

## Federal Housing Finance Agency.

## § 1282.15

### § 1282.14 Discretionary adjustment of housing goals.

(a) An Enterprise may petition the Director in writing during any year to reduce any goal or subgoal for that year.

(b) The Director shall seek public comment on any such petition for a period of 30 days.

(c) The Director shall make a determination regarding the petition within 30 days after the end of the public comment period. If the Director requests additional information from the Enterprise after the end of the public comment period, the Director may extend the period for a final determination for a single additional 15-day period.

(d) The Director may reduce a goal or subgoal pursuant to a petition for reduction only if:

(1) Market and economic conditions or the financial condition of the Enterprise require such a reduction; or

(2) Efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Charter Acts (12 U.S.C. 1716; 12 U.S.C. 1451 note).

### § 1282.15 General counting requirements.

(a) *Calculating the numerator and denominator for single-family housing goals.* Performance under each of the single-family housing goals shall be measured using a fraction that is converted into a percentage. Neither the numerator nor the denominator shall include Enterprise transactions or activities that are not mortgage purchases as defined by FHFA or that are specifically excluded as ineligible under § 1282.16(b).

(1) *The numerator.* The numerator of each fraction is the number of mortgage purchases of an Enterprise in a particular year that finance owner-occupied single-family properties that count toward achievement of a particular single-family housing goal.

(2) *The denominator.* The denominator of each fraction is the total number of mortgage purchases of an Enterprise in a particular year that finance owner-occupied single-family properties. A separate denominator shall be cal-

culated for purchase money mortgages and for refinancing mortgages.

(b) *Missing data or information for single-family housing goals.* When an Enterprise lacks sufficient data or information to determine whether the purchase of a mortgage originated after 1992 counts toward achievement of a particular single-family housing goal, that mortgage purchase shall be included in the denominator for that housing goal, except under the circumstances described in this paragraph (b).

(1) Mortgage purchases financing owner-occupied single-family properties shall be evaluated based on the income of the mortgagors and the area median income at the time the mortgage was originated. To determine whether mortgages may be counted under a particular family income level, *i.e.*, low- or very low-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 § 1282.17.

(2) When the income of the mortgagor(s) is not available to determine whether a mortgage purchase counts toward achievement of a particular single-family housing goal, an Enterprise's performance with respect to such mortgage purchase may be evaluated using estimated affordability information by multiplying the number of mortgage purchases with missing borrower income information in each census tract by the percentage of all single-family owner-occupied mortgage originations in the respective tracts that would count toward achievement of each goal, as determined by FHFA based on the most recent Home Mortgage Disclosure Act data available.

(3) The estimation methodology in paragraph (b)(2) of this section may be used up to a nationwide maximum that shall be calculated by multiplying, for each census tract, the percentage of all single-family owner-occupied mortgage originations with missing borrower incomes (as determined by FHFA based on the most recent Home Mortgage Disclosure Act data available for home purchase and refinance mortgages, respectively) by the number of Enterprise mortgage purchases secured by

single-family owner-occupied properties for each census tract, summed up over all census tracts. Separate nationwide maximums shall be calculated for purchase money mortgages and for refinancing mortgages. If the nationwide maximum is exceeded, then the estimated number of goal-qualifying mortgages will be adjusted by the ratio of the applicable nationwide maximum to the total number of mortgage purchases secured by single-family owner-occupied properties for the Enterprise in that year. Mortgage purchases in excess of the nationwide maximum, and any units for which estimation information is not available, shall remain in the denominator of the respective goal calculation.

(c) *Counting dwelling units for multifamily housing goal and subgoal.* Performance under the multifamily housing goal and subgoal shall be measured by counting the number of dwelling units that count toward achievement of a particular housing goal or subgoal in all multifamily properties financed by mortgages purchased by an Enterprise in a particular year. Only dwelling units that are financed by mortgage purchases, as defined by FHFA, and that are not specifically excluded as ineligible under §1282.16(b), may be counted for purposes of the multifamily housing goal and subgoal.

(d) *Counting rental units.* For purposes of counting rental units toward achievement of the multifamily housing goal and subgoal, 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, and the area median income at the time the mortgage was acquired.

(1) *Use of income.* Each Enterprise shall require lenders to provide to the Enterprise tenant income information, but only when such information is known to the lender. When the income of actual tenants is available, the income of the tenant shall be compared to the median income for the area, adjusted for family size as provided in §1282.17, or as provided in §1282.18 if family size is not known.

(i) When such tenant income information is available for all occupied units, the Enterprise's performance

shall be based on the income of the tenants in the occupied units. For unoccupied units that are vacant and available for rent and for unoccupied units that are under repair or renovation and not available for rent, the Enterprise shall use rent levels for comparable units in the property to determine affordability, except as provided in paragraph (d)(1)(ii) of this section.

(ii) When income for tenants is available to a lender because a project is subject to a Federal housing program that establishes the maximum income for a tenant or a prospective tenant in rental units, the income of prospective tenants may be counted at the maximum income level established under such housing program for that unit. In determining the income of prospective tenants, the income shall be projected based on the types of units and market area involved. Where the income of prospective tenants is projected, each Enterprise must determine that the income figures are reasonable considering the rents (if any) on the same units in the past and considering current rents on comparable units in the same market area.

(2) *Use of rent.* When the income of the prospective or actual tenants of a dwelling unit is not available, performance under the multifamily housing goal and subgoal will be evaluated based on rent and whether the rent is affordable to the income group targeted by the housing goal and subgoal. A rent is affordable if the rent does not exceed the maximum income levels as provided in §1282.19. In determining contract rent for a dwelling unit, the actual rent or average rent by unit type shall be used.

(3) *Model units and rental offices.* A model unit or rental office in a multifamily property may be counted for purposes of the multifamily housing goal and subgoal only if an Enterprise determines that the number of such units is reasonable and minimal considering the size of the multifamily property.

(4) *Timeliness of information.* In evaluating affordability under the multifamily housing goal and subgoal, each Enterprise shall use tenant and rental information as of the time of mortgage acquisition.

## Federal Housing Finance Agency.

## § 1282.16

(e) *Missing data or information for multifamily housing goal and subgoal.*—(1) When an Enterprise lacks sufficient information to determine whether a rental unit in a property securing a multifamily mortgage purchased by an Enterprise counts toward achievement of the multifamily housing goal or subgoal because neither the income of prospective or actual tenants, nor the actual or average rental data, are available, an Enterprise's performance with respect to such unit may be evaluated using estimated affordability information by multiplying the number of rental units with missing affordability information in properties securing multifamily mortgages purchased by the Enterprise in each census tract by the percentage of all rental dwelling units in the respective tracts that would count toward achievement of each goal and subgoal, as determined by FHFA based on the most recent decennial census.

(2) The estimation methodology in paragraph (e)(1) of this section may be used up to a nationwide maximum of ten percent of the total number of rental units in properties securing multifamily mortgages purchased by the Enterprise in the current year. Multifamily rental units in excess of this maximum, and any units for which estimation information is not available, shall not be counted for purposes of the multifamily housing goal and subgoal.

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

(g) *Application of median income.*—(1) For purposes of determining an area's median income under §§ 1282.17 through 1282.19 and the definitions in § 1282.1, the area is:

(i) The metropolitan area, if the property which is the subject of the mortgage is in a metropolitan area; and

(ii) In all other areas, the county in which the property is located, except that where the State non-metropolitan median income is higher than the county's median income, the area is the State non-metropolitan area.

(2) When an Enterprise cannot precisely determine whether a mortgage is on dwelling unit(s) located in one area, the Enterprise shall determine the median income for the split area in the manner prescribed by the Federal Financial Institutions Examination Council for reporting under the Home Mortgage Disclosure Act, if the Enterprise can determine that the mortgage is on dwelling unit(s) located in:

- (i) A census tract;
- (ii) A census place code;
- (iii) A block-group enumeration district;
- (iv) A nine-digit zip code; or
- (v) Another appropriate geographic segment that is partially located in more than one area ("split area").

(h) *Sampling not permitted.* Performance under the housing goals for each year shall be based on a complete tabulation of mortgage purchases (or dwelling units) for that year; a sampling of such purchases (or dwelling units) is not acceptable.

(i) *Newly available data.* When an Enterprise uses data to determine whether a mortgage purchase (or dwelling unit) counts toward achievement of any goal and new data is released after the start of a calendar quarter, the Enterprise need not use the new data until the start of the following quarter.

### § 1282.16 Special counting requirements.

(a) *General.* FHFA shall determine whether an Enterprise shall receive full, partial, or no credit toward achievement of any of the housing goals for a transaction that otherwise qualifies under this part. In this determination, FHFA will consider whether a transaction or activity of the Enterprise is substantially equivalent to a mortgage purchase and either creates a new market or adds liquidity to an existing market, provided however that such mortgage purchase actually fulfills the Enterprise's purposes and is in accordance with its Charter Act.

(b) *Not counted.* The following transactions or activities shall not be counted for purposes of the housing goals and shall not be included in the numerator or the denominator in calculating either Enterprise's performance under