

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 320 and 350

[Docket No. FR-5063-P-01]

RIN 2503-AA19

Government National Mortgage Association: Mortgage-Backed Securities (MBS) Program—Payments to Securityholders; Book-Entry Procedures; and Financial Reporting

AGENCY: Government National Mortgage Association, HUD.

ACTION: Proposed rule.

SUMMARY: The Government National Mortgage Association (Ginnie Mae) is proposing regulations that would restrict the issuance of physical certificates representing Ginnie Mae mortgage-backed securities and would clarify that book-entry securities may be withdrawn from the Federal Reserve book-entry system after Ginnie Mae has approved a request for physical certificates, also known as definitive securities, in the same amount. This proposed rule would also eliminate the requirement for a classified balance sheet.

DATES: *Comment Due Date:* July 6, 2007.

ADDRESSES: Interested persons are invited to submit comments to the Office of General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications should refer to the above docket number and title.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that Web site to submit comments electronically.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title.

Public Inspection of Public Comments. All comments and

communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Weakland, Senior Vice President, Office of Program Administration, Government National Mortgage Association, Department of Housing and Urban Development, Room B-133, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 475-4915 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Government National Mortgage Association (GNMA) (Ginnie Mae) guarantees privately issued securities backed by trusts or pools of mortgage loans that are insured or guaranteed by the Federal Housing Administration, the Rural Housing Service, the Department of Veterans Affairs, and the Department of Housing and Urban Development (HUD). Ginnie Mae is a government corporation within HUD, authorized by the National Housing Act (12 U.S.C. 1716 *et seq.*). The regulations governing Ginnie Mae are located at 24 CFR part 300.

II. This Proposed Rule

Ginnie Mae-guaranteed securities are issued in book-entry form. Under current Ginnie Mae regulations, a securityholder may request that the book-entry security be converted into certificated form after initial issuance. Certificates are physical documentation of the ownership of the security. Ginnie Mae proposes to revise the regulations to state that for all securities issued after particular issue dates, physical certificates may only be issued as approved by Ginnie Mae. Also, the proposed rule would clarify that book-entry securities may be withdrawn after Ginnie Mae has approved a request for definitive Ginnie Mae securities.

Ginnie Mae proposes to limit the issuance of physical securities because: (1) Virtually all of Ginnie Mae's

investors hold their securities in book-entry form through the Federal Reserve Bank of New York (FRBNY) or through a FRBNY participant; (2) book-entries will decrease the costs for issuers; (3) physical securities provide more opportunities for fraud; and (4) the shift from physical securities to book-entry securities conforms with industry practice.

Additionally, Ginnie Mae proposes to revise the financial reporting rule for issuers participating in its MBS programs. The revisions will remove the requirement that issuers submit classified balance sheets. Ginnie Mae proposes to remove this requirement in order to conform with industry practice.

III. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This proposed rule does not impose any federal mandate on any state, local, or tribal government, or the private sector within the meaning of UMRA.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule introduces a streamlining amendment to the financial reporting regulations and a change in the maintenance of Ginnie Mae book-entry and certificated securities. Small entities will not be adversely affected by the more streamlined financial reporting requirement or the book-entry

requirement; in fact, a more streamlined financial reporting requirement may alleviate some burden. Furthermore, all such issuers, regardless of size, are subject to the new requirements proposed by the rule. Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this proposed rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's program responsibilities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the order. This proposed rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the order.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule are currently approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2503–0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid control number.

Executive Order 12866, Regulatory Planning and Review

OMB reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the order (although not an economically significant regulatory action, as provided under section 3(f)(1) of the order). The docket file is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an advance appointment to review the docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Hearing- and speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

List of Subjects for 24 CFR Parts 320 and 350

Mortgages, Securities.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 320 and 350 as follows:

PART 320—GUARANTY OF MORTGAGE-BACKED SECURITIES

1. The authority citation for 24 CFR part 320 continues to read as follows:

Authority: 12 U.S.C. 1721(g) and 1723a(a); and 42 U.S.C. 3535(d).

2. Revise § 320.5(e) to read as follows:

§ 320.5 Securities.

(e) *Issue Date.* Securities backed by single-family mortgages with issue dates of October 1, 1998, or before, serial

notes with issue dates of July 1, 2002, or before, and securities backed by multifamily mortgages with issue dates of February 1, 2002, or before, have been issued in certificated form. Securities issued after these dates will be issued in book-entry form. The Association may approve the issuance of certificated securities for good cause.

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3. Revise § 320.10 to read as follows:

§ 320.10 Financial Reporting.

Issuers shall submit to the Association audited annual financial statements within 90 days of their fiscal year end. All financial statements shall include a balance sheet and a statement of operations and cash flows. The audit shall be conducted in accordance with the standards for financial audits of the U.S. Government Accountability Office's *Government Auditing Standards*, issued by the Comptroller General of the United States.

PART 350—BOOK-ENTRY PROCEDURES

4. The authority citation for 24 CFR part 350 continues to read as follows:

Authority: 12 U.S.C. 1721(g) and 1723a(a); and 42 U.S.C. 3535(d).

5. Revise § 350.8(a) to read as follows:

§ 350.8 Withdrawal of Eligible Book-Entry Ginnie Mae Securities for Conversion to Definitive Form.

(a) Eligible book-entry Ginnie Mae securities may be withdrawn from the book-entry system after Ginnie Mae has approved a request for the delivery of definitive Ginnie Mae securities in the same amount.

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Dated: April 3, 2007.

Robert M. Couch,

President, Government National Mortgage Association.

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