

## CHAPTER 18: MORTGAGE DELINQUENCY AND DEFAULT

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### 18-1: OVERVIEW OF CHAPTER

This chapter describes the Issuer's obligation to service delinquent mortgages and mortgages that are in default. Default is the failure to comply with the covenants of the mortgage and can be monetary, as in the failure to make a payment when due, or non-monetary, as in a failure to comply with one or more other covenants of the mortgage. Failure to make payments when due also results in the mortgage being delinquent. If the failure continues for 30 days, the loan is considered to be one month delinquent. For the purposes of calculating delinquency and default, each month is considered to be the equivalent of 30 days regardless of actual number of days in the month.

The chapter sets forth Ginnie Mae's broad prohibition on the removal of loans from pools or loan packages, while describing certain circumstances in which an Issuer may purchase a defaulted mortgage from a pool or loan package. The chapter also explains Ginnie Mae's guidelines for determining whether an Issuer is managing delinquencies adequately and describes Ginnie Mae's remedies in cases in which delinquency management is inadequate. Special requirements related to the administration of HMBS pools can be found in Chapter 35.

### 18-2: REMOVAL OF LOANS FROM POOLS AND LOAN PACKAGES

No Issuer or subcontract servicer may, without the written permission of Ginnie Mae, remove a loan, whether pursuant to a substitution or otherwise, from a pool or loan package, or reduce a balance on a pooled loan for any reason not specifically authorized in the applicable Guaranty Agreement or in this Guide.

### 18-3: MORTGAGE DELINQUENCY AND DEFAULT

#### *(A) Servicing Delinquent Loans*

The Issuer must service delinquent mortgages and manage foreclosure or assignment procedures in accordance with applicable servicing and claims collection requirements of the mortgage insurance or guaranty agency, the applicable Guaranty Agreement, and accepted mortgage lending and servicing practices, ethics and standards.

#### *(B) Repurchase of Loans*

##### **(1) Requirements for Repurchase of loans due to monetary default or delinquency**

##### **(a) Loans Backing Securities Issued before January 1, 2003.**

For loans backing a Ginnie Mae security with an issue date before January 1, 2003, Issuers may repurchase any pooled loan without written permission from

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Ginnie Mae if (1) the loan is due, but unpaid for three consecutive months (see example in subsection (c) below) or (2) for four consecutive months one missed payment remains uncured.

### **(b) Special Repooling Restrictions on Loans Backing Securities Issued between August 1 and December 1, 2002.**

Special repooling restrictions are imposed on loans repurchased under paragraph 18-3 (B)(1)(a)(2) above and that back securities issued between August 1 and December 1, 2002: (1) These loans may only be repooled once, even if the loan is sold to a new Issuer; and (2) these loans may only be repooled if (i) the loan becomes current and remains current for six months, or (ii) if the loan undergoes formal loss mitigation and is otherwise eligible to be placed in a Ginnie Mae pool.

### **(c) Loans Backing Securities Issued on or after January 1, 2003.**

For loans backing a Ginnie Mae security with an issue date on or after January 1, 2003, Issuers may repurchase any pooled loan without written permission from Ginnie Mae if the loan is due, but unpaid, for three consecutive months.

For example, no payments are made for the months of March, April and May. The Issuer may purchase the loan out of the pool on or after June 1.

### **(d) Loans Subject to a trial modification period:**

In connection with each agency's own program requirements, an Issuer shall also be permitted to repurchase a loan from a pool if the borrower is approved for a trial modification and the loan is in a continuous period of default for 90 days or more. Until the loan is repurchased from the pool, however, the Issuer remains obligated to make full payments of principal and interest to investors, as required by the security.

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### **(2) Requirements for repurchases of loans in non-monetary default**

If a loan comes into default other than for non-payment, i.e. a covenant default, and the default continues for 90 days or more without curing, the loan may be repurchased following the procedures listed below.

### **(3) Procedures for Repurchase.**

The Issuer shall repurchase any pooled loan for an amount equal to 100 percent of the loan RPB, less the principal payments advanced by the Issuer on the loan. The repurchased loan's principal amount must be included in the payment made to security holders following the reporting month in which the loan was removed. The removed loan must not be included in the RPB reported in the month in which the proceeds of the repurchase are paid to security holders.

### **(4) Permissible Loan Modifications.**

While Issuers are prohibited from modifying the terms of loans held in Ginnie Mae pools that affect the amount or duration of loan payments, certain loss mitigation strategies, such as Special Forbearance and Partial Claim options described in FHA loss mitigation guidance do not alter the terms of the loan. These loss mitigation strategies may be accomplished without repurchasing the delinquent loan from the pool.

### **(5) Restrictions on Repooling Repurchased Loans.**

Repurchased loans to be repooled must satisfy the mortgage eligibility requirements in Chapter 9, including those on delinquency status set out in Section 9-2(E).

### ***(C) Acceptable Delinquency Rates***

Issuers must maintain delinquency rates on outstanding pools and loan packages below the threshold levels described in this Section 18-3(C). Data used to measure delinquency rates will come from the RFS Issuer Monthly Report of Pool and Loan Data (Appendix VI- 19).

- (1) Ginnie Mae evaluates delinquency rates for Ginnie Mae pools and loan packages as follows:

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- (a) Three indicators of delinquencies are used:
- DQ3+ Delinquency Ratio: Number of loans in the Issuer's Ginnie Mae portfolio that are either in the foreclosure process or are three months or more delinquent divided by total number of loans remaining in the portfolio.
- DQ2+ Delinquency Ratio: Number of loans in the Issuer's Ginnie Mae portfolio that are either in the foreclosure process or are two months or more delinquent divided by total number of loans remaining in the portfolio.
- DQP Delinquency Ratio: Accumulated amount of delinquent P&I payments divided by total monthly fixed installment control due the Issuer.
- (b) For purposes of establishing threshold levels for delinquencies, Issuers are grouped into one of two categories: those with more than 1000 active loans, and those with 1000 or fewer active loans in their Ginnie Mae portfolios. The threshold levels for the delinquency indicators within each category are shown in the following table for all pools of loans. A higher ratio in any one category will be sufficient cause for Ginnie Mae to impose the sanctions of Section 18-3(D).

INDICATORS	CATEGORIES	
	Issuers with more than 1000 loans	Issuers with 1000 loans or fewer
DQ3+ Delinquency Ratio	5%	9%
DQ2+ Delinquency Ratio	7.5%	10%
DQP Delinquency Ratio	60%	90%

- (2) Issuers of multifamily pools:
- For multifamily pools, the threshold level is 7.5 percent of the aggregate remaining principal balance of the loans that are two or more months delinquent. A lower delinquency ratio, however, will not ensure that Ginnie Mae will approve a request for additional commitment authority or will not impose the sanctions

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set forth in Section 18-3(D).

- (3) Issuers with single family or manufactured home status and multifamily status:

Issuers that are approved to do both single family or manufactured home transactions and multifamily pool transactions must meet the single family and manufactured home delinquency criteria and the multifamily delinquency criteria for each respective pool type.

- (4) Other delinquency criteria:

In addition to requiring an Issuer to maintain delinquency rates within the limits prescribed above, Ginnie Mae may require corrective action by the Issuer for the following conditions:

- (a) an excessive number of loan delinquencies and foreclosures in pools and loan packages originated within the preceding 24 months;
- (b) indications of faulty or improper processing of delinquencies and foreclosures; or
- (c) significant inconsistencies or errors in the RFS Issuer Monthly Report of Pool and Loan Data (see Appendix VI-19).

### ***(D) Failure to Maintain Acceptable Delinquency Rates***

If an Issuer fails to maintain delinquency rates on outstanding pools and loan packages below the applicable threshold levels described in Section 18-3(C) or to otherwise comply with the requirements of this section, Ginnie Mae may impose sanctions on the Issuer, including but not limited to the following:

- (1) denial of further commitment authority;
- (2) denial of transfers of Issuer responsibility to the Issuer;
- (3) denial of Issuer's request to subcontract service for other Issuers, or discontinuation of existing permission to subcontract service;
- (4) denial of authority to issue additional securities, even though Issuer may have commitment authority outstanding;
- (5) imposition of civil money penalties;
- (6) denial of participation in multiple Issuer pools;
- (7) denial or discontinuation of participation in the PIIT

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program;

- (8) imposition of additional financial obligations, including the establishment of special escrow accounts, or enhanced financial and operational standards;
- (9) declaration of a default and termination of Issuer status.