Duty to Serve

Evaluation Guidance

Guidance 2020-4

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Overview

The Housing and Economic Recovery Act of 2008 (HERA) established a duty for Fannie Mae and Freddie Mac (the Enterprises) to serve three specified underserved markets — manufactured housing, affordable housing preservation, and rural housing — by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for mortgage financing for very low-, low-, and moderate-income families in those markets.

Under the Duty to Serve regulation that implements this statutory requirement,[1] each Enterprise must prepare an Underserved Markets Plan (Plan) describing the specific activities and objectives it will undertake to fulfill its Duty to Serve obligations in each underserved market over a three-year period. This Evaluation Guidance (Guidance) describes the procedures the Enterprises will follow in preparing these Plans, the standard for FHFA issuance of a Non-Objection to the Plans, and the process by which FHFA will evaluate the Plans annually to produce a rating for each Enterprise's compliance and impact on each underserved market. This updated Guidance (version 2020-4) replaces the Evaluation Guidance released in December 2019 (version 2019-3).

Summary of changes in this revision to the Guidance

This revised version of the Guidance (2020-4) is effective beginning with the 2021-2023 Plan cycle and incorporates several changes to the Duty to Serve program:

1. **Revised ratings framework –** The revisions establish four ratings to describe Enterprise performance: Does Not Comply, Complies / Needs Improvement, Complies / Acceptable Results, and Complies / Excellent Results. These ratings replace the five-tiered ratings framework. In addition, the size of the extra credit upward adjustment is reduced to 5 percent, and the threshold for receiving extra credit for an eligible activity is increased to a cumulative impact score of 80.

2. **Higher expectations for impactful Plans –** The revisions require a minimum concept score of 30 for each objective, rather than the previous requirement that the concept scores of all objectives average a 30, in order for a proposed Plan to receive a Non-Objection from FHFA. The revisions also increase the required minimum number of activities that include at least one loan purchase objective in the Affordable Housing Preservation and Rural Housing markets, in order for a proposed Plan to receive a Non-Objection. In addition, the revisions clarify FHFA's expectations for each objective to be structured as a commitment to a specific target, with any

[1] 12 CFR Part 1282

implementation steps describing how the Enterprise plans to accomplish that target.

3. **Increased threshold for determining compliance –** The revisions increase the threshold for compliance from a score of 7 to a score of 8. The revisions also reduce and simplify the calculation for partial credit applied to objectives that were not fully accomplished. In addition, the revisions allow the Enterprises to earn partial credit for objectives without a baseline that were not fully accomplished.

The updated Guidance also includes technical changes to reflect current practices that have streamlined processes and improved program administration.

FHFA's Evaluation Guidance Objectives: This Guidance provides FHFA's expectations on the Enterprises' Plan development. FHFA expects the Enterprises to develop meaningful Plans that result in increases in liquidity in the three underserved markets, and to carry out innovative strategies that are impactful, consistent with safety and soundness. This Guidance also provides additional details on FHFA's evaluation framework and communication of the Enterprises' performance. FHFA will continue to make changes to this Guidance during the three-year Plan cycle to improve the process as needed.

Evaluation Guidance Components: There are two major sequential steps involved in implementing the Duty to Serve regulation: (1) implementation and reporting by the Enterprises of the activities and objectives described in their Plans; and (2) FHFA annual evaluation of the Enterprises' performance under their Plans. An overview of each step is provided below:

1. **Implementation of the Plans and Reporting Requirements.** Once a Plan is in effect after receiving FHFA's Non-Objection, each Enterprise implements the activities and objectives described in its Plan to meet the needs of that underserved market. Each Enterprise must submit a quarterly report to FHFA within 60 days of the end of the first, second, and third quarters of the calendar year describing its progress in implementing the activities and objectives in its Plan. Each quarterly report must include detailed year-to-date information on the Enterprise's progress as required by FHFA, supported by appropriate transaction level detail. Each Enterprise must submit an annual report to FHFA within 75 days of the end of the calendar year providing, at a minimum, information on all activities and objectives undertaken during the year, including the context necessary for FHFA to evaluate the Enterprise's achievements. Quarterly and annual reporting protocols provided by FHFA to the Enterprises contain additional instructions on the process for submitting the Enterprises' reports to FHFA.

   FHFA will make certain information from the quarterly and annual reports available to the public, omitting any confidential and proprietary information and data, at a reasonable time after the end of a Plan year.[2] Additional information regarding these public releases of information from the Enterprises' Duty to Serve reports is described in 12 CFR § 1282.66(d).

2. **Annual Evaluation of Enterprises' Performance.** Upon receipt of each year's annual report from an Enterprise, FHFA will conduct an evaluation of the Enterprise's performance under its Plan pursuant to the requirements of the Duty to Serve regulation and the guidelines specified in Chapter 2 of this Guidance.

   Based on this evaluation, FHFA will provide feedback to each Enterprise on its performance and issue one of the following ratings for each underserved market: Complies / Excellent Results, Complies / Acceptable Results, Complies / Needs Improvement, Does Not Comply. The first three ratings demonstrate compliance with Duty to Serve requirements, listed in order from highest to lowest rating.

The balance of this Guidance covers the following topics:

- Chapter 1 provides guidance on the process for developing the three-year Plan and FHFA's standard for issuing a Non-Objection to each underserved market in the proposed Plan.

- Chapter 2 describes the process by which FHFA will evaluate the Enterprises' achievements under their Plans each year.

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[2] The only exception to this policy is that in the third year of a Plan, FHFA will make certain information from that year's second quarter report available to the public, omitting any confidential and proprietary information and data, at a reasonable time after receiving it within the calendar year. This will provide the public with information on the third Plan year as the Enterprises propose and revise their Plans for the next Plan cycle.

Chapter 1. Developing Underserved Markets Plans and FHFA Non-Objection Standard

Overview

This Chapter describes the requirements applicable to the Enterprises' Plans, as well as guidance on how to develop effective Plans and FHFA's standard for issuing a Non-Objection to the proposed Plans. It covers the following topics:

- **Plan Structure –** This section describes how the Enterprises' Plans should be structured. Each Plan should be divided into separate sections for each of the three underserved markets. Each of these sections should, in turn, include subsections covering Statutory and Regulatory Activities Considered but Not Included, and Activities and Objectives. The Plans should also include a certification from a senior executive officer of the Enterprise responsible for submitting the Plan to FHFA.

- **Plan Contents –** This section provides more details on each of the subsections, including the requirements applicable to objectives, which must be strategic, measurable, realistic, time-bound, and tied to an analysis of market opportunities (referred to as "SMART" criteria). This section also describes which activities qualify as contributing to residential economic diversity for purposes of awarding extra Duty to Serve credit in the evaluation process.

- **FHFA Non-Objection Determination –** This section provides detail on the standard that FHFA will use to issue a Non-Objection for each underserved market.

- **Plan Process –** This section describes the opportunity for the Enterprises or FHFA to revise the Enterprises' Plans. This section also describes how the Enterprises may protect confidential and proprietary information and data included in their Plans.

- **Additional Guidance for Plans –** This section describes best practices for preparing effective Plans. This section also describes how additional research and development could be useful for meeting underserved market needs, which could be included in an Enterprise's Plan.

I. Plan Structure

Each Enterprise is required to prepare a Plan that describes its proposed actions over a three-year period to meet the needs of the three underserved markets: manufactured housing, affordable housing preservation, and rural housing. Each Enterprise's Plan should be divided into three underserved market sections, and each of these three sections should cover the three-year Plan period. FHFA will evaluate an Enterprise's actions annually under the activities and objectives for the applicable underserved market.

The following subsections should be included under each underserved market:

1. **Statutory and Regulatory Activities Considered but Not Included** – A discussion of the Statutory and Regulatory Activities the Enterprise considered but will not undertake during the Plan cycle for the underserved market.

2. **Activities and Objectives –** A description of the activities and objectives the Enterprise will undertake during the Plan cycle to meet the needs of the underserved market.

These subsections are described in more detail below under Plan Contents.

In addition, in the final version of its Plan, each Enterprise should include a certification from a senior executive officer responsible for submitting the Plan to FHFA stating that, to the best of his/her knowledge and belief, the Enterprise's historical information used to set baselines and targets in the Plan is true, correct, and complete.

To increase the usefulness of the Plans to readers, FHFA strongly encourages the Enterprises to include the following components in their Plans:

- A table listing each objective in the underserved market by activity, year, and evaluation area;

- A table listing loan purchase objectives and targets in the underserved market by activity, year, and market; and

- A table of contents.

An Enterprise may also include in its Plan a strategic priorities statement that provides a brief summary of the Enterprise's strategy and rationale for how the activities and objectives in its Plan will serve the underserved market. A Plan may also contain other overview sections that provide general context about an underserved market or an Enterprise's efforts to date to address needs in that market. The strategic priorities statement and overview sections will not contribute to FHFA's assessment of the likely impact of individual objectives. FHFA will not evaluate these additional components for purposes of making Non-Objection determinations or assigning ratings.

II. Plan Contents

1. Statutory and Regulatory Activities Considered but Not Included

While no single Statutory Activity or Regulatory Activity is mandatory, an Enterprise is required to consider a minimum number of Statutory or Regulatory Activities for each underserved market, as designated by FHFA in this Guidance.[3] To "consider" an activity, an Enterprise must choose either to include the activity and related objectives in its Plan, or explain in its Plan the reasons it has chosen not to undertake the activity. The minimum number of Statutory or Regulatory Activities for each underserved market is set forth below:

- **Manufactured housing:** The Enterprises must consider and address in their Plans all four of the Regulatory Activities identified for this market.

- **Affordable housing preservation:** The Enterprises must consider and address in their Plans at least seven of the Statutory and Regulatory Activities identified for this market.[4] FHFA selected this number to reduce the potential burden associated with considering all 16 of the Statutory and Regulatory Activities for the affordable housing preservation market.

- **Rural housing:** The Enterprises must consider and address in their Plans all four of the Regulatory Activities identified for this market.

For example, if an Enterprise includes seven Regulatory Activities under the affordable housing preservation market in its Plan, the Enterprise has satisfied the minimum number to consider for that market in its Plan. By contrast, if an Enterprise includes four Regulatory Activities, two Statutory Activities, and one Additional Activity under the affordable housing preservation market in its Plan, the Enterprise would need to describe why it is not pursuing at least one of the remaining Regulatory or Statutory Activities.

Explanations of why the Enterprises chose not to undertake certain activities will provide FHFA and the public insight about the market conditions, resource availability, or other factors that influenced the Enterprises' decisions on those activities. These explanations, along with input from the public on the proposed Plans, will contribute to a greater understanding of those activities and their potential impacts and limitations, and may inform FHFA's Plan reviews in the future.

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[3] For reference, a table of activities that have been identified as Statutory Activities or Regulatory Activities is provided in Appendix A.

[4] The following two statutorily enumerated activities will not count toward the minimum number of activities that the Enterprises must consider in their Plans under the affordable housing preservation market: the HUD Section 811 program and McKinney-Vento Homeless Assistance programs. Because these programs are not structured to make use of Enterprise support, FHFA does not expect the Enterprises to address these two programs in their Plans.

2. **Activities and Objectives**

Activities are broad categories of housing lending that are eligible for Duty to Serve credit. Objectives are the actions underlying each activity that an Enterprise will carry out to accomplish the activity. Each objective is classified according to one of the following "evaluation areas": loan purchase, investment, loan product, or outreach objective, based on the nature of the actions the Enterprise commits to undertake.

For each underserved market in a Plan, an Enterprise must fully describe the activities it will undertake and their related objectives. An Enterprise has broad discretion to select which Statutory and Regulatory Activities it wishes to undertake and whether to include Additional Activities for a given underserved market. A Plan must include activities in each underserved market that serve all three Duty to Serve income categories[5] in each year of the Plan. Any one activity may serve more than one of the income categories.

A. **Activities**

All activities that an Enterprise plans to undertake for Duty to Serve purposes must be described in its Plan, labeled by name and type (*i.e.*, Statutory Activity, Regulatory Activity, or Additional Activity), and have at least one accompanying objective. The Plan must include a description of how the Enterprise will implement its planned activities and achieve the related objectives.

For any Additional Activity included in a Plan, an Enterprise must explain in the Plan how the Additional Activity will be targeted to meet the needs of a segment of the underserved market. In addition, an Enterprise must describe how the Additional Activity ensures that there are adequate levels of consumer protections or benefits to tenants or homeowners that are consistent with the requirements of the Statutory and Regulatory Activities in the Duty to Serve regulation.[6]

The Duty to Serve regulation provides that FHFA may, at its discretion, designate one Statutory Activity or Regulatory Activity in each underserved market that FHFA will significantly consider in determining whether to provide a Non-Objection to that underserved market in a proposed Plan. This provision allows FHFA to encourage the Enterprises to consider certain activities that could require more time and effort than other activities to make an impact on the underserved market. FHFA has not made such a designation in this Guidance.

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[5] The three Duty to Serve income categories are: very low-income, low-income, and moderate-income. Very low-income means families with incomes not in excess of 50 percent of area median income. Low-income means families with incomes not in excess of 80 percent of area median income. Moderate-income means families with incomes not in excess of 100 percent of area median income.

[6] The preamble to the final Duty to Serve rule states that: "Additional Activities that are very similar to a Statutory or Regulatory Activity will be subject to higher levels of scrutiny, recognizing that the protections embedded in those activities have been either statutorily enumerated by Congress, or subject to the public comment process in the proposed Duty to Serve rule." 81 Fed. Reg. 96242, 96245 (Dec. 29, 2016).

B. **Objectives**

Objectives are the actions underlying each activity that an Enterprise will carry out to accomplish the activity. Objectives are central to the evaluation and rating process described in Chapter 2. Each objective in a Plan generally consists of two parts:

- **Target.** The most important component of an objective is a clear commitment to a specific target, which can take the form of a core action, achievement, or deliverable. An Enterprise should identify a target for each year of an objective and clearly label the target in its Plan. Criteria for measurable targets, including identification of a baseline, are described below.

- **Implementation steps.** Each objective may also include a description of how the Enterprise plans to accomplish the target under that objective. Any incremental steps included in this description should inform, advance, or otherwise contribute to accomplishing the target. An exhaustive list of individual action items is not required (as long as the objective meets the SMART criteria). However, an Enterprise's description of implementation steps that goes beyond the minimum level of detail needed to meet the SMART criteria would help FHFA better understand how the Enterprise plans to achieve its target, as well as help FHFA make a well-informed assessment of the likely impact of the Enterprise's planned actions on liquidity in the underserved market.

  As described in Table 1 below, implementation steps are not required to be completed in order to receive a compliance determination, and an Enterprise does not need to revise its Plan to reflect changes to implementation steps. For loan purchase objectives and investment objectives, FHFA understands that it may not be appropriate for an Enterprise to identify any implementation steps.

For example, an Enterprise may specify, as a target for a loan product objective, that it will publish at least three Seller/Servicer Guide changes by the end of the year. Implementation steps under this target may include reviewing existing products and policies to identify opportunities for improvement, convening five stakeholder roundtables to better understand challenges in the market that could be addressed through a Guide change, and conducting outreach to determine lender interest. If an Enterprise chose to convene three stakeholder roundtables and one webinar instead of five stakeholder roundtables, it would not need to submit a Plan modification describing these changes. However, the Enterprise would need to describe the actual steps it took in its second quarter and annual reports to FHFA.

Table 1 summarizes how the target and the implementation steps are used during the Plan development and evaluation processes. The role of the target and the role of the implementation steps are discussed in more detail in the Plan Process section of this Chapter and throughout Chapter 2.

Table 1. Role of Target and Implementation Steps in Plan Development and Evaluation

Event	Role of the Target	Role of the Implementation Steps
Concept Score Determination	Factor used by FHFA to assess the likely impact of an objective	Factor used by FHFA to assess the likely impact of an objective
Revisions to an Enterprise's Plan	Proposed changes to targets are treated as modifications and subject to the modification process described later in this Chapter	Proposed changes to implementation steps are not treated as modifications, but any deviations from actions in the Plan should be fully described in the Enterprise's second quarter and annual reports to FHFA
Step One: Compliance Determination	The extent to which a target has been achieved is the only factor FHFA considers	FHFA does not consider completion of implementation steps
Step Two: Impact Determination	Factor used by FHFA to assess the impact of an objective	Factor used by FHFA to assess the impact of an objective

FHFA acknowledges that it may be difficult for an Enterprise to determine when to combine multiple targets under a single objective to achieve the greatest impact, or to gauge the appropriate level of detail to provide in its description of implementation steps. FHFA will continue to engage in constructive dialogue with the Enterprises during the Plan drafting process and provide feedback when reviewing the draft Plans, in order to support development of meaningful and well-structured loan product and outreach objectives.

An Enterprise may, in its discretion, choose to include in its Plan any additional information and analysis that explain how it set the target for an objective, as well as the extent to which the objective will have an impact in addressing needs of the specific underserved market in light of the challenges, time commitment, and resources involved. To avoid duplicating the same information in multiple sections of its Plan, this description may be included as an overarching summary for an objective or an activity, rather than as part of the discussion of actions to be undertaken in a specific year.

1. "SMART" Criteria

Objectives must be strategic, measurable, realistic, time-bound, and tied to an analysis of market opportunities. For each objective, an Enterprise should elaborate in its Plan on how the objective will meet each of these "SMART" criteria, as described below.

- **Strategic.** Each objective in a Plan must directly or indirectly maintain or increase liquidity to the underserved market. The Plan should explain how the objective directly or indirectly meets the needs of the underserved market, and to what extent achievement of the objective is likely to have an impact on meeting the needs of the underserved market.

> **Setting Objectives**
> FHFA will consider each objective and the contextual information the Enterprise submits about that objective in making its Non-Objection decision for the Plan and in evaluating the Enterprise's performance of the objective under Step Two of the evaluation process.

- **Measurable.** Each objective in a Plan must provide a measurable target for the objective that enables FHFA to determine whether the Enterprise has achieved the objective.

  <u>Loan purchase and investment objectives.</u> For each loan purchase and investment objective, an Enterprise must provide in its Plan both a measurable target for the objective and a baseline representing measurable past performance by the Enterprise.

  - Baselines. The baseline is a measure of past performance by an Enterprise that will facilitate FHFA's evaluation of the objective by providing context for the target. An Enterprise must identify a baseline for each loan purchase and investment objective in its Plan, where available, and justify the methodology used to select it. As part of its justification, the Enterprise should describe in detail the assumptions underlying its methodology, including how it defines and will identify the loans or investments that are included in the baseline and that will count toward the target. If FHFA disagrees with an Enterprise's baseline, it will disregard the baseline in its final evaluation of the Enterprise's performance.

    - Among other potentially acceptable methodologies for setting baselines for loan purchase and investment objectives, an Enterprise may use an average of its performance data from the three most recent years. This approach helps adjust for fluctuations in annual activity. If using a three-year average, an Enterprise should provide the individual data points for all three years.

    - To be acceptable, a baseline methodology must be based on a close analysis of the underlying causes for observed trends in historical data. For example, if an Enterprise sets a baseline at its level of performance in the most recent year (or a straight line projection from that trend line), the Enterprise would need to explain in its Plan the reasons that the level selected will continue into the future and is not subject to annual fluctuations.

- For any objective, the methodology that an Enterprise uses to identify eligible loan purchases and investments in its reports to FHFA must be identical to the methodology the Enterprise used to identify past eligible loan purchases and investments that established the baseline and target. If an Enterprise intends to use a different methodology in a report to FHFA, the baseline and target must be updated through a Plan modification.

FHFA recognizes that when an Enterprise proposes to enter a new sub-market, it may not have the data to determine a baseline for an objective in its proposed Plan submitted for Non-Objection. An Enterprise may proceed without a baseline for the first year of the objective. However, the Enterprise should include in its Plan a brief explanation of why it is unable to establish a baseline for the objective and how it intends to establish a baseline in subsequent years. The Enterprise also must make technical edits to its Plan to add a baseline for subsequent years.

- Targets. Targets for loan purchase and investment objectives establish a commitment to purchase a specified volume of loans or make a specified number of equity investments in each Plan year. Within a market and property type (multifamily or single-family), targets for loan purchase and investment objectives should be expressed with a consistent unit of measurement (e.g., dollar amount, number of loans, number of units, etc.) to facilitate comparison across activities. For multifamily objectives, targets should include the number of units covered by loan purchases or investments the Enterprise plans to pursue. To evaluate objectives that express targets as units, transactions, loans, and/or properties with multiple ways to satisfy the target, FHFA will evaluate all possibilities for satisfying the target when assigning concept scores and will recognize that one measure might make the target significantly easier to accomplish.

  In general, FHFA expects that targets in each Plan year will represent an increase in actions relative to the baseline, or an increase in actions from year to year for objectives included in multiple years. FHFA recognizes that Enterprise targets and their changes in future years will depend, at least in part, on an Enterprise's previous activity level in a specific loan purchase or investment area. For years in which a target would result in loan purchases or investments that are essentially unchanged from or lower than the previous year, the Enterprise should justify in its Plan why the loan purchases or investments will not increase from year to year. FHFA recognizes that market factors, such as rising interest rates, decreased supply, and regulatory actions, can impact the level at which an Enterprise's target is set.

- Range. If an Enterprise chooses to provide a numerical range, rather than an actual numeric target, for a target in its Plan in order to protect confidential and proprietary information or data, FHFA will presume that the Enterprise has set the target at the lowest end of the range for purposes of evaluating the objective. Alternatively, an Enterprise may provide to FHFA on a confidential and proprietary basis the actual numeric target for that objective. Upon releasing its evaluation results of an objective the following year, FHFA may make public any actual numeric target that was provided on a confidential and proprietary basis.

- Anticipation of Certain Future Events. In setting targets, an Enterprise should not speculate about the possible effects of certain future events, such as legislative or regulatory changes, or economic shocks. An Enterprise should not set a lower baseline or a lower target in its Plan due to the possibility that such future events may occur. During the evaluation phase, FHFA will consider any effects attributable to specific events that occurred as potentially acceptable reasons for an Enterprise not meeting a target if the events made the target infeasible. FHFA will also consider the effects of any such events in evaluating the impact of an Enterprise's achievements in Step Two of the evaluation. Additionally, an Enterprise has the option of requesting a modification to its Plan, at any point, if special circumstances beyond an Enterprise's control materially affect its ability to achieve Plan objectives. In submitting the modification to FHFA for consideration, the Enterprise would need to provide a sufficient justification for the modification.

<u>Outreach and loan product objectives.</u> For each outreach and loan product objective, an Enterprise must provide in its Plan both a measurable target for the objective and a baseline representing measurable past performance by the Enterprise. The Plan must also include the expected level of effort to complete the objective.

- Baselines. A baseline is required for each outreach and loan product objective, where available. The baselines for outreach and loan product objectives will necessarily be less precise than the baselines for loan purchase and investment objectives due to the differing nature of outreach and loan product development. The Plan must describe the justification for the baseline selected based on past similar outreach or loan product actions by the Enterprise.

  - For each outreach objective, the baseline should describe the actions of the Enterprise in the past three years that would support the targets associated with the objective. This information will enable FHFA to understand the extent to which the outreach objective's targets are an improvement over, or are expected to have a greater impact than, prior years.

- For each loan product objective, the baseline should describe the Enterprise's current loan product rules or policies that the objective is intended to change or enhance. This information will enable FHFA to understand the extent to which the loan product objective's targets are an improvement over, or are expected to have a greater impact than, prior policies.

As is the case for loan purchase and investment objectives, an Enterprise may proceed without a baseline in its Plan for the first year of outreach and loan product objectives in new sub-markets. However, the Plan should include a brief explanation of why the Enterprise is unable to establish a baseline and how it intends to do so in subsequent years. Additionally, the Enterprise must make technical edits to its Plan to add baselines for subsequent years as they are developed.

- Targets. Targets for loan product and outreach objectives will be more varied than targets for loan purchase and investment objectives.

  - For loan product objectives, a target could be a commitment to publish a guide change or variance, develop and implement a pilot program, analyze potential loan product changes, publish a research report or white paper, or take some other measurable loan product action, achievement, or deliverable as identified by the Enterprise.

  - For outreach objectives, a target could be a commitment to implement a business-to-business outreach campaign to increase knowledge of an existing loan product, prepare a lessons-learned report after an outreach campaign or pilot program, prepare and publish a dataset, design or implement a homebuyer education or financial counseling curriculum in partnership or conjunction with a third party, or take some other measurable outreach action, achievement, or deliverable as identified by the Enterprise.

An Enterprise should fully describe the targets in its Plan so that they are as measurable as possible. For example, if an Enterprise proposes to execute a pilot program, it should describe the expected size of the pilot, the work product(s) expected, the types of lenders intended to be engaged, the location of the pilot (if known), the populations expected to be served and their incomes, the timeline (milestones occurring within the Plan year), and how the Enterprise will determine if the pilot is successful.

- **Realistic.** Each objective in a Plan must be calibrated so that the Enterprise has a reasonable chance of meeting the objective with appropriate effort within the designated time period in the Plan. The Plan should include the basis for the Enterprise's determination and any supporting analysis undertaken by the Enterprise prior to setting the objective.

- **Time-bound.** The Plan must identify the specific evaluation year or years in which the objective will be completed. An objective may cover actions within a single year (e.g., purchasing [X] loans in Year 1 of the Plan), or actions over multiple years (e.g., conducting outreach on an existing loan product in Year 1 and making a change to the loan product in Year 2 of the Plan). For multi-year objectives, an Enterprise must clearly identify the objectives and targets for each year, along with the specific evaluation areas for each year.

- **Tied to Analysis of Market Opportunities.** Each objective in a Plan must be based on assessments and analyses of market opportunities in the applicable underserved market, taking into account safety and soundness considerations. The Plan should explain how the objective meets one or more of the market opportunities the Enterprise analyzed and identified in that underserved market. The Plan should also demonstrate how safety and soundness was taken into consideration in developing the objective.

2. Designating One Evaluation Area for Each Objective

The Duty to Serve statute and regulation require FHFA to evaluate separately whether each Enterprise has complied with its Duty to Serve obligations for each underserved market, taking into consideration four evaluation areas: outreach, loan products, loan purchases, and investments and grants. For each objective included in an Enterprise's Plan, the Enterprise must designate one evaluation area under which the objective will be evaluated. This requirement is intended to ensure that objectives are sufficiently focused and is not intended to constrain the Enterprise's actions. An Enterprise may designate an evaluation area for an objective in one year and a different evaluation area for the same objective in a subsequent year within a Plan cycle.

The designated evaluation area provides an important framework for FHFA's assessment of each objective. The Enterprises are encouraged to review the description of each evaluation area in the Duty to Serve final rule's preamble to inform their designation of evaluation areas before submitting their proposed Plans to FHFA for Non-Objection. In the event FHFA disagrees with the evaluation area designated by an Enterprise, FHFA will re-designate the objective as appropriate. FHFA will share the final designation of each objective's evaluation area with the

Enterprise following FHFA's Non-Objections to the Plan, noting where it changed the evaluation area designated by the Enterprise, if applicable.

3. Identifying More Than One Underserved Market for An Objective

An objective may receive Duty to Serve credit in more than one underserved market in a Plan. For example, an Enterprise may receive credit under both the affordable housing preservation market and the rural housing market for purchasing loans on small multifamily rental housing in rural areas where the objective meets the Duty to Serve regulatory requirements for both underserved markets. If an Enterprise would like an objective to receive credit in more than one underserved market, it should identify the objective in each of the applicable underserved market sections in its Plan, adhering to the "SMART" criteria format.

The description in the Plan of any objective that is identified for credit in multiple underserved markets, including any loan purchases that meet the requirements for two separate markets, should address the impact that the objective will have on each market, so that FHFA can determine a separate concept score for that objective in each market. Cross-referenced activities or objectives that do not provide an explanation of how the Enterprise's actions will target the specific needs of an underserved market will not receive a concept score for that market or be considered in FHFA's final evaluation. An objective included in multiple underserved markets will be evaluated separately on its impact on meeting needs within each of the underserved markets.

4. Identifying More Than One Objective for a Loan Purchase or Investment

FHFA recognizes that in some instances a single loan purchase or investment may qualify under multiple objectives within an underserved market. An Enterprise should clearly indicate in its Plan any instances where the baseline and target for a loan purchase or investment objective include loans or investments that will also be counted in the baseline and target for another objective in that market. In reporting to FHFA, the Enterprises should identify each instance where a single loan purchase or investment qualifies under multiple objectives within an underserved market.

C. Extra Credit-Eligible Activities

An Enterprise may receive Duty to Serve extra credit for activities that are particularly challenging to accomplish in an underserved market or that serve a segment of an underserved market that is relatively less well-served. Residential economic diversity is an eligible extra credit activity under the affordable housing preservation market and is discussed further in this section below. Other activities that FHFA has designated as eligible for extra credit for each underserved market are identified in Chapter 2 of this Guidance. FHFA may, in its discretion, change the activities eligible for extra credit in subsequent revised Guidance.

1. Residential Economic Diversity Activities

Enterprise activities that promote residential economic diversity are eligible for extra credit under the affordable housing preservation market. A "residential economic diversity activity" for Duty to Serve purposes means an eligible Enterprise activity, other than an energy or water efficiency improvement activity or other activity that FHFA determines to be ineligible, that supports financing of mortgages on: (1) affordable housing in a high opportunity area; or (2) mixed-income housing in an area of concentrated poverty. For a residential economic diversity activity to be eligible to receive extra credit, it must be identified in a Plan as either an Additional Activity and meet the Duty to Serve regulation requirements for an Additional Activity, or as an objective that is specifically identified under a Statutory or Regulatory Activity.[7]

The Duty to Serve regulation states that certain components of the definitions of "high opportunity area" and "mixed-income housing" would be further specified in the Guidance. These components are discussed below.

a. **High Opportunity Area.** The Duty to Serve regulation defines a "high opportunity area" for Duty to Serve purposes generally as:

- an area designated by the Department of Housing and Urban Development (HUD) as a "Difficult Development Area" (DDA) during any year covered by a Plan or in the year prior to a Plan's effective date, whose poverty rate is lower than the rate specified by FHFA in the Guidance; or

- an area designated by a state or local Qualified Allocation Plan (QAP) as a high opportunity area and which meets a definition FHFA has identified as eligible for Duty to Serve credit in the Guidance.

<u>Difficult Development Areas</u>: FHFA has elected to set poverty rate thresholds for DDAs to qualify as high opportunity areas. For each Plan cycle, FHFA will identify the poverty rate of each census tract within a HUD-designated DDA and only include as high opportunity areas those tracts with poverty rates below 10 percent (for metropolitan DDAs) and below 15 percent (for non-metropolitan DDAs). FHFA selected these thresholds to balance the objective of excluding high-poverty DDAs from its definition of high opportunity area with ensuring that the definition covers a reasonable segment of the population. FHFA considered applying the same poverty

[7] For residential economic diversity activities that are Additional Activities, an Enterprise must describe how the Additional Activity ensures that there are adequate levels of consumer protections or benefits to the tenants or homeowners that are consistent with the requirements of other Statutory and Regulatory Activities in the Duty to Serve regulation. 81 Fed. Reg. at 96245.

rate threshold for metropolitan and non-metropolitan DDAs but elected to apply different thresholds because the poverty rate of non-metropolitan DDAs tends to be higher than that of metropolitan DDAs.

<u>Definitions from Qualified Allocation Plans:</u> To meet the second component of the definition of high opportunity area, FHFA has elected to use state or local definitions of high opportunity areas (or similar terms) contained in Low-Income Housing Tax Credit QAPs or QAP-related materials that meet the following criteria:

1. The definitions are intended to describe areas that provide strong opportunities for the residents of housing funded through the QAP. Use of terminology such as “high opportunity areas,” “very high opportunity areas,” “areas of opportunity,” “opportunity areas,” or “economic integration areas” (singular or plural) can be helpful in signaling this intent; and

2. The QAP describes the location of the areas in sufficient detail to enable them to be mapped and/or includes a list(s) or map(s) of such high opportunity areas.

The states that use definitions of high opportunity areas in their QAPs that meet these criteria are identified in the High Opportunity Areas data file on FHFA’s website. This data file also identifies the specific census tracts within these states that meet the Duty to Serve definition of “high opportunity area.” In order to avoid awarding Duty to Serve extra credit for Enterprise activities in higher-poverty areas, FHFA has excluded those areas that have a poverty rate at or above 10 percent in metropolitan areas and at or above 15 percent in non-metropolitan areas.

b. **Mixed-Income Housing.** The Duty to Serve regulation provides that FHFA will specify in the Guidance the minimum percentage of units in a multifamily property or development that must be affordable to very low-income families, or to families at lower income levels, as well as the minimum percentage of units that must be unaffordable to low-income families, in order for the property or development to be considered “mixed-income housing.” FHFA determined that minimum thresholds for both affordable and unaffordable units would ensure that the mixed-income housing the Enterprises are encouraged to support is affordable to households at a range of income levels.

The minimum thresholds for mixed-income housing, which were specified in the preamble of the Duty to Serve final rule, are the following:

- at least 20 percent of the units are unaffordable to families with incomes at 80 percent of area median income; and

- at least 20 percent of the units are affordable to families with incomes at or below 50 percent of area median income, or at least 40 percent of the units are affordable to families with incomes at or below 60 percent of area median income.

D. **Concept Score**

Before issuing a Non-Objection to an Enterprise's proposed Plan, FHFA will assign a concept score of 0, 10, 20, 30, 40, or 50 for each objective included in the proposed Plan based on the criteria in Appendix B. The concept score will measure the expected level of impact on underserved market needs that an objective would represent if fully achieved, based on the information available to FHFA at that time. The concept score will inform FHFA's ultimate evaluation of the actual impact of the Enterprise's achievement of the objective.

While reviewing an Enterprise's proposed Plan, FHFA will provide feedback to the Enterprise on the draft objectives in the Plan, including the likely concept score each objective would receive, as currently written. FHFA will particularly note those draft objectives that it believes do not meet the criteria for receiving a concept score of 30. The Enterprises will have opportunities to revise their proposed Plans to respond to FHFA's feedback. FHFA will provide the concept score determination for each objective to the Enterprises at the time FHFA issues its Non-Objection for each of the underserved markets in their Plans.

III. FHFA Non-Objection Determination

The Duty to Serve regulation provides for FHFA to issue three Non-Objections for a proposed Plan — one for each underserved market in the Plan — after FHFA is satisfied that all of its comments on the underserved market in the proposed Plan have been addressed. A Non-Objection serves as FHFA's determination that a proposed Plan adequately addresses the needs of the underserved market. Issuing a Non-Objection signals to the Enterprise and the public that the Enterprise can commence actions under its Plan to serve that market for purposes of receiving Duty to Serve credit.

For an underserved market in a Plan to receive a Non-Objection, all of the following requirements must be satisfied:

1. The concept score for each objective in the market over the three-year period of the Plan is 30 or higher.

2. Each Plan year contains a minimum number of activities that include at least one loan purchase objective, as set forth in Table 2:

Table 2. Minimum Number of Activities with at Least One Loan Purchase Objective

Underserved Market	Year 1	Year 2	Year 3
Manufactured Housing	2	2	2
Rural Housing	3	3	3
Affordable Housing Preservation	6	6	7

3. The Enterprise has demonstrated that it made good faith efforts to: (1) evaluate the public input received on its proposed Plan, (2) incorporate the input where appropriate, and (3) incorporate the formal comments that FHFA provided to the Enterprise on its proposed Plan.

IV. Plan Process

1. Revisions to Plans[8]

An Enterprise may request to revise its Plan at any time during the year. FHFA will categorize revisions to the Plans as technical edits, modifications, or innovation modifications, as described below and in Table 3 at the end of this section. FHFA may also require an Enterprise to modify its Plan during the three-year term. Instances in which FHFA might require a modification include significant changes in market or regulatory conditions, such as unexpected obstacles or opportunities, or safety and soundness concerns.

A. Technical Edits

A technical edit is a change that does not substantially alter the Plan. Examples of the types of changes that will be considered technical edits include, but are not limited to:

- Adding baselines to objectives for future Plan years for which an Enterprise lacked the data to determine a baseline when it submitted its proposed Plan for Non-Objection;
- Changes to overview sections that do not contribute to FHFA's assessment of the likely impact of individual objectives;
- Changes to the organization, format, or layout of the Plan;
- Correcting grammatical or clerical errors;[9] or
- Changes in implementation steps to achieve a target.

FHFA does not expect an Enterprise to revise its Plan to reflect changes in the implementation steps the Enterprise takes to achieve a target; however, any such changes that an Enterprise chooses to submit to FHFA will be considered technical edits.

[8] This section incorporates modification guidance provided by FHFA in a July 2018 memorandum to the Enterprises.

[9] As long as the clerical errors are not otherwise considered to be modifications.

Technical edits do not require justification, will not be subject to public input, and will not be subject to FHFA Non-Objection. If an Enterprise makes technical edits to its Plan, it should submit a redlined version of the revised Plan to FHFA. FHFA will review the technical edits to verify that the changes meet the qualifications to be considered technical edits. After FHFA reviews and publishes the revised Plan on its public website, the Enterprise may proceed to publish the revised Plan on its public website.

If an Enterprise makes a change to its Plan that FHFA deems to be a modification rather than a technical edit, the guidance for modifications in the following section applies. FHFA will notify the Enterprise accordingly and request submission of a justification for the change as it would for other modifications.

B. **Modifications**

All changes to a Plan that do not qualify as technical edits or innovation modifications (see below) will be considered modifications (*i.e.*, changes substantially altering a Plan). Examples of modifications include, but are not limited to:

- Delaying a current Plan year objective (e.g., requesting in Year 1 to move a Year 1 objective to Year 2);
- Delaying a future Plan year objective (e.g., requesting in Year 1 to move a Year 2 objective to Year 3);
- Eliminating an objective;
- Adding a new objective to the current Plan year (if not an innovation modification);
- Adding a new objective to a future Plan year;
- Adding a new target under an existing objective;
- Changing or eliminating a target; or
- Changing a baseline.

1. Current year modifications

Requests for modifications that pertain to the current Plan year should not be submitted on a routine basis and should not be used to update the Plan to reflect actions already carried out under an objective. The requests should occur in only two scenarios:

- In response to special circumstances beyond an Enterprise's control that materially alter its ability to implement an objective through the actions in its Plan, such as a significant change in interest rates or other market conditions, an unanticipated negative return on capital, discovery that an activity in the Plan is not currently viable in the market, a regulatory decision by FHFA, or congressional action affecting the market.

- To strengthen an Enterprise's commitment to an underserved market, such as making a target more ambitious, broadening the scope of an activity, or adding a new baseline to an objective.

  Examples of strengthening a target include, but are not limited to:

  - **Loan Purchase and Investment objectives:** Increasing the target for loan purchases or investments, increasing the share of purchase or investment volume targeted to very low- or low-income households, or focusing loan purchases or investments on hard to serve areas

  - **Loan Product objectives:** Changing a limited pilot program to a published guide change available to all lenders, bringing a product to market more quickly than previously anticipated, or changing the evaluation area from loan product to loan purchase

  - **Outreach objectives:** Broadening the scope of outreach efforts for business-to-business or consumer outreach engagements, or publishing research on underserved markets that was initially intended for internal Enterprise use only

Modification requests should include a comprehensive justification for why the modification is a necessary response to a special circumstance or how the modification strengthens an Enterprise's commitment to an underserved market.

2. Future year modifications

Requests for modifications that pertain to future Plan years may be submitted for any reason. For example, an Enterprise might request to adjust the numeric targets for certain objectives in its Plan for the subsequent year based on the accomplishment of certain actions or lessons learned during the current year.

All requests for current or future year modifications should be submitted to FHFA by September 15, or on the first business day thereafter if September 15 falls on a weekend or holiday, in order to ensure they can take effect during the same year (for modification requests pertaining to the current year) or in subsequent years (for modifications pertaining to future years).

FHFA may seek public input on an Enterprise's Plan modification request if FHFA determines that public input would assist its consideration of the proposed modification. Examples of modification requests for which FHFA is more likely to seek public input because it would benefit FHFA's consideration of the proposed changes include:

- Reducing a numeric target by 40 percent or more, especially when that reduction is not accompanied by a change in the baseline for that action; and

- Eliminating an objective entirely.

Examples of modification requests for which FHFA is not likely to seek public input because it would not benefit FHFA's consideration of the proposed changes include:

- Adding a new objective to a future Plan year;

- Changing a baseline or numerically measurable target due to a miscalculation. In light of the wide variety of activities in the Plans, it is conceivable that the Enterprises and FHFA may disagree about how to conceptualize or count certain metrics, such as the number of units eligible for Duty to Serve credit under a certain activity. As FHFA and the Enterprises reconcile these discrepancies, an Enterprise may need to change its baseline or target accordingly, and should provide the explanation for this change in its modification justification; and

- Modifying the measurable quantity of an objective by a modest amount, which FHFA deems to be a change of less than 10 percent in either direction.

Any request for a modification, even if minor, is subject to FHFA Non-Objection. When submitting a modification request, an Enterprise need only submit the portion of its Plan pertaining to the activities that it requests to modify and not the entire market section or the entire Plan.

For a modification request to receive a Non-Objection from FHFA, the proposed modification must satisfy the criteria described above, the request must include a reasonable justification, and the relevant market in the Enterprise's Plan, as modified, must satisfy all of the requirements to receive a Non-Objection described above. This specifically includes the requirement that the market being modified will include only objectives with concept scores of 30 or higher, and at least the required minimum number of activities that include at least one loan purchase objective.

C. **Innovation Modifications**

In the course of implementing its Plan, an Enterprise may identify new opportunities that are not included in its Plan for an underserved market for the current year. An Enterprise may modify its Plan to include one such opportunity as an objective in each underserved market for the current Plan year without being required to submit a modification request to FHFA. Such "innovation modifications" will be deemed to have received a Non-Objection from FHFA under 12 CFR 1282.32(h) for the current Plan year only, upon the Enterprise providing written notification to FHFA of the innovation modifications and Enterprise receipt from FHFA of a concept score for each objective.

Innovation modifications will not be subject to a public input process or to the concept score requirements for modifications discussed in the preceding paragraphs. As such, an Enterprise may proceed with an objective that is added through an innovation modification and receives a concept score less than 30 in the first year of the objective. If the new objective is a multi-year objective, the proposed addition in future Plan years will be treated as a standard modification, which requires submission to FHFA of a modification request.

The flexibility allowed for innovation modifications, including having a concept score less than 30 in the first year, is intended to facilitate the identification of new opportunities during the current Plan year and the ability to promptly begin working on those opportunities. The limitation on innovation modifications to one new objective per year in each underserved market is intended to encourage the Enterprises to include their strongest ideas in their proposed Plans, which are subject to public input and prior FHFA Non-Objection.

Table 3. Categories of Plan Revisions

Type	Description	Conditions	Justification Required	Public Input	Subject to FHFA Non-Objection Requirements
Technical Edit	Change that does not substantially alter the Plan	None	No	No	No
Modification					
Current Plan year	Change that substantially alters the Plan in the current Plan year	(1) Revisions respond to special circumstances beyond an Enterprise's control that materially alter its ability to implement an objective through the actions in its Plan, such as significant changes in market or regulatory conditions; or (2) Revisions strengthen a Plan commitment to an underserved market, including making a target more ambitious or broadening the scope of an activity Submit request to FHFA by September 15	Yes	At FHFA's discretion	Yes
Future Plan year	Change that substantially alters the Plan in future Plan years	Submit request to FHFA by September 15 of current year	Yes	At FHFA's discretion	Yes

Innovation Modification	New objective to be implemented in the current Plan year	Limited to one per market per year Provide prior written notice to FHFA	No	No	No

2. **Publication of Revised Plans**

The Enterprises must publish all revised Plans, subsequent to FHFA Non-Objection as applicable, including those resulting from technical edits, modifications, and innovation modifications, in a timely manner on their respective websites. FHFA intends to publish the following documents on FHFA's public website, with confidential and proprietary information and data omitted:

- A clean copy of the complete revised Plan;
- A redlined version of the portions of the revised Plan containing all technical edits, modifications, and innovation modifications; and
- A copy of the Enterprise's request for modification that received a Non-Objection from FHFA.

3. **Treatment of Confidential or Proprietary Information and Data**

FHFA recognizes that some information and data in the descriptions of activities, objectives, and narratives for an underserved market in a Plan may be confidential or proprietary. At the same time, FHFA has determined that informed public input on a proposed Plan is important to the Plan development, review, and evaluation processes. FHFA may allow certain information and data in a Plan's descriptions of activities, objectives, and narratives in each underserved market to be treated as confidential or proprietary and omitted from the Plan when made public. Any Plan content that an Enterprise believes requires confidential or proprietary treatment should be clearly identified by the Enterprise, and the Enterprise should explain why the information and data should be afforded confidential or proprietary treatment.

V. Additional Guidance for Plans

The previous sections of this Chapter describe the required elements for each of the underserved markets in a Plan to receive a Non-Objection from FHFA. This section summarizes best practices and suggestions for the Enterprises to consider in developing effective Plans, and recommends that the Enterprises consider conducting research that supports increased liquidity in the underserved markets.

1. **Best Practices for Developing Underserved Markets Plans**

Below are some best practices and suggestions the Enterprises should consider in developing effective Plans:

- Given the Duty to Serve goal to improve the distribution of investment capital available for mortgage financing in the underserved markets, many of the objectives undertaken by the Enterprises should span the Plan's three-year term, with corresponding targets to be achieved in each of the three years.

- There should be a sufficient number of activities included in an underserved market in a Plan such that if a particular activity proves unachievable, the Enterprise still has other activities underway to enable it to meet its Duty to Serve obligations for that market.

- An Enterprise should carefully research and construct its Plan to minimize the need for later modifications of the Plan.

- An Enterprise should consider how to serve a diversity of geographic areas, such as a variety of localities, states, or regions, for each activity in its Plan. FHFA will favorably consider activities that serve a geographically diverse set of underserved market needs when assessing the activities' impact on the underserved market.

- An Enterprise should consider how to serve both single-family and multifamily activities for each underserved market in its Plan.

- FHFA invites the Enterprises to consider undertaking Additional Activities in their Plans. Any Additional Activity should meet a need in an underserved market, be reasonable and achievable based on the Enterprises' capacity and market conditions, and take into account safety and soundness considerations.[10]

- Outreach objectives should include sufficient detail to demonstrate that the Enterprise has developed a coherent set of implementation steps that will add significant value to stakeholders. The description should show that the Enterprise understands the problem it is trying to solve and has a strategic plan for how to address it. The description should demonstrate that the outreach efforts represent meaningful progress over prior Enterprise outreach efforts in the area, and should include an explanation of how the Enterprise plans to translate the lessons learned from the planned outreach into future action.

- Loan product objectives should include a description of the problem that the new or enhanced product is designed to solve and an explanation of how the development of the new or enhanced product will help meet an underserved market need. The Enterprise should describe how the objective represents progress over the Enterprise's prior loan product offerings, and how it will lay the foundation for future loan purchases that meet

[10] Id.

an underserved market need.

2. **Research that Supports Increased Liquidity in the Underserved Markets**

The Enterprises should consider conducting research — including outreach to stakeholders, market research, pilot testing, and product development — to close any knowledge gaps that currently limit progress towards meeting the needs of each of the underserved markets. FHFA encourages the Enterprises to share data, lessons learned, and other research findings with the public to provide better information about how to meet the challenges in each underserved market. By publishing research findings, the Enterprises could contribute to market knowledge needed to diagnose challenges and develop solutions.

FHFA also notes, however, that research activities are not a substitute for loan purchases and other actions that directly increase liquidity in the underserved markets, and encourages the Enterprises to prioritize research projects that lay the foundation for future loan purchase objectives. The Enterprises should make clear efforts to demonstrate in their Plans how their research will supplement or enhance existing knowledge for stakeholders rather than duplicate existing work.

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Chapter 2. Evaluation Process for Rating Enterprise Performance

Overview

This Chapter describes how FHFA will evaluate and rate the Enterprises' performance under their Plans. FHFA will annually evaluate each Enterprise's performance in each of the three underserved markets, comparing the achievements of the Enterprise against the targets it established in its Plan for the applicable year.

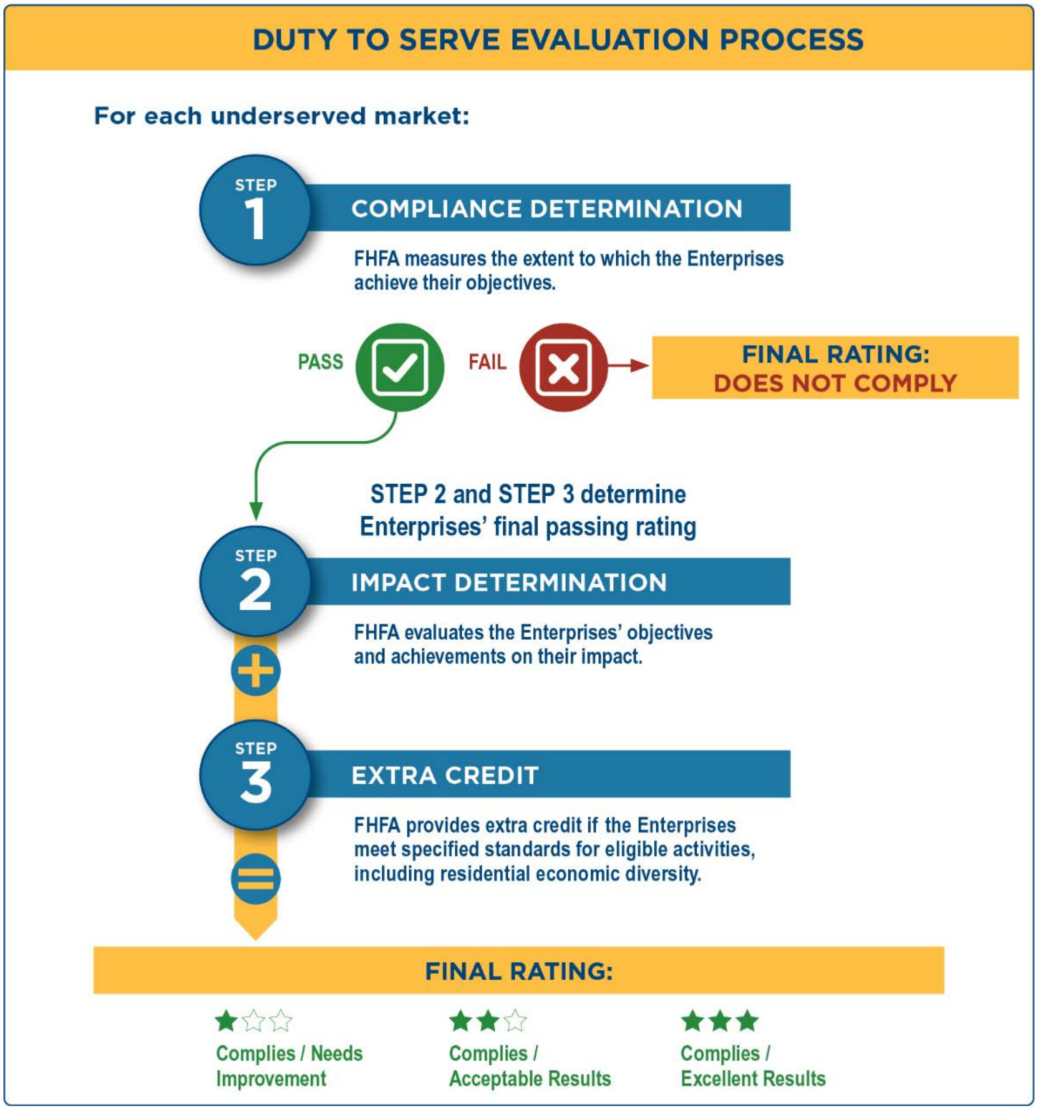
To evaluate an Enterprise's performance under its Plan, FHFA will use a three-step process:

- **In Step One**, FHFA will calculate an Enterprise's achievement of the objectives in its Plan to determine whether the Enterprise complied with its statutory Duty to Serve obligations for each underserved market. This step is a quantitative evaluation that will not consider the extent of the impact of the actions taken under an objective in meeting the needs of an underserved market.

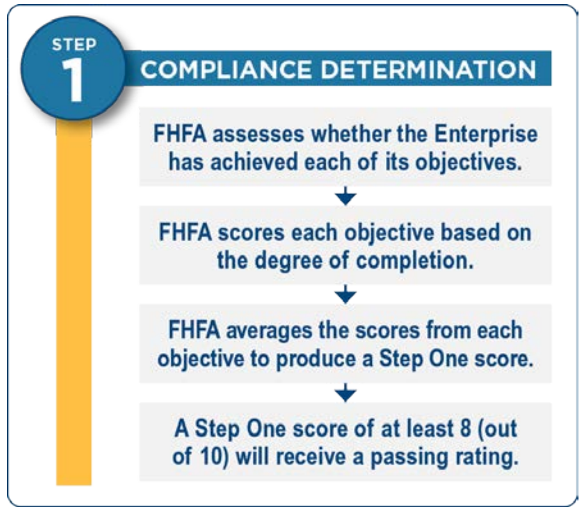
- **In Step Two**, FHFA will evaluate the Enterprise's performance under each underserved market in its Plan from a qualitative perspective, assessing the impact the Enterprise achieved in meeting a need of the applicable underserved market through actions taken under each objective.

- **In Step Three**, FHFA will determine whether and how much extra credit to award for the Enterprise's achievement of extra credit-eligible activities. Activities eligible for extra credit must be particularly challenging or serve a segment of an underserved market that is relatively less well-served. See Section III of this Chapter for the specific activities that are eligible for extra credit.

The three possible ratings for an Enterprise that is in compliance are: Complies / Needs Improvement; Complies / Acceptable Results; and Complies / Excellent Results.


DUTY TO SERVE EVALUATION PROCESS
For each underserved market:
STEP 1
COMPLIANCE DETERMINATION
FHFA measures the extent to which the Enterprises achieve their objectives.
PASS
FAIL
FINAL RATING: DOES NOT COMPLY
STEP 2 and STEP 3 determine Enterprises' final passing rating
STEP 2
IMPACT DETERMINATION
FHFA evaluates the Enterprises' objectives and achievements on their impact.
STEP 3
EXTRA CREDIT
FHFA provides extra credit if the Enterprises meet specified standards for eligible activities, including residential economic diversity.
FINAL RATING:
Complies / Needs Improvement
Complies / Acceptable Results
Complies / Excellent Results

I. Step One: Compliance Determination



Step One is a quantitative evaluation designed to determine whether the Enterprise complied with its statutory Duty to Serve obligations for the three underserved markets. Under Step One, FHFA will calculate the degree to which an Enterprise has accomplished the target under each of the objectives identified in each underserved market in its Plan.

1. Loan Purchase and Investment Objectives

FHFA will conduct the quantitative evaluation of the Enterprise's performance of each loan purchase and investment objective by assigning a score of 10, 5, or 0 to the objective based on the degree to which the Enterprise accomplished the objective, as follows:

10	Enterprise met or exceeded the target for the objective.
5	Enterprise met or exceeded the baseline but did not meet the target for the objective.
0	Enterprise did not meet the baseline or target for the objective.

Partial Credit Scores

If an Enterprise met or exceeded the target under an objective in its Plan, FHFA will assign a full credit score for the objective of 10. For loan purchase and investment objectives where an Enterprise did not meet or exceed the applicable target, eligibility for partial credit will depend on whether the Enterprise met the applicable baseline identified in its Plan. If the Enterprise did not meet the baseline, the objective will not be eligible for partial credit and will receive a score of 0. If the Enterprise met or exceeded the baseline but did not meet the target, the objective will be assigned a partial credit score of 5.

FHFA recognizes that in an Enterprise's first year entering a new sub-market, it may lack the data to determine a baseline for loan purchase and investment objectives. Such objectives, if not fully accomplished, will receive a partial credit score of 5 if the Enterprise achieved at least 50 percent of its target, and will receive a score of 0 if it met less than 50 percent of its target. However, the Enterprise must make technical edits to its Plan to add baselines for subsequent years. If an Enterprise fails to provide a baseline for a loan purchase or investment objective for which it has at least one year of performance data or fails to adopt an acceptable methodology for setting a baseline, FHFA will not assign partial credit for performance of that objective.

2. Loan Product and Outreach Objectives

FHFA will conduct the quantitative evaluation of an Enterprise's performance of each loan product and outreach objective by assigning a score of 10, 5, or 0 to the objective based on the degree to which the Enterprise accomplished the objective, as follows:

10	Enterprise met or exceeded the target for the objective.
5	Enterprise did not meet the target; the level of effort already expended exceeds the level of effort that remains to be expended to meet the target, indicating substantial progress.
0	Enterprise did not meet the target; the level of effort required to meet the target exceeds the level of effort already expended, indicating minimal progress.

If an Enterprise met or exceeded the target under an objective in its Plan, FHFA will assign a full credit score of 10 for the objective under Step One. FHFA may assign full credit in Step One if an Enterprise achieves its target in a different manner than described in the Plan. This approach balances the goal of having the Enterprises commit to specific targets, while recognizing that changes in actions might take place as Plans are implemented. The Enterprise does not need to submit a modification request that reflects these changes in order to receive full credit in Step One; however, the Enterprise must describe the actual implementation steps taken to accomplish the target in its annual report to FHFA.

Partial Credit Scores

If an Enterprise fails to meet or exceed the target for a loan product or outreach objective, partial credit will be assigned based on FHFA's determination of how much progress the Enterprise made toward the target. The partial credit determination will consider level of effort and the degree to which the target was met. Substantial progress will receive a partial credit score of 5, and minimal progress will receive no partial credit. Descriptions in an Enterprise's quarterly and annual reports of implementation steps taken by the Enterprise to accomplish the target will inform this analysis. However, FHFA will not tally completion of the different implementation steps of an objective to determine a Step One score. Instead, FHFA will use an Enterprise's description of steps taken toward the target to compare the time and resources already expended to the level of effort required to fully accomplish the target.

3. Infeasibility Requests

If market conditions or other extenuating circumstances outside of an Enterprise's control substantially interfere with an Enterprise's accomplishment of an objective, the Enterprise may submit an infeasibility request up to 60 days before submitting its annual report to FHFA. An infeasibility request may be subject to a 30-day public input period at FHFA's discretion. FHFA is more likely to seek public input on Enterprise requests of infeasibility that are based on a claim of weak underserved market conditions, as opposed to infeasibility requests that are based on circumstances such as internal Enterprise operational capacity issues.

If FHFA agrees that an infeasibility request is reasonable, FHFA will approve the request and exclude the objective from its evaluation of the Enterprise's performance under Steps One, Two, and Three.[11] In such cases, failure to complete the objective will not harm or benefit the Enterprise's performance score under Step One. However, all of the objective's underlying actions will also be excluded from contributing to the Enterprise's performance score under Steps Two and Three.

4. **Averaging of Scores**

After FHFA has assigned a Step One score to each objective in an underserved market, FHFA will average the scores for all of the objectives in that market to produce an overall score for the market. If an Enterprise receives an overall score of at least 8, it will be considered in compliance with its statutory Duty to Serve obligations for the underserved market. If an Enterprise receives an overall score of less than 8, it will be considered in noncompliance with its statutory Duty to Serve obligations for the market and will receive a rating of "Does Not Comply" for the market." Appendix C contains an example illustrating how an Enterprise might achieve a minimum score of 8.

In selecting 8 out of 10 points as the compliance threshold, FHFA sought to balance two goals:

- Holding the Enterprises accountable for accomplishing a substantial amount of objectives in their Plans, and

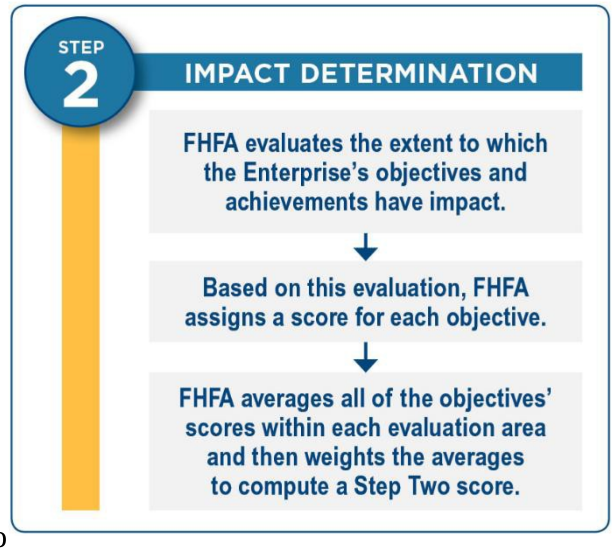
- Encouraging the Enterprises to set ambitious targets in difficult-to-serve areas, or engage in areas where it is difficult to establish a target, while recognizing that some of those efforts may not succeed.

[11] In the unlikely situation that every objective in an underserved market is deemed to be infeasible, FHFA will render a "no rating" decision and provide an explanation for its decision in its Annual Housing Report to Congress.

II. Step Two: Impact Determination

1. Evaluating Each Objective

Under Step Two, FHFA will evaluate the impact of each objective on the needs of the underserved market. FHFA will consider information provided by the Enterprises in their Duty to Serve Plans and reports, research by FHFA or external parties, and input from stakeholders in evaluating impact. Based on this evaluation, FHFA will assign an impact score from 0 to 50 for each objective, using the criteria described in Appendix B. Under this scale, an impact score of 30 indicates meaningful impact on a need of the underserved market.



FHFA's impact evaluation will focus on one of two different kinds of impact, depending on the nature of the objective: direct impact or future impact. Each is described below:

- ***Direct Impact.*** In evaluating direct impact, FHFA will consider the extent to which an Enterprise achieved an impact under each objective that addresses a present need in an underserved market. This evaluation will apply the criteria for the impact levels in Appendix B, which include a focus on the size or difficulty of the objective. The difficulty of an objective may involve, for example, the extent to which the Enterprise served a sub-market that has a high need for housing assistance (for example, purchasing loans in Appalachia versus purchasing loans in rural areas that are comparatively better served).

- ***Future Impact.*** In evaluating future impact, FHFA will consider the extent to which an Enterprise's achievements under an objective lay the groundwork for future work and improvements that would achieve a meaningful impact in addressing an underserved market need. These early steps could include, for example, undertaking a pilot, developing a new loan purchase platform, meeting with stakeholders to develop new loan purchase relationships, or collecting needed data. This evaluation will apply the criteria for the impact levels in Appendix B, which include a focus on the size or difficulty of the objective.

2. Impact Scoring of Each Objective

Based on FHFA's impact evaluation, FHFA will assign an impact score of 0, 10, 20, 30, 40, or 50 to each objective. FHFA will use the concept score previously assigned to the objective as a reference point for determining the impact score for the objective. The examples below demonstrate this scoring process.

A. **Achieving an Objective's Target**

If an Enterprise met, but did not significantly outperform, an objective's target in the manner described in its Plan, the impact score for that objective will generally be the same as the objective's concept score. Scenarios where the impact score may be higher or lower than the concept score include:

- **The Enterprise achieved the target in a different manner than described in its Plan.** Criteria considered by FHFA when assigning concept scores and impact scores include the level of effort required to perform the objective and the approach and design of the objective. An Enterprise may achieve its target through actions that are more or less challenging than those described in its Plan, or change its approach to one that is more or less innovative than the approach described in its Plan. These changes may result in FHFA determining that achievement of the target was more or less impactful than anticipated by actions described in the Plan.

- **Conditions have changed significantly since FHFA assigned concept scores.** Market and regulatory conditions provide an important context for implementation of objectives in the Enterprises' Plans. Changes in these underlying conditions can mean that achieving a target requires significantly more or less effort or commitment of resources than anticipated when FHFA assigned the concept scores, and may result in FHFA determining that achievement of the target was more or less impactful than anticipated at the Non-Objection stage.

B. **Underperforming an Objective's Target**

If an Enterprise did not meet the target for an objective, the impact score for that objective will generally be lower than the objective's concept score. For example, FHFA will assign a concept score of 50 to a proposed objective that represents a very large impact, according to the criteria in Appendix B. If the Enterprise did not fully achieve the objective's target, FHFA may still determine that the Enterprise met the criteria for meaningful impact and assign an impact score of 30 to the objective.

C. **Outperforming an Objective's Target**

If an Enterprise significantly outperformed an objective's target, the impact score for that objective will generally be higher than the objective's concept score and will be averaged with the concept score. This adjustment is intended to encourage the Enterprises to include well-designed and rigorous objectives in their Plans.

For example, FHFA will assign a concept score of 30 to a proposed objective that represents meaningful impact if fully achieved. If FHFA determines that the Enterprise significantly outperformed the objective's target and achieved a level of impact that represents a score of 50 according to the criteria in Appendix B, FHFA will average the concept score of 30 with the impact score of 50 and assign a final impact score of 40 (the average of 30 and 50).

3. **Developing a Weighted Average Score**

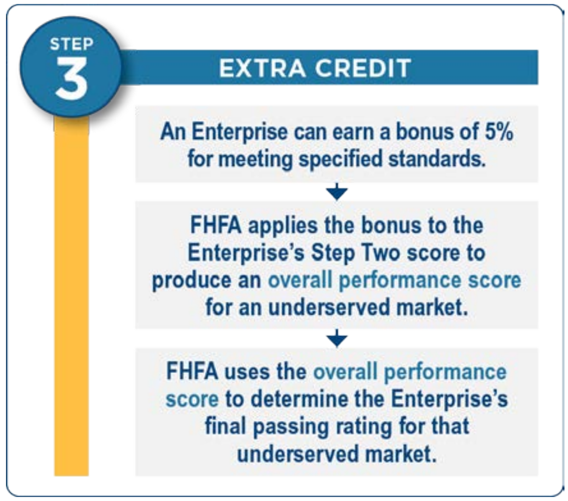
After assigning an impact score for each objective under Step Two, FHFA will calculate a simple average of the impact scores of all of the objectives grouped under each evaluation area (outreach, loan products, loan purchases, investments and grants) to produce a single numerical score for each evaluation area. The numerical score for each evaluation area will then be multiplied by the applicable weight in the graphic below to produce a Step Two overall performance score for the Enterprise for each underserved market.

If an Enterprise has not included any activities within a particular evaluation area in its Plan, the weights will be adjusted to preserve the same ratios among the remaining weights.[12]

At the conclusion of Step Two, FHFA will have completed its detailed analysis of the overall impact each Enterprise's activities had on each underserved market and assigned a Step Two overall performance score of between 0 and 50 to each underserved market.

III. Step Three: Extra Credit Evaluation

[12] For example, if an Enterprise does not include any activities under investments and grants, the weights for the remaining objectives will be increased proportionately to total 100%, as follows: outreach (23.5%), loan products (35.3%), and loan purchases (41.2%).



An Enterprise may receive an upward adjustment of 5 percent to its Step Two overall performance score for undertaking certain extra-credit eligible activities that FHFA considers particularly challenging or for undertaking certain extra credit-eligible activities in a segment of an underserved market that is relatively less well-served. The adjusted score is the final performance score for the market and is used to determine the Enterprise's rating for the market.

FHFA has determined that the activities set forth below are extra credit-eligible activities. An Enterprise will be eligible for a 5 percent upward adjustment if the Enterprise undertakes at least one of these eligible activities and achieves a cumulative impact score of at least 80 points[13] according to the criteria in Appendix B (meaning that the sum of the impact scores assigned to objectives for a single extra credit-eligible activity equals at least 80 points).

In markets where FHFA has designated two extra credit-eligible activities, an Enterprise may receive a 5 percent upward adjustment for successfully accomplishing one or both of the eligible activities.

MANUFACTURED HOUSING

- Regulatory Activity 1: Manufactured homes chattel pilot initiative
- Regulatory Activity 3: Support manufactured housing communities owned by government instrumentalities, nonprofits, or residents

AFFORDABLE HOUSING PRESERVATION

- Residential Economic Diversity Activity

RURAL

- Regulatory Activity 1: High-needs rural regions
- Regulatory Activity 2: High-needs rural populations

IV. Applying the Results of the Evaluation to Determine a Rating

[13] FHFA will not count any objective receiving an impact score of 10 or 20 towards this total in order to ensure that when only minimal progress is made, it will not result in extra credit being awarded.

FHFA will compute an Enterprise's rating for each underserved market as follows:

1. **<u>Compliance determination</u>.** If an Enterprise receives a Step One score of at least 8 for an underserved market, it will be considered in compliance with its statutory Duty to Serve obligations for the market. In this circumstance, FHFA will then use Steps Two and Three to determine a final performance score for the Enterprise in each underserved market. If an Enterprise receives a Step One score of less than 8 for an underserved market, it will be considered in noncompliance with its statutory Duty to Serve obligations for the market and will receive a rating of "Does Not Comply" for the market. In this circumstance, FHFA nonetheless will evaluate the Enterprise's performance under Steps Two and Three in order to adequately describe these components to the Enterprise and Congress in FHFA's Annual Housing Report to Congress.

   An Enterprise's Step One score, whether demonstrating compliance or noncompliance, will not be used for any other part of the evaluation and rating process.

2. **<u>Conversion of final performance scores to ratings</u>.** For an Enterprise that achieved compliance under Step One, FHFA will convert its final performance score after completion of Steps Two and Three into one of three ratings, as provided in the following conversion chart:

Ratings Chart for Final Performance Scores

RATING	★☆☆ Complies / Needs Improvement	★★☆ Complies / Acceptable Results	★★★ Complies / Excellent Results
FINAL PERFORMANCE SCORE	< 35	35 to < 40	40 to 50

Appendix C illustrates the complete evaluation process for a hypothetical underserved market in a Plan.

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Appendix A: Duty to Serve Statutory and Regulatory Activities

Activities	UNDERSERVED MARKETS		
	Manufactured Housing	**Affordable Housing Preservation**	**Rural Area**
Statutorily-Enumerated Activities	None	1. Section 8 2. Section 236 (rental and cooperative housing) 3. Section 221(d)(4) (moderate-income and displaced families) 4. Section 202 (elderly) 5. Section 811 (persons with disabilities) 6. Permanent supportive housing projects (homeless assistance) 7. Section 515 (rural rental) 8. Low-Income Housing Tax Credits (LIHTCs- debt) 9. Comparable state or local affordable housing programs	None

Regulatory Activities	1. Support manufactured homes titled as real property 2. Support manufactured homes titled as personal property 3. Support manufactured housing communities owned by government instrumentalities, nonprofits, or residents 4. Support manufactured housing communities with specified tenant pad lease protections	1. Support small multifamily rental properties financing 2. Support multifamily energy efficiency improvements financing 3. Support single-family, first lien energy efficiency improvements financing 4. Support affordable homeownership preservation (shared equity) financing 5. Support HUD's Choice Neighborhoods Initiative (CNI) 6. Support HUD's Rental Assistance Demonstration (RAD) Program 7. Support purchase or rehabilitation financing of distressed properties	1. Support housing in high needs rural regions: • Middle Appalachia • The Lower Mississippi Delta • Colonias • Rural tracts in persistent poverty counties 2. Support housing for high-needs rural populations: • Native Americans in Indian Areas • Agricultural workers 3. Support rural small financial institution financing 4. Support rural small multifamily rental property activity

Appendix B: Assigning Concept Scores and Step Two Impact Scores to Each Objective

Before issuing a Non-Objection to an Enterprise's proposed Plan, FHFA will assign a concept score for each objective from 0 to 50 that reflects the expected level of direct or future impact on underserved market needs that the objective would represent if fully achieved, based on the information available to FHFA at that time. At the conclusion of each Plan year, FHFA will conduct a qualitative evaluation of the impact of an Enterprise's performance under each of the objectives in its Plan (Step Two of the evaluation). For each objective, FHFA will assign an impact score from 0 to 50 that reflects the actual level of direct or future impact of the objective on underserved market needs.

FHFA will use criteria in the table below to assign concept scores and impact scores. For any given objective, some of the impact criteria included in the table may not be applicable. An Enterprise's anticipated or actual performance on an objective need not meet all of the criteria for a particular score level in order to receive that score. At FHFA's discretion, exceptional anticipated or actual performance on some of the criteria for a particular score level may compensate for anticipated or actual underperformance on others. However, an Enterprise's anticipated or actual performance of an objective should generally be consistent with the criteria for a particular score level in order to receive that score.

Notes:

- A score of 20 represents anticipated or actual impact that exceeds the criteria associated with a score of 10 but falls short of the criteria associated with a score of 30.

- A score of 40 represents anticipated or actual impact that exceeds the criteria associated with a score of 30 but falls short of the criteria associated with a score of 50.

Criteria for Assigning Concept Scores and Step Two Impact Scores

FHFA will use criteria in the table below to assign concept scores and impact scores. The *italicized criteria* indicate the expected level of direct or future impact an objective would represent if fully achieved, and the non-italicized criteria indicate the actual level of direct or future impact.

Impact Characteristic	Score Criteria: *Expected* (Concept Scores) and Actual (Impact Scores)				
	10	20	30	40	50
Contribution to liquidity	*If target is met, direct or future impact on liquidity would be minimal, in absolute terms or relative to market needs* Had minimal direct or future impact, in absolute terms or relative to market needs		*If target is met, direct or future impact on liquidity would be of sufficient size and scope to have a meaningful, if not necessarily large, impact in absolute terms or relative to market needs* Direct or future increases were of sufficient size and scope to have a meaningful, if not necessarily large, impact in absolute terms or relative to market needs		*If target is met, direct or future impact on liquidity would be very large, in absolute terms or relative to critical market needs* Had very large direct or future impact, in absolute terms or relative to critical market needs
Extent of achievements relative to baseline	*Target represents a decline from recent practice or performance* Achievements represented a decline from recent practice or performance		*Target represents a meaningful expansion of recent practice or performance* Achievements represented a meaningful expansion of recent practice or performance		*Target far surpasses recent practice or performance* Achievements far surpassed recent practice or performance
Level of effort, in light of applicable market conditions	*Planned actions are not challenging and require minimal expenditure of effort or commitment of resources; no indication the Enterprise would encounter difficulty in doing more* Actions were not challenging and required minimal expenditure of effort or commitment of resources; no indication the Enterprise would have		*Planned actions are routine and would require a moderate expenditure of effort or commitment of resources* Actions were routine and required a moderate expenditure of effort or commitment of resources		*Planned actions are complex and would require a very large expenditure of effort or commitment of resources* Actions were complex and required a very large expenditure of effort or commitment of resources

	encountered difficulty in doing more				
Approach and design	*Planned actions are poorly designed or poorly targeted to address an underserved market need, or the Enterprise has provided insufficient detail to enable FHFA to assess its planned approach* Actions were poorly designed or poorly targeted to address an underserved market need		*Planned actions are well-designed and well-targeted to address an underserved market need, but not necessarily innovative; the Enterprise has provided sufficient detail to enable FHFA to assess its planned approach* Actions were well-designed and well-targeted to address an underserved market need, but not necessarily innovative		*Planned actions represent extraordinary innovation to effectively address a critical underserved market need* Actions represented extraordinary innovation to effectively address a critical underserved market need
Contribution to future practice	*Enterprise provides no indication that planned actions or findings will inform future practice* Enterprise provided no indication that actions or findings will inform future practice		*Enterprise indicates an openness to incorporating what it learns into future practice* Enterprise indicated an openness to incorporating what it learned into future practice		*Enterprise commits to specific next steps that build on planned actions or findings* Enterprise committed to specific next steps that build on actions or findings
Contribution to knowledge	*No evidence that planned actions will advance knowledge of underserved market needs or how to address them* Did not advance the field's knowledge of underserved market needs or how to address them		*Planned actions will make a meaningful contribution to knowledge of underserved market needs or how to address them* Made meaningful contribution to knowledge of underserved market needs or how to address them		*Planned actions will break new ground on the field's understanding of underserved market needs or provide actionable insights on how to address them* Broke new ground on the field's understanding of underserved market needs or provided actionable insights on how to address them
Responsiveness to public input, if applicable	*No evidence that planned actions reflect consideration of public input*		*Enterprise describes how it considered public input during Plan development; provides some indication that it made adjustments to planned actions in response to public input*		*Enterprise describes how public input led to specific changes in its planned actions that strengthened its commitment to an underserved market*

Appendix C: Illustrating the Evaluation Process

This Appendix provides a hypothetical scenario illustrating the annual evaluation process that results in a publicly released rating.

Step One: Compliance Determination

In Step One, FHFA measures an Enterprise's achievement of each of the objectives in an underserved market in its Plan, in order to determine whether the Enterprise is in compliance with its statutory Duty to Serve obligations for the underserved market.

For example, assume that in a given year, an Enterprise included ten objectives under three activities – A, B, and C – in an underserved market section of its Plan. If the Enterprise achieved the target for seven objectives, met or exceeded the baseline but fell short of the target for two objectives, and did not meet the baseline or target for one objective, it would receive an average score of 8 under Step One, as shown below.

Obj.	Activity	Evaluation Area	Level of Accomplishment	Score
1	A	Loan purchase	Achieved target	10
2	A	Outreach	Achieved target	10
3	A	Loan product	Substantial progress - level of effort already expended exceeds the level of effort that remains to be expended to meet the target	5
4	B	Loan purchase	Achieved target	10
5	B	Loan product	Minimal progress - level of effort required to meet the target exceeds the level of effort already expended	0
6	B	Loan product	Substantial progress - level of effort already expended exceeds the level of effort that remains to be expended to meet the target	5
7	B	Outreach	Achieved target	10
8	C	Loan product	Achieved target	10
9	C	Outreach	Achieved target	10
10	C	Investment	Achieved target	10
			Average Score =	**8.0**

The average score of 8 means that the Enterprise has complied with its statutory Duty to Serve obligations for the market. As shown in the examples below, the Enterprise's performance is then evaluated under Steps Two and Three to determine a final performance score for the Enterprise for the market, which is then converted into one of the three ratings for the market.

Step Two: Impact Determination

Under Step Two, FHFA first evaluates the Enterprise's performance and assigns an initial impact score to each objective based on the criteria described in Appendix B. FHFA then compares this initial impact score to the concept score previously assigned for the objective at Non-Objection. If the initial impact score is greater than the concept score, FHFA averages the initial impact score and the concept score to produce a final impact score. If the initial impact score is less than or equal to the concept score, no further adjustments are made. An example is provided below.

Obj.	Activity	Evaluation Area	Concept Score	Step Two Initial Impact Score	Step Two Final Impact Score
1	A	Loan purchase	30	30	30
2	A	Outreach	30	40	35
3	A	Loan product	30	30	30
4	B	Loan purchase	40	40	40
5	B	Loan product	30	20	20
6	B	Loan product	50	40	40
7	B	Outreach	30	30	30
8	C	Loan product	30	40	35
9	C	Outreach	40	40	40
10	C	Investment	40	40	40

The Enterprise received average impact scores of:

- 35 on its loan purchase objectives
- 31.25 on its loan product objectives
- 35 on its outreach objectives
- 40 on its investment objective

for a weighted average score of 34.625. As shown below, this score is then converted to a rating after the Step Three extra credit evaluation. For comparison purposes, note that if there were no extra credit adjustment, the score of 34.625 would convert to a rating of "Complies / Needs Improvement."

Step Three: Extra Credit Evaluation

An Enterprise may be eligible to receive an extra credit upward adjustment of 5 percent to its Step Two overall performance score, depending on the impact scores it received for objectives under extra credit-eligible activities. For example, assume FHFA has designated Activity B as eligible for extra credit. FHFA would add the impact scores for objectives 4, 6, and 7 — excluding objective 5 because scores of 20 and below do not count toward the extra credit threshold — for a sum of 110. The Enterprise has surpassed the extra credit threshold of 80 and, therefore, is eligible to receive an upward adjustment of 5 percent, for a final performance score for the market of 36.35. This score converts to a rating of "Complies / Acceptable Results."