Key Questions for HFAs in FHFA's Proposed Duty to Serve Rule

In December, the Federal Housing Finance Agency (FHFA) released its proposed "Duty to Serve" rule for Fannie Mae and Freddie Mac. This rule requires Fannie Mae and Freddie Mac to support housing opportunities for lower income families in three underserved segments of the housing finance market: manufactured housing, affordable housing preservation, and homeownership opportunities in rural areas.

In the proposed rule, FHFA identifies a number of affordable housing programs and activities that Fannie Mae and Freddie Mac can support to fulfill their duty to serve, some of them mandated by Congress and others prescribed by FHFA. These include a number of initiatives of that HFAs are involved in, including the Low-Income Housing Tax Credit, Section 8 Rental Assistance, support for rural homeownership, and manufactured housing communities. The rule asks commenters to respond to a number of questions about how Fannie Mae and Freddie mac can better support these various initiatives.

Below are those questions in the proposed rule that NCSHA believes to be most pertinent to state HFAs. Please provide any input you can on these questions, as well as any other aspects of the rule you wish to comment on.

Please send your responses to Greg Zagorski by Wednesday, March 9.

Low-Income Housing Tax Credit

Questions begin on page 67

41. Should FHFA allow the Enterprises to resume LIHTC equity investments? Would the resumption of LIHTC equity investments by the Enterprises benefit the financial feasibility of certain LIHTC projects or would it substitute Enterprise equity funding for private investment capital without materially benefiting the projects?

42. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit investments to support for difficult to develop projects in segments of the market with less investor demand, such as projects in markets outside of the assessment areas of large banks or in rural markets or for preservation of projects with expiring subsidies? Are there other issues that FHFA should consider if limiting the types of LIHTC projects appropriate for equity investment by the Enterprises?

43. If FHFA permits the resumption of LIHTC equity investments, should Duty to Serve credit be provided only for LIHTC equity investments in projects with expiring subsidies or projects in need of refinancing, or should Duty to Serve credit also be given for LIHTC equity investments in new construction projects with regulatory agreements that assure long-term rental affordability?

44. If FHFA allows the Enterprises to resume LIHTC investments, should FHFA limit such investments to those that promote residential economic diversity, for example, by investing in LIHTC properties located in high opportunity areas, as proposed to be defined in § 1282.1, to address concerns raised about the disproportionate siting of LIHTC housing (non-senior) in low-income areas and the effect on residential segregation?

45. Should FHFA consider permitting the Enterprises to act as the guarantor of equity investments in projects by third-party investors provided any such guarantee is safe and sound and consistent with the Enterprise's Charter Act? If so, what types of guarantees should the Enterprises offer?

Section 8

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31. In what ways, including potential responsible changes to their underwriting and reserve requirements, could the Enterprises prudently extend their support for Section 8-assisted properties?

Support for New Multifamily Construction

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29. Should Enterprise purchases of permanent construction takeout loans on new affordable multifamily rental properties with extended-use regulatory agreements that will keep rents affordable for a specified long-term period, such as 15 years or more, receive credit under the affordable housing preservation market? What would be an appropriate period of long-term affordability for the extended-use regulatory agreements?

Other Multifamily Programs

Questions begin on Page 66

33. Are there additional ways in which the Enterprises could support properties currently funded under HUD Section 221(d)(4) FHA Insurance Program?

34. Are there other ways in which the Enterprises could support properties currently funded the HUD Section 202 Housing Program for Elderly Households?

35. Are there ways in which the Enterprises could support the HUD Section 811 Housing Program for Disabled Households?

36. Are there ways in which the Enterprises could support McKinney-Vento Homeless Assistance Act programs?

37. Are there other ways in which the Enterprises could extend their support for the USDA Section 515 Rural Housing Program?

38. Are there other federal affordable housing programs that the Enterprises could support that should receive Duty to Serve credit but that are not enumerated in § 1282.34(c) of the proposed rule?

<u>Manufactured Housing</u>

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10. What existing Enterprise criteria (contained in Freddie Mac's Manufactured Homes, Publication Number 387B and Fannie Mae's Selling Guide, B5-2 (53)) for support of manufactured home loans titled as real property could be modified to expand support for very low-, low-, and moderate-income families, consistent with Enterprise safety and soundness?

12. Should the Duty to Serve rule only give credit for support to manufactured home borrowers with specific needs, such as current borrowers with real estate mortgages with excessive coupon rates (and what should be considered "excessive"), or current borrowers with chattel loans who could benefit from conversion to real estate financing? If so, what kinds of needs would be appropriate?

13. Should the Enterprises receive credit for purchasing chattel loans, on an ongoing or pilot basis? If so what improvements should be made in the process for originating and servicing that would make chattel loans safer for purchase by the Enterprises and safer for borrowers?

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23. Are there other loan programs, terms or lending criteria that, if adopted, could increase Enterprise purchases of blanket loans on manufactured housing communities?

<u>Sustainable Homeownership</u>

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64. Are there additional ways that the Enterprises could support long-term affordable homeownership preservation?

65. Should affordable homeownership be preserved for longer than 30 years to qualify for Duty to Serve credit and, if so, for how long?

66. Should Enterprise support for affordable homeownership preservation be a Regulatory Activity (activity the Fannie Mae and Freddie Mad have to address under the Duty to Serve rule)?

67. How can the Enterprises provide further support for affordable homeownership preservation beyond those specified above or in the proposed rule?

Rural Lending

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68. What types of barriers exist to rural lending for housing and how can the Enterprises best address them?

69. What types of Enterprise activities could help build institutional capacity and expertise among market participants serving rural areas?

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70. Would one of the four definitions of discussed above better serve Duty to Serve objectives, and if so, why?

NCSHA Note: For the purposes of the Duty to Serve Rule, FHFA proposes to define "rural areas" as those census tracts outside of a Metropolitan Statistical Area (MSA) as designated by the Office of Management and Budget, or census tracts in an MSA, but outside of the MSA's Urbanized Areas and Urban Clusters, as designated by the U.S. Department of Agriculture's Rural Urban Commuting Area codes. In the rule, FHFA also discusses the definition of rural area used by USDA, The Census Bureau, and CFPB.

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73. What activities could the Enterprises undertake to provide liquidity and other support to high-needs rural regions and high-needs rural populations?

Extra Credit for Promoting Residential Economic Diversity

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82. Is FHFA's proposed definition of "high opportunity area" the most appropriate? Should the rule use DDAs to define high opportunity areas outside of metropolitan areas, or is there a better definition, such as a factor-based definition, that would be preferable for these areas?

83. How could FHFA incorporate state-defined high opportunity areas (or similar terms) into its definition of high opportunity area? If such state-defined areas are included, how could this be implemented by the Enterprises?