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The Housing Policy Council (HPC) and the Mortgage Bankers Association (MBA) thank you and the Ginnie Mae leadership team for your ongoing engagement with our members throughout the COVID-19 pandemic. In this same spirit of mutual collaboration, we submit this letter as a follow-up to the analysis we provided in June 2020 regarding the potential impact of policies prohibiting the pooling eligibility of Re-performing Loans. Although Ginnie Mae ultimately did not prohibit the securitization of Re-performing Loans, the substantial re-delivery restrictions imposed have had a negative impact on market liquidity for these loans and the securities backed by them. The shifts in the economic and regulatory climate of the past 18 months warrant and justify the removal of those temporary restrictions.

In All Participant Memorandum (APM) 20-07: Temporary Pooling Restrictions on Re-performing Loans, Ginnie Mae established new pooling eligibility requirements on loans bought out of pools for which the borrower was brought current without a modification of the loan terms – by executing, for example, a Federal Housing Administration (FHA) National Emergency Standalone Partial Claim (PC) or a U.S. Department of Agriculture (USDA) Mortgage Recovery Advance (MRA). The memorandum explained that the new restrictions sought “to ensure that transactional activity related to these [loss mitigation] options d[id] not impair market confidence in Ginnie Mae securities.”¹

Ginnie Mae assumed that market confidence could have been affected by material increases in prepayment speeds resulting from buyout activities,² and in particular, the re-securitization of Re-performing Loans shortly after their buyout. We now have the benefit of experience to know that loan buyouts truly are a loss mitigation tool for Issuers in managing liquidity and avoiding the cost of foreclosure risk, which assuages Ginnie Mae’s initial concerns when implementing the Pass-Through Assistance Program. As a reminder, in communications with industry, Ginnie Mae explained that Investors characterized the buyout and immediate re-pooling of loans with a PC or an MRA as a form of arbitrage because Issuers had discretion to lead borrowers exiting forbearance into a modification, which requires a loan buyout, or a non-modification loss mitigation option like the PC and MRA, which does not require a loan buyout under Ginnie Mae or insuring agency guidelines. Later, in its annual

¹ Ginnie Mae, “APM 20-07: Temporary Pooling Restrictions on Re-performing Loans,” June 29, 2020. Available at: https://www.ginniemae.gov/issuers/program_guidelines/Pages/mbsguideapmslibdisppage.aspx?ParamID=102.

² Ginnie Mae, “Global Markets Analysis Report,” January 2021. Available at: https://www.ginniemae.gov/data_and_reports/reporting/Documents/global_market_analysis_jan21.pdf.

report to Congress, Ginnie Mae re-asserted that the intent of APM 20-07 was to limit “loan buyouts that are not driven by borrower needs or the requirements of the insuring agencies.”³

Pooling Restrictions Reduce Liquidity and Demonstrate Limited Utility

HPC and MBA members opposed prohibitions on the pooling of Re-performing Loans and proposed policy alternatives in June 2020, while also acknowledging Ginnie Mae’s need to respond to Investor concerns. Our analysis contemplated restricting certain Re-performing Loans to custom pools and even the imposition of seasoning requirements, but the restrictions announced in APM 20-07 are more extensive than we believe necessary.⁴ APM 20-07 narrowed the pooling eligibility of Re-performing Loans to those loans for which the borrower has remained current for the 6 months immediately preceding the month of issuance and for which 210 days separate the issuance date of the mortgage-backed security (MBS) from the last date the loan was delinquent. These seasoning requirements increase Issuer operational costs and constrain Issuer liquidity without effectively achieving Ginnie Mae’s original policy intent.

Our previous analysis detailed that sweeping pooling restrictions likely would have an adverse and material impact on the economics of Ginnie Mae servicing but would not moderate pool prepayment rates beyond levels that already would have been anticipated by MBS investors. Our reasoning was based on the expected effect on prepayment rates associated with interest-rate-driven refinance activity and the fact that many Issuers – particularly institutions with the capacity to hold loans in their portfolios – likely would continue to buy out loans even if re-delivery were restricted. These market realities are augmented by the fact that, when making the decision regarding a potential loan buyout, Issuers do not know which borrowers will have the ability to resume un-modified contractual payments upon the end of forbearance and which borrowers will require modifications. Market experience over the past 16 months has validated this reasoning. Voluntary prepayment rates in 2020 were led by a historically low interest rate environment and strong loan repurchase activity among certain Issuers.

Since the implementation of the APM, we can observe that the change in the rules governing Investor remittances for Ginnie Mae MBS has generated for Investors an above-market yield for extended durations at the expense of Issuers. In cases for which the APM 20-07 policy influenced Issuers to keep loans pooled past the initial 90-day delinquency, the policy conveyed a benefit that Investors did not have when they purchased the security. By contrast, the policy took away an established right that Issuers enjoyed when they initially executed the Ginnie Mae Guaranty Agreement.

Biden Administration Loss Mitigation Policy Eliminates Justification for Restrictions

The rationale for the negative impacts associated with the pooling eligibility restrictions imposed in APM 20-07 was largely eliminated by the revised loss mitigation programs put in place by the

³ Ginnie Mae, “2020 Annual Report,” January 15, 2021. Available at: https://www.ginniemae.gov/about_us/what_we_do/Annual_Reports/annual_report20.pdf.

⁴ HPC and MBA proposed limiting PC and MRA loans to custom pools and imposing additional three-month seasoning requirements *only if* the custom pool restriction proved insufficient.

insuring agencies under the direction of the Biden Administration.⁵ In July 2021, FHA, the U.S. Department of Veterans Affairs (VA), and USDA announced a new set of loss mitigation options for borrowers experiencing a COVID-19-related hardship. These new loss mitigation guidelines generally mandate that servicers provide affected borrowers with the loss mitigation alternative that achieves a principal and interest (P&I) payment reduction specified by each agency. By adopting a payment reduction target as the mechanism for identifying the loss mitigation option suitable for each borrower exiting forbearance, the insuring agencies have, for all practical purposes, eliminated the concern that an Issuer has latitude to induce borrowers into a loan modification or a non-modification alternative, like a standalone PC or MRA.

If Investor concerns were based on the perception that Issuers had discretion to select a loss mitigation option that enabled a buyout and re-securitization opportunity, any such concern is inapplicable today because Issuers generally *do not have discretion* to influence the loss mitigation option extended to borrowers. The current pooling restrictions, therefore, no longer are necessary or warranted; in fact, these restrictions penalize servicers for executing the Administration's loss mitigation policies and reduce the liquidity of government-backed loans.

The Current Pooling Policy Exacerbates the Liquidity Issues Associated with Ginnie Mae Re-performing Loans

Re-performing Loans that were made current via a standalone PC or a standalone MRA can be securitized only into C RG Pools, which are not To-Be-Announced (TBA)-eligible and have a minimum pool size of \$1,000,000. Because of the extended forbearance periods that have been authorized since Ginnie Mae announced the C RG Pool and the structure of the new loss mitigation waterfalls focusing on a minimum targeted payment reduction, we forecast that the total number of standalone PCs or MRAs will decline sharply over the next few months. The borrowers exiting forbearance during this period are likely to represent the population that has been in forbearance and economically impaired for the longest amount of time, and hence, it is less likely that the payment reduction needed for this borrower segment can be achieved without modifying the terms of the loan. The decreasing number of standalone PCs or MRAs creates additional liquidity concerns for Issuers into the future as the number of loans eligible for inclusion into C RG pools diminishes over time.

HPC and MBA Recommend Eliminating the Pooling Restrictions Currently in Effect

In consideration of the ongoing harm associated with the current pooling restrictions on Re-performing Loans, we urge Ginnie Mae to permit Re-performing Loans to be commingled into TBA-eligible multi-Issuer securities no later than March 2022. By enabling Re-performing Loans to be delivered into TBA-eligible securities, Ginnie Mae would eliminate the current restrictions on "organic" Re-performing Loans—loans that cured without undergoing a modification, PC, or MRA—which Ginnie Mae did not intend to restrict, but restricted by necessity, nonetheless. For all performing Loans, Ginnie Mae identified the APM 20-07 restrictions as a "temporary" response to the COVID-19 loss mitigation options initially published by the insuring agencies. We note, however, that Ginnie Mae ceased

⁵ White House, "Fact Sheet: Biden Administration Announces Additional Actions to Prevent Foreclosures," July 23, 2021. Available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/23/fact-sheet-biden-administration-announces-additional-actions-to-prevent-foreclosures/>.

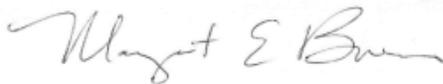
referring to these measures as “temporary” in APM 20-15: C RG Pool Type Implementation for Single-Family Securities.⁶

We expect that the vast majority of the existing COVID-19-related forbearances will be resolved by March 2022 and eliminating the pooling restrictions by that date would be consistent with original intent outlined by APM 20-07. Hence, this change would align well with the current state of the market in that fewer borrowers will be impacted by COVID-19 and future delinquencies will more closely resemble pre-COVID-19 performance characteristics. Given these expectations, it is appropriate for Ginnie Mae to discontinue its policy that was designed to be a response to the COVID-19 pandemic.

As Ginnie Mae evaluates this recommendation and reviews the parameters of the pooling restrictions, we ask for consideration of the liquidity issues generated by the C RG seasoning requirements. Experience shows that Issuer retention of these loans does not advance Ginnie Mae’s initial intent and increases liquidity and operational risks. We request elimination of the requirements to reduce these risks and promote smooth market functioning.

We stand ready to collaborate with Ginnie Mae in the revision of its pooling eligibility policy for Re-performing Loans. Please let us know if we can provide any additional feedback or analysis that may be useful in your evaluation of this request.

Sincerely,



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⁶ Ginnie Mae, “APM 20-15: C RG Pool Type Implementation for Single-Family Securities,” December 4, 2020. Available at: https://www.ginniemae.gov/issuers/program_guidelines/Pages/mbsguideapmslibdisppage.aspx?ParamID=113.