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May 4, 2023

The Honorable Sherrod Brown  
Chairman  
The Honorable Tim Scott  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Patrick McHenry  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

Subject: *Federal Housing Finance Agency: Enterprise Duty To Serve Underserved Markets—Colonia Census Tract Amendments*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Housing Finance Agency (FHFA) entitled “Enterprise Duty To Serve Underserved Markets—Colonia Census Tract Amendments” (RIN: 2590-AB22). We received the rule on April 19, 2023. It was published in the *Federal Register* as a final rule on April 18, 2023. 88 Fed. Reg. 23559. The effective date is July 1, 2023.

According to FHFA, the final rule amends the Enterprise Duty to Serve Underserved Markets regulation to add a definition of “colonia census tract,” to serve as a census tract-based proxy for a “colonia.” FHFA stated the final rule also amends the definition of “high-needs rural region” in the regulation by substituting “colonia census tract” for “colonia.” In addition, FHFA further stated the final rule revises the definition of “rural area” in the regulation to include all colonia census tracts regardless of their location. FHFA determined these changes will make certain activities by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises) in all colonia census tracts eligible for Duty to Serve credit. FHFA finally stated the intent of the changes is to facilitate the Enterprises' ability to operationalize their Duty to Serve activities in colonia census tracts and thereby help increase liquidity in these underserved communities.

Enclosed is our assessment of FHFA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Clinton Jones  
General Counsel  
Federal Housing Finance Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL HOUSING FINANCE AGENCY  
ENTITLED  
“ENTERPRISE DUTY TO SERVE UNDERSERVED MARKETS—  
COLONIA CENSUS TRACT AMENDMENTS”  
(RIN: 2590-AB22)

(i) Cost-benefit analysis

In its submission to us, the Federal Housing Finance Agency (FHFA) indicated it considered preparation of an analysis of the costs and benefits of this final rule to be not applicable.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

FHFA certified the final rule will not have a significant economic impact on a substantial number of small entities because the regulation only applies to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, which are not small entities for purposes of RFA.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory agency, FHFA is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On October 5, 2022, FHFA published a proposed rule. 87 Fed. Reg. 60331. FHFA received 10 comments from the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, four nonprofit organizations, two policy advocacy organizations, and two individuals. FHFA responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FHFA determined the final rule does not contain information collection requirements subject to the Act.

Statutory authorization for the rule

FHFA promulgated the final rule pursuant to sections 4501, 4502, 4511, 4513, 4526, and 4561–4566 of title 12, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FHFA is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FHFA is not subject to the Order.