

its request its views respecting whether the program is subject to the Secretary's review.

(3) New activities that are designed to refine approved or authorized programs by repackaging features of those programs, making technical improvements, or creating other non-material variations are not new programs.

(f) *Requests by the Secretary.* If a GSE does not submit a program request for a program, the Secretary may request information about a program and require that the GSE submit a program request. The GSE shall comply with the request and may indicate in such response its views respecting whether the program is subject to the Secretary's review.

§ 81.53 Processing of Program Requests.

(a) Each program request submitted to the Secretary by a GSE shall be in writing and shall be submitted to the Secretary and the Director, Financial Institutions Regulation, U.S. Department of Housing and Urban Development, Washington, D.C. For those requests submitted prior to the date occurring one year after the effective date of the regulations issued by the Director of OFHEO under section 1361(e) of FHEFSSA establishing the risk-based capital test, the GSE shall simultaneously submit the program request to the Director.

(b) Each program request shall include:

(1) An opinion from counsel stating the statutory authority for the new program (Freddie Mac Act section 305(a) (1), (4), or (5), or Fannie Mae Charter Act section 302(b) (2)–(5));

(2) A good faith estimate of the anticipated dollar volume of the program over the short- and long-term;

(3) A full description of:

(i) The purpose and operation of the proposed program;

(ii) The market targeted by the program;

(iii) The delivery system for the program;

(iv) The effect of the program on the mortgage market; and

(v) Material relevant to the public interest.

(c) Following receipt of a program request, the Secretary and, where a program request is submitted before the date occurring one year after the effective date of the regulations issued by the Director under section 1361(e) of FHEFSSA establishing the risk-based capital test, the Director shall review the program request.

(d) *Transition standard for approval by the Secretary and the Director.*

Program requests submitted by the GSEs before the date occurring one year after the effective date of the regulations issued by the Director under section 1361(e) of FHEFSSA establishing the risk-based capital test shall be approved by the Secretary unless:

(1) The Secretary determines that the new program is not authorized, for a Freddie Mac program, under sections 305(a) (1), (4), or (5) of the Freddie Mac Act, or, for a Fannie Mae program, sections 302(b) (2)–(5) of the Fannie Mae Charter Act;

(2) The Secretary determines that such program is not in the public interest; or

(3) The Director determines that such program would risk significant deterioration of the GSE's financial condition.

(e) *Permanent standard for approval by the Secretary.* Program requests submitted after the date occurring one year after the effective date of the regulations issued by the Director under section 1361(e) of FHEFSSA establishing the risk-based capital test shall be approved by the Secretary unless:

(1) The Secretary determines that the new program is not authorized, for a Freddie Mac program, under sections 305(a) (1), (4), or (5) of the Freddie Mac Act, or, for a Fannie Mae program, 302(b) (2)–(5) of the Fannie Mae Charter Act; or

(2) The Secretary determines that the program is not in the public interest.

(f) *Time for review.* Unless the Secretary and, where appropriate, the Director of OFHEO, need additional information, a program request shall be approved or disapproved within 45 days from the date it is received by the Director, Financial Institutions Regulation and, where applicable, the Director of OFHEO. If within 45 days after receiving a request, the Secretary and/or the Director of OFHEO determine that additional information is necessary to review the matter and request such information from the GSE, the time period for consideration may be extended for an additional 15 days.

(1) Where additional information is requested, the GSE must provide the requested information to the Secretary and, where appropriate, the Director, within 10 days of receipt of the request for additional information.

(2) If the GSE fails to furnish requested information within 10 days after the request for information, the Secretary may deny the GSE's request for approval based on such failure and so report to Congress under paragraph (g) of this section.

(g) *Approval or report.* Within the 45-day period or, if the period is extended, within 60 days following receipt of a program request, the Secretary shall approve the request, in writing, or submit a report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, explaining the reasons for not approving the request. If the Secretary does not act within the time period allowed, the GSE's program request will be deemed approved.

§ 81.54 Review of disapproval.

(a) *Programs disapproved as unauthorized.* Where the Secretary disapproves a program request on the grounds that the new program is not authorized under sections 305(a) (1), (4), or (5) of the Freddie Mac Act, or 302(b) (2)–(5) of the Fannie Mae Charter Act, the GSE may, within 30 days of the date of receipt of the decision on disapproval, request: An opportunity to review and supplement the administrative record for the decision; and/or a meeting with the Secretary or the Secretary's designee. If the request for either is timely, the Secretary shall grant the request.

(1) *Supplementing the record.* A GSE seeking to supplement the record in writing must submit written materials within 30 days after the request to supplement is granted.

(2) *Meeting.* Upon receipt of a timely request from a GSE for a meeting, the Secretary shall arrange such a meeting which shall be conducted by the Secretary or the Secretary's designee within 10 business days of receipt of the request. Such a meeting shall not be on the record and formal rules of procedure shall not apply. The GSE may be represented by counsel and may present all relevant information and materials to the Secretary or the Secretary's designee.

(3) *Determination.* Within 10 days after submission of the information and materials presented in writing or a meeting, the Secretary shall in writing withdraw, modify, or affirm the program disapproval and shall provide the GSE with that decision.

(b) *Program disapproved under public interest determination.* Where a program request is disapproved because the Secretary determines that the program is not in the public interest or because the Director determined that the new program would risk significant deterioration of the GSE's financial condition, the Secretary shall provide the GSE with notice of, and an opportunity for, a hearing on the record