Enterprise™

July 22, 2010

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA27
Federal Housing Finance Agency
Fourth Floor, 1700 G Street NW
Washington, DC 20552

Dear Mr. Pollard:

Thank you for the opportunity to comment on the Government Sponsored Enterprise (GSE) Duty to Serve Underserved Markets. In general, Enterprise supports the proposed rule and we commend the Federal Housing Finance Agency (FHFA) for its efforts to ensure that the GSEs better serve markets in which the availability of debt and equity products is limited.

Enterprise is a national nonprofit organization. We create opportunity for low- and moderate-income people through fit, affordable housing in diverse, thriving communities. Enterprise provides financing and expertise to community-based organizations for affordable housing development and other community revitalization activities throughout the U.S. In over 25 years, Enterprise has invested over $10 billion to create more than 270,000 affordable homes and strengthen hundreds of communities across the country. Enterprise is active in the preservation of affordable housing, both through the activities of Enterprise Community Investment and through the National Housing Trust/Enterprise Preservation Corporation, a partnership which has preserved nearly 5,000 affordable homes.[1] Since 1997, Enterprise's Rural Program has invested $800 million in grants, loans and equity and developed more than 15,000 affordable homes in rural communities nationwide.

Comments on the GSE Duty to Serve Underserved Markets

The GSE duty to serve underserved markets was established in response to the historical lack of affordable debt and equity products for manufactured housing, affordable housing preservation and rural markets. The financial crisis has further restricted capital, particularly in the multifamily market, at the same time that it has increased the demand for safe, decent and affordable housing.

[1] Enterprise Community Investment is a fully-owned, for-profit subsidiary of Enterprise Community Partners. The National Housing Trust/Enterprise (NHT/Enterprise) Preservation Corporation is a joint effort of the National Housing Trust and Enterprise Community Partners, Inc. NHT/Enterprise collaborates with local partners and investors to raise the capital necessary to buy and renovate affordable apartments that are at risk of being converted to market rate or that are deteriorating.

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Enterprise offers the following comments and proposals with respect to this rule. A more detailed discussion of specific issues follows this summary.

- Without compromising safety and soundness, the GSEs should engage in new product development to appropriately address the needs of underserved populations.
- At a minimum, the investments and grants assessment factor should be given an *equal weight* as other assessment factors. While Enterprise acknowledges that the GSEs are currently under conservatorship, the ultimate objective of this rule is to guide the actions of the GSEs (or GSE-successor organizations) after the period of conservatorship has ended. Prior to conservatorship, the GSEs were leading LIHTC investors who were willing to serve underserved markets. Going forward, the investments and grants assessment will be a significant indicator of how appropriately the needs of underserved markets are being met, and this section of the evaluation cannot be undervalued.
- Enterprise supports the use of both qualitative and quantitative measurements in assessing GSE performance. Housing markets vary widely across the country, and external factors may impact the GSEs' ability to achieve purely quantitative goals from year to year. Requiring a qualitative focus as well encourages the GSEs to evaluate potential products or methods that thoughtfully address obstacles in these markets.
- In response to the request for comments on the proposed GSE performance categorization as either satisfactory of unsatisfactory, we argue that the multi-level system would be preferable, with additional ratings such as "outstanding" or "marginal." Limiting the rankings to pass/fail may encourage the GSEs to achieve the minimum acceptable standard, with no incentive to go beyond basic requirements. Providing incentives to achieve higher performance ratings would inspire the GSEs to create products and resources that truly address the needs of these underserved markets.
- Enterprise recognizes the financial restraints that FHFA and the GSEs face at this moment; however, to meet the needs of these underserved markets, personnel and expertise must be dedicated to these markets. Appropriate training and resources are necessary to create, implement, and monitor products and services that are offered to these markets.

New Product Development

Enterprise supports the public review process for new product development as established in the Housing and Economic Recovery Act of 2008 (HERA). Therefore, we find it troubling that FHFA believes new product development is inconsistent with the goals of conservatorship. We want to emphasize that Enterprise shares FHFA concerns over safety and soundness, and would not recommend any activity that would jeopardize these elements.

That being said, increased innovation is not synonymous with increased risk. With FHFA as the sole regulator for GSE charter compliance and safety and soundness, as well as the scrutiny of the public comment process, new products would receive several levels of review prior to implementation. A historical lack of capital availability to an underserved market should not be used to justify continued absence from that market. The GSEs have an obligation to take appropriate measures to address the capital needs of the three specified markets, particularly considering the extraordinary measures taken by the federal government to support these organizations. The GSEs should be given the latitude to engage in new product development, consistent with safety and soundness requirements.

For example, the types of new products and services that the GSEs or their successors should be encouraged to offer include special financing products for "green" affordable rental housing on terms that are the same or better than those offered to "green" conventional market properties. This point also underscores the importance of creating evaluations that incorporate qualitative measures, as green elements may be more difficult to quantify.

Manufactured Housing

- Enterprise strongly supports FHFA's position on providing mortgages on manufactured housing, provided that the home is titled as real property, and we do not believe that enacting consumer protections under chattel mortgages would sufficiently protect owners.

Affordable Housing Preservation

Enterprise is encouraged by FHFA's increased focus on affordable housing preservation. Our organization has worked to preserve a viable affordable housing stock, which we view as an essential resource.

- The benefits of preserving the existing affordable housing stock are abundant. The time and energy required to build new affordable homes and apartments is considerable; new construction can cost two to three times more than rehabilitating an existing structure.[2]
- Enterprise commends the addition of Neighborhood Stabilization Program-related activities as eligible for consideration under the proposed rule. We believe that the duty to serve underserved markets should encourage investment in neighborhoods with large numbers of foreclosures. The GSEs should receive credit on fair market value for:
    - Working in collaboration with those administering the NSP program so that properties held in loan portfolios are preserved as affordable housing.
    - Offering sustainable permanent financing for properties rehabilitated through NSP or other HUD grants and providing reasonably-priced bond guarantee products.
- While Enterprise supports FHFA's requirement that the GSEs reduce their retained mortgage portfolios in coming years, we believe that their affordable housing preservation components of their retained portfolio should be allowed to grow as they are necessary to protect underserved markets and to facilitate capital liquidity in the multifamily market. Given the significant refinancing needs of multifamily loans in the coming years and the impact that this could have across the range of rental properties

[2] National Housing Trust, 2010. *Why Preserve Affordable Housing?* Washington, DC: http://www.nhtinc.org/why_preserve_affordable_homes.php

serving low- and moderate-income households, FHFA should exempt multifamily loans from GSE mortgage portfolio limits until the multifamily market stabilizes.

- The GSEs should prioritize identifying methods to assist in the preservation of LIHTC properties and conventionally financed properties that are at risk of being converted to non-affordable uses. Significant affordable housing preservation challenges include: properties at risk of possible conversion as a result of default over the next 36 months and Year 15 LIHTC properties. Available affordable financing products are vital to encouraging preservation-motivated disposition transactions.

Rural Housing Markets

- Enterprise supports the definition of rural as stated in the Housing Act of 1949, as this definition allows for the most flexibility. In particular, this definition includes large counties which are overwhelmingly rural, but contain a metropolitan area in a small portion of the county. Other definitions may have excluded counties with these characteristics (most often seen in Western states) from qualifying for consideration under the GSE duty to serve underserved markets.
- The GSEs provide a secondary market for the USDA 538 Loan Program, but typically the loans must be greater than $1.5 million in order to be financially feasible. As a result, smaller USDA 515 Preservation Projects—which are typically under 50 units—are unable to use the 538 Loan Program. Since many preservation projects developed by non-profit sponsors contain smaller number of units, there is a distinct need for the GSEs to develop a small project program to encourage greater preservation.
- Enterprise recommends that the GSEs create a set-aside for new rural construction loans within the loan purchase assessment factor. The structure for this set-aside is provided under the Guaranteed Rural Rental Housing Program of 5%, 10% and 15% over the first, second and third year of the program, respectively. Rural preservation projects tend to be more difficult to develop, and this provision will ensure that the GSEs actively pursue rural deals.

Again, thank you for the opportunity to comment on the proposed rule. Enterprise commends FHFA for its ongoing willingness to see and respond to public input. Please contact us with any questions or for further discussion.

Sincerely,

Adrienne Quinn

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Enterprise Community Partners