

## CHAPTER 4: ISSUERS AND SUBSERVICERS — RESPONSIBILITIES

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### 4-1: OVERVIEW OF CHAPTER

For each Ginnie Mae pool or loan package, there may be only one Issuer of record. The Issuer is fully responsible for the administration of the securities and the servicing of the pooled mortgages. This chapter will summarize these responsibilities and direct the reader to the chapters in which they are described in greater detail. The Guaranty Agreement also provides more detail. Because the Issuer is permitted to arrange for a servicer to perform some, though not all, of the required servicing functions on behalf of the Issuer, this chapter will also describe briefly the role of a servicer.

### 4-2: ISSUER'S RESPONSIBILITIES

The Issuer's responsibilities include:

#### *(A) Responsibilities*

- (1) Acquiring or originating eligible mortgages and forming eligible pools or loan packages. (See Chapter 9 for mortgage, pool, and loan package eligibility requirements.)
- (2) Establishing and maintaining proper P&I and escrow custodial accounts and, if elected or required, disbursement and clearing accounts for the pools and loan packages (see Chapter 16 for information on such accounts), and handling properly all payments and other funds pertaining to the pooled mortgages. Issuers must also establish and maintain a central P&I custodial account.
- (3) Obtaining an eligible document custodian. All documents for a pool or loan package must be held by one document custodian. (See Chapter 13 for information regarding the document custodian)
- (4) Providing the required loan, pool, and loan package documents to the document custodian and to the PPA. (See Chapter 10 for details on assembling and submitting these documents)
- (5) While custodial documents are in the Issuer's possession, maintaining such documents in compliance with the same document safekeeping standards that apply to document custodians.
- (6) Marketing or holding the securities backed by the pool or loan package. (See Chapter 12 for information about issuing and marketing Ginnie Mae securities.)

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- (7) Servicing the mortgages in the pool or loan package or, where permitted by this Guide, contracting with a subservicer to service them. (See Chapters 14 through 20 for pool administration details.)
- (8) Administering the outstanding securities:
  - (a) Ginnie Mae I MBS Program

Under the Ginnie Mae I MBS Program, the Issuer must make timely payment of all amounts due to security holders of certificated securities, and make available, in a designated account (which may be the central P&I custodial account described in the next paragraph), to the depository, as security holder of all book-entry securities, all amounts due in respect of such book-entry securities and to the CPTA the guaranty fee due to Ginnie Mae.
  - (b) Ginnie Mae II MBS Program

Under the Ginnie Mae II MBS Program, the Issuer must make available to the CPTA in the central P&I custodial account all amounts due to security holders and the guaranty fee due to Ginnie Mae.

Under both Programs, the Issuer must use its own resources to cover shortfalls in amounts due to security holders or to Ginnie Mae resulting from insufficient collections on the mortgage collateral. (See Chapter 15 for information about how security holders and Ginnie Mae are paid under both Programs.)
- (9) Submitting required monthly, quarterly, and other reports and certifications to Ginnie Mae. (See Chapter 17 for reporting requirements)

### **(B) Subservicing**

For most program types, the Issuer may arrange for a subservicer to perform servicing functions on its behalf, except those functions set forth in Section 4-2(C). The Issuer remains fully responsible for the performance of any servicing functions that have been delegated to a subservicer. The Issuer is liable to Ginnie Mae for any representations or omissions submitted on its behalf by a subservicer, including those representations or omissions reflected on the Issuer's monthly report of pool and loan data to Ginnie Mae and on the Issuer's Monthly Reporting Certification in RFS .

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To perform servicing functions for another Issuer, a subservicer must be a Ginnie Mae-approved Issuer and meet all requirements for maintaining Ginnie Mae Issuer status. Information pertaining to the administration of HMBS Participation accounting can be found in Chapter 35.

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### **(C) Nondelegable Responsibilities**

The Issuer may not delegate or transfer to others (through a power of attorney or otherwise) its obligation or authority to perform the following functions:

- (1) Both Ginnie Mae MBS Programs
  - (a) Withdraw funds from a P&I custodial account for any purpose, including making payments to security holders.
  - (b) Sign any certifications to Ginnie Mae required by this Guide, the Guaranty Agreement, or otherwise requested by Ginnie Mae, with the exception that an Issuer may delegate to a subservicer the authority to complete the monthly certification required by Chapter 17-5, Monthly Certification Requirements, or Chapter 35-12, Pool, Loan, and Participation Accounting and Reporting, provided that the Issuer does not list any employees of the subservicer in its on HUD-11702. Issuers are strictly prohibited from listing employees of a subservicer on the Issuer's HUD-11702.(c) Withdraw mortgage documents from the document custodian.
- (2) Ginnie Mae I MBS Program
  - (a) Withdraw funds from the P&I custodial account for any purpose, including making monthly payments to the security holders.
  - (b) Sign checks to security holders and to Ginnie Mae; a subservicer may, however, prepare and distribute the checks to security holders and to Ginnie Mae.
  - (c) Sign remittance advice to security holders.
  - (d) Remit guaranty fees to Ginnie Mae.
  - (e) Maintain the register of security holders.
- (3) Ginnie Mae II MBS Program
  - (a) Withdraw funds from the central P&I custodial account or any other P&I custodial account for any purpose.

Notwithstanding this, as described elsewhere in this Guide, the CPTA and the depository are authorized to access central P&I custodial accounts or other designated accounts to debit the account by ACH for amounts due to security holders and the guaranty fees due to Ginnie Mae.

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### **4-3: SUBSERVICER'S RESPONSIBILITIES**

Servicing of all program types, except MH pools, may be carried out on behalf of the Issuer by another servicer (a subservicer) under a contractual agreement between them. The subservicer must be a Ginnie Mae approved Issuer and the subservicing arrangement must have Ginnie Mae's prior written approval. There may be only one subservicer for each pool or loan package.

#### ***(A) Permitted Subservicing Functions***

Subservicing arrangements may cover many of the functions customarily associated with mortgage servicing, including receipt and deposit of mortgagors' monthly payments and payment of taxes and insurance premiums in connection with the pooled mortgages. The subservicer is allowed to supply its own funds to the Issuer (1) to make advances necessary to ensure that funds required to pay security holders and Ginnie Mae are available on a timely basis and (2) to cover losses on foreclosures that are not covered by FHA, VA, RD, or the § 184 loan guaranty. Upon demand by Ginnie Mae, Subservicers advancing funds on behalf of an Issuer shall disclose the frequency, duration, amount, and purpose for such advances.

The Issuer, however, may not delegate or transfer to others (through a power of attorney or otherwise) its obligations to perform, and the subservicer may not perform, the functions set forth in Section 4-2(C) above. Those functions must be carried out by the Issuer.

The following tables summarize the responsibilities that must be performed by the Issuer and those that may be performed by a subservicer. The first table sets forth responsibilities that exist under both the Ginnie Mae I and Ginnie Mae II MBS Programs. The next table shows additional responsibilities that the Issuer and the subservicer have only under the Ginnie Mae I MBS Program. The final table shows additional responsibilities that exist only under the Ginnie Mae II MBS Program.

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Responsibilities: Both Ginnie Mae I and Ginnie Mae II MBS Programs		
	Must be Performed by Issuer	May be Performed by Subservicer
Collect P&I and escrow amounts	No	Yes
Deposit funds into P&I and escrow custodial accounts	No	Yes
Withdraw funds from P&I custodial account	Yes	No
Withdraw funds from escrow custodial accounts	No	Yes
Supply funds for advances to security holders	No	Yes
Absorb losses on foreclosures not covered by FHA, VA, RD, or PIH settlements	No	Yes
Prepare and transmit to Ginnie Mae the Issuer's monthly report of pool and loan data	No	Yes
Complete the Monthly Reporting Certification required by Chapter 17-5 or Chapter 35-12.	No	Yes
Access documents at document custodian	Yes	No
Sign any certifications to Ginnie Mae required by this Guide, the Guaranty Agreement, or requested by Ginnie Mae, other than the Monthly Reporting Certification required by Chapter 17-5 and Chapter 35-12, Pool, Loan, and Participation Accounting and Reporting.	Yes	No

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Additional Responsibilities: Ginnie Mae I MBS Program		
	Must be Performed by Issuer	May be Performed by Subservicer
Prepare and send checks to security holders that are paid by check	No	Yes
Sign checks to security holders that are paid by check	Yes	No
Authorize withdrawal of funds from central P&I custodial account for payment of all book-entry securities and Ginnie Mae guaranty fee	Yes	No
Prepare and send Remittance Advice to security holders	No	Yes
Sign Remittance Advice to security holders	Yes	No
Report Monthly Guaranty Fees via GinnieNET	No	Yes
Fund the Guaranty Fee in the Central P&I Custodial Account for ACH Debit	Yes	No
Maintain Register of Security Holders	Yes	No

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Additional Responsibilities: Ginnie Mae II MBS Program		
	Must be Performed by Issuer	May be Performed by Subservicer
Authorize withdrawal of funds from central P&I custodial account for payment to security holders and payment of Ginnie Mae guaranty fee	Yes	No
Perform Accounting and Monitoring Functions of Participations related to HECM loans	No	Yes

**(B) Approval of Subservicing**

The Issuer must request approval of a subservicing arrangement by submitting a cover letter and Master Servicing Agreement, form HUD-11707 (Appendix III-1), to the PPA (see Addresses). The form HUD-11707 may not be altered.

**(C) Separate Agreements**

If the Issuer and the subservicer wish to set forth the terms of their relationship more fully in a separate agreement that is consistent with the terms of the applicable Guaranty Agreement and this Guide, they may do so. Any agreement of this nature will be subordinate to the applicable Guaranty Agreement and this Guide.