Federal Housing Finance Agency (FHFA) Explained

The Basics

An independent agency established by Congress in 2008 in the wake of the financial crisis, the FHFA replaced the Office of Federal Housing Enterprise Oversight and the Federal Housing Finance Board. It is led by a director who is nominated by the President and confirmed by the Senate.

FHFA has regulatory oversight over Fannie Mae, Freddie Mac, 11 Federal Home Loan Banks ("FHLBs"), and the Office of Finance.[1] It is also currently the conservator over Fannie Mae and Freddie Mac to prevent further disruption in the home mortgage market.

The FHFA's Mission

FHFA's mission **is to ensure that all the entities they oversee are supporting and encouraging the housing finance markets** in order to ensure they operate: "in a safe and sound manner to serve as a reliable source of liquidity and funding for the housing finance market."

FHFA also manages Fannie Mae and Freddie Mac's congressional requirement to set Enterprise Housing Goals and to comply with their *Duty to Serve* requirement to "facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in: Manufactured housing, Affordable housing preservation, and Rural housing."

The FHFA's Role in Sustaining and Creating Affordable Housing

Under the FHFA, Fannie Mae, Freddie Mac, and the FHLBs buy mortgages and provide loans to keep money flowing through the housing finance system, freeing up capital to make more loans and providing stability by guaranteeing a return for investors in *mortgage-backed securities.*[2]

Fannie Mae, Freddie Mac purchase mortgages from banks and mortgage companies. The Federal Home Loan banks provide loans to member banks.

[1] 12 U.S.C. § 4511.

[2] *Mortgage-backed securities (MBS)* are a type of financial instrument bought and sold on the open financial market. They are bundles of individual mortgages packaged together and sold on the financial market. Investors can buy the entire security of a portion of one. Investors make money off the security when the individuals whose mortgages make up the MBS pay their monthly mortgage payment.

Alliance for Housing Justice

Requirements like "Duty to Serve" are intended to ensure that capital is flowing not just for the market rate and above-market housing development, but for the creation and preservation of affordable housing as well. Affordable housing often has a lower rate of return than market rate housing and left to an unregulated market it would be even more difficult to finance if there were not requirements to serve that market.

FHFA has other mechanisms for preserving affordable housing: In their role setting policy and procedures for Fannie, Freddie, and the Home Loan Banks; they can pause evictions and foreclosures for mortgages;[3] create mortgage forbearance programs;[4] purchase failing mortgages on the private market[5] and change mortgage requirements.[6]

For a more in-depth look at FHFA's role in multi-family housing, see the Revolving Door Project's **"Multifamily Housing and the FHFA" fact sheet.**

How Fannie Mae & Freddie Mac Work

Banks and mortgage companies make loans to multi-family and individual home buyers, providing funds for purchase and taking monthly payments from the borrower to pay down the loan – or *mortgage* – over decades.

Fannie and Freddie buy mortgages from banks right after they're made, combine them with other mortgages and sell them to investors as Mortgage-Backed Securities ("*MBS*"). This frees up funds for lenders to make more mortgages without waiting for borrowers to make monthly payments over decades.

Financial markets have historically assumed that Fannie and Freddie investments came with government guarantees; investors expected Fannie and Freddie MBS investments to be safe and backed by U.S. taxpayers. Since Fannie and Freddie came under conservatorship, this implicit guarantee has become explicit.

THE FHFA's Jurisdiction on Housing

- Works towards providing low- and moderate-income families with "safe and affordable" mortgages through the entities they oversee.[7]
- Encourages the development of affordable housing within the agencies it oversees (Fannie Mae/Freddie Mac and FHLBs) through funding.[8]
- May establish tenant protections or moratoriums on mortgage/evictions/etc. when needed.

[3] Federal Housing Finance Agency, FHFA Extends Foreclosure and Eviction Moratorium (May 14, 2020), available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-Eviction-Moratorium.aspx

[4] Federal Housing Finance Agency, FHFA Extends Foreclosure and REO Eviction Moratoriums and COVID Forbearance Period (Feb. 2, 2021), available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Foreclosure-and-REO-Eviction-Moratoriums-and-COVID-Forbearance-Period.aspx

[5] Federal Housing Finance Agency, FHFA Announces that Enterprises will Purchase Qualified Loans in Forbearance to Keep Lending Flowing (Apr. 22, 2020), available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-that-Enterprises-will-Purchase-Qualified-Loans.aspx

[6] The Federal Housing Finance Agency, FHFA Extends Loan Processing Flexibilities for Fannie Mae and Freddie Mac Customers (May 5, 2020), available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-Loan-Processing- Flexibilities-for-Fannie-Mae-and-Freddie-Mac-Customers.aspx

[7] 12 U.S.C. § 4513

[8] Federal Housing Finance Agency, FHFA Authorizes More than $1 Billion for Affordable Housing Funds (Mar. 1, 2021), available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Authorizes-More-than-$1-Billion-for-Affordable- Housing-Funds.aspx

- FHLBs aid member institutions in fair housing efforts through providing credit and purchasing mortgage loans; able to establish forbearance programs.
- Fannie Mae/Freddie Mac help decrease the likelihood of loss for investors by bundling and guaranteeing mortgages.

Examples:

During the COVID-19 emergency, the FHFA:

- Directed Fannie Mae and Freddie Mac to prohibit evictions from properties they owned (*REO*, or *Real Estate Owned*). The REO eviction moratorium applied to properties acquired by Fannie Mae or Freddie Mac through foreclosure or deed-in-lieu of foreclosure transactions.
- Required Fannie and Freddie to provide owners of Fannie-backed properties a new or modified mortgage forbearance if they experience a COVID-19-related hardship. In turn, the FHFA required those property owners to:
    - Inform tenants (in writing) of protections available during forbearance and repayment periods
    - Agree not to evict tenants for nonpayment of rent while the property is in forbearance

  Additional tenant protections required by FHFA during these repayment periods include:

    - Giving tenants at least 30 days' notice to vacate
    - Not charging late fees or penalties for nonpayment of rent
    - Allowing flexibility in back-rent repayment over time, and not necessarily in a lump sum
    - Flexible repayment plans for back-rent, not necessarily in a lump sum.