

(d) (1) Take affirmative steps to assist:

(i) Primary lenders to make housing credit available in areas with concentrations of low-income and minority families; and

(ii) Insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977.

(2) The steps under paragraph (d)(1) of this section shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures.

**§ 81.21 Notice and determination of failure to meet goals.**

(a) *Notice.* If, based on a GSE's reports or other data available to the Secretary, the Secretary determines that the GSE has failed or there is a substantial probability that the GSE will fail to meet any housing goal, the Secretary shall, by written notice to the GSE, issue to the GSE a preliminary determination notice that shall propose to require the GSE to submit a housing plan. Such notice shall include:

(1) The preliminary determination;  
 (2) The reasons for the determination;  
 (3) The information on which the Secretary based the determination; and  
 (4) The proposal to require the GSE to submit a housing plan.

(b) *Response period.*—(1) *In general.* The GSE shall have 30 days from the date of the preliminary determination notice ("response period") to submit any written information that the GSE considers appropriate for consideration by the Secretary in determining whether:

(i) The GSE has failed to meet the housing goal;

(ii) A substantial probability exists that the GSE will fail to meet any housing goal; or

(iii) Whether achievement of the relevant housing goal was or is feasible.

(2) *Extended period.* If the Secretary determines that good cause exists for extending the response period, the Secretary may extend the response period for up to 30 days.

(3) *Shortened period.* If the Secretary determines that good cause exists for shortening the response period, the Secretary may shorten the response period.

(4) *Waiver of right to comment.* The GSE's failure to provide any written information during the response period (as extended or shortened, if applicable) shall constitute a waiver of any right of the GSE to comment on the determination or the action of the Secretary on the matters addressed in the notice.

(c) *Consideration of information and final determination.* After the expiration

of the response period or upon receipt of the GSE's response, whichever occurs first, the Secretary shall consider the GSE's response to the preliminary notice, if any, and finally determine, in writing, whether:

(1) The GSE has failed or there is a substantial probability that the GSE will fail to meet the relevant housing goal; and

(2) Considering market and economic conditions and the GSE's financial condition, the achievement of the housing goals was or is feasible.

(d) *Notice to Congress.* (1) The Secretary shall provide written notice, including the Secretary's response to any information submitted by the GSE during the response period, of:

(i) Each determination that the GSE has failed, or that there is a substantial probability that the GSE will fail, to meet a housing goal;

(ii) Each determination that the achievement of a housing goal was or is feasible; and

(iii) The reasons for each such determination.

(2) The Secretary shall provide such notice to the GSE; the Committee on Banking and Financial Services of the House of Representatives; and the Committee on Banking, Housing, and Urban Affairs of the Senate.

**§ 81.22 Housing plans.**

(a) If the Secretary determines, under § 81.21(c), that a GSE has failed or there is a substantial probability that a GSE will fail to meet any housing goal and that the achievement of the housing goal was or is feasible, the Secretary shall provide notice to the GSE requiring the GSE to submit a housing plan for approval by the Secretary.

(b) *Nature of plan.* Each housing plan shall:

(1) Be feasible;

(2) Be sufficiently specific to enable the Secretary to monitor compliance periodically;

(3) Describe the specific actions that the GSE will take:

(i) To achieve the goal for the next calendar year; or

(ii) If the Secretary determines that there is substantial probability that the GSE will fail to meet a housing goal in the current year, to make such improvements as are reasonable in the remainder of the year; and

(4) Address any additional matters as required, in writing, by the Secretary.

(c) *Deadline for submission.* The GSE shall submit a housing plan to the Secretary within 30 days after issuance of a notice under paragraph (a) of this section. The Secretary may extend the deadline for submission of a plan, in

writing and for a time certain, to the extent the Secretary determines an extension is necessary.

(d) *Review of housing plans.*—(1) *Standard.* The Secretary shall approve a housing plan if the Secretary determines that the plan:

(i) Is likely to succeed; and

(ii) Conforms with the appropriate GSE's Charter Act, the Act, and any other applicable laws and regulations.

(2) *Time period.* The Secretary shall review each housing plan and approve or disapprove the plan within 30 days of the Secretary's receipt of the plan. The Secretary may extend this period for one 30-day period if the Secretary determines such an extension is necessary and shall provide written notice to the GSE of such extension.

(3) *Notice to the GSE.* The Secretary shall provide written notice to the GSE of the approval or disapproval of a housing plan. If the Secretary disapproves a housing plan, the notice shall include the reasons for disapproval.

(e) *Resubmission.* If the Secretary disapproves an initial housing plan submitted by a GSE, the GSE shall submit an amended plan acceptable to the Secretary within 30 days of the Secretary disapproving the initial plan; the Secretary may extend the deadline if the Secretary determines an extension is in the public interest. If the amended plan is not acceptable to the Secretary, the Secretary may afford the GSE 15 days to submit a new plan.

**Subpart C—Fair Housing**

**§ 81.41 General.**

(a) *Authority.* This subpart is authorized under sections 1321, 1325, and 1327 of the Act; 309(n)(2)(G) of the Fannie Mae Charter Act; 307(f)(2)(G) of the Freddie Mac Act; and the Fair Housing Act (42 U.S.C. 3601–3619).

(b) *Scope.* The Act requires the Secretary, by regulation, to: Prohibit discrimination by the GSEs in their mortgage purchases because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of a dwelling or age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect; require that the GSEs submit information to the Secretary to assist Fair Housing Act and Equal Credit Opportunity Act investigations; advise the GSEs of Fair Housing Act and ECOA violations; review the GSEs' underwriting and appraisal guidelines to ensure compliance with the Fair Housing Act; and require that the GSEs take actions