June 7, 2017

RE: Comments on Duty to Serve Evaluation Guidance

To Whom it May Concern:

On behalf of the undersigned organizations, the National Community Reinvestment Coalition (NCRC) is pleased to submit comments on the draft Evaluation Guidance for the Duty to Serve Rule. The Duty-to-Serve (DTS) rule is a valuable tool for serving underserved populations in particular markets. It is a useful compliment but as we have said before, it is not a substitute for the affordable housing goals.[1] While NCRC appreciates the FHFA's implementation of the DTS rule through this Evaluation Guidance, we have concerns with the lack of clarity. The underserved market plans the Government Sponsored Enterprises (GSEs) are required to draft are complex and elaborate undertakings. Therefore, a clear and comprehensive guidance is necessary for ensuring they are developed well and accessible for public input. FHFA needs to ensure sufficient opportunities for public input is available through the process of developing these plans, must clarify the contents of the underserved market plans, and rework its evaluation and scoring process.

Conservatorship

At the outset we would note that the GSEs are limited in their ability to provide truly effective leadership in the three underserved markets while they are under conservatorship.

Prior to being placed in conservatorship the GSEs offered several safe and sound products that provided opportunities for affordable and sustainable home ownership for underserved borrowers and communities. These loan products performed well throughout the housing crisis. Prior to the crisis, the GSEs engaged in a substantial amount of capacity-building and grant making that laid the ground for subsequent loans and loan purchases benefiting low- and moderate-income and minority borrowers and communities. The GSEs have a history of outreach and partnership with effective intermediaries in local communities. These efforts should be resumed in order for this DTS rule to be truly effective. Furthermore, we believe that the GSEs must be recapitalized and released from conservatorship so that they can more effectively meet the objectives of the DTS rule that focuses on underserved and difficult-to-serve markets.

[1] See NCRC's comment dated March 16, 2016 on the proposed DTS rule. DTS assesses performance in purchasing loans for underserved populations in niche markets whereas the Affordable Housing Goals assesses performance across all markets. The performance measures will thus be different with more numerical and rigorous targets established by the Affordable Housing Goals than DTS due to the differences in markets, level of standardization, and other factors.

Comments on Chapter One: Developing Underserved Market Plans

Public Input

To further ensure that the Duty to Serve rule is truly effective NCRC would encourage an extended public comment period. Sufficient public comment periods are vital for maximizing opportunities for meaningful public input. We appreciate FHFA's acknowledgement of the significance of extending the period for public input from 45 days to 60 days. However, due to the complexity and length of these plans, NCRC believes increasing the period to 90 days would substantially improve the level of input received. The Underserved Market Plans are meant to encompass three years, discuss three markets separately, and discuss all activities and objectives considered as well as enacted. In order to evaluate and comment on the whole picture and impact of these reports more time is necessary.

Additionally, there should be a required public comment period ranging from 60 to 90 days for any modification to an Underserved Market Plan. This should be required regardless of whether the modification is from a request made by one of the GSEs or from a recommendation by FHFA.

The procedure for declaring an objective infeasible must be transparent. The draft evaluation guide states that a GSE can ask the FHFA to declare an objective in its plan to be infeasible due to economic or other events beyond the GSE's control. This procedure, if executed secretly between the GSE and FHFA, threatens to make the entire DTS evaluation process a rubber stamp exercise resulting in passing grades for GSEs when they actually fail to meet one or more of their objectives. In order to protect against this type of abuse, the FHFA must allow the public to comment on any GSE request to declare one or more objectives infeasible. The public process will help guard against a GSE declaring an objective infeasible simply when the GSE is in danger of failing to meet the objective. A public process would require the GSE to defend publicly a declaration of infeasibility, which would help guard against specious rationales for infeasibility.

FHFA maintains discretion to allow certain information and dates to be treated as confidential. To further aid robust public input and transparency, NCRC encourages FHFA to make as much information public as possible. The Guidance states that if a GSE believes any content requires confidential or proprietary treatment, the GSE should clearly identify it and explain why. The Guidance should contain illustrative examples of what information FHFA would likely determine to be confidential or proprietary to help guide the GSEs and the public in this process. This includes any information that would be exempt from public disclosure under a FOIA request.

Plan Contents

Statutory and Regulatory Activities Considered but Not Included

The guidance requires that the GSEs consider a minimum number of Statutory and Regulatory activities for each undeserved market, defining “consider” as either choosing to include the activity and related objectives or explaining the reasons why it has not chosen to undertake the activity. For the Affordable Housing Preservation market there are 16 statutory and regulatory activities, and the GSEs are required to only consider seven of them. This is not even half of the statutory and regulatory activities for that market. NCRC believes that requiring the GSEs to consider three-quarters of the activities (or 12 of 16 activities) would be more aligned with the objectives of encouraging the GSEs to address needs of underserved markets. As seen from the first drafts of the GSEs’ plans, the GSEs met the threshold requirements for each underserved market, allowing them to not discuss any activities that were considered but not included.[2] Based on the drafts of the first plans, it is evident that the FHFA must make requirements for consideration of activities more detailed. NCRC believes a discussion on why certain activities were not included should be required in future GSE plans.

In considering these activities, FHFA should make it clear that it expects specific rationale from the GSEs for why or why not they chose a certain activity. The Guidance notes that explanations of why the GSEs chose not to undertake certain activities provides FHFA and the public insight about the market conditions, resource availability, or other factors that influenced the GSEs’ decisions. More specificity in the guidance for what must be “considered” will help ensure that this critical information is provided, such as the cost of implementing the activity, the impact it would potentially provide, and the ease or difficulty of implementation. It will also facilitate public comment and discussion regarding whether stakeholders agree with the GSE(s) decision to not include certain activities.

Activities Included

While there is a proposed minimum for activities that must be considered, the FHFA has not established a minimum number of activities that must be included in the plans. All that is required is that the GSEs have activities in each of the underserved markets that serve all three Duty to Serve income categories in each year of the plan. Also, any one activity may serve more than one of the income categories. If one activity can serve more than one income category, can one activity also serve more than one underserved market? FHFA must provide more clarity in what is required, such as a minimal number of activities undertaken or a specified number of

[2] We acknowledge that both of the GSEs included an additional activity in their rural market and included more Affordable Housing Preservation activities than are required to be considered. For affordable housing preservation, Freddie Mac implemented eight statutory and regulatory activities and Fannie Mae had a total of 13 activities, two of which were additional activities. Both GSEs met just the minimum for activities in the Manufactured Housing market. However, through meeting, and at times exceeding, the threshold requirements neither of the GSEs was required to discuss any activities they did consider and decided not to include.

affordable housing units the activities must provide to lower income borrowers. The FHFA must establish rigorous standards to ensure that the GSEs are meeting their Duty to Serve mandate.

Additionally, the FHFA may, in its discretion, designate one statutory or regulatory activity in each underserved market that it will significantly consider in determining whether to provide a "Non-Objection" to the GSE's plan for that market. More detail is required in order to effectively implement this procedure. Will the FHFA only be able to enact this designation for one activity per market; is it a firm cap on three activities total? Further, will this have more ramifications than a GSE securing a non-objection for a plan; will these "significant" activities be weighted more heavily? Also, more clarity is required regarding the process for the FHFA designating these activities. This includes establishing timelines so that the GSEs have sufficient time to properly take the extra significance into account and for the public to be able to review and comment on the significant activities designations.

Objectives

Objectives are a crucial element in the Proposed Guidance because they are the specific action items for each GSE activity and are central to the evaluation and rating process. However, the draft guidance is quite confusing regarding the definition of an objective. The distinction among activities, objectives, and evaluation areas is unclear. The reporting requirements for objectives and evaluation areas are unclear. A pictorial representation and/or diagrams outlining the relationship among objectives, activities, and evaluation areas would help to better clarify how these three pieces are distinct from each other and work together.

The "SMART" criteria the FHFA provided to help the GSEs develop objectives is helpful but needs more clarity. The letters in "SMART" stand for a characteristic of an objective. The "M" in SMART discusses the requirement that an objective have a measurable target. However, it breaks the requirements for measurable targets into two different groups – 1) for loan purchase and investment objectives, and 2) for outreach and loan product objectives. For the former the GSEs must provide a measurable target as well as a baseline, while the latter has no baseline requirement.

NCRC disagrees with this proposal because it is possible to establish a baseline for all of these objectives. For example, the GSEs currently engage in outreach activities and could develop a baseline based on past experience. GSEs arrange meetings for the purposes of conducting outreach. They also attend conferences and other events to conduct outreach. Further, they engage in marketing which consists of mailings, webinars, or conference calls. Experience in this type of outreach in the recent past could enable the GSEs to develop a baseline as well as target in their plans. At the very least, plans in future years after the first plan can have baseline as well as targets. Baselines are important because they prevent GSEs from choosing low and arbitrary targets.

Likewise, loan product activities can likewise have both baseline and targets. As described in the draft evaluation guidance, a loan product activity can be a pilot project that has number of pilot loans as a target. The GSEs have had recent past experience with pilot projects and should be able to use their recent experience to develop baselines.

The FHFA should consult the FDIC's "Community Reinvestment Act (CRA): Guide to Developing the Strategic Plan" to help develop specific requirements for measurable goals.[3] That guidance details the need for establishing goals in quantifiable terms and provides examples of goals such as ranges of lending amounts. It also suggests creating a list of activities with various weights expressed in points.

The FHFA's Guidance methodology for determining a baseline for loan purchase and investment objectives is useful but needs improvement. The Guidance states that a baseline can be established by using the average of three years of data on recent performance. However to ensure the GSEs lead in the three underserved markets, the FHFA guidance must encourage comparison with the primary market when possible. For example, in the case of manufactured and rural housing markets, data collected under the Home Mortgage Disclosure Act (HMDA) can be used to compare the percentage of GSE financing for low-income and moderate-income borrowers to the percentage of primary market loans for those borrower groups. If either GSE lags the primary market considerably it should not score well on that activity under the evaluation in Chapter 2.

"Measurable" must also include separate baselines and target setting for each of the three income categories of very low-income (up to 50 percent of area median income), low-income (up to 80 percent of area median income), and moderate-income (up to median area income).[4] It is not sufficient for the GSEs to state that they will purchase a certain number of loans that will serve all three categories because the needs of each income category for affordable rental and homeowner units are different. On some objectives, it may be more important to focus on one of the income groups that have the most needs while other objectives may require a focus on another income group. Without separate goal setting for each income group, the ability of the public to comment and influence the GSE objectives is diminished.

The "T" in the SMART Criteria, stipulating an objective be tied to Analysis of Market Opportunities, requires the GSEs to explain how the objective meets one or more of the market opportunities they identified in an underserved market. The FHFA guidance, however, must specify that market opportunities be related to needs. For example, if a certain community or demographic group is underserved and safe and sound loans can be made to this group, then serving the community or demographic group should be flagged as a market opportunity.

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[3] FDIC, *Community Reinvestment Act: Guide to Developing the Strategic Plan*, https://www.fdic.gov/news/news/financial/1998/fil9826b.pdf

[4] See 12 U.S.C. 4502 for definitions of the income groups.

The current drafts of the GSEs' plans include market context descriptions in each section of the plan. These sections help indicate where the needs are and thus help strategic planning. However, how the GSEs determined these needs was not explained. NCRC believes requiring more transparency of what market research and outreach is conducted would be helpful. It would enable stakeholders to comment on whether they agree with the GSEs approach for determining needs and whether the GSEs missed identifying needs through incomplete analyses.

Additionally, in the current GSE drafts for each activity and objective, not all criteria are listed in a comprehensive manner. The Guidance should be more descriptive of how the GSEs describe the SMART criteria. This will enable the public to provide better input and FHFA to evaluate the plans more efficiently. Each criterion should be listed and briefly described for each objective.

Designating One Evaluation Area for Each Objective

The Guidance sets out four evaluation areas - outreach, loan products, loan purchases, and investments and grants. The Guidance in earlier sections discussed these areas under objectives without clearly identifying them as evaluation areas. FHFA requires that one evaluation area be chosen for each objective to ensure the objectives are sufficiently focused to allow for clear performance evaluation. The GSEs choose which evaluation area under which they wish each objective to be graded. Evaluation areas for each objective can be changed in each of the years of the GSE plans.

This Guidance inadvertently facilitates insufficiently rigorous GSE plans. The GSEs can choose evaluation areas for objectives that do not have baselines and are not therefore measurable. In other words, a significant objective addressing a pressing need can have a GSE-chosen evaluation area that does not meaningfully hold the GSE accountable for addressing the need. The FHFA can rectify this by insisting upon measurable goals for all evaluation areas. Also, the FHFA can declare that it will significantly consider certain objectives and activities; the FHFA can then insist upon rigorous and measurable goals for these objectives and activities.

The loan product evaluation area must be further developed. The Guidance should note that the FHFA's review will carefully assess whether the GSEs' development of products and subsequent financing of products is extended to only responsible loans that have low default and delinquency rates. If a GSE is financing abusive and unaffordable loans to any market segment, it must be severely penalized in the FHFA evaluations. Any discovery of abusive of unaffordable loans should be handled the same way as a fair lending review is under a Community Reinvestment Act (CRA) exam. Fair lending and consumer compliance violations in a CRA exam, depending on their severity, result in a downgrade of the overall final rating. Here, a similar violation should result in an objection from FHFA and should require immediate action be taken by the GSE to remedy the violation. If widespread, the violations must result in the GSE failing its underserved markets plans.

Extra Credit Eligible Activities

The Guidance allows the GSEs to receive extra Duty to Serve credit for particularly challenging activities, specifically highlighting Residential Economic Diversity activities. For Residential Economic Diversity activities, activities that support financing of mortgages of affordable housing in a high-opportunity area or mixed-income housing in an area of concentrated poverty are eligible for extra credit.

High-Opportunity Area:

FHFA's definition for high opportunity area is twofold; it is either a HUD designated Difficult Development Area (DDA) or an area designated by a state or local Qualified Allocation Plan (QAP). NCRC supports the use of DDA as designated by HUD as it is empirically based and can generate specific census tracts to facilitate planning. For QAP, illustrative examples are needed of eligible areas. Currently, the Guidance merely lists vague criteria that would be helpful in designating areas. It also states that the QAP should describe the location of the areas in sufficient detail to be mapped. Rather than listing vague criteria, the FHFA must establish standards for how QAP areas can be considered high opportunity areas.

Mixed Income Housing

NCRC supports the inclusion of mixed-income housing as a specified extra credit activity. However, we believe an alteration of the minimum thresholds for mixed-income housing would be beneficial. In order to foster integration, the FHFA should include more middle- and upper-income households. For instance, the FHFA should consider changing the threshold that 20 percent of the units are unaffordable to families with income at 80 percent of area median income to 30 percent. In addition, it should change the threshold that 40 percent of the units are affordable to families with up to 80 percent of area median income, instead of up to 60 percent of area median income. Eighty percent aligns with the CRA definition of low- and moderate-income.

Comments on Chapter 2: Evaluation Process for Scoring Enterprise Performance

Quantitative Evaluation

The FHFA proposes a quantitative and qualitative evaluation of GSE performance. While this distinction makes sense, NCRC is concerned that the qualitative evaluation counts for too much of the final score. Regardless of the thought and care devoted to developing the qualitative criteria, the qualitative criteria will remain subjective to some extent. Therefore, the quantitative criteria must receive more weight.

The FHFA proposes that the GSE cannot pass its DTS evaluation if it fails its quantitative test. However, once it passes its quantitative test, the final score for the GSE will only consist of its performance on the qualitative factors. NCRC agrees that the GSE should fail if it does not pass its quantitative test. However, the final score should reflect performance on both the quantitative and qualitative criteria. Moreover, the score on the quantitative evaluation should count for 65 percent of the final score while the score on the qualitative evaluation should count for 35 percent of the final score.

The FHFA's proposed scale for the quantitative evaluation is unnecessarily rigid. NCRC agrees that partial credit should be awarded if the GSE achieves some but not all of its goal on a quantitative measure. However, the proposed scale of 10, 6, 3, and 0 does not adequately reflect various degrees of goal attainment. For example, a 6 means that a GSE has achieved three fourths of its goal while a 3 means a GSE has achieved at least one quarter of its goal. Yet, there is a large range between three quarters and one quarter achievement that is not adequately captured by the proposed scoring system.

NCRC proposes a different scoring system that would more effectively capture gradations of performance. The scale we propose is the following:

9-10	90 to 100% - Exceeds
8	80% to 89% achievement – High Satisfactory
7	70% to 79% achievement – Low Satisfactory
6	60% or 69% achievement – Minimally Passing
5	up to 59% achievement - Fails

Under this proposed scoring system, the percent of achievement would translate directly to one of five final FHFA ratings. In contrast, the FHFA proposal requires confusing calculations to generate the final rating. Also, in the FHFA proposal, a rating of High Satisfactory can include a score as low as 26, which is about one half of goal achievement and thus is too low.

Under NCRC's proposal, if a GSE achieved 90 to 100 percent of its target, its performance would correspond to the Exceeds rating. If a GSE achieved 80 percent to 89 percent of its target, the GSE would be deemed to have High Satisfactory performance. Similarly, if a GSE achieved 70 to 79 percent of its target, it would have Low Satisfactory performance. A score of six or 60 to 69 percent achievement is Minimally Passing in the NCRC proposal. This proposed scoring system is similar to CRA's, which also judges performance on test criteria as corresponding to a rating category[5]

In this proposed system, differences in performance, particularly between three fourths and one fourth achievement, are captured more accurately than in the FHFA's scale. Hence, the score is more intuitive and meaningful when released to the public.

The NCRC's proposed score of 6 is lower than the FHFA's proposed score of 7 for passing the quantitative test. As the FHFA suggests, the required score for passing should not be too high so

[5] See Appendix A of the OCC's version of the CRA ratings, available via https://www.ffiec.gov/cra/regulation.htm

as to discourage the GSE from setting ambitious targets. At the same, the required score should not be too low as to allow the GSE to perform in a lackluster manner. A score of 6, which represents 60 to 69 percent achievement, would not discourage a GSE from the more difficult objectives/evaluation areas such as loan purchase. In contrast, a score of 7, which indicates about three fourths achievement may encourage a GSE to load up on the easier objectives such as outreach.

As proposed by the FHFA, the evaluation areas of loan product and outreach will not have a baseline level of performance with which to compare against the target. As discussed above, NCRC believes that these evaluations areas should have baselines and targets. Establishing baselines and targets for the four evaluation areas promotes consistent scoring using the scale NCRC recommends.

Extra credit activities should be in the quantitative evaluation as well as qualitative evaluation. Below we discuss extra credit activities in more detail, but there is no compelling rationale why they could not also be part of the quantitative evaluation. For example, if a GSE proposes economic diversity activities consisting of funding a certain number of mixed income units, baseline and targets could be established. If a GSE does not achieve at least a score of 7 on the quantitative evaluation of the extra credit activity, the extra credit activity would not count (This is higher than the score required for passing a non-extra credit activity. To earn extra credit, the performance needs to be better). A qualitative evaluation of extra credit activities is not meaningful when the quantitative evaluation indicates minimally passing or failure. For example, if an extra credit activity financed a small number of units far short of a target, the qualitative evaluation would not be meaningful and could actually inflate a GSE score if it judged the activity to be impactful.

Qualitative Evaluation

NCRC urges the FHFA to revamp and rethink its qualitative criteria for evaluating GSE performance. The criteria are repetitive and are not sufficiently distinguished from the quantitative criteria. As currently proposed, the criteria will not create meaningful scores and will likely result in inflating scores.

The implementation criterion is redundant. Its purpose seems to be an evaluation of a GSE's management system for effectively implementing activities and objectives in its underserved markets plan. However, if a GSE has achieved or substantially achieved its objectives, it will clearly have an effective management system. Hence, there is no need for a separate evaluation of a GSE management system. The result of an implementation criterion will be to double count a score elsewhere in the quantitative or qualitative evaluation. Alternatively, the other possibility is that the FHFA may judge the management system to be good or outstanding while the GSE is not substantially meeting its objectives. The FHFA examiners could be impressed with a new management system that has not really delivered. In this scenario, score inflation results. NCRC sees no practical purpose for the implementation criterion and thus urges its elimination.

The impact criteria are also problematic. The difficultly with these proposed criteria is that the distinction between quantitative and qualitative criteria are blurred. The matrix in appendix B discusses size of improvement for an underserved market which can be measured by purchasing loans. Size of improvement and purchasing loans appear quite similar to quantitative measures.

The criterion of foundation for future impact is a useful concept that can be applied to revamped qualitative criteria. It can measure a GSE's preparation for future economic or demographic conditions that result in changing needs.

CRA Qualitative Criteria

NCRC urges the FHFA to consider borrowing from the qualitative criteria used on CRA exams. CRA exams employ the qualitative criteria responsiveness, innovation, leadership. These qualitative criteria have been used on CRA exams since the 1995 changes to the CRA regulation. Since they have been used for a long time, banks understand them and plan their activities to satisfy these criteria. Banks are major clients of GSEs. Therefore, conforming the qualitative criteria for bank and GSE evaluations, to the extent possible, helps align their activities and boosts their community development and affordable housing financing.

Responsiveness refers to the degree to which a financial institution is responding to pressing and priority needs in the communities it serves.[6] CRA exams employ performance context analysis that identify needs through data analysis and gathering input from community organizations and other stakeholders. CRA examiners then judge community development loans and investments based on the degree to which they respond to needs. For example, if a particular area has a shortage of lower income rental housing, and a bank is devoting the great majority of its community development financing to homeownership, then the examiner may conclude that the investments are not particularly responsive to pressing needs. This type of qualitative analysis relating to responsiveness can be readily applied to GSE underserved markets activity. For example, if affordable housing preservation is most pressing in certain regions due to concentrations of expiring Section 8 or Low Income Housing Tax Credit contracts and the GSE is not devoting many resources to housing preservation, then the FHFA evaluation should conclude that the housing preservation activity is not particularly responsive.

The FHFA's concepts of immediate and future impacts can be readily applied to the responsiveness criterion. A GSE can be responsive to immediate needs such as a shortage of rental housing stock and high cost burdens for lower income renters. In addition, a GSE can be

[6] See OCC, FRS, FDIC, Community Reinvestment Act; *Interagency Questions and Answers Regarding Community Reinvestment*, Federal Register, July 2016 §_.21(a)—3 on responsiveness:, p. 48534 and _.21(a)—4, p. 48535 on innovativeness via https://www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf

responsive to emerging needs. For instance if demographic data suggests substantial growth of lower income or moderate income workers in a rural area due to new industry, the GSE can target the rural area over the next three to five years.

The CRA's qualitative criterion of innovativeness refers to the development of new or novel products such as low downpayment home loans or allowing for new sources of funding for downpayments. This type of product development, however, is required to result in safe and sound lending. For smaller lenders, innovation can also be adopting a product that has been in the market but that is new for the smaller lender(s). A lack of innovation does not typically result in bank's failing their CRA exams but can make a difference between a Satisfactory or Outstanding rating either overall or in one or more states. Innovation tends to have less weight in the qualitative rating scheme than responsiveness because a longstanding product like Low Income Housing Tax Credits can be nevertheless quite responsive to local needs and does not necessarily need to be new or innovative to serve needs.

A third CRA qualitative criterion is the degree to which an investment is not routinely provided by private sector institutions. This criterion suggests a quality of leadership in that a financial institution is introducing a product that is unusual in a particular geographical area. Another way to think of this criterion is judging a GSE's leadership. Did the GSE assemble a group of financial institutions to undertake a complex loan or investment? Or does the GSE usually join onto other institutions' financing initiatives in underserved communities? If the GSE is usually in the latter position as a joiner rather than as an initiator, it would receive a lower score on the leadership criterion. CRA exams typically comment on whether a bank assumes a leadership position in community development financing. Likewise, a criterion for judging GSE performance on the affordable housing goals is whether they are leading the market. Hence, a leadership criterion is well established as a qualitative criterion for both banks and GSEs.

Scoring System

NCRC recommends that the FHFA revamp its proposed scoring system for the qualitative section. There is no compelling reason why the scale for the qualitative evaluation needs to be different from that used for the quantitative evaluation. Accordingly, NCRC proposes that the FHFA use the following scale:

9-10	90 to 100% - Exceeds
8	80% to 89% achievement – High Satisfactory
7	70% to 79% achievement – Low Satisfactory
6	60% or 69% achievement – Minimally Passing
5	up to 59% achievement - Fails

This is the same as the quantitative scale with the exception that the performance is not measured as the extent to which a target has been achieved. Instead, performance can be judged for each qualitative criterion in absolute terms. In other words, was a particular activity/objective responsive to needs in a manner that earns an Exceeds rating (earning a score of 10) or in a manner that earns a High Satisfactory rating (score of 8)? The GSE can be deemed to pass its qualitative evaluation if it receives an average score of 6. Finally, this scale readily accommodates weights for each of the three qualitative criteria NCRC proposes. NCRC suggests that responsiveness receive a 50 percent weight and that innovation and leadership can be weighted at 25 percent each.

Extra Credit

NCRC recommends that the FHFA revise its proposed consideration of extra credit activities. In its proposal, FHFA is basically making extra credit available to a GSE only if its scores at the 80 percentile in the qualitative scores (40 out of 50) on the extra credit activity. However, if eligible extra credit activities are deemed to be important by the FHFA, then perhaps they should be available to a GSE if the GSE scores lower on the activity. If the GSE has a score of at least 6 in NCRC's proposed scheme, it could be eligible to receive extra credit. One of the extra credit activities is the promotion of economic diversity. This is an important fair housing objective and should be encouraged.

In addition, the FHFA proposes to adjust scores upward by 10 percent for addressing one of the extra credit activities or by 15 percent for addressing two or more. NCRC proposes a different system. An economic diversity activity should be awarded 15 percent and one or more additional activities should be awarded 10 percent. Segregation by income is increasing in this country, and combating such segregation has enormous benefits such as improving the educational attainment of children from lower income families. Therefore, economic diversity activities must receive the highest amount of extra credit points.

The score for extra credit activities would be added to the final score a GSE had earned on the quantitative or qualitative test. For example, the economic diversity activity could have the highest possible addition of 15 percentage points to a qualitative score. However, if a FHFA examiner judged the extra credit activity to have a qualitative score of 8, it would boost the final qualitative score by 12 percentage points instead of 15 percentage points (80 percent of 15 is 12).

Confusion about Objectives, Activities, and Evaluation Areas

As described above, NCRC believes that the draft evaluation guidance is confusing regarding the distinction among objectives, activities, and evaluation areas. The draft evaluation guidance states that the scores of the objectives will be grouped under each evaluation area. In other words, the schema would look like this:

Loan purchase evaluation area

- Affordable preservation activity
- Manufactured housing activity

- Rural activity

It would seem, however, that the unit of analysis should be the activity or objective. The evaluation areas are the means (whether it is purchasing loans or outreach) for achieving the activity/objective. Therefore, since the activity/objective is the result at which the GSE is aiming, the activity/objective should be the primary focus of the evaluation. The schema should look like this:

Affordable preservation activity

- Loan purchase
- Outreach
- Any other evaluation area(s) that the GSE selected for this particularly activity

Manufactured housing activity

- Loan product
- Investment and grants
- Any other evaluation area(s)

<u>Proposed Weights for Evaluation Areas</u>

The FHFA's proposed weights for evaluation areas does not provide sufficient emphasis for the loan purchase area. Loan purchasing is the most important activity of the GSE and the most important means for GSE to respond to credit needs. Therefore, it must have significantly more weight than the other evaluation areas. Also, while outreach is important, it is not as important as the other evaluation areas. Outreach is needed to ascertain needs and create partnerships but an over emphasis on outreach could result in a GSE arranging for several meetings but not purchasing significant numbers of loans, making substantial investments, or engaging in serious loan pilot projects.

The FHFA proposes these weights:

Loan purchase – 35%
Loan product – 30%
Outreach – 20%
Investment and Grants – 15%

NCRC recommends these weights:

Loan purchase – 45%

Loan product – 25%
Investment and Grants – 20%
Outreach – 10%

Failure to Comply

The proposed Evaluation Guidance does not address instances in which a GSE fails or minimally passes overall or in one or more of the underserved markets. The final rule discusses procedures for FHFA requiring the GSEs to submit housing plans outlining remedial actions the GSEs will undertake to achieve compliance with DTS requirements. Even though the Evaluation Guidance is not focused on failure to comply, it should nevertheless outline for the GSEs and the public how the housing plan requirement will be implemented. In particular, the FHFA must require that draft housing plans be submitted for public comment and that the plans should be required for Minimally Pass as well as Fails ratings.[7]

Conclusion

If The DTS evaluation system has rigorous, well designed, and clear evaluation criteria, it will result in high volumes of safe and sound financing for underserved markets. In contrast, if the evaluation system has confusing, obscure, and vague criteria, the result will be inflated scores and little financing for underserved markets. Public accountability is key to a rigorous system so robust public participation opportunities are imperative. The FHFA needs to revamp its evaluation criteria and scoring systems while maintaining and improving upon its public participation mechanisms.

Thank you for your opportunity to comment on this important matter. If you have any questions, please contact Josh Silver, Senior Advisor, or myself on 202-628-8866.

Sincerely,

John Taylor
President and CEO

[7] See § 1282.41 Housing plans

Organizations in support

Affordable Homeownership Foundation Inc., FL

Another Chance of Ohio

Asian Economic Development Association, MN

Association for Housing and Neighborhood Development, NY

Building Alabama Reinvestment

California Coalition for Rural Housing

California Resources and Training

CASA of Oregon

Centre for Homeownership & EDC, NC

Chicago Community Loan Fund

Chicago Urban League, IL

City of Dayton Human Relations Council

Clarifi, PA

Community Reinvestment Alliance of South Florida

Empowering and Strengthening Ohio's People

Fair Housing Center of Metropolitan Detroit

Georgia Advancing Communities Together

Housing Coalition Educators, CA

MANNA, Inc., DC

Maryland Consumer Rights Coalition

Metropolitan Milwaukee Fair Housing Council

Metropolitan St. Louis Equal Housing and Opportunity Council

Michigan Community Reinvestment Coalition

National Business League of Alabama

National Housing Counseling Agency, GA

Neighborhood Development Foundation, LA

Neighborhood Housing Services of South Florida

New Frontier CDC, NC

Northwest Indiana Reinvestment Alliance

Oak Park Regional Housing Center, IL

PathStone Enterprise Center, NY

People for Change Coalition, MD

Peoples' Self-Help Housing, CA

R.A.A. - Ready, Aim, Advocate, MO

Spanish Coalition for Housing, IL

The Greenlining Institute, CA

Toledo Fair Housing Center, OH

Universal Housing Solutions CDC, IL

Vision of Restoration Inc, IL

Western New York Law Center

Woodstock Institute, IL

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