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2016 Ginnie Mae Summit

Document Custody Essentials for Issuers





Welcome!

Panelists

- **Angel R. Hernandez**, Policy and Program Development Specialist, Office of Issuer and Portfolio Management
- **Stephanie Schader**, Program Development Manager, Office of Issuer and Portfolio Management
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Year in Review

September 2015

Ginnie Mae published draft revisions to the Document Custody Manual draft prior to last year's Ginnie Mae Summit.

December 2015

Ginnie Mae published APM 15-21, Document Custody Manual Revised Effective Date and Clarification of Documentation Requirements for Modified Loan.

February 2016

Ginnie Mae published APM 16-01, Implementation of the Document Custody Manual.

February 2016

Ginnie Mae also published APM 16-02, Modified Loan Documentation—Revised Subordination Requirements.

Present

Updates discussed in this summit constitute the capstone to this body of updates. Please attend Document Custody FAQ and MBS Guide updates session for a walkthrough of recent updates.

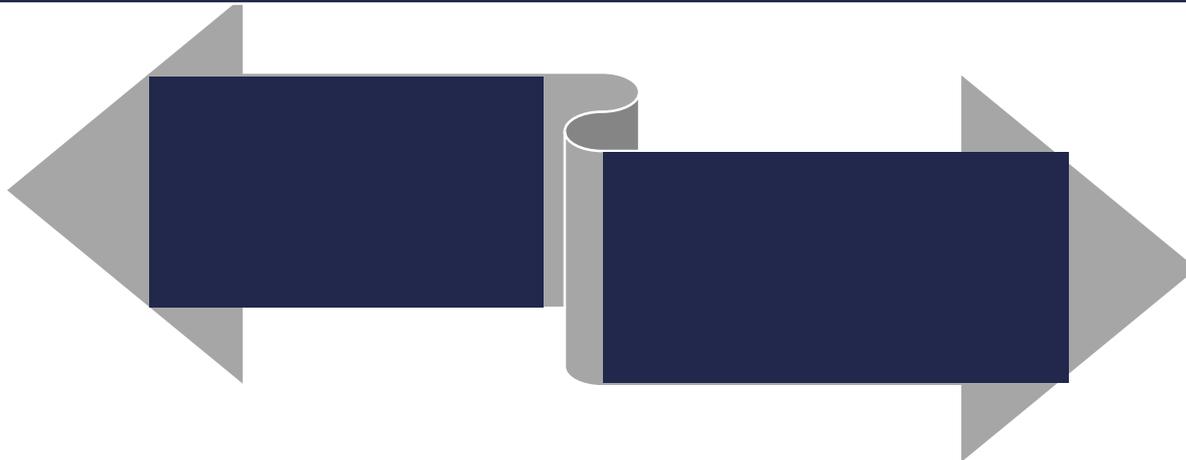
Goal for Updates

The revisions implemented over the last year had a dual goal:

- To update program policies and address policy gaps
- To organize and centralize document custody related polices

Under the new organization of the Guide, the content of the Manual (Appendix V-01 of the MBS Guide) serves a central role for both Issuers and Document Custodians.

The MBS Guide Chapters that address document custodial responsibilities refer both Issuers and Document Custodians to the Manual.





Document Requirement Exception (HUD-11708 Alternative)

Letter of Credit Policy

- Ginnie Mae requires Issuers to obtain a Letter of Credit (LOC) when their number of pools with outstanding certifications exceeds certain thresholds.
- The purpose of the LOC policy is twofold—to protect Ginnie Mae against potential losses arising from document deficiencies and to incent Issuers to be diligent in the handling of loan files released from a Document Custodian and held in trust on behalf of Ginnie Mae.

Impact of Industry Trends

- In business cycles characterized by high levels of foreclosure, bankruptcy or loss-mitigation activities, Issuers may be unable to return files to a Document Custodian to meet certification deadlines despite their best efforts, which may trigger application of the LOC requirement.
- Ginnie Mae sought to provide Issuers an alternative means of obtaining certification or recertification of certain pools missing loan files as a result of non-liquidation related releases in the above circumstances.



Application of Document Requirement Exception

Original Intent

Ginnie Mae incorporated a Document Requirement Exception in Chapter 3 of the Revised DCM to enable Issuers to obtain a Final Certification or Recertification for pools missing loan files pursuant to certain non-liquidation related releases.

The purpose of this policy update was avoid placing an undue burden (LOC) on Issuers that were actively engaged in loss mitigation activities or subject to extended bankruptcy or foreclosure litigation timelines for reasons outside their control.

In sum, Ginnie Mae expected the Document Requirement Exception to be applied narrowly in specific circumstances.

Recent Inquiries

Evidence a tendency to leverage the exception to circumvent an Issuer's obligation to return documents timely.

Seek to apply the exception to transactions that are beyond the scope of the policy (i.e. to address missing documents identified after transfer).

Role of Ginnie Mae in Issuer-Custodian Disagreements

- Aware that conflicting interests may impact Document Custodians
- Program integrity is dependent on Document Custodian's judicious application of MBS Guide
- Ginnie Mae is not able to respond to every disagreement



Limiting Factors

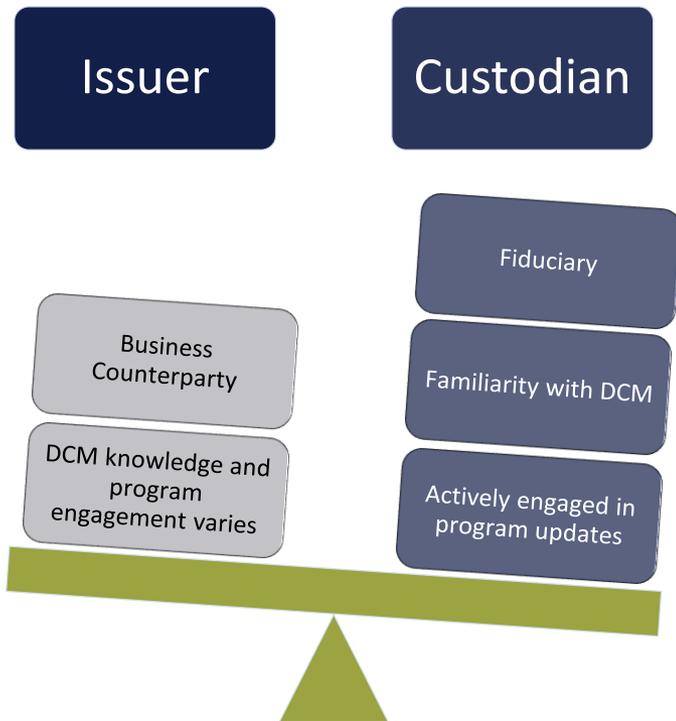
Internal Resources

- Other policy initiatives underway
- Ongoing Ginnie Mae projects
- System dependencies

Nature of Inquiry

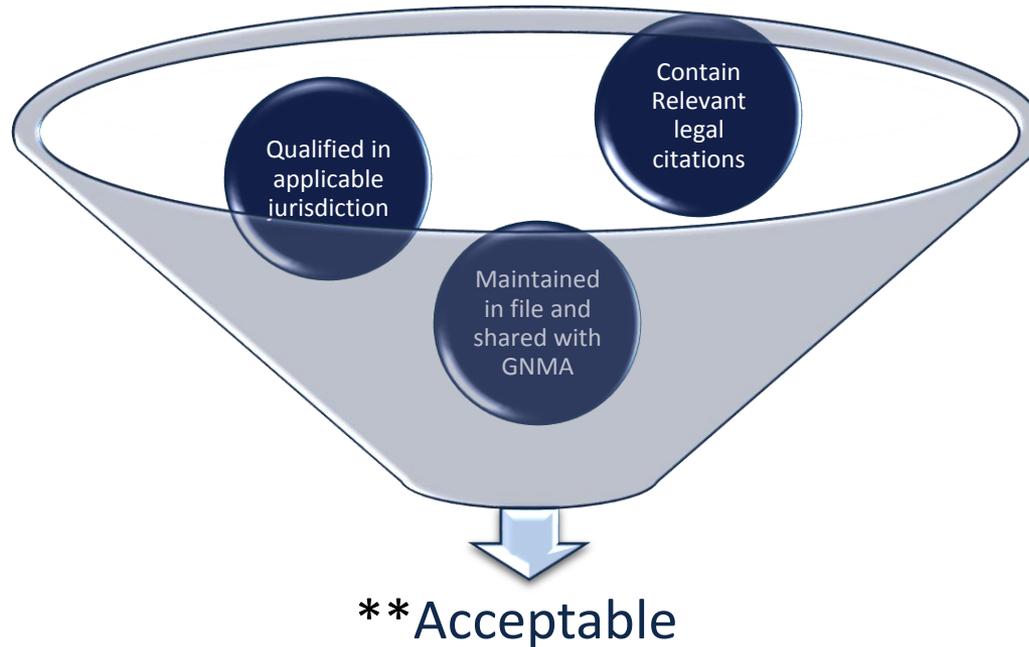
- Individualized inquiries will not be prioritized over generally applicable inquiries
- Ginnie Mae cannot provide ad hoc legal opinions

Ginnie Mae's Response to Disagreements



- Favor Document Custodian's application of MBS Guide requirements, unless facially erroneous
- Pattern and practice is to direct Issuers to DCM or MBS Guide chapters as applicable
- Direct Issuers to obtain legal opinion

Acceptability of Legal Opinions



**Generally must be provided by outside counsel, but Ginnie Mae will accept in-house counsel legal opinions in certain circumstances

Issues Surrounding Signature Requirements for Modifications involving Divorced Spouses

Current Requirement

- Ginnie Mae requires both parties to execute the modification. We understand that this is different from FHA's policy, but Ginnie Mae's risk position is different in this case.

Plan

- Ginnie Mae is reviewing CFPB's Final Rule concerning successors in interest to identify whether this issue is fully addressed.

Request for feedback

- Ginnie Mae is seeking commentary on this issue for consideration. Legal opinions are welcome.

Issues Surrounding HUD-11708 Release Requests from Subservicer

Chapter 4

- The chapter delineates which Issuer responsibilities may be delegated to a subservicer. The chapter is explicit that the responsibility for withdrawing documents from custody may not be delegated to a subservicer.

Recent Changes?

- No, the authority to withdraw mortgage documents from a Document Custodian has never extended to Subservicers in the Ginnie Mae MBS Program.

Future Changes?

- Upcoming revisions to this policy are possible in consideration of existing industry trends--but not immediate. Ginnie Mae is analyzing a variety of options.

Issues Surrounding HUD-11708 Release Requests from Subservicer Continued

Nature of HUD-11708 Certification

- Documents are “held in trust by the Issuer for the benefit of Ginnie Mae”

Elements needed for bulk releases involving a subservicer

- Evidence that Issuer has notice of which files are being released (signature on HUD-11708)
- Clear indication of the reason for each file being released
 - Individual Form HUD-11708 for each group of files released for the same reason, or
 - Single Form HUD-11708 for a request addressing multiple reasons for release so long as an attachment is present that clearly identifies the release reason for each file
- Ginnie Mae expects the Issuer and document custodian to have information about released files readily available for review by Ginnie Mae or its agent

Due Diligence in MSR Transfers

Considering an MSR Transfer?

Ginnie Mae has noticed that many recertification issues could have been prevented or identified with due diligence prior to transaction.

Please perform your own due diligence prior to executing the transaction. It is easier for Ginnie Mae to address potential issues at that stage.



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Open Forum





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