

§ 81.17

multifamily housing projects with expiring contracts shall receive credit under the housing goals as provided in paragraph (b)(3)(ii) and in accordance with paragraphs (b) and (c)(1) through (c)(9) of this section.

(i) For restructured (modified) multifamily mortgage loans with an expiring assistance contract where a GSE holds the loan in portfolio and facilitates modification of loan terms that results in lower debt service to the project's owner, the GSE shall receive full credit under any of the housing goals for which the units covered by the mortgage otherwise qualify.

(ii) Where a GSE undertakes more than one action to assist a single project or where a GSE engages in an activity that it believes assists in maintaining the affordability of assisted units in eligible multifamily housing projects but which is not otherwise covered in paragraph (c)(9)(i) of this section, the GSE must submit the transaction to HUD for a determination on appropriate goals counting treatment.

(10)–(11) [Reserved]

(12) *HOEPA mortgages and mortgages with unacceptable terms and conditions.* HOEPA mortgages and mortgages with unacceptable terms or conditions as defined in § 81.2 will not receive credit toward any of the three housing goals.

(13) *Mortgages contrary to good lending practices.* The Secretary will monitor the practices and processes of the GSEs to ensure that they are not purchasing loans that are contrary to good lending practices as defined in § 81.2. Based on the results of such monitoring, the Secretary may determine in accordance with paragraph (d) of this section that mortgages or categories of mortgages where a lender has not engaged in good lending practices will not receive credit toward the three housing goals.

(14) *Seller dissolution option.* (i) Mortgages acquired through transactions involving seller dissolution options shall be treated as mortgage purchases, and receive credit toward the achievement of the housing goals, only when:

(A) The terms of the transaction provide for a lockout period that prohibits the exercise of the dissolution option for at least one year from the date on

24 CFR Subtitle A (4–1–10 Edition)

which the transaction was entered into by the GSE and the seller of the mortgages; and

(B) The transaction is not dissolved during the one-year minimum lockout period.

(ii) The Secretary may grant an exception to the one-year minimum lockout period described in paragraph (c)(14)(i)(A) and (B) of this section, in response to a written request from an enterprise, if the Secretary determines that the transaction furthers the purposes of FHEFSSA and the GSE's charter act;

(iii) For purposes of this paragraph (c)(14), “seller dissolution option” means an option for a seller of mortgages to the GSEs to dissolve or otherwise cancel a mortgage purchase agreement or loan sale.

(d) *HUD review of transactions.* HUD will determine whether a class of transactions counts as a mortgage purchase under the housing goals. If a GSE seeks to have a class of transactions counted under the housing goals that does not otherwise count under the rules in this part, the GSE may provide HUD detailed information regarding the transactions for evaluation and determination by HUD in accordance with this section. In making its determination, HUD may also request and evaluate additional information from a GSE with regard to how the GSE believes the transactions should be counted. HUD will notify the GSE of its determination regarding the extent to which the class of transactions may count under the goals.

[60 FR 61888, Dec. 1, 1995, as amended at 65 FR 65088, Oct. 31, 2000; 69 FR 63642, Nov. 2, 2004]

§ 81.17 Affordability—Income level definitions—family size and income known (owner-occupied units, actual tenants, and prospective tenants).

In determining whether a dwelling unit is affordable to very-low-, low-, or moderate-income families, where the unit is owner-occupied or, for rental housing, family size and income information for the dwelling unit is known to the GSE, the affordability of the unit shall be determined as follows:

(a) *Moderate-income* means:

(1) In the case of owner-occupied units, income not in excess of 100 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	70
2	80
3	90
4	100
5 or more	(*)

*100% plus (8% multiplied by the number of persons in excess of 4).

(b) *Low-income* means:

(1) In the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	56
2	64
3	72
4	80
5 or more	(*)

*80% plus (6.4% multiplied by the number of persons in excess of 4).

(c) *Very-low-income* means:

(1) In the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(2) In the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	42
2	48
3	54
4	60
5 or more	(*)

*60% plus (4.8% multiplied by the number of persons in excess of 4).

(d) *Especially-low-income* means, in the case of rental units, where the income of actual or prospective tenants is available, income not in excess of the following percentages of area median income corresponding to the following family sizes:

Number of persons in family	Percentage of area median income
1	35
2	40
3	45
4	50
5 or more	(*)

*50% plus (4.0% multiplied by the number of persons in excess of 4).

[60 FR 61888, Dec. 1, 1995, as amended at 65 FR 65089, Oct. 31, 2000]

§81.18 Affordability—Income level definitions—family size not known (actual or prospective tenants).

In determining whether a rental unit is affordable to very-low, low-, or moderate-income families where family size is not known to the GSE, income will be adjusted using unit size, and affordability determined as follows:

(a) *For moderate-income*, the income of prospective tenants shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	70
1 bedroom	75
2 bedrooms	90
3 bedrooms or more	(*)

*104% plus (12% multiplied by the number of bedrooms in excess of 3).

(b) *For low-income*, income of prospective tenants shall not exceed the following percentages of area median income with adjustments, depending on unit size:

Unit size	Percentage of area median income
Efficiency	56
1 bedroom	60
2 bedrooms	72
3 bedrooms or more	(*)

*83.2% plus (9.6% multiplied by the number of bedrooms in excess of 3).

(c) *For very-low-income*, income of prospective tenants shall not exceed