impact properties. The previous requirement for specific affordability documentation placed a burden on entities that may lack the administrative capacity to maintain such rigorous evidentiary standards. Streamlining the process will remove barriers to secondary market liquidity by allowing the Enterprises to focus their resources on market outreach and mission-driven lending rather than technical verification of demographic data that is already well-established.

Consistent with the existing regulation, FHFA retains the authority to disqualify loan purchases that fail to serve the very low-, low-, and moderate-income population. The proposed rule continues the "unless otherwise determined by FHFA" clause as a safeguard against "luxury" or "lifestyle" manufactured housing communities. FHFA will continue to rely on robust Enterprise reporting, market monitoring, and public input to identify properties that may not align with the Duty to Serve mission. For example, if market data or stakeholder feedback indicates that a specific manufactured housing community is being positioned as a luxury-tier community—characterized by market-leading rents or amenities far exceeding standard affordable housing—FHFA may exercise its authority to exclude that loan purchase. This approach maintains the integrity of the Duty to Serve Program while significantly reducing the front-end burden for the vast majority of affordable communities.

(5) Application of Median Income

The proposed rule would also amend the calculation of borrower median income to determine eligibility for very low-, low-, and moderate-income thresholds. FHFA believes that the current calculation unnecessarily restricts families targeted for assistance by the Enterprises' duty to serve actions in areas of concentrated poverty, particularly in rural areas.

In the existing regulation, for mortgages in metropolitan statistical areas (MSAs), borrower median income is compared to the relevant MSA median income to determine whether the loan will receive duty to serve credit. For mortgages in rural areas,

borrower median income is compared to the higher of the relevant county median income or the state non-MSA median income. This comparison has contributed to challenges in awarding Duty to Serve credit to areas with incomes below the national average. For example, in 2024, a potential borrower in a non-MSA in Puerto Rico, one of the lowest-income U.S. territories, could earn 284 percent less than a borrower in a non-MSA in Massachusetts, one of the highest-income States, and still not qualify as low-income under the existing Duty to Serve regulation.¹⁰²

Thus, FHFA is concerned that the current methodology may disadvantage low-income communities which already face barriers to investment due to underlying structural economic conditions. To address that concern, FHFA now proposes to compare rural borrower incomes to the highest applicable median among county, state, and national rural medians, and to compare urban borrower incomes to the highest applicable median among county, state, and national urban medians.

The proposed modification is expected to expand Duty to Serve-eligible rural lending, aligning with the statutory intent to support low-income borrowers in both rural and urban areas while respecting income differences across geographies, and to assist lenders in making housing credit available in areas with concentrations of low-income families. For example, from 2022 to 2024, relative to the status quo, the proposed change increased loans qualifying for High-Needs Rural Region activities by 352 percent in Puerto Rico, 16 percent in Mississippi, 8 percent in West Virginia, and 21 percent in Louisiana. These regions represent some of the lowest income areas during that period.¹⁰³ Under the proposed change, median incomes of very low-, low-, and moderate-income borrowers qualifying for Duty to Serve credit from 2022–2024 increased by a relatively small amount—less than \$4,500—demonstrating that borrowers assisted

⁹⁹ U.S. Department of Housing and Urban Development, "Manufactured Housing and the PRICE Competition" (May 2024), available at <https://www.hudexchange.info/programs/manufactured-housing-and-price>.

¹⁰⁰ Consumer Financial Protection Bureau, "Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data" (May 2021), p. 33, available at https://files.consumerfinance.gov/f/documents/cfpb-manufactured-housing-finance-new-insights-hmda-report_2021-05.pdf.

¹⁰¹ Urban Institute, "The Role of Manufactured Housing in Increasing the Supply of Affordable Housing" (July 2022), p. 9, available at <https://www.urban.org/sites/default/files/2022-07/The%20Role%20of%20Manufactured%20Housing%20in%20Increasing%20the%20Supply%20of%20Affordable%20Housing.pdf>.

¹⁰² Assumes a borrower with the state's median income average of \$27,313, living in Vieques Municipio, Puerto Rico with a state non-MSA value of \$26,400 and a county average of \$26,400. Assumes a borrower with the state's median income average of \$104,828 living in Kent County, Massachusetts with a state non-MSA value of \$85,000 and county value of \$109,700. See U.S. Census Bureau, "American Community Survey 2024 1-Year Estimates" (September 2025), available at <https://www2.census.gov/library/publications/2025/demo/acsbr-025.pdf>.

¹⁰³ See U.S. Census Bureau, "American Community Survey 2024 1-Year Estimates" (September 2025), available at <https://www2.census.gov/library/publications/2025/demo/acsbr-025.pdf>.

under the proposal remain low-income. The recommendation is also operationally efficient, requiring only three additional data points in the FHFA-established file used by the Enterprises to determine Duty to Serve income eligibility, with no other operational changes for FHFA. The proposed change also makes it easier for the Enterprises to achieve mission objectives.

FHFA considered other policy alternatives, including adopting the median income methodology in the CRA implementing regulations,¹⁰⁴ modifying the calculated ratio at various geographic levels for only urban or only rural borrowers, and comparing rural and urban borrowers to the same medians for combined urban and rural areas. The CRA alternative is not recommended, as it is expected to reduce mission credit by offering less flexibility than the current regulation for comparing rural borrowers to relevant areas. The other options explored are also not recommended because they either make unfair comparisons between rural and urban borrower medians, failed to significantly increase mission credit compared to the proposed option or status quo, or increased the administrative burden for FHFA and the Enterprises. Overall, FHFA believes that the proposed change to the median income definition would effectively expand mission credit for low-income borrowers in low-income regions while supporting administrative priorities of reducing regulatory burden and appropriately balancing statutory intentions.

(6) Treatment of Other Transactions as Mortgage Purchases

The existing regulation identifies a number of transactions that FHFA determined should be treated as mortgage purchases. FHFA now proposes to carry the substance of those determinations into proposed § 1283.7(c), with some reorganization to enhance clarity. As in the existing regulation, credit enhancements, risk-sharing arrangements, participations, cooperative and condominium loans, refinancing transactions, mortgage revenue bonds, and seller dissolution options would continue to be treated as mortgage purchases, under the same defined conditions as are set forth in the existing regulation.¹⁰⁵

FHFA is not proposing to include a provision on seasoned mortgages,

currently in the existing regulation,¹⁰⁶ in proposed § 1283.7(c), because it is unnecessary. To avoid confusion, however, FHFA is affirming that purchases of seasoned mortgages would be eligible actions (provided they otherwise meet the requirements of proposed § 1283.3(c) and are not ineligible for another reason).

H. Reservation of Authority—§ 1283.8

FHFA exercises general regulatory, examination, and enforcement authorities over the Enterprises to ensure that they are operated in a safe and sound manner, comply with applicable law, and fulfill their public purposes. Consistent with these authorities, the proposed rule would expressly state that it does not permit or require an Enterprise to engage in any activity that would otherwise be inconsistent with its Charter Act or the Safety and Soundness Act.

Proposed § 1283.8 would also state that FHFA's review and Non-Objection to a proposed Plan does not constitute approval of any action described in the Plan. This provision acknowledges that a three-year Plan could include innovative actions that may be subject to other FHFA approval considerations or processes and that proposed actions may not be ripe for such approval when a Plan is reviewed.

I. Effective Date

(1) Transition to New Plans

FHFA intends regulatory changes to be in effect by January 1, 2028, which is the beginning of the 2028–2030 Duty to Serve Plan period. The Agency intends to finalize this regulation well in advance of June 30, 2027 to ensure the Enterprises have adequate time to prepare their 2028–2030 Plans, allow for public feedback, and enable FHFA to thoroughly review and grant Non-Objection to the Plans, consistent with the evaluation standards specified in the proposed rule.

If FHFA is unable to finalize the regulation within the timeframe described, the Agency could permit the Enterprises to extend their existing 2025–2027 Underserve Markets Plans for a period after which they would develop a Duty to Serve Plan in compliance with the new evaluation standards, which would extend through the end of 2030 (or through 2031, if the 2025–2027 Plans were extended significantly into or through 2028). FHFA requests comment on the possible extension of the 2025–2027 Plans into 2028.

(2) Implementation of New Evaluation Process

If the proposed rule is finalized before the end of 2027, FHFA believes that it could be beneficial to the Enterprises and the public if the proposed evaluation framework were implemented for Duty to Serve assessments in 2027. FHFA requests comment on whether it would be confusing for the Enterprises or the public to evaluate under the new evaluation framework Plans developed under the existing regulation, anticipating application of the existing regulation's evaluation methodology. FHFA would also consider evaluating the Enterprises' 2027 Duty to Serve performance under both evaluation methodologies; this approach may provide useful information to the Enterprises and the public in understanding how an evaluation under the new (proposed) methodology compares to an evaluation under the existing regulation's methodology. FHFA requests comment on its use of the new (proposed) evaluation methodology for assessing Enterprise 2027 Duty to Serve performance.

J. Comments Specifically Requested

As stated above, FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. In addition to general comments on the proposal, FHFA also requests comment on the questions set forth below. The most helpful comments reference the specific questions listed, explain the reason for any changes, and include supporting data.

(a) Definitions

1. Should FHFA consider changing the scope of the definitions for *affordable housing market*, *manufactured housing market*, or *rural housing market*?

2. Should FHFA consider adding other US territories or areas to the proposed *high-needs rural regions* definition? If so, what areas should FHFA add, and how do those areas qualify as *high-needs rural regions*?

3. Are there terms proposed to be defined in the existing regulation that are commonly understood such that no definition of the term is necessary?

4. Should FHFA change the definition of *manufactured home* to acknowledge the increasing importance to the manufactured housing market of other types of factory-built homes beyond HUD-code manufactured homes (such as modular homes)?

¹⁰⁴ See e.g., 12 CFR 25.12 (OCC) and 345.12 (FDIC).

¹⁰⁵ See 12 CFR 1282.39(b) through (e) and (g) through (i).

¹⁰⁶ See 12 CFR 1282.39(f).

(b) Duty To Serve Plans

5. Are there additional summary reference tables that the Enterprises should include in their Plans to enhance transparency, comparability, and accountability?

6. Should an Enterprise be allowed to request that FHFA permit it to modify its Plan based on a change in market conditions or other events or circumstances? Should FHFA be allowed to initiate a request that an Enterprise modify its Plan based on a change in market conditions or other events or circumstances? Under what circumstances?

7. Does the proposed timing for public feedback provide sufficient opportunity for the public to review the proposed Plans and submit comments, and for the Enterprises to incorporate such feedback into their Plans? If not, what should be the proposed timing for public feedback?

8. Should the Enterprises be allowed to annually update loan purchase targets for future Plan years prior to that Plan year commencing? If yes, should these objects be subject to the modification review procedures and/or require FHFA non-objection?

9. FHFA proposes to remove the restriction that permitted LIHTC equity investments only in rural areas, to expand eligibility for LIHTC equity investments to all underserved markets. Should the Enterprises also be permitted to invest in New Markets Tax Credits, to provide additional liquidity to increase housing supply?

(c) Requirements for Eligible Loan Purchases

10. Should any of the eligibility requirements for loan purchases (proposed § 1283.7(a)(2)) apply to any other evaluation area?

11. Should FHFA classify metropolitan statistical areas and micropolitan statistical areas as urban for the calculation of median incomes? What would be the costs or benefits of the change?

12. Are there impacts FHFA should consider if, in the future, the Agency aligns the median income calculation of the Enterprises housing goals and other income eligibility qualifying programs to match the DTS methodology?

(d) Effective Date

13. Should FHFA adopt the proposed effective date of January 1, 2028, aligned with the commencement of the 2028 to 2030 Duty to Serve Plan cycle. If not, what alternative approaches, including a potential extension of the 2025 to 2027 Plans through 2028 or other options, should the Agency consider?

14. Should FHFA use the new (proposed) evaluation methodology for assessing Enterprise 2027 Duty to Serve performance? Should FHFA evaluate Enterprise 2027 Duty to Serve performance using both the methodology of the existing regulation and the new (proposed) methodology?

V. Regulatory Impact**A. Paperwork Reduction Act**

The proposed rule would not contain any information collection requirement that would require the approval of the 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 for purposes of the Paperwork Reduction Act.

B. 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. Such an analysis need not be undertaken 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. 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 rule applies to Fannie Mae and Freddie Mac which are not small entities for purposes of the Regulatory Flexibility Act.

C. Executive Orders 12866 and 14215: Regulatory Planning and Review

Executive Order 14215¹⁰⁷ (Independent Agency Accountability) amends Executive Order 12866¹⁰⁸ (Regulatory Planning and Review) to include in its definition of "agency," those agencies under 44 U.S.C. 3502(1) including any "independent regulatory agency." Accordingly, Executive Order 12866 as amended requires FHFA to submit "significant regulatory actions" to the Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA) for review. Executive Order 12866 defines a "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or

adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OIRA has determined the proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and is not an economically significant regulatory action under section 3(f)(1) of Executive Order 12866.

D. Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 13563 directs agencies to analyze regulations that are "outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned." Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

FHFA has developed this proposed rule in a manner consistent with these requirements. If implemented, the proposed rule would reduce regulatory burden on the Enterprises by streamlining Plan requirements, including by eliminating mandates for the Enterprises to consider and address in their Plans a specified number of activities from a prescribed list. Additionally, the proposed rule would allow greater flexibility for the Enterprises to identify actions that best meet the needs of the underserved markets. Further, the proposed rule would reduce administrative burden for FHFA by simplifying the monitoring and evaluation process, reducing the time and resources needed for FHFA to fulfill its statutory duties. Overall, FHFA believes that the proposed rule is consistent with Executive Order 13563.

E. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 requires that an agency, unless prohibited by law, identify at least at least 10 existing regulations be repealed when the agency publicly proposes for notice and

¹⁰⁷ 90 FR 10447 (Feb. 24, 2025).

¹⁰⁸ 58 FR 51735 (Oct. 4, 1993).

comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. HFA's implementation of these requirements will be informed by M-25-20, Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation" (March 26, 2025). This proposed rule is expected to be an Executive Order 14192 deregulatory action given the associated cost savings.

F. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as Regulations.gov). FHFA's proposed rule and the required summary can be found at <https://www.regulations.gov>.

List of Subjects in 12 CFR Parts 1282 and 1283

Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the preamble, under the authority of 12 U.S.C. 4501, 4502, 4511, 4513, 4526, and 4561-4566, FHFA proposes to amend subchapter E of chapter XII, of title 12 of the Code of Federal Regulations, as follows:

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. Revise the title of part 1282 to read as "Enterprise Housing Goals".

■ 3. In § 1282.1(b), remove the definitions of "Additional Activity", "Agricultural worker", "Area of concentrated poverty", "Colonia", "Colonia census tract", "Community development financial institution", "Evaluation Guidance", "Federally

insured credit union", "Federally recognized Indian tribe", "High-needs rural population", "High-needs rural region", "High opportunity area", "Indian area", "Insured depository institution", "Lower Mississippi Delta", "Manufactured home", "Manufactured housing community", "Middle Appalachia", "Mixed-income housing", "Persistent poverty county", "Regulatory Activity", "Resident-owned manufactured housing community", "Residential economic diversity activity", "Rural area", "Small financial institution", "Small multifamily rental property", "Statutory Activity", and "Underserved Markets Plan."

■ 4. Remove Subpart C consisting of §§ 1282.31 through 1282.41 and redesignate Subpart D as Subpart C.
■ 5. Remove § 1282.66(d).

PART 1283—ENTERPRISE DUTY TO SERVE UNDERSERVED MARKETS

■ 6. Add part 1283 to read as follows:

Sec.

1283.1 Authority and purpose.

1283.2 Definitions.

1283.3 Enterprise duty to serve program.

1283.4 Duty to serve plan.

1283.5 Performance monitoring and reporting.

1283.6 Evaluations and ratings.

1283.7 Requirements for eligible loan purchases.

1283.8 Reservation of authority.

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4514, 4526, 4565-4566.

§ 1283.1 Authority and purpose.

This part implements section 1335 of the Safety and Soundness Act (12 U.S.C. 4565) which establishes a duty for each Enterprise to serve three underserved markets: the affordable housing preservation market, the manufactured housing market, and the rural housing market. This part also establishes a process for FHFA annually to evaluate and rate whether, and the extent to which, each Enterprise has complied with that duty to serve, as required by the Safety and Soundness Act.

§ 1283.2 Definitions.

(a) *Statutory terms.* All terms defined in the Safety and Soundness Act are used in accordance with their statutory meaning.

(b) *Other terms.* For purposes of this part:

Affordable housing preservation market means the market for residential properties that provide housing to very low-, low-, and moderate-income families by preserving existing affordability restrictions or supporting sustainable affordability mechanisms.

Balloon note means a mortgage providing for payments at regular

intervals, with a final payment ("balloon payment") that is at least 5 percent more than the periodic payments. The periodic payments may cover some or all of the periodic principal or interest. Typically, the periodic payments are level monthly payments that would fully amortize the mortgage over a stated term and the balloon payment is a single payment due after a specified period (but before the mortgage would fully amortize) and pays off or satisfies the outstanding balance of the mortgage.

Colonia census tract means a census tract that contains an identifiable community that meets the definition of a colonia under a federal, state, tribal, or local program.

Dwelling unit means a room or unified combination of rooms with plumbing and kitchen facilities intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

Family means one or more individuals who occupy the same dwelling unit.

High-needs rural region means any of the following regions, provided the region is located in a rural area:

(i) Middle Appalachia;

(ii) The Lower Mississippi Delta;

(iii) A colonia census tract;

(iv) An Indian area; or

(v) A tract located in a persistent poverty county and not included in Middle Appalachia, the Lower Mississippi Delta, a colonia census tract, or an Indian area.

Indian area has the meaning in 24 CFR 1000.10.

Lender means any entity that makes, originates, sells, or services mortgages, and includes the secured creditors named in the debt obligation and document creating the mortgage.

Low-income means:

(i) In the case of owner-occupied units, income not in excess of 80 percent of area median income; and
(ii) In the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families in accordance with this part.

Lower Mississippi Delta means the Lower Mississippi Delta counties designated by Public Laws 100-460, 106-554, and 107-171, along with any future updates made by Congress.

Manufactured home means a manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 *et seq.*, and implementing regulations.

Manufactured housing community means a tract of land under unified ownership and developed for the purposes of providing individual rental spaces for the placement of manufactured homes for residential purposes within its boundaries.

Manufactured housing market means the market for residential properties that provide housing for very low-, low-, and moderate-income families in manufactured homes and manufactured housing communities.

Median income means, with respect to an area, the unadjusted median family income for the area as determined by FHFA. FHFA will provide the Enterprises annually with information specifying how the median family income estimates for metropolitan and non-metropolitan areas are to be applied for purposes of determining median income.

Metropolitan area means a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median incomes are determined by FHFA.

Middle Appalachia means the "central" Appalachian subregions under the Appalachian Regional Commission's subregional classification of Appalachia.

Moderate-income means:

(i) In the case of owner-occupied units, income not in excess of area median income; and

(ii) In the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families in accordance with this part.

Mortgage means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. *Mortgage* includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

Mortgage purchase means a transaction in which an Enterprise bought or otherwise acquired a mortgage or an interest in a mortgage for portfolio, resale, or securitization.

Mortgage revenue bond means a tax-exempt bond or taxable bond issued by a state or local government or agency where the proceeds from the bond issue are used to finance residential housing.

Multifamily property means a residence consisting of more than four dwelling units. The term includes cooperative buildings and condominium projects.

Non-metropolitan area means a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area, for which median incomes are determined by FHFA.

Owner-occupied means single-family housing in which a mortgagor resides, including two- to four-unit owner-occupied properties where one or more units are used for rental purposes.

Participation means a fractional interest in the principal amount of a mortgage.

Persistent poverty county means a county in a rural area that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the most recent successive decennial censuses.

Proprietary information means all mortgage data and all data or information that the Enterprises submit to the Director in the Annual Housing Activities Report under section 309(n) of the Fannie Mae authorizing statute or section 307(f) of the Freddie Mac authorizing statute.

Refinancing mortgage means a mortgage undertaken by a borrower that satisfies or replaces an existing mortgage of such borrower. The term does not include:

(i) A renewal of a single payment obligation with no change in the original terms;

(ii) A reduction in the annual percentage rate of the mortgage as computed under the Truth in Lending Act (15 U.S.C. 1601 *et seq.*), with a corresponding change in the payment schedule;

(iii) An agreement involving a court proceeding;

(iv) A workout agreement, in which a change in the payment schedule or collateral requirements is agreed to as a result of the mortgagor's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for the continuation of insurance;

(v) The renewal of optional insurance purchased by the mortgagor and added to an existing mortgage;

(vi) A renegotiated balloon mortgage note on a multifamily property where

the balloon payment was due within 1 year after the date of the closing of the renegotiated mortgage; and

(vii) A conversion of a balloon mortgage note on a single-family property to a fully amortizing mortgage note where the Enterprise already owns or has an interest in the balloon note at the time of the conversion.

Rent means the actual rent or average rent by unit size for a dwelling unit.

(i) Rent is determined based on the total combined rent for all bedrooms in the dwelling unit, including fees or charges for management and maintenance services and any utility charges that are included.

(A) Rent concessions shall not be considered, *i.e.*, the rent is not decreased by any rent concessions.

(B) Rent is net of rental subsidies, *i.e.*, the rent is decreased by any rental subsidy.

(ii) When the rent does not include all utilities, the rent shall also include:

(A) The actual cost of utilities not included in the rent;

(B) The nationwide average utility allowance, as issued periodically by FHFA;

(C) The utility allowance established under the HUD Section 8 Program (42 U.S.C. 1437f) for the area where the property is located; or

(D) The utility allowance for the area in which the property is located, as established by the state or local housing finance agency for determining the affordability of low-income housing tax credit properties under section 42 of the Internal Revenue Code (26 U.S.C. 42).

Rental unit means a dwelling unit that is not owner-occupied and is rented or available to rent.

Residence means a property where one or more families reside.

Rural area means:

(i) A census tract outside of a metropolitan statistical area as designated by the Office of Management and Budget; or

(ii) A census tract in a metropolitan statistical area as designated by the Office of Management and Budget that is outside of the metropolitan statistical area's Urbanized Areas as designated by the U.S. Department of Agriculture's (USDA) Rural-Urban Commuting Area (RUCA) Code #1, and outside of tracts with a housing density of over 64 housing units per square mile for USDA's RUCA Code #2; or

(iii) Any high-needs rural region that meets the criteria of paragraphs (i) or (ii); or

(iv) A colonia census tract that does not meet the criteria of paragraphs (i), (ii), or (iii) of this definition.

Rural housing market means the market for residential properties that

provide housing for very low-, low-, and moderate-income families in rural areas.

Secondary residence means a dwelling where the mortgagor maintains (or will maintain) a part-time place of abode and typically spends (or will spend) less than the majority of the calendar year. A person may have more than one secondary residence at a time.

Single-family housing means a residence consisting of one to four dwelling units. Single-family housing includes condominium dwelling units and dwelling units in cooperative housing projects.

Underserved market means each of the manufactured housing market, the affordable housing preservation market, and the rural housing market.

Utilities means charges for electricity, piped or bottled gas, water, sewage disposal, fuel (oil, coal, kerosene, wood, solar energy, or other), and garbage and trash collection. Utilities do not include charges for subscription-based television, telephone, or internet service.

Very low-income means:

- (i) In the case of owner-occupied units, income not in excess of 50 percent of area median income; and
- (ii) In the case of rental units, income not in excess of 50 percent of area median income, with adjustments for smaller and larger families in accordance with this part.

§ 1283.3 Enterprise duty to serve program.

(a) *Duty in general.* To increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing in the manufactured housing market, affordable housing preservation market, and rural housing market, each Enterprise must provide leadership in developing loan products and flexible underwriting guidelines that facilitate a secondary market for mortgages for very low-, low-, and moderate-income families in those markets.

(b) *Program requirements.* To carry out the duty set forth under paragraph (a) of this section each Enterprise must:

- (1) Design programs and products that facilitate the use of assistance provided by the federal, state, and local governments;
- (2) Develop relationships with nonprofit and for-profit organizations that develop and finance housing and with state and local governments;
- (3) Take affirmative steps, including developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, to:
 - (i) Assist primary lenders to make housing credit available in areas with

concentrations of low-income and minority families;

(ii) Assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977, 12 U.S.C. 2901 *et seq.*; and

(4) Develop the institutional capacity to help finance low- and moderate-income housing, including for first-time homebuyers.

(c) *Eligible actions.* (1) An Enterprise may take any action that would be consistent with carrying out the Enterprise's duty to serve and has not been deemed ineligible by FHFA, by regulation or after review.

(2) In accordance with paragraph (c)(1) of this section, the following actions are ineligible:

- (i) Contributions to the Housing Trust Fund (12 U.S.C. 4568) and the Capital Magnet Fund (12 U.S.C. 4569), and mortgage purchases funded with such grant amounts; and
- (ii) Purchases of mortgage loans that do not satisfy the requirements set forth in § 1283.7(a)(1) or that are ineligible in accordance with § 1283.7(a)(2).

§ 1283.4 Duty to serve plan.

(a) *General.* To demonstrate how the Enterprise intends to meet its duty to serve and to provide a basis for FHFA evaluation and rating, each Enterprise must adopt a three-year Duty to Serve Plan ("Plan") that commences on January 1 of the first year for which the Plan is applicable. The Plan must describe the actions the Enterprise will take to meet its duty to serve in each underserved market and satisfy other requirements as set forth in this part.

(b) *Plan content.* The Plan must include for each underserved market:

- (1) An assessment of liquidity and investment capital needs, risks, and market opportunities based on market research, stakeholder consultations, and public engagement.
- (2) The specific actions that the Enterprise intends to take in each Plan year to address the identified liquidity and investment capital needs, risks, and opportunities.
- (3) One or more measurable targets for each action, with loan purchases and investments including, at a minimum, a number of units target for multifamily and number of loans target for single-family.
- (4) A description of how the Enterprise will fulfill the program requirements set forth in § 1283.3(b).
- (5) A description of public engagement activities undertaken during the development of the Plan, including any significant input received, and how the Enterprise considered and addressed the input in its Plan.

(6) A list of the Enterprise's mortgage products that support housing for very low-, low- and moderate-income families in the underserved markets.

(7) Reference tables summarizing the planned actions in each Plan year, including:

- (i) A table listing for each underserved market, all actions by the following component categories: loan product development, outreach, loan purchases, and investments and grants; and
- (ii) For loan purchases, and investments and grants actions, a table listing each action and associated target by year.

(c) *Submission to FHFA; review and non-objection—*(1) *Submission of proposed Plans.* Each Enterprise must submit its proposed Plan to FHFA for review and feedback on or before June 30 of the year prior to the first year for which the Plan is applicable.

(2) *Public input.* (i) Prior to making a decision on a proposed Plan, FHFA will seek public input on the proposed Plan.

(ii) Each Enterprise must revise its proposed Plan based on public input and resubmit the proposed Plan to FHFA for review by October 1 of the year prior to the first year for which the Plan is applicable.

(3) *FHFA review; non-objection.* (i) FHFA will review each proposed Plan and provide feedback to each Enterprise for consideration.

(ii) FHFA will object or non-object to the Plan no later than November 15 of the year prior to the first year for which the Plan is applicable, provided that FHFA may extend the date upon notice to the Enterprises. FHFA will object to any Plan that:

- (A) Does not include the content required by § 1283.4(b);
- (B) When fully implemented is not likely to result in a market-level rating that demonstrates compliance by the Enterprise with the duty to serve;
- (C) Does not demonstrate a good faith effort to consider FHFA feedback; or
- (D) Contains any action that FHFA has determined is not consistent with the Enterprise's authorizing statute or the safe and sound operation of the Enterprise, or is not an eligible action for purposes of § 1283.3(c).

(iii) FHFA will notify each Enterprise in writing of its decision to object or non-object to a proposed Plan. If FHFA objects to a proposed Plan, the Enterprise must revise and resubmit the Plan for FHFA review within 10 days. The failure to receive a non-objection to a Plan prior to January 1 of the first year the Plan is applicable does not relieve the Enterprise of its obligation to comply with its duty to serve for that Plan year.

(4) *Plan publication.* Each Enterprise must publish its Plan on its website as soon as practicable, but no later than 10 days after FHFA provides non-objection to the Plan and must maintain it thereafter. If the Plan is subsequently modified, each Enterprise must publish its modified Plan as soon as practicable, but no later than 10 days after FHFA approves the modified Plan.

(5) *Public accessibility.* Each Enterprise shall ensure that each Plan published on its website complies with Section 508 of the Rehabilitation Act of 1973.

(d) *Modification of a Plan—(1) Enterprise-initiated modifications.* An Enterprise may request to modify its Plan during the three-year term only upon the occurrence of special circumstances. An Enterprise request to FHFA must include the basis for its determination of special circumstances and its proposed Plan modifications.

(2) *Special circumstances.* For purposes of this section, “special circumstances” means extraordinary and significant changes in market conditions that were unforeseeable at the time of Plan inception and that fundamentally alter the feasibility or utility of the Plan, as a whole. Ordinary market volatility, routine economic fluctuations, underserved market-specific disruptions, or an Enterprise’s failure to execute planned actions do not constitute special circumstances.

(3) *FHFA response to Enterprise modification request.* FHFA will respond to an Enterprise’s modification request within a reasonable time and may approve or deny the request in its sole discretion.

(4) *Public input.* FHFA may seek public input on proposed modifications to a Plan if FHFA determines that public input would assist its consideration of the proposed modifications.

(5) *Non-Objection required.* All modified Plans are subject to a determination of non-objection by FHFA under the same standards set forth in paragraph (c)(3)(ii) of this section.

(e) *Extension of deadlines by FHFA.* FHFA may extend any of the foregoing deadlines or periods in its discretion, upon written notice to the Enterprise. Any such notice shall set forth the date to which, or the number of days by which, the deadline or period is being extended.

§ 1283.5 Performance monitoring and reporting.

(a) *Ongoing monitoring.* On an ongoing basis, each Enterprise must monitor and assess the completion of actions and achievement of targets

under its Plan and report on its performance to its board of directors and senior management. Each Enterprise must participate in ongoing monitoring discussions with FHFA regarding Plan performance.

(b) *Annual and quarterly reports—(1) Annual report.* No later than March 1 of the year after the close of the applicable Plan year, each Enterprise must submit an annual report to FHFA. In its report, the Enterprise must describe the completion of actions and achievement of targets under its Plan for each underserved market for the applicable Plan year and include such other information and data as may be required by FHFA. Each Enterprise must publish its annual report, with confidential and proprietary information omitted, on its website as soon as practicable, but no later than March 30 and maintain it thereafter. Each Enterprise shall ensure that the annual report complies with Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*

(2) *Quarterly reports.* Each Enterprise must submit quarterly reports to FHFA on or before May 15, August 15, and November 15 of the applicable Plan year. In each report, the Enterprise must describe the completion of actions and achievement of targets under its Plan for each underserved market for the applicable quarter and include such other information and data as may be required by FHFA.

§ 1283.6 Evaluations and ratings.

(a) *General.* FHFA will evaluate and rate each Enterprise’s compliance with its duty to serve each underserved market on an annual basis in accordance with framework established in this section. In determining whether, and the extent to which, an Enterprise has complied with the duty to serve each underserved market, FHFA will evaluate and rate the impact of the Enterprise’s actions to address the needs of each underserved market during the applicable Plan year.

(b) *Component ratings.* At the end of each Plan year, FHFA will assess how well each Enterprise met the needs of each underserved market and assign a rating from “1” (highest performance) to “5” (lowest performance) for each of the following components:

(1) *Loan product development.* The Enterprise’s development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing for very low-, low-, and moderate-income families in the underserved market;

(2) *Outreach.* The extent of the Enterprise’s outreach to qualified loan

sellers and other market participants in the underserved market;

(3) *Loan purchases.* The volume of loans purchased by the Enterprise in the underserved market relative to the market opportunities available to the Enterprise;

(4) *Investments and grants.* The amount of the Enterprise’s investments and grants in projects that assist in meeting the needs of the underserved market;

(5) *Program requirements.* The extent to which the actions completed under the Plan satisfy the requirements set forth in § 1283.3(b);

(6) *Program management.* The capability and willingness of the board of directors and management, in their respective roles, to meet the Enterprise’s duty to serve; and

(7) *Other factors.* Any other factor identified by the Director in writing prior to the Plan year subject to evaluation.

(c) *Market-level ratings; compliance or noncompliance.* Based on its assessment of each component and component rating for an underserved market, FHFA will assign a market-level, composite rating from “1” (highest performance) to “5” (lowest performance) for each Enterprise’s duty to serve performance in each underserved market. A market-level rating of “1,” “2,” or “3” will constitute compliance by the Enterprise with the duty to serve that underserved market. A market-level rating of “4” or “5” will constitute noncompliance by the Enterprise with the duty to serve that underserved market.

(d) *Failure to comply.* If the Director determines that an Enterprise did not comply with, or there is a substantial probability that an Enterprise will not comply with, the duty to serve a particular underserved market in a given year and the Director determines that such compliance is or was feasible, the Director will follow the procedures in 12 U.S.C. 4566(b).

(e) *FHFA evaluation and ratings.* FHFA will annually publish a narrative assessment, market-level rating, and compliance determination for each underserved market for each Enterprise in FHFA’s Annual Housing Report.

§ 1283.7 Requirements for eligible loan purchases.

(a) *Eligible loan purchases.* (1) Eligible loan purchases must:

- (i) Be secured by dwelling units;
- (ii) Be affordable in accordance with paragraph (b) of this section; and
- (iii) Not be of a type that FHFA has determined to be ineligible in paragraph (a)(2) of this section or after review.

(2) The following loan purchases are ineligible:

- (i) Mortgages loans that finance any dwelling units that are secondary residences;
 - (ii) Refinancing mortgages that are not arms-length transactions or borrower driven;
 - (iii) Single-family refinancing mortgages that result from conversion of balloon notes to fully amortizing notes, if the Enterprise already owns or has an interest in the balloon note at the time conversion occurs;
 - (iv) Single-family mortgage covered by section 103(bb) of the Home Ownership and Equity Protection Act, 15 U.S.C. 1602(bb) (HOEPA mortgages);
 - (v) Single-family mortgages for which the income of the mortgagor(s) is unavailable;
 - (vi) Mortgages or interests in mortgages that previously received duty to serve credit under any underserved market within the five years immediately preceding the current performance year;
 - (vii) Mortgages where the property or any units within the property have not been approved for occupancy, except for “single close” single-family construction to permanent loans in the construction phase;
 - (viii) Any interests in mortgages that FHFA determines will not be treated as interests in mortgages; and
 - (ix) State and local government housing bonds, except as provided in § 1283.7(c)(5).
- (b) *Affordability requirements.* FHFA will determine whether a loan purchase serves very low-, low-, and moderate-income families based on factors relevant to specific housing types as set forth in paragraphs (b)(1) through (b)(3) of this section.
- (1) *Owner-occupied units.* For mortgage purchases financing owner-occupied single-family properties, affordability for each income group is determined based on the income of the mortgagor(s) compared to the applicable median income at the time the mortgage was originated. A mortgage is affordable if it does not exceed the percentage of the applicable median income provided in § 1282.17 for the income group.
- (2) *Rental units—(i) General.* For mortgage purchases financing rental units, affordability is determined by comparing the unit rent to the applicable median income, adjusted by unit size. A rent is affordable if it does not exceed the percentage of the applicable median income provided in § 1282.19 for the income group, as adjusted by unit size.
- (ii) *Unoccupied units.* Anticipated rent for unoccupied units may be the

market rent for similar units in the property or neighborhood as determined by the lender or appraiser for underwriting purposes. This includes any unit in a multifamily property that is unoccupied because it is being used as a model unit or rental office, if the Enterprise determines that the number of such units is reasonable and minimal considering the size of the multifamily property.

(iii) *Timeliness of information.* In evaluating affordability, an Enterprise must use tenant income and the applicable median income available at the time the mortgage was originated or acquired, whichever is later.

(iv) *Use of rent and affordability of rents based on housing program affordability requirements.* For an Enterprise purchase of a loan subject to federal affordability restrictions (including but not limited to properties receiving Low-Income Housing Tax Credits (26 U.S.C. 42), Section 8 Housing Assistance Payment contracts (42 U.S.C. 1437f), or HOME funding (15 U.S.C. 1602(bb)) restricted units shall be presumed as affordable for very low-, low-, or moderate-income families, unless otherwise determined by FHFA. For an Enterprise purchases of loans subject to any other affordability restriction, for purposes of determining affordability based on income (such as in the case of a housing program that establishes the maximum permitted income level for a tenant) the maximum income level must be no greater than the maximum income level for each income group targeted by the duty to serve, adjusted for family or unit size as provided in § 1282.17 or § 1282.18, as appropriate.

(3) *Manufactured housing communities.* For an Enterprise purchase of a blanket loan on a manufactured housing community, unless otherwise determined by FHFA, homes in the community shall be presumed as affordable for very low-, low-, or moderate-income families.

(4) *Application of median income.* (i) If the property that is the subject of the mortgage is in a metropolitan area, for purposes of determining affordability, the applicable median income is the highest of the metropolitan area median income, State median income including metropolitan areas, or national median income including metropolitan areas.

(ii) If the property that is the subject of the mortgage is not in a metropolitan area, the applicable median income that is highest of the county median income, State non-metropolitan median income, or national non-metropolitan median income.

(iii) When an Enterprise cannot determine whether a mortgage is on dwelling unit(s) located in one area, the Enterprise must determine the median income for the split area in the manner prescribed by the Federal Financial Institutions Examination Council for reporting under the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), if the Enterprise can determine that the mortgage is on dwelling unit(s) located in a census tract, or a census place code.

(c) *Treatment of other transactions as mortgage purchases.* A transaction described by any of paragraphs (c)(1) through (c)(7) of this section constitutes the purchase of a mortgage on a dwelling unit for purposes of paragraph (a) of this section.

(1) *Credit enhancements.* (i) Dwelling units financed under a credit enhancement entered into by an Enterprise will be treated as mortgage purchases only when:

(A) The Enterprise provides a specific contractual obligation to ensure timely payment of amounts due under a mortgage or mortgages financed by the issuance of housing bonds (such bonds may be issued by any entity, including a state or local housing finance agency); and

(B) The Enterprise assumes a credit risk in the transaction substantially equivalent to the risk that would have been assumed by the Enterprise if it had securitized the mortgages financed by such bonds.

(ii) When an Enterprise provides a specific contractual obligation to ensure timely payment of amounts due under any mortgage originally insured by a public purpose mortgage insurance entity or fund, the Enterprise may, on a case-by-case basis, seek approval for such transactions to receive credit for a particular underserved market.

(2) *Risk-sharing.* Mortgages purchased under risk-sharing arrangements between an Enterprise and any federal agency under which the Enterprise is responsible for a substantial amount of the risk will be treated as mortgage purchases.

(3) *Participations.* Participations purchased by an Enterprise will be treated as mortgage purchases only when the Enterprise's participation in the mortgage is 50 percent or more.

(4) *Cooperative housing and condominiums.* (i) The purchase of a mortgage on a cooperative housing unit (“a share loan”) or a mortgage on a condominium unit will be treated as a mortgage purchase. Such a purchase will receive duty to serve credit in the same manner as a mortgage purchase of single-family owner-occupied units, *i.e.*,

affordability is based on the income of the mortgagor(s).

(ii) The purchase of a blanket mortgage on a cooperative building or a mortgage on a condominium project will be treated as a mortgage purchase. The purchase of a blanket mortgage on a cooperative building will receive duty to serve credit in the same manner as a mortgage purchase of a multifamily rental property, except that affordability must be determined based solely on the comparable market rents used in underwriting the blanket loan. The purchase of a mortgage on a condominium project will be evaluated in the same manner as a mortgage purchase of a multifamily rental property.

(iii) Where an Enterprise purchases both a blanket mortgage on a cooperative building and share loans for units in the same building, both the mortgage on the cooperative building and the share loans will be treated as mortgage purchases. Where an Enterprise purchases both a mortgage on a condominium project and mortgages on individual dwelling units in the same project, both the mortgage on the condominium project and the mortgages on individual dwelling units will be treated as mortgage purchases.

(5) *Mortgage revenue bonds.* The purchase or guarantee by an Enterprise of a mortgage revenue bond issued by a state or local housing finance agency will be treated as a purchase of the underlying mortgages only to the extent the Enterprise has sufficient information to determine whether the underlying mortgages or mortgage-backed securities serve the income groups targeted by the duty to serve.

(6) *Seller dissolution option.* (i) Mortgages acquired through transactions involving seller dissolution options will be treated as mortgage purchases only when:

(A) The terms of the transaction provide for a lockout period that prohibits the exercise of the dissolution option for at least one year from the date on which the transaction was entered into by the Enterprise and the seller of the mortgages; and

(B) The transaction is not dissolved during the one-year minimum lockout period.

(ii) FHFA may grant an exception to the one-year minimum lockout period described in paragraphs (c)(6)(i)(A) and (c)(6)(i)(B) of this section, in response to a written request from an Enterprise, if FHFA determines that the transaction furthers the purposes of the Enterprise's Charter Act and the Safety and Soundness Act.

(iii) For purposes of paragraph (c)(6) of this section, "seller dissolution option" means an option for a seller of mortgages to the Enterprises to dissolve or otherwise cancel a mortgage purchase agreement or loan sale.

(7) *Subordinate liens on single-family properties.* (i) The purchase of subordinate liens on single-family properties will be treated as mortgage purchases only when they are used for affordable homeownership preservation through one of the following shared equity homeownership programs:

(A) Resale restriction programs administered by community land trusts, other nonprofit organizations, or state or local governments or instrumentalities; or

(B) Shared appreciation loan programs administered by community land trusts, other nonprofit organizations, or state or local governments or instrumentalities that may or may not partner with a for-profit institution to invest in, originate, sell, or service shared appreciation loans.

(ii) A program in paragraph (c)(7)(i) must:

(A) Provide homeownership opportunities to very low-, low-, or moderate-income families;

(B) Utilize a ground lease, deed restriction, subordinate loan, or similar legal mechanism that includes provisions stating that the program will keep the home affordable for subsequent very low-, low-, or moderate-income families; the affordability term is at least 30 years after recordation; a resale formula applies that limits the homeowner's proceeds upon resale; and the program administrator or its assignee has a preemptive option to purchase the homeownership unit from the homeowner at resale; and

(C) Support homebuyers and homeowners to promote sustainable homeownership.

(d) *Newly available data.* When an Enterprise uses data to determine whether a loan purchase is an eligible action under § 1283.3(c) and new data is released after the start of a calendar quarter, the Enterprise need not use the new data until the start of the following quarter.

§ 1283.8 Reservation of authority.

Actions described in a Plan are subject to all applicable laws and regulations. Nothing in this part permits or requires an Enterprise to take any action that would otherwise be inconsistent with its authorizing statute or the Safety and Soundness Act. FHFA's review and Non-Objection to a proposed Plan does not constitute approval of any action described in the

Plan, and does not restrict FHFA's exercise of authorities under 12 U.S.C. 4541 (prior approval authority for products) or any other provision of the Safety and Soundness Act.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038-AF71

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, and 241

[Release No. 33-11424; 34-105735; File No. S7-2026-21]

RIN 3235-AN79

Joint Request for Comment on Further Definition of "Swap" and "Security-Based Swap" and on Alternative Compliance

AGENCY: Commodity Futures Trading Commission; Securities and Exchange Commission.

ACTION: Joint request for comment.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") (together, the "Commissions") request public comment on potential ways to draw clearer regulatory lines with respect to innovative products that may implicate both SEC and CFTC regulatory interests. The Commissions also request public comment on potential approaches to enable alternative compliance.

DATES: Comments must be received on or before August 24, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

CFTC Comment Submission

You may submit comments, specifically referencing "Joint Request for Comment on Further Definition of 'Swap' and 'Security-Based Swap' and on Alternative Compliance" and RIN 3038-AF71, by any of the following methods:

Regulations.gov: Go to <https://www.regulations.gov> and press the "Search" button, then proceed as follows: