

CHAPTER III—GOVERNMENT NATIONAL
MORTGAGE ASSOCIATION, DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT

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PART 300—GENERAL

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AUTHORITY: 12 U.S.C. 1723a, unless otherwise noted, and 42 U.S.C. 3535(d).

SOURCE: 60 FR 42015, Aug. 14, 1995, unless otherwise noted.

§ 300.1 Scope of chapter.

This chapter consists of general information and does not purport to set forth all of the procedures and requirements that apply to the operations of the Association. Complete specific information as to any aspect of such operations may be obtained from the office listed in § 300.9.

§ 300.3 Description.

The Government National Mortgage Association (hereinafter in this chapter called the Association, GNMA or Ginnie Mae) furnishes fiduciary services to itself and other departments and agencies of the Government, and guarantees privately issued securities backed by trusts or pools of mortgages or loans which are insured or guaranteed by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA) or the Rural Housing Service (RHS) and certain other loans or mortgages guaranteed or insured by the Government. In the course of its business, the Association is referred to as GNMA or Ginnie Mae.

[66 FR 44265, Aug. 22, 2001]

§ 300.5 Creation and status.

The Association is a Government corporation in the Department of Housing and Urban Development. It is derived from the Federal National Mortgage Association, which was partitioned by the Congress into two corporations effective September 1, 1968, one of which is the Association. The operations of the Association are conducted under its statutory charter contained in title

III of the National Housing Act, 12 U.S.C. 1716, *et seq.*

§ 300.7 Area of operations.

The Association is authorized to conduct its business in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

§ 300.9 Office.

The Association directs its operations from its office located at 451 Seventh Street, SW., Washington DC 20410.

§ 300.11 Authority of officers.

The President, each Vice President, and each Assistant Vice President of the Association are severally expressly empowered in the name of the Association to sign all contracts and other documents, instruments, and writings which call for execution by the Association in the conduct of its business and affairs, and to encumber, mortgage, pledge, convey or otherwise alien any property which the Association may own or in which it may have an estate, right, title or interest. In addition, the President, each Vice President, each Assistant Vice President, the Secretary of the Association, each Assistant Secretary, the Treasurer and the Controller shall have the authority as may be provided in the Bylaws of the Association or as may be delegated to them in a manner not inconsistent with the Bylaws.

§ 300.13 Power of attorney.

In order to efficiently carry out the purposes of the Association, the Association may appoint any person its true and lawful attorney-in-fact by publication in the FEDERAL REGISTER or by appointment from the President of the Association in writing. Any such attorney-in-fact shall have the power outlined in the publication or appointment.

§ 300.15 Exceptions.

In the conduct of its affairs, in individual cases or classes of cases, the Association reserves the right, consistent with law, without prior notice and at

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any time, to alter or waive any of the requirements contained in this chapter or elsewhere or to impose other and additional requirements; it further reserves the right, without prior notice and at any time, to amend or rescind any or all of the material set forth herein.

§ 300.17 Audits and reports.

The Association and its designees may at any reasonable time audit the books and examine the records of any issuer, mortgage servicer, trustee, agent or other person bearing on compliance with the requirements of the Association's programs, and the Association may require reasonable and necessary reports from such persons.

PART 310—BYLAWS OF THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

AUTHORITY: 12 U.S.C. 1723 and 42 U.S.C. 3535(d).

SOURCE: 60 FR 42015, Aug. 14, 1995, unless otherwise noted.

§ 310.1 Bylaws of the Association.

The bylaws of the Association shall be duly adopted by the Secretary of Housing and Urban Development pursuant to section 308 of the National Housing Act (12 U.S.C. 1723) and shall govern the performance of the powers and duties granted to or imposed upon the Association by law.

PART 320—GUARANTY OF MORTGAGE-BACKED SECURITIES

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

SOURCE: 60 FR 42015, Aug. 14, 1995, unless otherwise noted.

Subpart A—Pass-Through Type Securities

§ 320.1 General.

The Association is authorized by section 306(g) of the National Housing Act (12 U.S.C. 1721(g)) upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on securities that are based on and backed by a trust or pool composed of mortgages which are insured or guaranteed by FHA, FmHA or VA. The Association's guaranty of mortgage-backed securities is backed by the full faith and credit of the United States. This subpart is limited to "modified pass-through" securities, and does not purport to set forth all the procedures and requirements that apply to the issuance and guaranty of such securities. All such transactions are governed by the specific terms and provisions of the Association's Mortgage-Backed Securities Guides (MBS Guides) and contracts entered into by the parties.

§ 320.3 Eligible issuers of securities.

(a) *Eligibility requirements.* A mortgage lender, including an instrumentality of a State or local government, to be eligible to issue or service mortgage-backed securities guaranteed by the Association must satisfy all of the following standards:

- (1) Be in good standing as a mortgagee approved by the FHA;
- (2) Be in good standing as a mortgage seller or servicer approved by the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Association. Loss of either FNMA approval or FHLMC approval may cause

the issuer to become ineligible to issue and service the Association's mortgage-backed securities and constitute a default under the applicable guaranty or contractual agreement whether or not the issuer qualified for new issuer approval on the basis of FNMA or FHLMC approval;

(3) Have management with adequate experience, and access to adequate facilities to issue or service mortgage-backed securities, as determined by the Association;

(4) Maintain the applicable minimum net worth discussed in paragraph (c) of this section; and

(5) Meet the requirements, conditions, and limitations prescribed by the Association in this part or the applicable MBS Guides.

(b) *Time of eligibility.* The Association shall not commit to guarantee, or guarantee any issue of mortgage-backed securities unless the mortgage lender requesting such commitment or guaranty qualifies as an eligible issuer both at the time of commitment approval and at the time of the issuance of the guaranty.

(c) *Net worth requirements.* Issuers shall maintain at all times a net worth acceptable to the Association of not less than the applicable minimum amount. The applicable minimum amount shall be published in the MBS Guides.

(d) *Disqualification.* A mortgage lender shall not qualify as an eligible issuer at any time in which:

(1) The lending policies of the issuer permit any discrimination based on race, religion, color, national origin, age, or sex of a borrower; or

(2) The issuer is not in compliance with any rules, regulations, or orders issued under title VI of the Civil Rights Act of 1964; Executive Order 11063, Equal Opportunity in Housing, November 20, 1962; Executive Order 11246, Equal Employment Opportunity, issued on September 24, 1965 and amended on October 13, 1967; title VII of the Civil Rights Act of 1968; title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988; or by the FHA or VA.

(e) *Ethics and standards.* A mortgage lender shall qualify as an eligible issuer only so long as it conducts its

business operations in accordance with accepted mortgage banking practices, ethics, and standards, as determined by the Association, and maintains its books and records in accordance with generally accepted accounting principles.

(f) *Change in control.* Issuers shall notify the Association of any change in issuer control. A change in control occurs whenever a new party obtains significant influence over an issuer, as defined by the Association. In a merger where the surviving party is not the approved issuer and in a consolidation, the surviving party must apply formally for approval as a new issuer prior to the merger or consolidation taking place. In other business combinations, such as a stock sale of an existing issuer, which result in a change in control of issuer, the issuer shall demonstrate that it continues to meet all issuer eligibility requirements prior to the business combination being finalized.

(g) *Cross-Default.* Related issuers, as defined by the Association, shall execute a cross-default agreement, in a form prescribed by the Association, that authorizes the default of one or more related issuers in the event of a default by any one of the related issuers. Issuers may be granted an exemption from this section, provided that they submit a legal opinion, acceptable to the Association, which demonstrates that the execution of a cross-default agreement would be prohibited by the issuer's Federal regulator.

(h) *Failure to comply.* In the event that an issuer subsequently fails to comply with any of the requirements prescribed in this part or the applicable MBS Guide, as determined by the Association, the Association may, among other things, withhold further commitments to guarantee securities until such time as the Association is satisfied that the issuer has resumed business operations in compliance with such requirements.

(Approved by the Office of Management and Budget under control numbers 2503-0003, 2503-0004, 2503-0006, 2503-0007, and 2503-0026)

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§ 320.5 Securities.

(a) *Instruments.* Securities issued pursuant to the provisions of this subpart must be modified pass-through securities, that provide for payment, whether or not collected, of both specified principal installments and interest on the unpaid principal balance, with all prepayments and other unscheduled recoveries of principal being passed through to the holder. In the case of delinquent mortgages in a pool backing modified pass-through securities, the issuer is required to make advances if necessary to maintain the specified schedule of interest and principal payments to the holders, or at its option, at any time 90 days or more after default of any such mortgage, the issuer may repurchase such mortgage for an amount equal to the unpaid principal balance of the mortgage. 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.

(b) *Issue amount.* Each issue of guaranteed securities must be in a minimum face amount as specified in the applicable MBS Guide. The total face amount of any issue of securities cannot exceed the aggregate unpaid principal balances of the mortgages in the pool. The Association may provide for issuers to submit packages of mortgages that may be consolidated, with other packages of similar types of mortgages, into multiple issuer pools.

(c) [Reserved]

(d) *Transferability.* Securities are transferable, but the share of the proceeds collected on account of the pool of mortgages is payable only to the registered holder of a security according to the policies established by the Association.

(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.

(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) *Registered Ownership.* Ownership of mortgage-backed securities issued pursuant to this subpart registered in the name of a Depository shall be conclusively established by registration in the name of the Depository as owner on the Association's central registry and it shall be unnecessary for a Depository to maintain custody of any physical certificates evidencing such ownership.

(h) *Payments on Mortgage-Backed Securities.* Issuers must remit all payments due to holders of mortgage-backed securities such that holders will receive their installments as follows:

(1) *Payment to a Depository.* (i) For all securities registered in the name of a Depository or the designated nominee for a Depository, issuers are required to make payments in immediately available funds by ACH transaction, Fedwire, or by such other method as directed and/or authorized by the Association pursuant to the MBS Guide, including requiring that issuers maintain funds accounts in institutions that are accessible by debit ACH transactions originated by such Depository or its designee.

(ii) Payment must be made by the hour specified in the MBS Guide on the calendar day of the month specified in the MBS Guide for payment on such mortgage-backed securities (the "applicable Payment Date"), with adjustments to such time as may be specified in the MBS Guide for Payments Dates that do not fall on business days.

(2) *Payments to other holders.* An issuer of mortgage-backed securities that are not registered in the name of a Depository or its nominee may make payments to a security holder by ACH transaction or Fedwire, provided that it obtains the prior written approval of

the holder of such mortgage-backed securities. If an issuer begins to make such payments by electronic transfer, it must continue to do so while the securities are registered in the name of that security holder. If an issuer makes payments on mortgage-backed securities by check, the check must be received by the security holder not later than the applicable Payment Date each month.

(i) *Guaranty*. The Association's guaranty described in §320.13 is a guaranty that payment will be made to the registered owner of securities as reflected in the Association's central registry. The Association makes no other guaranty, including any guaranty that a Depository will appropriately credit payments to beneficial owners of such mortgage-backed securities. The Association's guarantee of securities payable to a Depository or its nominee becomes effective when the Depository or its nominee is registered as the registered owner of the securities on the Association's central registry.

(j) *Definition of Depository*. As used in this section, Depository means a clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in mortgage-backed securities are made through the books of such clearing corporation.

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

[60 FR 42015, Aug. 14, 1995, as amended at 63 FR 51251, Sept. 24, 1998; 64 FR 34106, June 24, 1999; 66 FR 44265, Aug. 22, 2001; 70 FR 33652, June 8, 2005; 72 FR 49125, Aug. 27, 2007]

§ 320.7 Mortgages.

Each issue of guaranteed securities must be backed by a separate pool of mortgages which meet the requirements of the applicable MBS Guide.

§ 320.8 Excess Yield Securities.

(a) *Definition*. Excess Yield Securities are securities backed by the excess servicing income relating to mortgages underlying previously issued Ginnie Mae mortgage-backed securities.

(b) *GNMA guaranty*. The Association guarantees the timely payment of in-

terest as provided by the terms of the security.

[71 FR 32389, June 5, 2006]

§ 320.9 Pool administration.

The Association will only guarantee securities if the issuer executes a guaranty agreement or contractual agreement in the form prescribed by the Association. Pool administration requirements are set forth in such agreements or the applicable MBS Guide.

(Approved by the Office of Management and Budget under control numbers 2503-0003, 2503-0004, 2503-0006, 2503-0007, and 2503-0026)

§ 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.

[72 FR 49125, Aug. 27, 2007]

§ 320.11 Insurance coverage.

The issuer shall maintain, for the benefit of the Association, insurance, errors and omissions, fidelity bond and other coverage as required by the Association and set forth in the appropriate MBS Guide.

§ 320.12 Integrity.

(a) *Background*. Issuers shall disclose the background of all individuals serving on their Board of Directors and all individuals acting as authorized signatories. The disclosures shall include any prior convictions, fines or other adverse actions against these individuals by a Federal, state or local agency, or a government-related entity where the action is related to the responsibilities that are commensurate with those of the financial services industry. The term government-related entity includes, but is not limited to, FHA, VA, FmHA, FNMA, FHLMC, Office of Thrift Supervision, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Board

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of Governors of the Federal Reserve System, and National Credit Union Administration.

(b) *Change in status.* Issuers shall disclose material changes in their status with other government-related entities and regulatory agencies, or state or local agencies with similar authority, within 5 business days of their occurrence. The disclosures shall include, but not be limited to, voluntary and non-voluntary terminations, defaults, fines, and material non-compliance with agency rules and policies. Disclosures that are specifically prohibited by an agency are exempted from this section.

§ 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.

[64 FR 34107, June 24, 1999]

§ 320.15 Default.

(a) *Issuer default.* Any failure or inability of the issuer to make payments as due as well as such other events as may be identified by the Association and included in the applicable guaranty agreement, contractual agreement or MBS Guide, shall constitute a default of the issuer.

(b) *Action upon default.* Upon any default by the issuer, the Association may:

(1) Institute a claim against the issuer's insurance, bond or other coverage, as specified in § 320.11;

(2) Pursuant to section 306(g) of the National Housing Act (12 U.S.C. 1721(g)), extinguish all the right, title, or other interest of the issuer in the pooled mortgages; and

(3) Exercise such other rights and remedies as it may have.

§ 320.17 Fees.

The Association may impose application fees, guaranty fees, securities transfer fees and other fees.

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Subpart B—Bond-Type Securities

§ 320.21 General.

In addition to the "pass-through" securities dealt with in subpart A of this part, the Association is authorized by section 306(g) of the National Housing Act, 12 U.S.C. 1721(g), upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on "bond-type" securities which are based on and backed by a trust or pool composed of mortgages which are insured or guaranteed by FHA, FmHA or the VA. The Association's guaranty of mortgage-backed securities is backed by the full faith and credit of the United States. This subpart deals with such "bond-type" securities and does not purport to set forth all the procedures and requirements that apply to the issuance and guaranty of such securities. All such transactions are governed by the specific terms and provisions of the contracts entered into by the parties and the Bond-Type Securities Guide (the "Bond Guide").

§ 320.23 Eligible issuers.

Any corporation, trust, partnership, or other entity with a net worth acceptable to the Association as set forth in the Bond Guide, which has the capability to assemble acceptable and eligible mortgages in sufficient quantity to support required minimum issuances of securities and which meets such other requirements as are set forth in the Bond Guide, may be approved to issue and service bond-type securities guaranteed by the Association. Further, the Association reserves the right to limit the number of issuers in the interest of conducting an orderly market of securities of this type.

§ 320.25 Securities.

(a) *Instruments.* Securities to be issued pursuant to the provisions of this subpart B may be in registered or bearer form. Each security shall have terms acceptable to the Association as provided in the Bond Guide.

(b) *Issue amount.* Each issue of guaranteed securities must be in a minimum face amount as specified in the Bond Guide. The total face amount of any issue of securities cannot exceed

the aggregate unpaid principal balances of the mortgages in the pool.

(c) *Face amount of securities.* The face amount of any security cannot be less than \$25,000.

(d) *Transferability.* Bearer securities are freely transferrable. Registered securities are transferable only on the books of an agent, as shall be agreed upon by the Association and the issuer.

(e) *Treasury approval.* Issues of \$100 million or larger will be subject to approval of the Secretary of the Treasury.

§ 320.27 Mortgages.

Guaranteed securities issued under these provisions must be based on and backed by mortgages pooled under trust arrangements satisfactory to the Association. Such mortgages must meet the requirements of the Bond Guide.

§ 320.29 Guaranty.

With respect to bond-type securities, the Association will guarantee the timely payment of principal of and interest on such securities, subject to the terms and conditions of the securities. The Association's guaranty is backed by the full faith and credit of the United States.

§ 320.31 Default.

Upon default of the issuer, the Association has the right, pursuant to section 306(g) of the National Housing Act (12 U.S.C. 1721(g)), to take title to the mortgages and other assets that are subject to the trust arrangements, and to proceed against other assets of the issuer to the extent necessary to satisfy its own claims and the rights of the holders of securities then outstanding. Such action by the Association shall be taken subject to an accounting to the issuer.

§ 320.33 Fees.

The Association may impose application and guaranty fees, which may vary with relation to the size or risk of the guaranty transaction undertaken.

PART 330—GUARANTY OF MULTICLASS SECURITIES

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

SOURCE: 60 FR 42018, Aug. 14, 1995, unless otherwise noted.

§ 330.1 Scope of part.

This part is limited to multiclass securities. It does not purport to set forth all the procedures and requirements that apply to the issuance and guaranty of such securities. All such transactions are governed by the specific terms and provisions of the contracts entered into by the parties and by the GNMA Multiclass Securities Guide (Multiclass Guide).

§ 330.5 Definitions.

As used in this part, the following terms shall have the meanings indicated:

Consolidated securities. A series of multiclass securities, each class of which provides for payments proportionate with payments on the underlying eligible collateral.

Depositor. The entity that deposits, or executes an agreement to deposit, as contained in the Multiclass Guide, eligible collateral into a trust in exchange for consolidated securities.

Depository. A clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in Ginnie Mae multiclass securities are made through entries on the books of such clearing corporation.

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GNMA electronic bulletin board. An information distribution system established by the Association for the Multiclass Securities program.

GNMA MBS certificates. The guaranteed mortgage-backed securities issued under part 320 of this chapter.

Government mortgages. Mortgages that are eligible under section 306(g) of the National Housing Act (12 U.S.C. 1721(g)) for inclusion in GNMA mortgage-backed securities pools.

Multiclass Registrar. The institution that is specified by the Association as the registrar of the related class and series of multiclass securities.

Participant. For structured securities, the sponsor, co-sponsor, trustee, trust counsel, and accounting firm. For consolidated securities, the depositor. Other entities may be designated as participants in the Multiclass Guide.

Sponsor. With respect to structured securities, the entity that establishes the required trust executing the trust agreement and depositing the eligible collateral in the trust in exchange for the structured securities.

Structured securities. Securities of a series at least one class of which provides for payments of principal or interest disproportionately from payments on the underlying eligible collateral.

[66 FR 44265, Aug. 22, 2001]

§ 330.10 Eligible collateral.

The Association, in its discretion, shall determine what collateral is eligible for inclusion in the Multiclass Securities program. Eligible collateral may include GNMA MBS certificates, government mortgages, consolidated securities, and other securities approved by the Association. Categories of these GNMA MBS certificates, government mortgages, consolidated securities, and other securities as approved by the Association become eligible collateral when they are published as eligible collateral in the Multiclass Guide or on the GNMA electronic bulletin board. Eligible collateral may differ for various Association guaranteed multiclass securities.

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§ 330.15 Participation requirements.

To participate in the Multiclass Securities program, a participant must meet the following criteria:

(a) *Certification.* A participant must submit such certifications and other documents as are required by the Multiclass Guide.

(b) *Compliance with Multiclass Guide.* By completing a multiclass securities transaction, a participant is deemed to have represented and warranted to the Association that it has complied with, and that it agrees to comply with, the Multiclass Guide in effect as of the date that the Association's guaranty is placed on the securities.

(c) *Material changes in status.* A participant must report, as required in the Multiclass Guide, material adverse changes in status including voluntary and non-voluntary termination, defaults, fines and findings of material non-conformance with rules and policies of state and federal agencies and federal government sponsored enterprises.

(d) *Integrity.* The participant must conduct its business operations in accordance with industry practices, ethics and standards, and maintain its books and records in an appropriate manner, as determined by the Association.

(Approved by the Office of Management and Budget under control number 2503-0030)

§ 330.20 Eligible participants.

In addition to requirements set forth in this part, a participant must meet the following requirements.

(a) *Structured securities*—(1) *Description.* The Association guarantees the payment of principal and interest on structured securities issued by trusts organized by sponsors in accordance with procedures established and approved by the Association. The structured securities are backed by eligible collateral, as described in this part, held by the trustee.

(2) *Eligibility requirements for participants*—(i) *Sponsors.* A sponsor must:

(A) Apply and be approved by the Association;

(B) Demonstrate to the satisfaction of the Association its capacity to accumulate the eligible collateral, as described in this part, needed for a proposed structured securities issuance;

(C) Be in good standing with and either have been responsible for at least one structured securities transaction with FNMA or FHLMC, or have demonstrated to the Association's satisfaction its capability to act as sponsor of GNMA guaranteed structured securities;

(D) Have the minimum required amount, as set forth in the Multiclass Guide, in shareholders' equity or partners' capital, evidenced by the sponsor's audited financial statements, which must have been issued within the preceding 12-month period;

(E) Represent the structural integrity of the issuance under all cash flow scenarios and demonstrate to the Association's satisfaction its ability to indemnify the Association for a breach of this representation;

(F) Comply with the Association's policies regarding participation by minority and/or women-owned businesses and take appropriate measures to assure compliance by the other participants as specified in the Multiclass Guide; and

(G) Provide the Association with the opinions of trust counsel and accounting firms which are acceptable to the Association and on which the Association may rely.

(ii) *Co-sponsors.* A Co-sponsor must submit to the Association an application and a certification, as set forth in the Multiclass Guide, as to its status as a minority and/or women-owned business.

(iii) *Trustees.* A trustee is selected by the Sponsor from institutions approved by the Association using such procedures as the Association deems appropriate.

(b) *Consolidated securities*—(1) *Description.* A Depositor delivers, or executes an agreement to deliver, eligible collateral to a trust in exchange for a single Association guaranteed multiclass security, as set forth in the Multiclass Guide.

(2) *Eligibility requirements for participant.* A Depositor must certify that:

(i) It is an "accredited investor" within the meaning of 17 CFR 230.501(a)(1), (a)(3) or (a)(7);

(ii) It has authority to deliver, and will deliver, the collateral to the trustee and that the collateral is free and clear of all liens and encumbrances; and

(iii) The information set forth by the depositor regarding the eligible collateral is true and correct.

(c) *Other types of Association guaranteed multiclass securities.* The Association will set forth the requirements for the guaranty by the Association of other types of multiclass securities, and the eligibility requirements for the appropriate participants, in the Multiclass Guide or on the GNMA electronic bulletin board.

§ 330.25 Fees.

The Association, in its discretion, through publication in the Multiclass Guide or on the GNMA electronic bulletin board, may impose fees for application, guaranty, transfer, change from book entry to certificated form, or other related fees. Fees may vary, at the Association's discretion, depending upon, but not limited to, such factors as size, collateral characteristics, expense or risk of the guaranty transaction undertaken.

§ 330.30 GNMA Guaranty.

(a) *Securities held by Depositories.* Ownership of multiclass securities registered in the name of a Depository shall be conclusively established by registration in the name of the Depository as owner on the books and records of the Multiclass Registrar, and it shall be unnecessary for a Depository to maintain custody of any physical certificates evidencing such ownership.

(b) *Guaranty.* The Association's guaranty is a guaranty that payment will be made to the registered owner of securities as reflected on the books and records of the Multiclass Registrar.

(1) The Association makes no other guaranty, including any guaranty that a Depository will appropriately credit payments to beneficial owners of GNMA multiclass securities. The Association's guarantee of securities payable to a Depository or its nominee becomes effective when the Depository or

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its nominee is registered as the registered owner of the securities on the books and records of the Multiclass Registrar.

(2) The Association guarantees the timely payment of principal and interest as provided by the terms of the multiclass security. The Association's guaranty is backed by the full faith and credit of the United States.

[66 FR 44266, Aug. 22, 2001]

§ 330.35 Investors.

Association guaranteed multiclass securities may not be suitable investments for all investors. No investor should purchase securities of any class unless the investor understands, and is able to bear, the prepayment, yield, liquidity and market risks associated with the class. The Association assumes no obligation or liability to any person with regard to determining the suitability of such securities for such investor.

§ 330.40 Consultation.

The Association may consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the Multiclass Securities program.

§ 330.45 Limitation on GNMA liability.

Except for its guaranty, the Association undertakes no obligation and assumes no liability to any person with regard to or on account of the existence or operation of this part or the conduct of any participants in the Multiclass Securities program.

§ 330.50 Administration of multiclass securities.

The GNMA guaranteed multiclass securities will be administered in accordance with the Association's requirements described in the Multiclass Guide.

§ 330.55 Basis for removal from participation.

A participant may be removed from the Multiclass Securities program if the Association, in its discretion, determines that any of the following exists or has occurred:

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(a) The participant, at any time, fails to meet any condition for eligibility;

(b) The participant fails to comply with any provision of the Multiclass Guide or this part;

(c) The participant is unable or fails to truthfully, correctly or fully submit such certifications as are required; and

(d) Such further reasons as the Association determines necessary to protect the safety and soundness of the Multiclass Securities program, as set out in the Multiclass Guide.

§ 330.60 Removal procedure.

(a) A participant may be suspended from participation in the Multiclass Securities program upon written notice from the Association, which shall include the reasons for the suspension. The participant shall have the opportunity to submit a written presentation to the President of the Association, or designee, in support of its reinstatement, subject to such limitations as the Association in its discretion may impose as to length, time for submission, or otherwise. A determination by the President of the Association, or designee, shall exhaust the participant's administrative remedies.

(b) If a participant is suspended from the Multiclass Securities program, the Association shall have no obligation to complete a pending transaction involving the participant.

(c) After a participant has been removed from the Multiclass Securities program, the participant may request reinstatement. Approval of the reinstatement is at the sole discretion of the Association.

PART 340—FIDUCIARY ACTIVITIES

Sec.

340.1 General.

340.3 Appropriations.

AUTHORITY: 12 U.S.C. 1723a and 42 U.S.C. 3535(d).

SOURCE: 60 FR 42019, Aug. 14, 1995, unless otherwise noted.

§ 340.1 General.

The Association is authorized by section 302(c) of the National Housing Act (12 U.S.C. 1717(c)) to create, accept, execute, and administer trusts and

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other fiduciary undertakings appropriate for financing purposes. Under this authority, the Association is authorized to acquire and otherwise deal in any mortgages or other types of obligations in which any department or agency of the United States listed in section 302(c)(2) of such Act may have a financial interest. Under its fiduciary powers, the Association may create, accept, and administer trusts consisting of interests in mortgages and obligations, sell to private investors certificates of beneficial interest, or participations, in the mortgages or obligations or in the interest and principal payments derived therefrom, and provide for payment of interest and principal and for retirement of the participations. The Association, in its ordinary corporate capacity as contrasted to its fiduciary capacity, is expressly authorized to guarantee the participations.

§ 340.3 Appropriations.

There is authority for Congress to appropriate such sums as may be necessary to enable the trustor of any trust (as described in § 340.1) to pay to the Association, as trustee, any insufficiency in aggregate receipts from the obligations subject to the trust to provide for the timely payment by the trustee of all interest or principal on the beneficial interests or participations related to such trust.

PARTS 341–349 [RESERVED]

PART 350—BOOK-ENTRY PROCEDURES

Sec.

- 350.1 Purpose.
- 350.2 Definitions.
- 350.3 Maintenance of Ginnie Mae Securities.
- 350.4 Law governing rights and obligations of United States, and Federal Reserve Banks as Depositories; Rights of any Person against United States, and Federal Reserve Banks as Depositories; Law Governing Other Interests.
- 350.5 Creation of Participant's Security Entitlement; Security Interests.
- 350.6 Obligations of the Reserve Banks as Depositories; No Adverse Claims.
- 350.7 Authority of Federal Reserve Banks as Depositories.

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

350.9 Waiver of Regulations.

350.10 Liability of Federal Reserve Banks as Depositories.

350.11 Notice of Attachment for Ginnie Mae Securities in Book-entry System.

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

SOURCE: 66 FR 44266, Aug. 22, 2001, unless otherwise noted.

§ 350.1 Purpose.

The purpose of this part is to achieve the efficiencies and fungibility through use of a single system for transferring interests both in Ginnie Mae Securities and other United States Government securities and in mortgage-backed securities issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The Association only guarantees that payments required to be made by issuers of Ginnie Mae Securities will be made to the registered owner of those Ginnie Mae Securities. The Association undertakes no other obligation. Under the Book-entry System, the Federal Reserve Banks will be the registered owner of Book-entry Ginnie Mae Securities, not the agent of the Association, and the Association makes no warranty or guaranty with respect to the maintenance of the Book-entry System by the Federal Reserve Banks.

§ 350.2 Definitions.

(a) *Specified Terms.* As used in this part, the following terms shall have the meanings indicated:

Book-entry Ginnie Mae Security. A Ginnie Mae Security issued or maintained in the Book-entry System. Book-entry Ginnie Mae Security also means the separate interest and principal components of a Book-entry Ginnie Mae Security if such security has been designated by Ginnie Mae as eligible for division into such components and the components are maintained separately on the books of one or more Federal Reserve Banks.

Book-entry System. The automated book-entry system operated by the Federal Reserve Banks acting as Depositories for Ginnie Mae, on which Book-entry Ginnie Mae Securities are

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recorded, transferred and maintained in book-entry form.

Definitive Ginnie Mae Security. A Ginnie Mae Security in engraved or printed form, or that is otherwise represented by a certificate.

Depository. A clearing corporation within the meaning of Article 8 of the Uniform Commercial Code, including any Federal Reserve Bank, that maintains systems by which ownership and transfer of interests in Book-entry Ginnie Mae Securities are made through entries on the books of such clearing corporation.

Eligible Book-entry Ginnie Mae Security. A Book-entry Ginnie Mae Security issued or maintained in the Book-entry System which by the terms of its Security Documentation is eligible to be converted from book-entry form into definitive form.

Entitlement Holder. A Person to whose account an interest in a Book-entry Ginnie Mae Security is credited on the records of a Securities Intermediary.

Federal Reserve Bank Operating Circular. The publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Reserve Bank maintains book-entry securities accounts (including Book-entry Ginnie Mae Securities accounts) and transfers book-entry Securities (including Book-entry Ginnie Mae Securities).

Ginnie Mae Security. Any security or obligation guaranteed as to payment of principal and/or interest by Ginnie Mae under its Charter Act and issued in the form of a Definitive Ginnie Mae Security or a Book-entry Ginnie Mae Security.

Participant. A Person that maintains a Participant's Securities Account with a Federal Reserve Bank.

Person. An individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but such term does not mean or include the United States or a Federal Reserve Bank.

Revised Article 8. The same meaning as in 31 CFR 357.2.

Secretary. The Secretary of Housing and Urban Development and, where appropriate, any person designated by the Secretary to perform a particular func-

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tion for the Secretary, including any HUD officer, employee, or agent.

Security. Any mortgage participation certificate, note, bond, debenture, evidence of indebtedness, collateral-trust certificate, transferable share, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a security.

Securities Documentation. The applicable statement of terms, trust agreement, trust indenture, securities agreement or other documents establishing the terms of a Book-entry Ginnie Mae Security.

Transfer message. An instruction of a member of a Federal Reserve Bank to effect a transfer of a Book-entry Security (including a Book-entry Ginnie Mae Security) maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

(b) *Other Terms.* Unless the context requires otherwise, terms used in this part that are not defined in this part, have the meanings as set forth in 31 CFR 357.2. Definitions and terms used in 31 CFR part 357 should read as though modified to effectuate their application to Ginnie Mae Securities.

§ 350.3 Maintenance of Ginnie Mae Securities.

A Ginnie Mae Security may be maintained in the form of a Definitive Ginnie Mae Security or a Book-entry Ginnie Mae Security. A Book-entry Ginnie Mae Security shall be maintained in the Book-entry System.

§ 350.4 Law governing rights and obligations of United States, and Federal Reserve Banks as Depositories; Rights of any Person against United States, and Federal Reserve Banks as Depositories; Law Governing Other Interests.

(a) Except as provided in paragraph (b) of this section, the following rights and obligations are governed solely by the book-entry regulations contained in this part, the Securities Documentation, and Federal Reserve Bank Operating Circulars (but not including any choice of law provisions in the Security Documentation to the extent such provisions conflict with the Book-entry regulations contained in this part):

(1) The rights and obligations of a Federal Reserve Bank as a Depository with respect to:

(i) A Book-entry Ginnie Mae Security or Security Entitlement; and

(ii) The operation of a book-entry system operated by a Depository as it applies to Ginnie Mae Securities; and

(2) The rights of any Person, including a Participant, against the Federal Reserve Banks as Depositories with respect to:

(i) A Book-entry Ginnie Mae Security or Security Entitlement; and

(ii) The operation of the book-entry system operated by the Federal Reserve Banks as Depositories as it applies to Ginnie Mae Securities.

(b) A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Participant and that is not recorded on the books of a Federal Reserve Bank pursuant to §350.5(c)(1), is governed by the law (not including the conflict-of-law rules) of the jurisdiction where the head office of the Federal Reserve Bank maintaining the Participant's Securities Account is located. A security interest in a Security Entitlement that is in favor of a Federal Reserve Bank from a Person that is not a Participant, and that is not recorded on the books of a Federal Reserve Bank pursuant to §350.5(c)(1), is governed by the law determined in the manner specified in paragraph (d) of this section.

(c) If the jurisdiction specified in the first sentence of paragraph (b) of this section is a State that has not adopted Revised Article 8, then the law specified in paragraph (b) of this section shall be the law of that State as though Revised Article 8 had been adopted by that State.

(d) To the extent not otherwise inconsistent with this part, and notwithstanding any provision in the Security Documentation setting forth a choice of law, the provision set forth in 31 CFR 357.11 regarding law governing other interests apply and shall be read as though modified to effectuate the application of 31 CFR 357.11 to Book-entry Ginnie Mae Securities.

§ 350.5 Creation of Participant's Security Entitlement; Security Interests.

(a) A Participant's Security Entitlement is created when a Federal Reserve Bank indicates by book-entry that a Book-entry Ginnie Mae Security has been credited to a Participant's Securities Account.

(b) A security interest in a Security Entitlement of a Participant in favor of the United States to secure deposits of public money, including without limitation deposits to the Treasury tax and loan accounts, or other security interests in favor of the United States that is required by Federal statute, regulation, or agreement, and that is marked on the books of a Federal Reserve Bank is thereby effected and perfected, and has priority over any other interest in the securities. Where a security interest in favor of the United States in a Security Entitlement of a Participant is marked on the books of a Federal Reserve Bank, such Reserve Bank may rely, and is protected in relying, exclusively on the order of an authorized representative of the United States directing the transfer of the security. For purposes of this paragraph, an "authorized representative of the United States" is the official designated in the applicable regulations or agreement to which a Federal Reserve Bank is a party, governing the security interest.

(c)(1) The Federal Reserve Banks as Depositories have no obligation to agree to act on behalf of any Person or to recognize the interest of any transferee of a security interest or other limited interest in favor of any Person except to the extent of any specific requirement of Federal law or regulation or to the extent set forth in any specific agreement with the Federal Reserve Bank on whose books the interest of the Participant is recorded. To the extent required by such law or regulation or set forth in an agreement with a Federal Reserve Bank, or the Federal Reserve Bank Operating Circular, a security interest in a Security Entitlement that is in favor of a Federal Reserve Bank or a Person may be created and perfected by a Federal Reserve Bank as Depository marking its books to record the security interest. Except

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as provided in paragraph (b) of this section, a security interest in a Security Entitlement marked on the books of a Federal Reserve Bank shall have priority over any other interest in the securities.

(2) In addition to the method provided in paragraph (c)(1) of this section, a security interest, including a security interest in favor of a Federal Reserve Bank, may be perfected by any method by which a security interest may be perfected under applicable law as described in § 350.4(b) or (d). The perfection, effect of perfection or non-perfection and priority of a security interest are governed by such applicable law. A security interest in favor of a Federal Reserve Bank shall be treated as a security interest in favor of a clearing corporation in all respects under such law, including with respect to the effect of perfection and priority of such security interest. A Federal Reserve Bank Operating Circular shall be treated as a rule adopted by a clearing corporation for such purposes.

§ 350.6 Obligations of the Reserve Banks as Depositories; No Adverse Claims.

Except in the case of a security interest in favor of the United States or a Federal Reserve Bank or otherwise as provided in § 350.5(c)(1), for the purposes of this part, the Federal Reserve Banks as Depositories shall treat the Participant to whose Securities Account an interest in a Book-entry Ginnie Mae Security has been credited as the person exclusively entitled to issue a Transfer Message, to receive interest and other payments with respect thereof and otherwise to exercise all the rights and powers with respect to such Security, notwithstanding any information or notice to the contrary. The Federal Reserve Banks as Depositories are not liable to a Person asserting or having an adverse claim to a Security Entitlement or to a Book-entry Ginnie Mae Security in a Participant's Securities Account, including any such claim arising as a result of the transfer or disposition of a Book-entry Ginnie Mae Security by a Federal Reserve Bank pursuant to a Transfer Message that the Federal Reserve Bank reasonably believes to be genuine.

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§ 350.7 Authority of Federal Reserve Banks as Depositories.

(a) Each Federal Reserve Bank is hereby authorized as Depository for Book-entry Ginnie Mae Securities to perform the following functions with respect to Book-entry Ginnie Mae Securities to which this part applies, in accordance with the Securities Documentation, Federal Reserve Bank Operating Circulars, this part, and procedures established by the Secretary consistent with these authorities:

(1) To service and maintain Book-entry Ginnie Mae Securities in accounts established for such purposes;

(2) To make payments with respect to such securities;

(3) To effect transfer of Book-entry Ginnie Mae Securities between Participants' Securities Accounts as directed by the Participants;

(4) To effect conversions between Book-entry Ginnie Mae Securities and Definitive Ginnie Mae Securities pursuant to the applicable Securities Documentation; and

(5) To perform such other duties as the Federal Reserve Banks as Depositories may be requested by Ginnie Mae.

(b) Each Federal Reserve Bank as Depository may issue Operating Circulars, not inconsistent with this part, governing the details of its handling of Book-entry Ginnie Mae Securities, Security Entitlements, and the operation of the book-entry system under this part.

§ 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.

(b) A Reserve Bank as Depository shall, upon receipt of appropriate instructions to withdraw Eligible Book-entry Ginnie Mae Securities from book-entry in the Book-entry System, facilitate the conversion of such securities into Definitive Ginnie Mae Securities and their delivery in accordance with such instructions. No such conversion shall affect existing interests in such Ginnie Mae Securities.

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(c) All requests for withdrawal of Eligible Book-entry Ginnie Mae Securities must be made prior to the maturity or date of call of the securities.

(d) Definitive Ginnie Mae Securities that are to be delivered upon withdrawal may be issued in either registered or bearer form, to the extent permitted by the applicable Securities Documentation.

[66 FR 44266, Aug. 22, 2001, as amended at 72 FR 49125, Aug. 27, 2007]

§ 350.9 Waiver of Regulations.

Ginnie Mae reserves the right in its discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of Ginnie Mae or the United States, or in order to relieve any Person(s) of unnecessary hardship, if such action is not inconsistent with law, does not adversely affect any substantial existing rights, and the Association is satisfied that such action will not subject the Association or the United States to any substantial expense or liability.

§ 350.10 Liability of Federal Reserve Banks as Depositories.

The Federal Reserve Banks as Depositories may rely on the information

provided in a Transfer Message, and are not required to verify the information. The Federal Reserve Banks as Depositories shall not be liable for any action taken in accordance with the information set out in a Transfer Message, or evidence submitted in support thereof.

§ 350.11 Notice of Attachment for Ginnie Mae Securities in Book-entry System.

The interest of a debtor in a Security Entitlement may be reached by a creditor only by legal process upon the Securities Intermediary with whom the debtor's securities account is maintained, except where a Security Entitlement is maintained in the name of a secured party, in which case the debtor's interest may be reached by legal process upon the secured party. These regulations do not purport to establish whether a Federal Reserve Bank as Depository is required to honor an order or other notice of attachment in any particular case or class of cases.

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