

VA Funding Fee Exemption and Refund Procedures for Lenders

1. Purpose. The purpose of this Circular is to clarify procedures related to The Department of Veterans Affairs (VA) funding fee exemption determinations and how refund requests should be submitted.

2. Background. Congress enacted the funding fee to help reduce the government's costs associated with loans guaranteed, made, or insured under VA's Home Loan program. All Veterans must pay the VA funding fee except the following¹:

a. A Veteran who is receiving disability compensation (or who, but for the receipt of retirement pay or active service pay, would be entitled to receive compensation).

b. A surviving spouse of any Veteran (including a person who died during active military, naval, or air service) who died from a service-connected disability and is in receipt of Dependency and Indemnity Compensation (DIC).

c. An active-duty Service member, who is rated eligible to receive compensation based on a pre-discharge disability rating or a pre-discharge review of existing medical evidence that results in the issuance of a proposed or memorandum rating before the loan closing takes place. If a proposed or memorandum rating is not obtained, and the loan closing takes place before the Veteran is discharged from service, the funding fee exemption does not apply, and the Service member will not be entitled to a refund from VA. (See paragraph 3.e below).

d. A Service member on active duty who provides, on or before the loan closing, evidence of having been awarded the Purple Heart.

3. Action. Effective immediately, lenders and servicers should comply with the following procedures regarding the VA funding fee.

a. Funding Fee Exemption Determination. The funding fee exemption status should be established before loan closing². Ensuring that the funding fee exemption information is up to date at the time of closing is essential to avoid incorrect charges to exempt Veterans and to avoid unnecessary refund requests. Lenders are to exercise due diligence in determining whether an exemption would apply at the time of loan closing. Lenders are not to ignore information that could indicate a funding fee exemption might apply. Lenders should not advise Veterans who believe they are exempt from paying the funding fee to close on a loan and plan to request a refund later. Doing so may be considered an error on the part of the lender, as refund determinations are specific to each Veteran and cannot be guaranteed.

¹ 38 U.S.C. § 3710(b)(3)

² Pamphlet M26-7, Revised: Chapter 8, Topic 8

b. Interest Rate Reduction Refinancing Loans (IRRRLS). A Certificate of Eligibility (COE) is not required for IRRRLs³. The VA funding fee exemption status will be provided on the IRRRL Appraisal Case Initiated screen of the loan record in WebLGY at the time the VA loan number is requested. Lenders can print this verification at any time throughout the loan origination process.

(NOTE: If a surviving spouse of a deceased Veteran was a co-borrower of a VA-guaranteed loan, the surviving spouse is eligible for an IRRRL to refinance the VA-guaranteed loan,⁴ yet will not be considered exempt from the VA funding fee unless they are in receipt of DIC as described in paragraph 2.b. In these cases, the lender will be required to submit VA Form 26-8937, *Verification of VA Benefits*, to verify the exemption status.⁵ See section 3.e below.)

c. Purchase and all other Refinance Loans: For all other loan transaction types, the exemption status will be displayed on the COE. If the status is showing as Non-Exempt, the lender should ask the Veteran if he or she has a claim for compensation pending with VA. If so, and the Veteran is not on active duty, the lender should request an updated COE prior to closing the loan to verify any changes in exemption status.

Special procedures apply to active-duty Service members with pending pre-discharge disability claims. See section 3.d for additional information.

While the majority of COEs are processed instantaneously, processing times may take up to 5 business days. Processing times in rare cases may exceed 5 business days if LGY requires additional information or assistance to process the request. It is recommended for lenders to plan accordingly to avoid delays in loan closing.

d. Loans to Active-Duty Service Members with Pre-Discharge Claims Pending: Lenders should ask active-duty Service members if they have a pre-discharge disability claim pending with VA. If so, and the COE funding fee status is showing as Non-Exempt, the lender should submit VA Form 26-8937, *Verification of VA Benefits*⁵. If a proposed or memorandum rating is not obtained and a closing takes place, the Service member is not eligible for funding fee exemption and will not be entitled to a refund from VA.

Upon receipt of VA Form 26-8937, VA will conduct research to see if the Service member has filed a pre-discharge claim, and reissue the COE as follows:

- (1) If the Service member is eligible for the home loan benefit and VA records indicate the Service member does not have a pre-discharge claim pending, VA will annotate the COE record and issue the COE with a funding fee status of Non-Exempt.
- (2) If the Service member is eligible for the home loan benefit and VA records indicate the Service member's pre-discharge claim has been adjudicated, VA will update the COE with the appropriate funding fee status and issue the COE.

³ Pamphlet M26-7, Revised: Chapter 6, Topic 1

⁴ 38 CFR § 36.4302(k)(2)

⁵ VA Circular 26-21-3, Certificate of Eligibility Enhancements to Streamline Income Verification

- (3) If the Service member is eligible for the home loan benefit and VA records indicate the service member has a pre-discharge claim pending that has not been adjudicated, VA will submit the rating request to the Veteran Service Center. VA will update the COE funding fee status to Non-Exempt – In Development and issue the COE. The Service member is not exempt at this time. If a proposed or memorandum rating is not obtained, and the loan closing takes place before the Veteran is discharged from service, the funding fee exemption does not apply, and the Service member will not be entitled to a refund. VA will update and reissue the COE as appropriate based on the response received from CS.

Please note: the time required to issue a memorandum rating may vary. If the Service member has any questions about a pending pre-discharge claim, they should contact their Physical Evaluation Board Liaison Officer (PEBLO). The Service member may alternatively reach out to VA by calling 1-800-827-1000, with hours of operation between 6am to 9pm ET.

e. How to Submit VA Form 26-8937: In the limited circumstances where VA Form 26-8937 is required to determine the borrowers funding fee exemption status, the form should be uploaded to the existing COE record by completing a “New Application” under “Electronic Application” in WebLGY. When submitting the application, the form should be uploaded as the document type “Form 26-8937”.

f. Funding Fee Corrections and Refund Requests. Lenders and servicers should initiate corrections and requests for a refund in the VA Funding Fee Payment System (FFPS)⁶. Lenders and servicers should review the reason for the refund request and choose the refund destination in FFPS as described below. Additionally, the lender or servicer should add notes describing the reason for the refund in FFPS and upload supporting documentation (e.g. Closing Disclosure or Notice of Cancellation) in WebLGY to support the refund destination. Incorrectly entered or poorly documented refund requests may result in the refund being directed to the Veteran.

(1) *Refunds to the Veteran or Surviving Spouse*. In the cases where a Veteran or surviving spouse was charged a funding fee in error and refund is required, VA will issue the refund directly to the Veteran or surviving spouse. The refund destination in FFPS will state ‘Primary Veteran’. If the loan is a joint loan, made to more than one Veteran using entitlement on the loan, the refund can only be made to the ‘Primary Obligor’ in FFPS. Therefore, if the refund is due to the joint obligor, the lender may also need to update the ‘Primary Obligor’ check box in FFPS when initiating the funding fee refund.

Note: As VA issues funding fee refunds directly to the Veteran, VA will not pursue collection from the Veteran or otherwise be able to assist the lender in the event the lender pre-emptively reduces the principal balance of the loan or issues a refund to the Veteran.

(2) *Refunds to the lender*. In cases where the lender paid the fee to VA in error, the refund will be remitted back to the lender. The refund destination in FFPS will state ‘Lender/Vendor’.

⁶ Pamphlet M26-7, Revised: Chapter 8, Topic 8

Supporting documentation, reflective of the fact that the fee paid in error was not assessed to the Veteran or surviving spouse, should be uploaded in WebLGY.

Note: This includes instances where the lender charged the Veteran the correct funding fee and remitted an incorrect amount (e.g. the lender paid the subsequent use funding fee but appropriately charged the Veteran the first-time use funding fee).

(3) *Late fees and interest.* Late fees and interest charges incurred by the lender will only be refunded in instances beyond the lender's control, such as system outages, and will be approved on a case-by-case basis.

4. Paperwork Reduction Act. The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501-3520) and assigned OMB control numbers 2900-0406, 2900-0055, 2900-0086, and 2900-0474. In accordance with the Paperwork Reduction Act, VA may not conduct or sponsor, and a person is not required to respond, to a collection of information unless the collection displays a currently valid OMB control number.

5. Rescission: Circular 26-22-12 is rescinded immediately. This Circular is valid until rescinded.

By Direction of the Under Secretary for Benefits

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