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CHAPTER 9. REFUNDS

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9.01 REFUND CONSIDERATION (38 C.F.R. 36.4320)

a. Refunding is when the Department of Veterans Affairs (VA) elects to purchase a loan from the servicer and assume primary servicing responsibilities. This is VA’s final attempt to keep the borrower in their home. Refunds can be considered if VA determines it is in the best interest of the borrower and the Government. The servicer or the VA-assigned technician may initiate the Refund Consideration process at any time during the life of the loan. NOTE - Refunding should not be considered if the Veteran previously filed bankruptcy which resulted in a discharge of the debt.

b. VA determines if the following conditions under 38 C.F.R. 36.4320 have been met when reviewing a loan for refunding and the VA-assigned loan technician must document the case notes accordingly:

1. All other efforts to cure the default have failed.

2. The servicer is unwilling or unable to extend further forbearance.

3. The Veteran wants to retain their home and occupy the property.

4. The Veteran has overcome the reasons for default and regained the ability to resume

monthly payments or will have that ability in the very near future.

5. The Veteran had an acceptable credit history prior to default and is able to verify future

income.

6. The refund candidate is the title owner of the property.

7. All current obligors agree to the modification.

8. The Net Value of the property exceeds the unguaranteed portion of the loan.

9. The Veteran is willing to accept modification of the loan making the loan nontransferable

without prior approval of VA.

10. The refunding of the loan will require that the owner sign a modification to the loan

documents calling the loan due on sale.

11. Requests for transfers of ownership (assumption) of refunded loans will be considered by

the VA portfolio contractor on behalf of the Secretary.

12. Other liens are willing to subordinate their loans.

13. If the net value and maximum guaranty will not satisfy the servicer’s payoff, the servicer

must agree to write off the difference prior to making a final recommendation. If the servicer will not write off the debt, the refund must be denied.

c. In rare circumstances, the VA-assigned technician may consider refunding a loan for a non-Veteran co-obligor if the case meets all VA refunding requirements and would be in the best interest of the Government.

d. When VA considers a refund, the servicer is responsible for providing VA the total eligible indebtedness (TEI), the borrowers’ monthly gross income, and the expected monthly escrow amount. Once the VA-assigned technician receives the required information, they will complete their preliminary review to determine the viability for refund consideration and notify the servicer within 7-calendar days of VA’s decision. The refunded loan’s interest rate can be no more than three percent below the rate in effect for new loans at the time the refund is approved, but not lower than four percent per annum without approval of the Loan Administration Officer (LAO). VA’s preliminary decision will be communicated to the servicer and borrower and must be thoroughly documented to justify the decision made by the VA-assigned technician in the VA Loan Electronic Reporting Interface (VALERI) case notes.

e. If the technician determines to pursue further consideration, the technician will notify the servicer and request they suspend all efforts to terminate the loan until VA’s final decision is rendered. Upon notification, the servicer is required to obtain a title search, order a VA interior appraisal and provide required loan data to include all tax and insurance information, along with copies of the mortgage note and recorded deed of trust (DOT). NOTE – Servicers must confirm that all taxes and HOA fees are current. The VA-assigned technician will notify the borrower of the determination and require they submit the following financial information to VA:

1. Proof of income.

2. Hardship letter.

3. [VA Form 26-5655](http://vaww.va.gov/vaforms/va/pdf/VA5655.pdf), *Financial Status Report*.

4. [VA Form 26-6807A](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-26-6807a-ARE.pdf), *Supplemental Certification for Financial Statement*.

f. Once all required documentation is received from the servicer and borrower, and the VA appraisal has been completed, the assigned technician will open the Refund Decision process and the VA-assigned technician will complete the refund analysis tool in VALERI and review it to determine if VA will approve the refunding of the loan. If the recommendation by the technician is approved by the Servicing Officer, the VA-assigned technician will notify the servicer and the borrower of VA’s decision. The maximum amount VA will pay on a refund claim is the net value, plus guaranty and appraisal. VA’s final refund decision will be communicated to both the servicer and the borrower, and must be thoroughly documented in the VALERI case notes.

9.02 REFUND APPROVAL

a. If the refund is approved, servicers are required to submit the Basic Claim event, with supporting documentation in VALERI, no later than the settlement date provided in VA’s approval letter. If the servicer does not submit the Basic Claim event by the settlement date, VA will only reimburse for the Unpaid Principal Balance (UPB), interest calculated on the UPB up to the settlement date, and one appraisal when the Basic Claim event is submitted. No supplemental or appeal claims are permitted on refunded loans.

b. In addition, original title documentation must be forwarded to VA by the settlement date provided in VA’s approval letter. The servicer must provide the following to be considered complete and acceptable title documentation:

1. Original mortgage or DOT, or a copy certified by a local authority, with all assignments and any subordination agreements.

2. Original mortgage note from origination, endorsed to the Secretary of Veterans Affairs.

3. Original mortgagee’s title insurance policy, naming the Secretary of Veterans Affairs as a co-insured, and an updated policy or endorsement naming the Secretary as insured as of the date of the recorded assignment.

4. Recorded assignment of mortgage to the Secretary of Veterans Affairs.

## c. All title documentation provided by the servicer must be submitted to the appropriate Loan Guaranty National Practice Group (NPG) for review and a copy uploaded into VALERI. VA does not certify claim payment until title has been approved by the NPG. If the title is not acceptable, VA may reassign the loan back to the servicer and deny refunding of the loan.

d. Upon receipt of the NPG approval of title, the VA-assigned technician will prepare a refund set-up sheet to establish the new terms of the refunded loan. The technician will also prepare a loan modification agreement which includes the new terms of the loan for the borrower to execute, notarize, and return within 10 days. Set-up sheets and the executed modification agreement must be uploaded into VALERI. If the borrower fails to return the executed agreement, this could result in VA returning the loan to its prior delinquent status and initiating immediate foreclosure action.

e. Upon completion of the refunding, the set-up sheet, loan modificiation, and all title documentation will be sent to VA’s portfolio contractor for servicing of the loan. The loan is no longer considered a VA-guaranteed loan and traditional loss mitigation efforts are no longer applicable. VA’s portfolio contract servicer has limited authority to assist borrowers in the event of a future default.

f. A template of all refund letters and the refund set-up sheet are located on the VALERI intranet at <http://vbaw.vba.va.gov/bl/26/valeri_intranet.htm>.