

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Part 320

[Docket No. FR-4331-F-02]

RIN 2503-AA12

### Ginnie Mae MBS Program: Book-Entry Securities

**AGENCY:** Government National Mortgage Association, HUD.

**ACTION:** Final rule.

**SUMMARY:** This rule makes final the interim rule published on September 24, 1998, which revised the security issuance procedures for the Government National Mortgage Association ("Ginnie Mae"). Under the revised procedures, a certificated security is no longer issued for a book-entry security. Currently, certificated securities are issued only upon the request of the registered holder. The interim rule revised two sections of part 320 to reflect this change. This final rule accommodates the one public comment received.

**DATES:** Effective Date: July 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas R. Weakland, Vice President, Office of Program Administration, Government National Mortgage Association, Room 6204, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410-0500. Telephone (202) 708-2884 (voice). For hearing-and speech-impaired persons, this number may be accessed via TTY by calling the Federal Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Government National Mortgage Association ("Ginnie Mae") guarantees mortgage-backed securities of approved issuers. On September 24, 1998, Ginnie Mae published an interim rule which revised Ginnie Mae's security issuance procedures to adopt a true book-entry system for the securities that it guarantees, instead of the current system under which a certificated security is issued and stored. Accordingly, the interim rule revised § 320.5 to: (1) Revise paragraph (a) to indicate that only physical securities will specify payment and maturity dates; (2) indicate the date on and after which physical securities will be issued only at the request of the registered holder; and (3) establish when Ginnie Mae considers a book-entry security to be guaranteed. The interim rule also revised the language of § 320.13 to conform with the book-entry system. The interim rule was effective for securities issued on or after November 1, 1998.

The September 24, 1998 interim rule received one public comment. The commenter, a depository, pointed out the need for certainty in determining when delivery of uncertificated book-entry securities occurs. This final rule revises the interim rule to accommodate the public comment and to make other minor language changes. In addition, Ginnie Mae is delaying the uncertificated book-entry process for serial notes and securities backed by multifamily mortgage pools.

### Findings and Certifications

#### Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. Ginnie Mae's designated depository is the only entity affected by this revision, and the designated depository is not a small entity. The final rule will have no adverse or disproportionate economic impact on small businesses.

#### Environmental Impact

This rulemaking is exempt from the environmental review procedures under HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) because of the exemption under 24 CFR 50.19(c)(1) which pertains to "the approval of policy documents that do not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out to provide for standards for construction or construction materials, manufactured housing, or occupancy." This rulemaking simply amends existing regulations regarding the form of guaranteed securities.

#### Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this final rule that would affect the relationship between the Federal

Government and State and local governments.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) ("UMRA") establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

#### List of Subjects for 24 CFR Part 320

Mortgages.

Accordingly, the interim rule published at 63 FR 51250, amending 24 CFR part 320 is adopted as final with the following changes:

### 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. Section 320.5 is amended by revising the last sentence of paragraph (a), paragraphs (e) and (f), and by adding paragraph (g) to read as follows:

#### § 320.5 Securities.

(a) \* \* \* The securities, if issued in certificated form, must specify the dates by which payments are to be made to the holders thereof, and must indicate the accounting period for collections on the pool's mortgages relating to each such payment, and the securities, if issued in certificated form, must also specify a date on which the entire principal will have been paid or will be payable.

(e) *Issue date.* Securities with issue dates of October 1, 1998, or before, have been issued in certificated form. Except for serial note securities and securities backed by multifamily mortgage pools, securities with issue dates of November 1, 1998, or thereafter, will be issued initially in uncertificated, book-entry form. Following initial issuance, certificated securities will be issued in exchange for uncertificated securities at the request of the registered holder and upon payment of any required fee. Serial notes and securities backed by multifamily mortgage pools will continue to be issued in certificated form until the applicable MBS Guide provides otherwise.

(f) *Delivery.* Delivery of uncertificated securities occurs when the book-entry

depository's nominee is registered as the registered owner of the securities on Ginnie Mae's central registry.

(g) *Guaranty*. The Ginnie Mae guaranty of uncertificated securities becomes effective when the book-entry depository's nominee is registered as the registered owner of the securities on Ginnie Mae's central registry.

(Approved by the Office of Management and Budget under control number 2503-0009)

3. Section 320.13 is revised to read as follows:

**§ 320.13 Guaranty.**

The Association guarantees the timely payment, whether or not collected, of the interest on the outstanding balance and the specified principal installments

on securities that are registered on Ginnie Mae's central registry. The Association's guaranty is backed by the full faith and credit of the United States.

Dated: June 18, 1999.

**George S. Anderson,**

*Executive Vice President, Government National Mortgage Association.*

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