reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and

(4) Promote access to mortgage credit throughout the Nation (including central cities, rural areas, and other underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.[2]

In exchange for carrying out their public purposes, the GSEs enjoy substantial public benefits not provided to other private corporations in the secondary mortgage market, which include: (1) Conditional access to a $2.25 billion line of credit from the U.S. Treasury; [3] (2) exemption from securities registration requirements of the Securities and Exchange Commission and the States; [4] and (3) exemption from all State and local taxes, except property taxes.[5] In addition to these benefits, the GSEs enjoy the implicit benefit of the financial market's assumption that, even though no Federal guarantee exists,[6] should a GSE fail to meet its obligations, the Federal Government and, ultimately, the American taxpayer would stand behind the obligations of the GSEs. As a result of their Government-sponsored status, the GSEs borrow at approximately the same rates as the Department of Treasury,[7] and their cost of doing business is less than that of other competitors in the mortgage market. In return for the substantial benefits that the GSEs receive, they are expected to serve certain public purposes, and are subject to congressionally imposed limitations on their undertakings and to HUD's regulation.

Provisions of FHEFSSA

Because Congress perceived a need to increase protection to the taxpayers from any potential financial losses or risks posed by the GSEs, FHEFSSA established an independent financial regulator within HUD—the Office of Federal Housing Enterprise Oversight (OFHEO)—which is responsible for the financial safety and soundness of the GSEs.

At the same time, to assure that the GSEs accomplish their public purposes, Congress clarified and expanded the Secretary's specific powers and authorities respecting the GSEs. FHEFSSA provides that, except for the authority of the Director of OFHEO over all matters related to financial safety and soundness, the Secretary has general regulatory power over the GSEs and is required to make all rules and regulations necessary to ensure that the purposes of FHEFSSA and the Charter Acts are carried out.[8]

FHEFSSA specifically requires the Secretary to establish, monitor, and enforce three separate goals for the GSEs' mortgage purchases on:

(1) Housing for low- and moderate-income families (Low- and Moderate-Income Housing Goal);

(2) Housing located in central cities, rural areas, and other underserved areas (Geographically Targeted Goal); and

(3) Special affordable housing meeting the ''unaddressed housing needs of low-income families in low-income areas and very low-income families'' (Special Affordable Housing Goal).

Under FHEFSSA, the Secretary is to establish each of the housing goals after consideration of certain statutorily prescribed factors relevant to the particular goal. The Secretary's findings concerning each of these factors are set forth in the appendices to this rule, which are published in today's Federal Register after the text of the rule. These appendices will not be codified in the Code of Federal Regulations.

FHEFSSA also establishes new fair lending requirements for the GSEs. Under FHEFSSA, the Secretary must, by regulation, prohibit the GSEs from discriminating in their mortgage purchases because of ''race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect.'' [9] The Secretary must also:

(1) By regulation, require the GSEs to submit data to assist the Secretary in investigating whether a mortgage lender has failed to comply with the Fair Housing Act and the Equal Credit Opportunity Act (''ECOA'');

(2) Obtain and make available to the GSEs information from other regulatory and enforcement agencies on violations by lenders of the Fair Housing Act and ECOA;

(3) Direct the GSEs to take various remedial actions against lenders found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or ECOA; and

(4) Periodically review and comment on the GSEs' underwriting and appraisal guidelines, to ensure that the guidelines are consistent with the Fair Housing Act and FHEFSSA.

FHEFSSA also details the Secretary's authority to review and approve new programs of the GSEs and establishes procedures under which the GSEs may contest determinations on new program requests. FHEFSSA maintains the Secretary's authority to require reports from the GSEs on their activities and requires the GSEs to submit detailed, specific data on their mortgage purchases. FHEFSSA assigns the Secretary other responsibilities, including establishing a public-use database containing data gathered from the GSEs on mortgage purchases, and protecting proprietary information provided by the GSEs. FHEFSSA terminates the former regulations governing Fannie Mae and requires that the Secretary issue new regulations governing both GSEs.

Transition Period

FHEFSSA established a transition period of calendar years 1993 and 1994, to provide time for the Secretary to collect data and implement FHEFSSA's provisions. For the transition period, FHEFSSA established targets for mortgage purchases by the GSEs on housing for low- and moderate-income families and housing located in central cities, rural areas, and other underserved areas. For the transition years, the targets for both of these goals were set at 30 percent of the GSEs' mortgage purchases. The target amounts were the same as the percentage goals established under HUD's Fannie Mae regulations, which were originally promulgated in 1979 and codified under the former Fannie Mae regulations in 24 CFR part 81. During the transition, only mortgages located in central cities, as designated by the Office of Management and Budget (OMB), counted toward the Geographically Targeted Goal. FHEFSSA required that the Secretary establish interim goals to improve the GSEs' performance relative to these targets, so that the GSEs would meet the targets by the end of the transition

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[2] Sections 301(b) of the Freddie Mac Act and 301 of the Fannie Mae Charter Act.

[3] Sections 306(c)(2) of the Freddie Mac Act and 304(c) of the Fannie Mae Charter Act.

[4] Sections 306(g) of the Freddie Mac Act and 304(d) of the Fannie Mae Charter Act.

[5] Sections 303(e) of the Freddie Mac Act and 309(c)(2) of the Fannie Mae Charter Act.

[6] The GSEs' obligations are not guaranteed by the United States. See, e.g., sections 1302(4), 1381(f), and 1382(n) of FHEFSSA (requiring each GSE to state in its obligations and securities that such obligations and securities ''are not guaranteed by the United States'').

[7] Congressional Budget Office, *Controlling the Risks of Government-Sponsored Enterprises*, at 10 (April 1991).

[8] Section 1321 of FHEFSSA.

[9] Section 1325(1).