Comments on the Duty to Serve

Definition of Rural

The Housing Act of 1949 provides a definition of Rural as areas under 20,000 in population. Currently Rural Development / Rural Housing Services operates 20+ programs within rural America, the private firms with whom we partner are familiar with this definition and they have developed their operations to conform to this definition. The definition of rural is codified within the housing act statute. Congress specifically mentioned rural, it didn't mention "non-metro" or "metro" areas, therefore the enterprises should address its focus to rural areas, as defined by the Housing Act of 1949.

Congressional intent was to provide for programming in rural markets as it previously defined that term. The definition should refer back to § 520 of the Housing Act (42 USC 1490), which states, "As used in this subchapter, the terms "rural" and "rural area" mean any open country, or an place, town, village, or city which not … part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000 and (A) is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit for lower and moderate income families, as determined by the Secretary and the Secretary of housing and Urban Development."

The use of non-metropolitan areas as the definition is causing extreme confusion within the rural communities and within the providers of services to rural communities. The primary reason for these concerns are that small communities that are rural in nature could be "annexed" into a statistical metropolitan area for other purposes, however they still are rural in nature. If we use non metro areas and metro areas as the dividing line for rural, the vast majority of rural communities could be excluded from the definition despite having numerous characteristics that make them rural.

It is understood that automation of census tracts by metro or non-metro areas enables the GSEs to determine which loans are within rural or non-rural areas. Such an automated system would enable FHFB or the GSEs which loans were in rural areas (as defined by the Housing Act of 1949), the FHFB could use the Rural Development definition of rural.

Serving Rural Markets – New Construction

As one of the preeminent funding sources to build and preserve affordable rural housing, the Guaranteed Rural Rental Housing program (section 538 program), should be emphasized by the enterprises. Given the mission of the enterprises, to facilitate a secondary market for mortgages on housing for very low, low and moderate income families, the enterprises should be required to purchase loans guaranteed by the Section 538 program. Since the GSEs currently have programs to purchase loans through several HUD programs, the FHFB should require the GSEs to purchase loans guaranteed by the Section 538 program. With more than $120 million of loan guarantees a year, and a growing balance of loan guarantees approaching $1 billion, loans guaranteed by the Section 538 program would meet the GSEs Congressional mandate of providing capital to rural markets.

> The Safety and Soundness Act provides that the Enterprises ''have an affirmative obligation to facilitate the financing of affordable housing for low and moderate-income families.'' 12 U.S.C. 4501(7). Section 1129 of HERA amended section 1335 of the Safety and Soundness Act to establish a duty for the Enterprises to serve three specified underserved markets, in order to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for certain categories of borrowers in those markets. 12 U.S.C. 4565. Specifically, the Enterprises are required to provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low- and moderate-income families with respect to manufactured housing, affordable housing preservation and rural markets.

The mission of providing liquidity of mortgage investments and improving the flow of investment capital in rural or underserved markets will be served by requiring the GSEs to develop programs to purchase section 538 loans. If each enterprise has a specific goal of purchasing at least 5% of the total new construction loans guaranteed by the Guaranteed Rural Rental Housing program in the first year (approximately $6 to $7 million each) increased capital would flow into rural and underserved markets. If that goal should grow to 10% the second year and 15% the third year and each subsequent year a pipeline of capital would flow into these markets. With such a GSE requirement lenders would source rural market affordable housing properties that need preservation and source developers desirous of building new affordable housing properties. Attracting more lender activity could lower the effective rate of these loans through a more competitive secondary market.

The GSEs are charged with providing leadership in developing products and underwriting guidelines to facilitate a secondary market for preservation of housing and housing in rural markets. It is recommended that each GSE enter into a Memorandum of Understanding ("MOU") with Rural Development which highlights guidelines for operating mutually to address preservation issues and rural market issues. These MOUs will be the cornerstone for future initiatives and program changes as the market warrants.

Serving Rural Markets – Preserving existing rural affordable properties

With over 15,000 apartment properties in rural areas throughout the country, Rural Development has been dealing with preserving this national treasure for the past 10 years. The existing Section 515 portfolio is aging and in need of preservation. Attracting debt and equity capital to these properties is critical to maintain this national treasure of affordable housing in rural America. The GSEs can assist in attracting capital to these markets through working relationship with RD. One program that can assist with this working relationship is the Guaranteed Rural Rental Housing Program. The Section 538 has preserved both existing RD financed properties and non-RD financed properties.

With the recent tax credit market collapse less investment capital is being brought to existing rural properties for preservation. Loan guarantee programs that work with lenders and secondary market investors to bring investment capital to affordable properties should be supported by the GSEs. One of the most efficient method of attracting capital to affordable properties exclusive of the LIHTC program is through the purchase of debt used to preserve an affordable property.

Other Measures

Another method of measuring the GSE activity is to measure the number of approved Fannie Mae or Freddie Mac lenders in a state that are active in lending in rural markets. One suggested goal is that each state has at least 3 active approved lenders within that state over a 2 year period.

The loan products that each enterprise should develop should mirror existing lending in these markets. Workforce housing has also been a focus of many community development groups. It is suggested that the GSEs work with RD to design a product that would assist them with the creation of rental housing that can be used by working families.

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