MORTGAGE BANKERS ASSOCIATION

May 31, 2019

Ms. Maren Kasper
Acting President
Ginnie Mae
425 3rd Street, SW, Suite 500
Washington, DC 20024

RE: Request for Input: Pooling Eligibility Changes[1]

Dear Ms. Kasper:

The Mortgage Bankers Association (MBA)[2] thanks Ginnie Mae for its continued efforts to promote liquidity for mortgages backed by federal insurance or guaranty programs, as well as for the opportunity to comment on potential changes to its pooling parameters.[3]

As is noted in the Ginnie Mae Request for Input (RFI), the frequency of refinancing of loans guaranteed by the U.S. Department of Veterans Affairs (VA) continues to diverge from the activity that would be expected based on underlying economic and financial conditions. When prepayment speeds on VA loans remain elevated, investor demand for Ginnie Mae securities wanes, thereby raising average interest rates for all borrowers utilizing federal insurance or guaranty programs. Because these programs disproportionately serve not only veterans, but also lower-income, first-time, rural, and minority homebuyers, market activity that increases borrowing costs is particularly problematic.

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[1] Ginnie Mae, "Request for Input: Pooling Eligibility Changes," May 3, 2019. Available at: https://ginniemae.gov/newsroom/publications/Documents/ginniemae_rfi_va.pdf.

[2] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, credit unions, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

[3] MBA's comments are a voluntary response provided to HUD in response to an RFI. This is not a required submission for participation in a federal program.

MBA has regularly advocated for policies that would deter serial refinancing, or "loan churning," in the VA market. In testimony before a House subcommittee, then-MBA Chairman Dave Motley noted with respect to churning that "such conduct is unacceptable and should be put to an end," while calling for policies such as net tangible benefit tests, maximum fee recoupment periods, and improved consumer education.[4] MBA supported the adoption of similar policies in bipartisan legislation enacted in May 2018, while also urging technical corrections that would better serve both borrowers and lenders.

As rapid prepayment activity in the VA market shifted from streamlined refinances to cash-out refinances, VA undertook a congressionally-mandated rulemaking to define the proper parameters for cash-out refinances.[5] MBA supported this effort and urged VA to strengthen the rule's protections for veterans with respect to net tangible benefit options, loan fees, loan seasoning, and consumer solicitations.[6]

In recent years, Ginnie Mae has taken decisive actions to address elevated prepayment speeds, including implementation of loan seasoning requirements and restrictions on Issuers with performances that deviated substantially from those of their cohort. The additional steps offered for consideration in the RFI center on VA cash-out refinances with high loan-to-value (LTV) ratios. Specifically, due to the greater propensity for rapid refinancing of VA cash-out refinances with LTV ratios above 90 percent, Ginnie Mae is evaluating whether such loans should be excluded from its flagship multi-Issuer pools.

General Observations

<u>Range of Industry Views</u>

Based on extensive feedback from a broad cross-section of Ginnie Mae Issuers, there is both a widespread recognition of the problem of serial refinancing of VA loans and a wide-ranging set of views regarding the appropriate remedies. Some Issuers support the use of restrictions on high-LTV VA cash-out refinances as a means to further protect consumers and better align prepayment speeds with

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[4] Motley, J. David. "Testimony before the U.S. House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity," January 10, 2018. Available at: https://www.mba.org/Documents/1%202018%20MBA_Testimony_Motley.pdf.

[5] 83 FR 64459. "Loan Guaranty: Revisions to VA-Guaranteed or Insured Cash-Out Home Refinance Loans," December 17, 2018. Available at: https://www.federalregister.gov/documents/2018/12/17/2018-27263/loan-guaranty-revisions-to-va-guaranteed-or-insured-cash-out-home-refinance-loans.

[6] MBA, "RE: Loan Guaranty: Revisions to VA-Guaranteed or Insured Cash-Out Home Refinance Loans," February 15, 2019. Available at: https://www.mba.org/Documents/MBA_VA_Cash_Out_Refinances_February2019.pdf.

economic and financial fundamentals. Many others prefer that Ginnie Mae pursue a more targeted approach by continuing to take actions to limit program participation by specific Issuers that exhibit elevated prepayment speeds, or by further narrowing the set of loans affected by new pooling restrictions. These varying views reflect the difficulty in balancing the need to deter loan churning with the need to allow continued access to refinances that are in the financial interest of the veteran borrower.

Deference to VA

As with any loan-level parameters, MBA believes such policies are more appropriate for the guidelines and requirements of the insuring or guaranteeing agency—in this case, VA. If Ginnie Mae does enact pooling restrictions to serve as a deterrent to churning, it could (and should) rescind such restrictions if VA were to implement substantially similar protections. This deference to the insuring or guaranteeing agency will serve as a safeguard against policies that are duplicative or otherwise cause confusion in the market.

Ginnie Mae Pooling Eligibility

The RFI goes on to offer multiple possibilities for an “alternative securitization path” for excluded loans. MBA supports the position taken by Ginnie Mae that, if certain VA-guaranteed loans are excluded from standard multi-Issuer pools, an alternative securitization path should be provided to enhance market liquidity.

As with earlier Ginnie Mae loan seasoning requirements, any new pooling parameters should allow for excluded loans to obtain a Ginnie Mae guaranty, provided the loans have obtained valid insurance or guaranty from the relevant federal agency. Put differently, no VA loans should be prohibited from inclusion in Ginnie Mae securities. Instead, they should be structured and sold into the secondary market in a manner that reflects the appropriate consumer protections that are needed.

Potential Policy Responses

In the course of evaluating potential policy responses, MBA considered five options for high-LTV VA cash-out refinances, including the three alternative securitization paths explicitly referenced in the RFI.

1) Pool these loans into single-Issuer custom securities (Option 1 in the RFI);
2) Impose a *de minimis* standard restricting inclusion of these loans in multi-Issuer pools (Option 2 in the RFI);
3) Create new multi-Issuer pools specifically for shorter-duration loan type categories (Option 3 in the RFI);
4) Implement any of the three options above, but only with respect to high-LTV VA cash-out refinances that have not reached a seasoning threshold to be determined by Ginnie Mae; and
5) Focus any Ginnie Mae efforts on targeted actions against individual Issuers rather than instituting program-wide pooling restrictions.

MBA and its members evaluated these policy responses across many dimensions, including pricing impacts, operational challenges, and scope.

<u>Pricing Impacts</u>

Options 1 and 3 would allow Ginnie Mae to more effectively isolate loans with elevated prepayment risk, thereby allowing investors to price that risk more accurately. Because the standard multi-Issuer securities would no longer contain these loans, the vast majority of borrowers in government-insured or -guaranteed loans would be shielded from the negative pricing impacts that are occurring today.

Option 1 features single-Issuer custom pools, which would allow investors to better price risk based on prepayment trends at the Issuer level. This response is best suited to situations in which a small number of Issuers with elevated prepayment activity are responsible for a deterioration in pricing across a broad set of Issuers.

Conversely, Options 2 and 3 would diversify risks related to any particular Issuer, which may be beneficial for many investors, particularly those that do not wish to monitor prepayment speeds across hundreds of Issuers.

Option 5 would not directly change pricing at the program level, though it could indirectly improve pricing if it effectively deters excessive prepayment activity.

<u>Operational Challenges</u>

The nature of any pooling restrictions could also present operational challenges, particularly for smaller Issuers. Option 5 maintains the status quo for Issuers (other than those subject to enforcement actions), and therefore should bring no additional operational hurdles.

Among the other policy responses, those that feature multi-Issuer securities for high-LTV VA cash-out refinances are likely to entail fewer complications. Because the minimum pool size for single-Issuer securities is $1 million, some very small Issuers may have difficulty pooling sufficient high-LTV VA cash-out refinances of similar note rates on a consistent, timely basis.

Scope

Those Issuers who favor Option 5 place an emphasis on the need for any Ginnie Mae policy response to be as narrowly targeted as possible while still adequately addressing the underlying problem of loan churning. If Ginnie Mae were to limit its enforcement to those Issuers exhibiting elevated prepayment speeds, the vast majority of Issuers would feel no impact (other than improved pricing if the enforcement actions successfully curtail churning). Therefore, Ginnie Mae's ability to effectively identify the parties responsible for serial refinancing activity—and to institute penalties that effectively change market behavior—is critical to the viability of Option 5.

While Option 5 narrows the scope of any policy response in terms of the Issuers that are affected, Option 4 narrows the scope in terms of the loans that are affected. The RFI considers pooling restrictions for all high-LTV VA cash-out refinances, though it is clear that not all such loans are churned loans. To limit the impact on veteran borrowers who are receiving loans that are in their financial interest, some Issuers prefer a layered policy response. Under such a response, only high-LTV VA cash-out refinances that have been refinanced quickly after origination of the prior loan would be subject to the pooling restrictions in Options 1-3. For example, Options 1-3 could be employed for all high-LTV VA cash-out refinances with seasoning of less than 12 months (for the prior loan). These loans are far more likely to be churned loans or loans for which refinancing is not in the borrower's best interest.

Other Implementation Considerations

In addition to the factors considered above, MBA and its members analyzed other implementation considerations that will affect the success of any Ginnie Mae policy responses.

Use of Multiple Options

Given some of the trade-offs noted above, it may be preferable for various policy responses to coexist in the market. For example, single-Issuer and multi-Issuer pools coexist today, and many Issuers value the flexibility of being able to choose between Options 1 and 3 for their high-LTV VA cash-out refinances. Under such an arrangement, these loans would still be isolated from a pooling perspective, regardless of which path is chosen by any individual Issuer.

Ginnie Mae should also consider the staging of its policy responses. In particular, it may be beneficial to begin with more narrowly-tailored responses—followed by expansions into more sweeping measures if necessary. As is noted above, Options 4 and 5 represent the narrowest responses, and Ginnie Mae could monitor their effectiveness while reserving the ability to implement Options 1-3 if prepayment speeds do not slow to a more acceptable level.

Relationship to VA Policies

Any Ginnie Mae policy response must be effective in tandem with any requirements or restrictions put in place by VA. As is noted above, VA instituted new rules on cash-out refinances in February 2019, and MBA urged VA to strengthen the protections in those rules across a number of dimensions. Ginnie Mae should carefully monitor the VA refinance market to determine whether the new VA rules are improving outcomes for borrowers and slowing down prepayment activity that is uncorrelated with economic and financial fundamentals. Such monitoring should occur in partnership with VA. Ginnie Mae should then take further action only if faced with prepayment speeds that remain elevated and are not adequately controlled by existing VA rules and policies.

Effective Dates and Covered Loans

Finally, Ginnie Mae should ensure that any policy response only applies to loans originated on or after an effective date that is announced with reasonable advance notice. The market impact of the so-called "orphaned VA loans" that became ineligible for Ginnie Mae pooling due to legislative changes in May 2018 should serve as a reminder of the importance of clear guidelines and adequate implementation periods. For example, Ginnie Mae should articulate that loans originated prior to the effective date of any policy response will never be subject to the new pooling restrictions, even if they are bought out of pools and subsequently re-pooled without any modifications. Ginnie Mae should also articulate that refinance loans that provide permanent financing for new construction should be not be subject to any new pooling restrictions.

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Thank you in advance for your consideration of these comments. Should you have questions or wish to discuss further, please contact Dan Fichtler, Director of Housing Finance Policy, at (202) 557-2780 and dfichtler@mba.org.

Sincerely,

Robert D. Broeksmit, CMB
President and Chief Executive Officer
Mortgage Bankers Association