

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Parts 320 and 350

[Docket No. FR-5063-F-02]

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:** Final rule.

**SUMMARY:** On May 7, 2007, the Government National Mortgage Association (Ginnie Mae) published a proposed rule that would restrict the issuance of physical certificates representing Ginnie Mae mortgage-backed securities (MBS) and clarify that book-entry securities may be withdrawn from the Federal Reserve book-entry system after Ginnie Mae has approved a request for physical certificates, also known as definitive securities, in the same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. The rule also proposed to eliminate the requirement for a classified balance sheet. Ginnie Mae did not receive any public comments on this rule. Ginnie Mae is adopting, at this final rule stage, the proposed rule without change.

**DATES:** *Effective Date:* September 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** Thomas R. Weakland, Senior Vice President, Office of Program Operations, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B-133, Washington, DC 20410; telephone number (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 and the May 7, 2007, Proposed Rule

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.

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. On May 7, 2007 (72 FR 25925), Ginnie Mae published a rule that proposed to revise its regulations to state that for all securities issued after particular issue dates, physical certificates may only be issued as approved by Ginnie Mae. Also, in the proposed rule, Ginnie Mae proposed to clarify that book-entry securities may be withdrawn after Ginnie Mae has approved a request for definitive Ginnie Mae securities. Additionally, in order to conform to industry practice, Ginnie Mae proposed to revise the financial reporting rule for issuers participating in its MBS programs, by removing the requirement that issuers submit classified balance sheets.

#### II. This Final Rule

At this final rule stage, Ginnie Mae is adopting the proposed rule without change. The public comment period for the May 7, 2007, proposed rule closed on July 6, 2007, and Ginnie Mae did not receive any comments on the proposed rule. The revised regulations, which are promulgated by this final rule, restrict the issuance of physical certificates representing Ginnie Mae MBS and 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 rule also eliminates the requirement for a classified balance sheet.

#### 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 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 rule does not directly, 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 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 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 rule will not have a significant economic impact on a substantial number of small entities.

##### *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 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 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.

#### List of Subjects in 24 CFR Parts 320 and 350

Mortgages, Securities.

■ Accordingly, for the reasons described in the preamble, HUD amends 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.

\* \* \* \* \*

■ 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(a) 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: August 17, 2007.

**Roy A. Bernardi,**

*Deputy Secretary.*

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