AFR EF Americans for Financial Reform Education Fund

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400 Seventh Street SW
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Re: Proposed Amendments to Duty to Serve Underserved Markets Regulation—Proposed Rule for 2028-2030 (RIN 2590-AB64)

Americans for Financial Reform Education Fund (AFREF) urges the Federal Housing Finance Agency (FHFA) to extend the comment period for this proposal, as 30 days is insufficient to fully examine the proposed rule's significant and wide-reaching consequences for people and communities in underserved markets.[1] It is inappropriate to act in undue haste to overturn the guardrails in an established regulatory housing finance program in the midst of an unprecedented housing affordability crisis. Such an important proposal deserves due consideration and AFREF urges the FHFA to extend the comment period for an additional 120 days.

The FHFA's proposed changes to the Duty to Serve regulations would undermine the program and result in less lending to underserved markets, contrary to its legislative purpose of "increas[ing] the liquidity of mortgage investments and improv[ing] the distribution of investment capital available for mortgage financing for underserved markets."[2] Congress passed the 2008 Housing and Economic Recovery Act (HERA) in response to the subprime mortgage and foreclosure crisis that resulted in the near-collapse and subsequent federal conservatorship of the Fannie Mae and Freddie Mac government sponsored enterprises (GSEs). HERA imposed Duty to Serve obligations on Fannie and Freddie in recognition of their failure to adequately meet the nation's housing finance needs.

Under the current Duty to Serve regulatory regime, Fannie and Freddie must comply with a series of prescribed statutory and regulatory requirements to guarantee loans in each of the three Congressionally-designated underserved markets: rural housing, manufactured housing, and affordable housing. Fannie and Freddie must also submit 3-year Underserved Market Plans to the FHFA that describe the specific activities and objectives they will undertake to fulfill their Duty to Serve obligations in each underserved market, which the FHFA can approve or deny.

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[1] Federal Housing Finance Agency, Enterprise Duty To Serve Underserved Markets. Proposed Rule. RIN 2590-AB64. 91 Fed. Reg. 37848, June 24, 2026.
[2] Duty to serve underserved markets and other requirements, 12 U.S. Code § 4565 (2008).

The FHFA proposes to overhaul the Duty to Serve program by eliminating lists of approved activities among the three underserved markets, weakening income targeting, and generally forgoing proactive performance benchmarks for the GSEs. Instead, FHFA would dangerously weaken the rules to subject Fannie and Freddie to a new standard that would allow them to take "any eligible action" that is consistent with Duty to Serve and has not been explicitly determined by the FHFA as ineligible for credit. The proposed elimination of proactive benchmarks and approved activities would allow the GSEs to claim they were meeting their statutory Duty to Serve obligations without actually providing mortgage capital to underserved markets. These benchmarks and affirmative activities lists were established precisely because the GSEs had persistently failed to meet the credit needs of underserved communities.

The proposed rule justifies this change by claiming that the existing Duty to Serve regime is overly burdensome and "may" have the unintended consequence of reducing the ability of the Enterprises to most effectively address the needs of underserved markets. As evidence, the FHFA cites data demonstrating that there are major unmet needs in the manufactured, rural, and affordable housing sectors. It is true that these communities continue to be financially underserved, but these credit gaps would have been wider still without the existing Duty to Serve regulations. The proposed rule does not explain how, exactly, loosening standards would result in better outcomes. Rather, the continuing credit needs indicate that the FHFA should be strengthening the Duty to Serve requirements for the GSEs to do *more* to meet their statutory requirements to adequately address the needs of underserved markets, as is permissible and consistent with HERA's Duty to Serve provisions.

Underserved markets, by definition, are markets that are in need of intervention because the market is not serving them. They may be underserved because they are smaller markets, have unique financial service needs due to local or historical characteristics, or because they are slightly more difficult to provide credit compared to adequately-served markets. Weakening standards would reduce the GSEs incentives to continue guaranteeing the more challenging loans in these markets, instead allowing them to count easier loans they may have made anyway, for example, to higher-income borrowers, as being "consistent" with their statutory Duty to Serve obligations.

The FHFA should withdraw this rule since it would significantly weaken the impact of Duty to Serve obligations to underserved markets. In absence of withdrawing the rule, the FHFA should extend the comment period for an additional 120 days to allow a full consideration of the scope, range, and impact of the proposed rule on people and communities in underserved markets. Thank you for the opportunity to provide comments on this important matter. For further discussion, please contact Caroline Nagy at caroline@ourfinancialsecurity.org.

Sincerely,

Americans for Financial Reform Education Fund