

§ 81.12 Low- and Moderate-Income Housing Goal.

(a) *Purpose of goal.* This annual goal for the purchase by each GSE of mortgages on housing for low- and moderate-income families ("the Low- and Moderate-Income Housing Goal") is intended to achieve increased purchases by the GSEs of such mortgages.

(b) *Factors.* In establishing the Low- and Moderate-Income Housing Goals, the Secretary considered the factors in 12 U.S.C. 4562(b). A statement documenting HUD's considerations and findings with respect to these factors, entitled "Departmental Considerations to Establish the Low- and Moderate-Income Housing Goal," was published in the FEDERAL REGISTER on October 31, 2000.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on housing for low- and moderate-income families are:

(1) For each of the years 2001–2003, 50 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years unless otherwise adjusted by HUD in accordance with FHEFSSA; and

(2) For the year 2004 and thereafter HUD shall establish annual goals. Pending establishment of goals for the year 2004 and thereafter, the annual goal for each of those years shall be 50 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years.

[60 FR 61888, Dec. 1, 1995, as amended at 65 FR 65085, Oct. 31, 2000]

§ 81.13 Central Cities, Rural Areas, and Other Underserved Areas Housing Goal.

(a) *Purpose of the goal.* This annual goal for the purchase by each GSE of mortgages on housing located in central cities, rural areas, and other underserved areas is intended to achieve increased purchases by the GSEs of mortgages financing housing in areas that are underserved in terms of mortgage credit.

(b) *Factors.* In establishing the Central Cities, Rural Areas, and Other Underserved Areas Goals, the Secretary considered the factors in 12 U.S.C. 4564(b). A statement documenting HUD's considerations and findings with

respect to these factors, entitled "Departmental Considerations to Establish the Central Cities, Rural Areas, and Other Underserved Areas Housing Goal," was published in the FEDERAL REGISTER on October 31, 2000.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on housing located in central cities, rural areas, and other underserved areas are:

(1) For each of the years 2001–2003, 31 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years unless otherwise adjusted by HUD in accordance with FHEFSSA; and

(2) For the year 2004 and thereafter HUD shall establish annual goals. Pending establishment of goals for the year 2004 and thereafter, the annual goal for each of those years shall be 31 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years.

(d) *Measuring performance.* The GSEs shall determine on a mortgage-by-mortgage basis, through geocoding or any similarly accurate and reliable method, whether a mortgage finances one or more dwelling units located in a central city, rural area, or other underserved area.

[60 FR 61888, Dec. 1, 1995, as amended at 65 FR 65086, Oct. 31, 2000]

§ 81.14 Special Affordable Housing Goal.

(a) *Purpose of the goal.* This goal is intended to achieve increased purchases by the GSEs of mortgages on rental and owner-occupied housing meeting the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very-low-income families.

(b) *Factors.* In establishing the Special Affordable Housing Goals, the Secretary considered the factors in 12 U.S.C. 4563(a)(2). A statement documenting HUD's considerations and findings with respect to these factors, entitled "Departmental Considerations to Establish the Special Affordable Housing Goal," was published in the FEDERAL REGISTER on October 31, 2000.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on rental and owner-occupied housing meeting the then-existing, unaddressed needs of

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and affordable to low-income families in low-income areas and very low-income families are:

(1) For each of the years 2001, 2002, and 2003, 20 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years unless otherwise adjusted by HUD in accordance with FHEFSSA. The goal for each year shall include mortgage purchases financing dwelling units in multifamily housing totaling not less than 1.0 percent of the average annual dollar volume of combined (single family and multifamily) mortgages purchased by the respective GSE in 1997, 1998 and 1999, unless otherwise adjusted by HUD in accordance with FHEFSSA; and

(2) For the year 2004 and thereafter HUD shall establish annual goals. Pending establishment of goals for the year 2004 and thereafter, the annual goal for each of those years shall be 20 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years. The goal for each such year shall include mortgage purchases financing dwelling units in multifamily housing totaling not less than 1.0 percent of the annual average dollar volume of combined (single family and multifamily) mortgages purchased by the respective GSE in the years 1997, 1998 and 1999.

(d) *Counting of multifamily units.* (1) Dwelling units affordable to low-income families and financed by a particular purchase of a mortgage on multifamily housing shall count toward achievement of the Special Affordable Housing Goal where at least:

(i) 20 percent of the dwelling units in the particular multifamily property are affordable to especially low-income families; or

(ii) 40 percent of the dwelling units in the particular multifamily property are affordable to very-low-income families.

(2) Where only some of the units financed by a purchase of a mortgage on multifamily housing count under the multifamily component of the goal, only a portion of the unpaid principal balance of the mortgage attributable to such units shall count toward the multifamily component. The portion of the mortgage counted under the multi-

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family requirement shall be equal to the ratio of the total units that count to the total number of units in the mortgaged property.

(e) *Full Credit Activities.* (1) For purposes of 12 U.S.C. 4563(b)(1) and this paragraph (e), full credit means that each unit financed by a mortgage purchased by a GSE and meeting the requirements of this section shall count toward achievement of the Special Affordable Housing Goal for that GSE.

(2) Mortgages insured under HUD's Home Equity Conversion Mortgage ("HECM") Insurance Program, 12 U.S.C. 1715 z-20; mortgages guaranteed under the Rural Housing Service's Single Family Housing Guaranteed Loan Program, 42 U.S.C. 1472; mortgages on properties on tribal lands insured under FHA's Section 248 program, 12 U.S.C. 1715 z-13, HUD's Section 184 program, 12 U.S.C. 1515 z-13a, or Title VI of the Native American Housing Assistance and Self-Determination Act of 1996, 25 U.S.C. 4191-4195; meet the requirements of 12 U.S.C. 4563(b)(1)(A)(i) and (ii).

(3) HUD will give full credit toward achievement of the Special Affordable Housing Goal for the activities in 12 U.S.C. 4563(b)(1)(A), provided the GSE submits documentation to HUD that supports eligibility under 12 U.S.C. 4563(b)(1)(A) for HUD's approval.

(4)(i) For purposes of determining whether a seller meets the requirement in 12 U.S.C. 4563(b)(1)(B), a seller must currently operate on its own or actively participate in an on-going, discernible, active, and verifiable program directly targeted at the origination of new mortgage loans that qualify under the Special Affordable Housing Goal.

(ii) A seller's activities must evidence a current intention or plan to reinvest the proceeds of the sale into mortgages qualifying under the Special Affordable Housing Goal, with a current commitment of resources on the part of the seller for this purpose.

(iii) A seller's actions must evidence willingness to buy qualifying loans when these loans become available in the market as part of active, on-going, sustainable efforts to ensure that additional loans that meet the goal are originated.

(iv) Actively participating in such a program includes purchasing qualifying loans from a correspondent originator, including a lender or qualified housing group, that operates an ongoing program resulting in the origination of loans that meet the requirements of the goal, has a history of delivering, and currently delivers qualifying loans to the seller.

(v) The GSE must verify and monitor that the seller meets the requirements in paragraphs (e)(4)(i) through (e)(4)(iv) of this section and develop any necessary mechanisms to ensure compliance with the requirements, except as provided in paragraph (e)(4)(vi) and (vii) of this section.

(vi) Where a seller's primary business is originating mortgages on housing that qualifies under this Special Affordable Housing Goal such seller is presumed to meet the requirements in paragraphs (e)(4)(i) through (e)(4)(iv) of this section. Sellers that are institutions that are:

(A) Regularly in the business of mortgage lending;

(B) A BIF-insured or SAIF-insured depository institution; and

(C) Subject to, and has received at least a satisfactory performance evaluation rating for

(1) At least the two most recent consecutive examinations under, the Community Reinvestment Act, if the lending institution has total assets in excess of \$250 million; or

(2) The most recent examination under the Community Reinvestment Act if the lending institutions which have total assets no more than \$250 million are identified as sellers that are presumed to have a primary business of originating mortgages on housing that qualifies under this Special Affordable Housing Goal and, therefore, are presumed to meet the requirements in paragraphs (e)(4)(i) through (e)(4)(iv) of this section.

(vii) Classes of institutions or organizations that are presumed have as their primary business originating mortgages on housing that qualifies under this Special Affordable Housing Goal and, therefore, are presumed in paragraphs (e)(4)(i) through (e)(4)(iv) of this section to meet the requirements are as follows: State housing finance agen-

cies; affordable housing loan consortia; Federally insured credit unions that are:

(A) Members of the Federal Home Loan Bank System and meet the first-time homebuyer standard of the Community Support Program; or

(B) Community development credit unions; community development financial institutions; public loan funds; or non-profit mortgage lenders. HUD may determine that additional classes of institutions or organizations are primarily engaged in the business of financing affordable housing mortgages for purposes of this presumption, and if, so will notify the GSEs in writing.

(viii) For purposes of paragraph (e)(4) of this section, if the seller did not originate the mortgage loans, but the originator of the mortgage loans fulfills the requirements of either paragraphs (e)(4)(i) through (e)(4)(iv), paragraph (e)(4)(vi) or paragraph (e)(4)(vii) of this section; and the seller has held the loans for six months or less prior to selling the loans to the GSE, HUD will consider that the seller has met the requirements of this paragraph (e)(4) and of 12 U.S.C. 4563(b)(1)(B).

(f) *Partial credit activities.* Mortgages insured under HUD's Title I program, which includes property improvement and manufactured home loans, shall receive one-half credit toward the Special Affordable Housing Goal until such time as the Government National Mortgage Association fully implements a program to purchase and securitize Title I loans.

(g) *No credit activities.* Neither the purchase nor the securitization of mortgages associated with the refinancing of a GSE's existing mortgage or mortgage-backed securities portfolios shall receive credit toward the achievement of the Special Affordable Housing Goal. Refinancings that result from the wholesale exchange of mortgages between the two GSEs shall not count toward the achievement of this goal. Refinancings of individual mortgages shall count toward achievement of this goal when the refinancing is an arms-length transaction that is borrower-driven and the mortgage otherwise counts toward achievement of this goal. For purposes of this paragraph

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(g), “mortgages or mortgage-backed securities portfolios” includes mortgages retained by Fannie Mae or Freddie Mac and mortgages utilized to back mortgage-backed securities.

[60 FR 61888, Dec. 1, 1995, as amended at 65 FR 65086, Oct. 31, 2000]

§ 81.15 General requirements.

(a) *Calculating the numerator and denominator.* Performance under each of the housing goals shall be measured using a fraction that is converted into a percentage.

(1) *The numerator.* The numerator of each fraction is the number of dwelling units financed by a GSE’s mortgage purchases in a particular year that count toward achievement of the housing goal.

(2) *The denominator.* The denominator of each fraction is, for all mortgages purchased, the number of dwelling units that could count toward achievement of the goal under appropriate circumstances. The denominator shall not include GSE transactions or activities that are not mortgages or mortgage purchases as defined by HUD or transactions that are specifically excluded as ineligible under § 81.16(b).

(3) *Missing data or information.* When a GSE lacks sufficient data or information to determine whether the purchase of a mortgage originated after 1992 counts toward achievement of a particular housing goal, that mortgage purchase shall be included in the denominator for that housing goal, except under the circumstances described in paragraphs (d) and (e)(6) of this section.

(b) *Properties with multiple dwelling units.* For the purposes of counting toward the achievement of the goals, whenever the property securing a mortgage contains more than one dwelling unit, each such dwelling unit shall be counted as a separate dwelling unit financed by a mortgage purchase.

(c) *Credit toward multiple goals.* A mortgage purchase (or dwelling unit financed by such purchase) by a GSE in a particular year shall count toward the achievement of each housing goal for which such purchase (or dwelling unit) qualifies in that year.

(d) *Counting owner-occupied units.* For purposes of counting owner-occupied

units toward achievement of the Low- and Moderate-Income Housing Goal or the Special Affordable Housing Goal, mortgage purchases financing such units shall be evaluated based on the income of the mortgagors and the area median income at the time of origination of the mortgage. To determine whether mortgagors may be counted under a particular family income level, *i.e.* especially low, very low, low or moderate income, the income of the mortgagors is compared to the median income for the area at the time of the mortgage application, using the appropriate percentage factor provided under § 81.17. When the income of the mortgagors is not available to determine whether the purchase of a mortgage originated after 1992 counts toward achievement of the Low- and Moderate-Income Housing Goal or the Special Affordable Housing Goal, a GSE may exclude single family owner-occupied units located in census tracts with median income less than or equal to area median income according to the most recent census from the denominator as well as the numerator, up to a ceiling of one percent of the total number of single family owner-occupied dwelling units eligible to be counted toward the respective housing goal in the current year. Mortgage purchases in excess of the ceiling will be included in the denominator and excluded from the numerator if they are missing data.

(e) *Counting rental units—(1) Use of income, rent—(i) Generally.* For purposes of counting rental units toward achievement of the Low- and Moderate-Income Housing Goal or the Special Affordable Housing Goal, mortgage purchases financing such units shall be evaluated based on the income of actual or prospective tenants where such data is available, *i.e.*, known to a lender.

(ii) *Availability of income information.* (A) Each GSE shall require lenders to provide to the GSE tenant income information under paragraphs (e)(3) and (4) of this section, but only when such information is known to the lender.

(B) When such tenant income information is available for all occupied units, the GSE’s performance shall be based on the income of the tenants in the occupied units. For unoccupied