

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 320****[Docket No. FR-4331-I-01]****Ginnie Mae MBS Program: Book Entry Securities****AGENCY:** Government National Mortgage Association, HUD.**ACTION:** Interim rule.

SUMMARY: This rule revises the security issuance procedures for Ginnie Mae. Physical securities now will be issued only upon the request of the registered holder. Ginnie Mae is revising two sections of part 320 to reflect this change. These changes bring Ginnie Mae's security issuance procedures up to date with modern practices.

DATES: Effective Date: October 26, 1998, Comment Due Date: November 23, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Regulations Division, Office of the General Counsel, Room 10276, Department of Housing & Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410-8000. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Thomas R. Weakland, Vice President, Office of Program Administration, Government National Mortgage Association, Room 6204, Department of Housing and Urban Development, 451 Seventh Street, Washington, D.C. 20410-0500. Telephone (202) 708-2884 (voice) or 202-708-1734 (TTY). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**Background**

The Government National Mortgage Association (Ginnie Mae) guarantees mortgage-backed securities of approved issuers. Ginnie Mae wishes to adopt a true book entry system for the securities that it guarantees, instead of the current system under which a physical security is issued and immobilized (stored). Accordingly, Ginnie Mae is revising § 320.5 to: (1) revise paragraph (a) to indicate that only physical securities will specify payment and maturity

dates; (2) indicate the date on and after which physical securities will be issued only at the request of the registered holder; and (3) establish when Ginnie Mae considers a book entry security to be guaranteed. Finally, the current language of § 320.13 states that the Ginnie Mae guaranty must appear on the face of the security. Ginnie Mae has revised this section to remove this statement because there is no physical security under a true book entry system.

Justification for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide in § 10.1 for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is "impracticable, unnecessary, or contrary to the public interest".

The Department finds that good cause exists to publish this interim rule for effect without first soliciting public comment, in that the elimination of the physical security represents an internal Ginnie Mae adjustment which is part of Ginnie Mae's continuing effort to implement paperless pool processing. In connection with this rule, Ginnie Mae notes that the Department of Treasury published a proposed rule on March 4, 1996 (61 FR 8420) that proposed to incorporate recent and significant changes in commercial law addressing the holdings of securities in book entry form through financial intermediaries. Ginnie Mae, in developing its rule, had the benefit of reviewing the Treasury rule and the public comments received on the Treasury proposed rule, which was published in final on August 23, 1996 (61 FR 43626). In issuing this rule published in today's **Federal Register**, Ginnie Mae considered the public comments received on the Treasury proposed rule. In addition, there is only one registered holder of Ginnie Mae book entry securities, which is the designated depository. Ginnie Mae's designated depository is working with Ginnie Mae to effect this program change. Any investor potentially adversely affected by book entry can avoid the adverse impact of the rule by getting a physical security through the registered holder. Further, book entry securities issued without an immobilized security will only be done prospectively. Physical securities backing book entry securities that are already issued will continue to be stored. In consideration of these issues,

advance public comment was determined not necessary, but HUD welcomes comments from the public and is soliciting comment on this rule.

Findings and Certifications*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. Ginnie Mae's designated depository is the only entity affected by this revision, and the designated depository is not a small entity. The interim rule will have no adverse or disproportionate economic impact on small businesses. Notwithstanding HUD's determination that this rule will not have a significant economic impact on small entities, HUD specifically invites comments regarding alternatives to this rule that would meet HUD's objectives as described in this preamble.

Environmental Impact

This rulemaking is exempt from the environmental review procedures under HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) because of the exemption under § 50.19(c)(1) which pertains to "the approval of policy documents that do not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out to provide for standards for construction or construction materials, manufactured housing, or occupancy." This rulemaking simply amends existing regulations regarding the form of guaranteed securities.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this interim rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this interim rule that would affect the relationship between the Federal Government and State and local governments.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This interim rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection as provided under the section of this preamble entitled **ADDRESS**.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for the Ginnie Mae MBS program.

List of Subjects for 24 CFR Part 320

Mortgages.

Accordingly, 24 CFR part 320 is amended as follows:

PART 320—GUARANTY OF MORTGAGE-BACKED SECURITIES

1. The authority citation for 24 CFR part 320 continues to read as follows:

Authority: 12 U.S.C. 1721(g) and 1723a(a); and 42 U.S.C. 4343(d).

2. Section 320.5 is amended by revising the last sentence of paragraph (a) and by adding new paragraphs (e) and (f), to read as follows:

§ 320.5 Securities.

(a) * * * The securities, if issued in physical 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 physical form, must also specify a date on which the entire principal will have been paid or will be payable.

* * * * *

(e) Securities issued on or before October 31, 1998, are issued in physical

form. On or after November 1, 1998, securities are issued in book entry form, and physical securities are issued only upon the request of the registered holder.

(f) On or after November 1, 1998, Ginnie Mae guarantees a book entry security when the transfer agent indicates by book entry that a security has been transferred to a registered holder.

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

3. Section 320.13 is revised to read as follows:

§ 320.13 Guaranty.

The Association guarantees the timely payment, whether or not collected, of the interest on the outstanding balance and the specific principal installments. The Association's guaranty is backed by the full faith and credit of the United States.

Dated: August 26, 1998.

George S. Anderson,

Executive Vice President, Government National Mortgage Association.

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