period. FHEFSSA also established specific dollar amounts for purchases by the GSEs of mortgages under the Special Affordable Housing Goal. For the transition years, the legislative history of FHEFSSA indicates that the goal should be higher than the GSEs' 1992 performance.

## Interim Notices

As required by FHEFSSA, on October 13, 1993, the Secretary published notices of interim housing goals establishing requirements necessary to implement the transition housing goals; <sup>10</sup> the GSEs reviewed and commented on the notices prior to publication.

The Interim Notice for Fannie Mae established that, of the dwelling units financed by Fannie Mae's mortgage purchases: (1) In 1993 and 1994, 30 percent should be affordable to low- and moderate-income families; (2) in 1993, 28 percent and, in 1994, 30 percent should be located in central cities; and (3) during the 1993–94 period, at least \$16.4 billion in mortgages should meet the Special Affordable Housing Goal.

The Interim Notice for Freddie Mac established that, of the dwelling units financed by Freddie Mac's mortgage purchases: (1) In 1993, 28 percent and, in 1994, 30 percent should be affordable to low- and moderate-income families; (2) in 1993, 26 percent and, in 1994, 30 percent should be located in central cities; and (3) during the 1993–94 period, at least \$11.9 billion in mortgages should meet the Special Affordable Housing Goal.

In late 1994, when it became apparent that this rulemaking would not be completed in time to establish new housing goals for 1995, the Secretary issued a final regulation extending the 1994 goals for both GSEs into 1995.<sup>11</sup>

### The Proposed Rule

On February 16, 1995 (60 FR 9154), HUD published a proposed rule to implement the Secretary's authorities under FHEFSSA and the Charter Acts. The proposed rule raised the level of the goals. It also provided that, in accordance with FHEFSSA, the Geographically Targeted Goal would be expanded to include rural and other underserved areas, and that the goal would be directed to the underserved portions of these areas. The proposal reformulated the categories of the Special Affordable Housing Goal and proposed new counting requirements based on experience gained in the transition period. The proposed rule

also would have established procedures for review of new programs, detailed prohibitions against discrimination, scaled back reporting requirements from the former Fannie Mae regulations and the Interim Notices, and included detailed requirements for book entry of GSE securities and procedures under FHEFSSA.

#### Final Rule

In response to the proposed rule, HUD received 163 comments. The comments came from the GSEs; individuals; representatives of lending institutions, community, and consumer groups; Members of Congress; local and State governments; and others. Following full consideration of the comments and discussions with the GSEs and outside entities, HUD developed this final rule. The final rule is consistent with the approach announced in the proposed rule, but includes significant revisions in light of the comments. The final rule:

- (1) Establishes housing goals that are greater than those established under the regulations for the transition and will ensure that the GSEs continue and strengthen their efforts to carry out Congress's intent that the GSEs provide the benefits of a secondary market to families throughout the Nation;
- (2) Requires the GSEs to take appropriate steps to facilitate fair housing for all citizens, recognizing the GSEs' leadership role in the lending industry without forcing the GSEs to act in an enforcement capacity better left to the Government;
- (3) Establishes conditions and procedures by which the Secretary will exercise his or her statutory authority to review new programs of the GSEs, but in a manner that will not create a disincentive for the GSEs to be innovative in developing new mortgage finance initiatives;
- (4) Implements reporting requirements for the GSEs that are not unduly burdensome and will allow the Secretary and Congress to monitor the GSEs' activities appropriately;
- (5) Requires dissemination of information on the GSEs' activities to the public, while protecting the GSEs' legitimate commercial interests in proprietary data; and
- (6) Establishes fair procedures for enforcement actions and other regulatory procedures under FHEFSSA.

# **Discussion Of Public Comments**

# Overview of the Public Comments

Of the 163 comments received, by far the most detailed were the submissions of the two directly affected GSEs— Fannie Mae and Freddie Mac. Each GSE submitted comments of more than 200 pages, supported by numerous appendices, exhibits, and footnotes. Although occasionally voicing approval of provisions of the proposed rule, the GSEs' comments, in the main, registered substantial opposition to key features.

In addition, comments were received from 26 national or regional industry-related groups or associations; 26 nonprofit organizations; 10 Members of Congress; 22 governors and mayors, 10 State and local agencies; 24 banks, lenders, or other real estate professionals; 40 individuals; <sup>12</sup> and 3 legal organizations. HUD reviewed and considered all of these comments in writing the final rule.

The portion of the rule most frequently discussed by the commenters was Subpart B—Housing Goals, some aspect of which attracted comments from 146 of the 163 commenters. Eighty-three of these comments reflected general approval of the proposed rule's approach to the goals. Fifty-three others were in opposition, in whole or in part, while 10 contained mixed statements of support and opposition.

Other major subject areas of the proposed rule (subpart C—Fair Housing, subpart D—New Program Approval,and Subpart E—Access to Information) attracted the attention of only a minority of the commenters. Fifty-five of the 62 commenters who addressed the new program approval provisions opposed them in whole or in part, with only 3 commenters setting out unqualified approval, and 4 others expressing a mixture of favorable and unfavorable comments.

Thirty commenters opposed one or more major elements of the rule's treatment of fair housing concerns, while 11 favored the rule. Two comments featured well-mixed supporting and opposing views. The majority of the institutional commenters and lenders who did address the issues of fair housing stated their opposition to the rule's treatment. Only among the nonprofit organizations did a majority of the commenters addressing the issue express support for the proposed rule's handling of the subject. Commenters often addressed Subpart E, Reporting Requirements, in the context of other statements pertaining to housing goals, fair housing, or both. Accordingly, the commenters' views on reporting are

<sup>10 58</sup> FR 53048 and 53072.

<sup>11 59</sup> FR 61504 (November 30, 1994).

<sup>&</sup>lt;sup>12</sup>The 40 comments from individuals were form letters, signed by persons from several different States but containing identical information except for, in a few instances, written-in additional observations. These comments were limited to housing goals issues and generally favored, and recommended strengthening of, the rule.