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**National Association of Federally-Insured Credit Unions**

May 22, 2019

Government National Mortgage Association  
425 3<sup>rd</sup> Street S.W.  
Washington, D.C. 20024

### **RE: Request for Input – Pooling Eligibility Changes**

Dear Sir or Madam:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Request for Input (RFI) from the Government National Mortgage Association (Ginnie Mae) on potential changes to its Ginnie Mae II Multi-Issuer Program (GII MIP) to remove cash out refinance loans made through the U.S. Department of Veterans Affairs (VA).<sup>1</sup> NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. Several of NAFCU's member credit unions are Ginnie Mae issuers and provide their members with a variety of VA loans, including cash-out refinances; however, credit unions follow strong underwriting standards and do not engage in predatory lending practices.

To minimize any adverse effects on veterans seeking to refinance their mortgages, NAFCU recommends that Ginnie Mae first allow the VA to complete its own evaluation of VA cash-out refinances, then closely evaluate other changes before making a decision. Ginnie Mae should examine the impact of its own recent actions as well as those by Congress and the VA over the next year before deciding whether to exclude VA cash-out refinances from the GII MIP. If Ginnie Mae does choose to take action before that point, imposing a *de minimis* standard to restrict inclusion in the GII MIP would likely have the fewest negative impacts on the credit union industry, but could still hurt credit unions and their veteran members.

### **General Comments**

Over the past few years, several changes have impacted VA lending and pooling requirements. In October 2016, Ginnie Mae's All Participants Memorandum 16-05 established a six-month seasoning requirement for the pooling of streamline refinance loans in the GII MIP program. Ginnie Mae later extended this requirement to cash-out refinance loans and the Ginnie Mae I mortgage-backed securities (MBS) program. In May 2018, Section 309 of the *Economic Growth, Regulatory Relief, and Consumer Protection Act* (EGRRCPA), Public Law 115-174, imposed new requirements to protect veterans from predatory lending. Section 309 required, among other things,

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<sup>1</sup> This is a voluntary response provided to HUD in response to an RFI. This is not a required submission for participation in a federal program.

that lenders provide borrowers with a net tangible benefit test to ensure that refinancing the loan is in the best interest of the borrower. This section also codified into law the previously established six-month seasoning requirement.

Most recently, the VA published an interim final rule (RIN 2900-AQ42) to establish new requirements on cash-out refinances, including a requirement that lenders provide borrowers with a loan comparison disclosure showing the new payoff amount, interest rate, and type of loan as compared to the original mortgage loan. The rule also required lenders to disclose the amount of home equity that would be removed from the home due to the refinancing. NAFCU submitted comments in a letter, dated February 15, 2019, outlining potential timing and liability concerns regarding the distribution of the loan comparison disclosure.

On May 3, 2019, Ginnie Mae released this RFI to address ways to resolve the pattern of adverse trading in some GII MIP securities relative to Fannie Mae MBS and the perception that GII MIP securities are more susceptible to refinance activity than should be expected based on economic conditions. The RFI cites a decline in GII MIP versus Fannie Mae swaps from October 2018 through April 2019 and notes that recent changes have likely not had an effect on refinance spikes. However, certain developments, including the VA's interim final rule in February, could improve the performance of Ginnie Mae securities compared with similar Fannie Mae securities. Ginnie Mae acknowledges that the VA rule is too recent to understand the potential impact it could have on this analysis. Considering the VA rule just became effective in February and has the potential to affect Ginnie Mae's prepayment speeds, NAFCU urges Ginnie Mae to wait at least a year to analyze the impact of this change before deciding how to proceed with VA cash-out refinance loans in the GII MIP.

At the least, Ginnie Mae should wait until the VA has completed its own analysis of VA cash-out refinance loans, which is expected to be completed before the end of 2019. Finishing this analysis would better inform a decision about the future of these securities and the effect any changes could have on the GII MIP program. The primary reason for delaying any action on the VA cash-out refinance loan is to prevent any potential negative effects on veterans seeking to refinance their homes with responsible lenders. Credit unions aim to provide access to credit and liquidity for all of their members while ensuring that those members are fully informed of the process and potential risks of a certain product before making the loan. Some market participants do not take this consumer-friendly approach and instead encourage our nation's veterans to refinance, without explaining the risks, or even to repeatedly refinance in a short period, a process often referred to as "churning."

Credit unions do not engage in such activities so they support efforts to target and eliminate such lending practices that inevitably hurt veterans. Such aggressive tactics likely steer some veteran borrowers away from seeking safer cash-out refinance options from their credit union. In passing the EGRRCPA, Congress likely did not intend to reduce the issuance of VA cash-out refinances with high loan-to-value (LTV) ratios. Such products are helpful for veterans in need of quick access to liquidity for a variety of purposes; however, borrowers should be aware of the risks and closing costs and fees associated with the product. Entirely removing VA cash-out refinance loans with an LTV above 90 percent from the GII MIP could discourage lenders from offering such

refinance products to veterans in the first place, even if the lender is responsible, has strict underwriting standards, and has an established relationship and other accounts with the borrower.

Additionally, the 90 percent LTV threshold, without further justification and data analysis, is an arbitrary cap on VA cash-out refinance loans that may be included in the GII MIP program. When presented with the option, many veterans opt for a 100 percent LTV VA loan, versus 90 percent, because it better suits their financial needs. Those borrowers likely have not paid 10 percent of the loan before it is refinanced, pooled and securitized, so credit unions making such loans and the veterans relying on such financing to achieve homeownership and financial stability could see negative consequences in the form of pass-through costs and reduced access to credit. Before excluding VA cash-out refinances from the GII MIP, Ginnie Mae should complete further review to determine whether there is more than a correlation between the propensity to rapidly prepay VA loans and the different LTV requirements in the VA program compared to those of the Federal Housing Administration (FHA), Fannie Mae, and Freddie Mac. Accordingly, NAFCU urges Ginnie Mae to conduct a more detailed analysis and consider less extreme options than those proposed in the RFI.

### **A De Minimis Rule Would Have the Least Adverse Consequences**

In this RFI, Ginnie Mae has proposed three potential alternative paths for VA cash-out refinance loans in the secondary market, including: (1) single-issuer custom securities; (2) imposition of a de minimis standard restricting inclusion in the GII MIP; and (3) creation of a new MIP specifically for shorter duration loan type categories. All three possibilities would have adverse effects on smaller lenders like credit unions and their veteran members. Establishing a de minimis rule would likely have the fewest negative impacts but NAFCU cautions Ginnie Mae to carefully consider a rule with limits that will not hurt credit unions' VA lending programs and consequently restrict access to financing for our nation's veterans.

Creating a new shorter duration MIP is likely the least effective solution for credit unions because it would segregate assets, leading to differential pricing. Additionally, this option would not address the root cause of faster prepayment speeds on VA cash-out refinances and aggressive, repeat refinancing, or "churning." Custom single-issuer securities, which would link the securities' performance to the particular characteristics of an issuer and the loans within the pool, is a slightly preferable option. Nevertheless, this alternative would likely receive price concessions based on the size of a pool – larger pools receive better pricing in the market. Therefore, issuers with smaller-sized pools would face less favorable pricing, reducing the profitability of such securities. An additional concern is the marketability of such securities in the To-Be-Announced (TBA) market. Smaller credit unions generally do not prefer custom pools because they are not deliverable in the TBA market and do not receive favorable pricing. So again, smaller lenders would be negatively impacted.

Establishing de minimis standards to restrict loans within the GII MIP that are expected to prepay at higher rates could achieve Ginnie Mae's intended result, but would also come with costs for credit unions and veterans. An overly restrictive limit in a de minimis rule would hurt small lenders' ability to profitably underwrite VA cash-out refinance loans. If just one or two loans fall

outside of the de minimis rule's limit, this could push a credit union's entire pool over the limit, which would require it to pool additional loans into custom pools or package them as bulk whole loans. Both of these options would likely receive pricing concessions and reduce a credit union's ability to make these loans in the first place. Restricting inclusion of VA cash-out refinance loans has the potential to disproportionately harm smaller lenders, including credit unions, which could significantly impact VA lending programs, especially in underserved and rural areas.

NAFCU urges Ginnie Mae to study credit union lending patterns and establish limits that do not hurt VA lending programs, especially in underserved and rural communities where credit unions may be the only available financial institution. Credit unions have a strong history of working with their members' to find a loan product that works best for their personal financial circumstances. Once a borrower obtains a loan, credit unions will work with the borrower should they encounter financial hardship to establish a payment plan that fits within their financial means and mitigates losses on the loan. Accordingly, NAFCU requests that Ginnie Mae recognize the unique nature and operations of credit unions and provide additional opportunities for stakeholder engagement and comment before making a decision on the future of VA cash-out refinance loans.

## **Conclusion**

NAFCU and its member credit unions object to predatory lending practices and support any steps to discourage "churning" by lenders that prey on our nation's veterans. In addition to providing more opportunities for stakeholder feedback, NAFCU also encourages Ginnie Mae to work with the VA to determine the most effective means of curbing predatory lending practices, such as "churning" VA cash-out refinance loans. Ginnie Mae should wait until the VA has completed its analysis of VA cash-out refinance loans and further evaluate the effects of recent changes before making a decision on the future of such loans in the GII MIP program. Of the possible alternative paths presented in this RFI, NAFCU and its member credit unions prefer Ginnie Mae establish a de minimis standard restricting inclusion in the MIP, but caution that this could lead to negative consequences for smaller lenders and veterans. NAFCU appreciates the opportunity to provide comments on this RFI and would like to stress that any future changes to the GII MIP should not impair the ability of credit unions to provide high quality, consumer-friendly financial services to their veteran members. If you have any questions or concerns, please do not hesitate to contact me or at (703) 842-2212 or [akossachev@nafcu.org](mailto:akossachev@nafcu.org).

Sincerely,



Ann Kossachev  
Director of Regulatory Affairs