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CHAPTER 1. LOAN GUARANTY OVERVIEW AND SERVICING OBJECTIVES

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### 1.01 OBJECTIVES OF THIS MANUAL

a. The purpose of this manual is to provide operational policies and procedures for Department of Veterans Affairs (VA) employees using the VA Loan Electronic Reporting Interface (VALERI) system. It also discusses roles and responsibilities for Loan Administration (LA) staff and servicers. A supplement to this manual is M26-4, VA Servicer Handbook, used by servicers to manage their participation in the VA Home Loan program.

b. This manual is written as a tool for all VA employees. This Manual does not change or supersede any regulation, or law affecting the VA Home Loan program. If there appears to be a discrepancy, please refer to the related regulation or law.

c. This manual has three primary objectives:

1. Provide LA employees the tools needed to manage the program.
2. Describe LA regulations, policies, and procedures.
3. Supplement the content provided to servicers in VA Servicer Handbook, M26-4, and the VALERI Technician User Guide.

### 1.02 OVERVIEW OF THE VA HOME LOAN PROGRAM

a. Private lenders, such as banks, savings and loans, or mortgage companies, provide financing for VA-guaranteed loans to eligible Veterans for the purchase of a home for personal occupancy as outlined in VA regulation title 38, CFR Part 36, Loan Guaranty. To obtain a loan, a Veteran must apply to a lender. If the loan is approved, VA may then guarantee a portion of the loan. This guaranty protects the lender against loss up to the amount guaranteed and allows a Veteran to obtain favorable financing terms.

b. Although there is no maximum loan amount set by VA, lenders will generally loan up to four times the Veteran's available entitlement without requiring a down payment. This is due to secondary mortgage market considerations, which typically require a 25 percent backing. In most cases, VA only limits the loan amount to the value of the property and the Veteran's ability to repay.

1. Benefits of the Program. The VA Home Loan program is a Federal benefit program. Specific benefits to the Veteran borrower include:

- (a) Equal opportunity for all qualified Veterans to obtain a home loan.
- (b) No down payment, unless required by the lender or the purchase price is more than the reasonable value of the property.
- (c) Veterans informed of the reasonable value of property being purchased.

- (d) Negotiable interest rate.
- (e) Ability to finance the VA funding fee.
- (f) Reduced funding fees with a down payment of at least five percent.
- (g) Exemption from the funding fee requirement for Veterans eligible for VA compensation.
- (h) Closing costs are comparable with other financing types and may be lower.
- (i) No mortgage insurance premiums.
- (j) Mortgage fully assumable.
- (k) Right to prepay without penalty.
- (l) Assistance to Veteran borrowers in default due to temporary financial difficulty.

2. Components of the Regional Loan Center. The Veterans Benefits Administration (VBA) administers the VA Home Loan program through eight Regional Loan Centers (RLCs). Each RLC has three components: Construction and Valuation (C&V), Loan Production (LP), and Loan Administration (LA).

(a) Construction and Valuation. C&V values properties for Loan Guaranty purposes and supervises the construction of Specially Adapted Housing (SAH) for Veterans with disabilities. Specifically, C&V:

- (1) Handles all matters related to fee appraisers and compliance inspectors.
- (2) Issues Notices of Value (NOV).
- (3) Reviews plans and specifications.
- (4) Handles the Lender Appraisal Processing Program (LAPP) and Servicer Appraisal Processing Program (SAPP).
- (5) Handles issues related to builders and construction complaints.
- (6) Assigns VA Loan Identification Numbers.

(b) Loan Production. LP is responsible for all activities involving the origination of VA home Loans, including the following:

- (1) Processes requests from lenders to participate in the VA Loan Guaranty program.
- (2) Processes requests for automatic authority.

- (3) Issues Loan Guaranty Certificates (LGC) on closed VA loans.
- (4) Monitors performance of originating lenders and conducts training of program participants.
- (5) Provides guidance for processing releases of liability, transfers of ownership, and unauthorized transfers of ownership.

(c.) Loan Administration. LA is responsible for all activities involving VA-guaranteed loans from origination until the loan is paid in full or terminated including the following:

- (1) Monitors servicer activities and intervenes as needed during the delinquency and foreclosure process.
- (2) Reviews cases and provides additional assistance to borrowers on an exception basis.
- (3) Handles borrower and servicer inquiries on current and delinquent loans.
- (4) Reviews exceptions on acquisitions, incentives and claims prior to payment.
- (5) Conducts post audits.
- (6) Conducts industry and employee training.

c. Servicer Point of Contact. The VA Central Office Servicer Liaison (COSL) is the servicer's point of contact for general program, administrative, and training questions. If a question is received from a servicer regarding these topics, they may be referred to the COSL. Any questions from servicers related to a loan that is assigned to a technician should be referred to the technician for assistance and guidance. Technicians should also be prepared to handle any case-specific inquiries on current loans that are not yet assigned, regardless of property location.

### 1.03 OVERVIEW OF SERVICER RESPONSIBILITIES

a. Servicers play a critical role in the VA Home Loan program, as many essential loan management activities are delegated to them. Among the activities delegated completely, or in part, are:

1. Delinquent loan servicing.
2. Loss mitigation activities.
3. Appraisal review and determination of fair market value.
4. Determination of net value.
5. Determination of bid type and bid amount at foreclosure.

6. Loan assumptions and releases of liability.

7. Partial releases of security.

b. It is important to note that servicers who do not have automatic authority cannot process releases of liability. Also, authority to review appraisals and issue an NOV on a loan requires automatic authority and participation in the SAPP.

c. Given the number and importance of these activities, servicers have a responsibility to both the Veteran and VA. Specifically, VA asks servicers to:

1. Act in the best interest of Veterans and the Government.
2. Service VA loans to the highest standard.
3. Respond timely to Veteran and VA requests.
4. Pursue collection and loss mitigation efforts with a focus on home retention.
5. Provide timely and accurate data to VA.
6. Comply with all applicable laws, regulations, handbooks, and formal guidance.
7. Retain documents required for post audit.

#### 1.04 OVERVIEW OF VALERI

a. VALERI is VA's web-based system and supports both LA employees and servicers. VALERI is central to VA operations, and helps monitor servicers and the success of the VA Home Loan program. VA uses VALERI to monitor the servicing of VA loans, generate loss mitigation recommendations, review the adequacy of servicing, review non-routine acquisitions, claims and incentives, and conduct post audits. VALERI also houses reporting tools for Loan Guaranty managers and servicers. More detail about VALERI is included throughout this manual.

b. The Servicer Web Portal (SWP) within the VALERI application enables servicers to report events, file claims and appeals, and upload documents for VA access and review. Servicers may also report data through their servicing systems. This process creates and sends a file to VALERI which will generate required events. VA and servicers may access VALERI at the following site: <https://www.vbavaleri.com/GSM2.0/default.aspx>.

### 1.05 ORGANIZATION OF THIS MANUAL

a. Each chapter in this manual includes policy guidance for completion of work and the authority of the actions by each user. VA technicians must also be familiar with the material provided in the VA Servicer Handbook, M26-4, and the VALERI Technician User Guide. This manual is organized into core chapters that correspond to the major activities technicians participate in, conduct, or manage. They are:

1. Chapter 2: Introduction to VALERI.
2. Chapter 3: General Loan Servicing.
3. Chapter 4: Delinquent Loan Servicing.
4. Chapter 5: Loss Mitigation.
5. Chapter 6: Pre-Approval.
6. Chapter 7: Incentive Payment.
7. Chapter 8: Foreclosure.
8. Chapter 9: Refunds.
9. Chapter 10: Property Acquisitions.
10. Chapter 11: Reconveyance of Property.
11. Chapter 12: Quitclaim Deeds.
12. Chapter 13: Indemnified Loan Agreements.
13. Chapter 14: Claims.
14. Chapter 15: Post Audit.
15. Chapter 16: Appeals.
16. Chapter 17: Bill of Collection.
17. Chapter 18: Regulatory Infractions.
18. Chapter 19: Disasters.

b. Appendices. This Manual also contains appendices to supplement information provided in the chapters or provide additional material to reference when performing oversight activities. They are:

1. Appendix A: Acronyms.
2. Appendix B: Glossary.
3. Appendix C: State and Territory Tax Due Dates.
4. Appendix D: Military Base Cutbacks or Closings and Homeowners Assistance Program.
5. Appendix E: Texas Veterans Land Board Loans.
6. Appendix F: Additional VA Contact Information.
7. Appendix G: State Foreclosure Process and Statutory Bid Information.
8. Appendix H: Property Preservation Requirements and Fees.

c. Notes.

1. All references to days refer to calendar days unless otherwise noted.
2. All processes must be completed within the VALERI-established time frame and are reflected in RLC performance.

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## 2.01 INTRODUCTION

a. The VA Loan Electronic Reporting Interface (VALERI) is a web-based application that supports VA employees and servicers operating in the current regulatory environment. VALERI is central to overseeing the servicing of VA-guaranteed loans.

b. The VALERI application is used to view information on a loan, monitor the servicing of VA loans, generate loss mitigation recommendations, review the adequacy of servicing, review for payment of non-routine acquisitions, claims and incentives, conduct post-audits, and manage workloads by completing VALERI “processes” that guide technicians through each step of their review.

c. This chapter will provide an understanding of the following:

1. System interfaces and cycle times.
2. Technician roles and responsibilities.
3. Servicer event reporting.
4. Case assignment and reassignment.
5. Accessing VALERI.
6. NewTrak Application.
7. Servicer Web Portal (SWP).
8. Reports.
9. Handling Paper/Electronic Documents.

## 2.02 SYSTEM INTERFACES AND CYCLE TIMES

a. VALERI interfaces with the following VA systems:

1. The Web-enabled Loan Guaranty System (WebLGY). Loan Production (LP) oversees the origination of VA-guaranteed loans. LP uses WebLGY to capture VA baseline loan information such as property, Veteran, lender, and loan data. Construction and Valuation (C&V) is responsible for managing the valuation of VA-guaranteed properties, and overseeing all matters related to fee appraisers, the Lender Appraisal Processing Program (LAPP), and the Servicer Appraisal Processing Program (SAPP). C&V uses WebLGY for appraisal requests and to capture appraisal information.

(a) Updates nightly.

(b) Two-way direction.

(c) Information sent to VALERI includes baseline loan information, NOV issue date, NOV expiration date, and NOV “as-is” amount.

(d) Information sent by VALERI includes loan status update and Veteran entitlement updates.

2. The Centralized Property Tracking System (CPTS). Property Management (PM) is responsible for the preservation, marketing, sale of acquired properties and uses CPTS to manage this function.

(a) Updates nightly.

(b) Two-way direction.

(c) Information sent to VALERI includes post-sale analyses, redeemed properties, and property address changes.

(d) Information sent by VALERI includes acquired properties, changes in capital value, and returns of custody.

3. The Financial Management System (FMS). The Office of Finance oversees the day-to-day VA financial operations and uses FMS to manage this function.

(a) Updates nightly.

(b) Two-way direction.

(c) Information sent to VALERI includes payment status details, notification of servicer payment or offset closing out a bill of collection, vendor information update, and all payments for incentives, claims, and acquisitions.

(d) Information sent by VALERI includes payment transaction data and bill of collection established.

### 2.03 TECHNICIAN ROLES AND RESPONSIBILITIES

a. Access to certain functions in VALERI is based on specific roles and responsibilities at VA. Loan Administration employees are assigned one of the following roles:

1. Assistant Loan Technician (ALT).

2. Loan Technician (LT).

3. Senior Loan Technician (SLT).
4. Servicing Officer (SO).
5. Loan Administration Officer (LAO).

b. ALTs require approval from an SLT or SO (depending on the process) for all work completed in VALERI. LTs have the ability to approve some of their own recommendations, but require approval from an SLT or SO for the majority of work completed. SLTs and SOs are tasked with approving work completed by ALTs and LTs.

#### 2.04 SERVICER EVENT REPORTING

a. Under Title 38 Code of Federal Regulations (CFR), Section 36.4317, servicers must report events to VA to provide updates on the status of their loans. The reporting requirements apply to all VA-guaranteed loans, excluding manufactured homes that are not affixed to a permanent foundation, as defined in 36.4301. All data and events are reported electronically through VALERI.

b. Servicers report events as they occur, pursuant to regulatory requirements. For example, servicers are required to report the Electronic Default Notification (EDN) to inform VA that a loan is in default when a loan becomes at least 61 days delinquent. VA requires servicers to report data and events in order to monitor its portfolio of active loans and perform oversight of loan servicing activities.

c. Events reported in VALERI contain at least one or more data elements that provide specific information to VA about the loan. All reporting requirements are discussed in detail throughout this manual.

d. This section describes the following items regarding servicer event reporting:

1. How servicers report events to VA.
2. Reporting timeframes.
3. Event revision and withdrawal.
4. Late reporting.

e. Servicers Report Events to VA. If a servicer uses a service bureau that has a direct connection with VA, their service bureau will submit data through a nightly file exchange process which results in the creation of most servicing events in the VALERI application. Otherwise, servicers use the SWP to submit all events individually or through the bulk-upload process directly into the VALERI application. See below for additional information on each reporting method:

1. Automatically through Service bureau. Servicers are responsible for entering data into their servicing system. That data will then be collected and submitted on the servicer's behalf through the nightly file exchange from the servicer's service bureau. When submitted through a service bureau, the data cannot be revised or withdrawn after the file has been submitted to VA.

2. Manually through the SWP. Servicers are responsible for submitting the events directly into the SWP by the event due date. When submitting events through the SWP, servicers have the ability to submit, revise, and/or withdraw events as long as the event has not processed in the VALERI application. There are some events that all servicers must report through the SWP. The events are listed below and are described in greater detail throughout this manual:

- (a) Basic Claim.
- (b) Partial Release of Security.
- (c) Partial Payment Returned.
- (d) Invalid Sale Results.
- (e) Foreclosure Attorney Information.
- (f) Improper Transfer of Custody.

3. Manually through Bulk Upload. Servicers may also use a bulk-upload template to report multiple events at one time through the SWP. If a servicer contacts VA regarding the bulk upload process, they may be referred to the VALERI website at [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp), where they will find a bulk upload guide and template. Once data is submitted through a bulk-upload spreadsheet, the data cannot be revised or withdrawn after the file has been submitted.

NOTE: All servicers must report any Unauthorized Transfer of Ownership and Extenuating Property Circumstances to VA by telephone call, email, fax, or letter, which are described in greater detail in Chapter 3, General Loan Servicing.

f. Reporting Timeframes. Servicers must report all events according to VA-specified timeframes. Most events will be reported on either a monthly basis or when the action occurs on the loan.

1. Event Reporting Timeframes.

- (a) General Loan Event.

(1) Monthly Loan Status Updates are submitted automatically via the service bureau, or manually through the SWP. The event must be reported by day 7 of every month until the loan becomes 61 or more days delinquent.

(2) Release of Liability is submitted automatically via the service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer released the obligor from liability.

(3) Transfer of Ownership is submitted automatically via the service bureau or manually through the SWP. The event must be reported by calendar day 7 of the month following the month in which the servicer learns that an authorized transfer has been completed.

(4) Unauthorized Transfer of Ownership is submitted via telephone, e-mail, fax, or letter. The event must be reported by day 7 of the month following the month in which the servicer discovered that the unauthorized transfer of ownership occurred.

(5) Partial Release of Security is submitted manually via the SWP. The event must be reported by day 7 of the month following the month in which the holder released the lien on a part of the security for the loan pursuant to 38 CFR 36.4327.

(6) Loan Paid in Full is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the loan was paid-in-full.

(7) Servicing Transfer (Transferring Servicer) is submitted automatically via a service bureau or manually through the SWP by the servicer transferring the loan. The event must be reported by day 7 of the month following the month in which servicer sold and transferred the loan.

(8) Servicing Transfer (Receiving Servicer) is submitted automatically via a service bureau or manually through the SWP by the servicer boarding the new loan. The event must be reported by day 7 of the month following the month in which the servicer boarded the new loan.

(9) Contact Information Change is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the information changed.

(10) Occupancy Status Change is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which there was a change.

(b) Delinquent Loan Events

(1) Electronic Default Notification (EDN) is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 after the 61st day of delinquency.

(2) Loss Mitigation Letter Sent is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer sent the loss mitigation letter to the borrower.

(3) Delinquency Status is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer reported the delinquency to VA and once per month by day 7 until default cures or the loan terminates.

(4) Default Cured/Loan Reinstated is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the default cures.

(5) Default Reported to Credit Bureau is submitted automatically via a service bureau or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer reported the default to the credit bureau.

(6) Partial Payment Returned is submitted manually via the SWP. The event must be reported by day 7 of the month following the month in which the servicer returned the partial payment to the borrower.

(7) Foreclosure Attorney Contact Information is submitted automatically via a service bureau, or manually through the SWP. Event should be reported by day 7 after the day the servicer refers the case to a foreclosure attorney.

(c) Loss Mitigation Events

(1) Repayment Plan Approved is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer approved the repayment plan.

(2) Special Forbearance Approved is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer approved the special forbearance agreement.

(3) Loan Modification Approved is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month in which the servicer approved the loan modification.

(4) Loan Modification Complete is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month in which the borrower executed the loan modification agreement.

(5) Compromise Sale Complete is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month in which the compromise sale closed.

(6) Deed-in-lieu (DIL) Complete is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 after the deed is recorded or sent for recording.

(d) Foreclosure Events

(1) Foreclosure Referral is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 after the day the servicer refers the case to foreclosure attorney.

(2) Foreclosure Sale Scheduled is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 after the day that the servicer is notified of the scheduled sale date.

(3) Results of Sale are submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 after the sale.

(4) Confirmed Sale Date with no Transfer is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 7 of the month following the month the sale is confirmed if the servicer is not transferring custody of the property to VA. Event is only reported in confirmation/ratification of sale states.

(5) Transfer of Custody is submitted automatically via a service bureau, or manually through the SWP. The event must be reported by day 15 from the date of loan termination (for foreclosure and DIL of foreclosure only).

(6) Invalid Sale Results is submitted manually through the SWP. The event must be reported by day 7 after the servicer discovered that the foreclosure sale was invalid.

(7) Improper Transfer of Custody is submitted manually through the SWP. The event must be reported by day 7 after the servicer discovered that the transfer of custody of the property to VA was improper. NOTE: The event may NOT be reported unless the acquisition payment has been certified by VA.

(e) Claim Events

(1) File a Claim is submitted manually through the SWP. The event must be submitted by day 365 after loan termination (non-refund loans), or by day 60 after the loan has been approved for refund (refunded loans).

(2) File a Supplemental Claim is submitted manually through the SWP. The event may only be submitted after the File a Claim event, but before day 365 after loan termination (non-refund loans) and only include items omitted from the File a Claim event. Servicers do not have an option to file a supplemental claim on refunded loans.

(f) Bankruptcy Events

(1) Bankruptcy Filed is submitted automatically via a service bureau, or manually through

SWP. The event must be reported by the day 7 after the servicer discovers that the obligor has filed for bankruptcy.

(2) Bankruptcy Update is submitted automatically via a service bureau, or manually through SWP. The event must be reported by the day after a significant bankruptcy event has occurred (Relief of Stay Filed, Discharge, Dismissal, Stay Lifted).

g. Revision and Withdrawal. If a servicer reported an event to VA erroneously, they may only revise or withdraw the event if the event was reported directly into the SWP and is still in a pending status. Servicers cannot withdraw or revise any event once the file has been submitted either through a bulk-upload spreadsheet or through a service bureau nightly file.

1. If a servicer reported an event erroneously, but the timeframe for revising or withdrawing an event has passed, they must contact the technician assigned to the loan. The VA-assigned technician will review the file to determine if cancelling the event is the correct action to take in VALERI.

2. If the assigned technician determines the event(s) need to be cancelled, the technician will document all findings and actions in the case notes and submit a request to the Regional Loan Center (RLC) designated VALERI Point of Contact (POC) for review of the recommendation. The POC will document the case notes and submit any needed changes to the VALERI helpdesk email box for action. If the loan is unassigned, the servicer will contact the RLC of jurisdiction or the VALERI helpdesk for review and assistance.

h. Late Reporting. For every event a servicer submits to VA, VALERI records information regarding the timeliness of the submission. An event is reported late if servicers fail to submit the event in accordance with the VA specified timeframe. Late reporting is a regulatory infraction that may affect a servicer's performance rating.

## 2.05 CASE ASSIGNMENT AND REASSIGNMENT

a. Cases in default are assigned to a technician, based on a nationwide workload, and can be reassigned if necessary. VALERI will not assign a post audit review to the same technician that was assigned the loan when it was first reported in default.

b. Assignment of Cases in Default. After a servicer reports an EDN, the case is automatically assigned to the next available loan technician with the least number of cases assigned. This is completed through a balanced assignment method. The technician is assigned to the case until the following conditions are met:

1. The loan is reinstated or terminated.
2. All open processes are completed or closed.
3. Timeframes for claim filing, system processing, payment certification, or appeals have expired.

c. If a loan subsequently goes into default after it has reinstated, it is assigned to the next available technician based on the method above.

d. Assignment of Cases for Post Audit. VALERI assigns a post-audit review case to a technician that was not originally assigned to the loan. Post audits are assigned without regard to the number of pending post audits or other cases in the technician's workbasket.

e. Reassignment of Cases. Loan Administration Officers (LAOs) have the ability to reassign individual cases, groups of cases, and individual tasks to other employees. However, station management cannot reassign groups of cases with the intention of creating specialized teams to work specific processes. VA Central Office (VACO) may reassign cases upon request from the LAO at the national level for reasons such as retirement, promotion, etc.

## 2.06 CASELOAD REDISTRIBUTION

### a. Strategic Reassignment of Multiple Loan Technicians.

1. Based on various strategic needs, Regional Office (RO) management occasionally reassigns Loan Guaranty staff to different sections. When this occurs in Loan Administration, the caseloads assigned to the Loan Technicians are redistributed within the RLC or on a nationwide basis to all available technicians.

2. This caseload redistribution is designed to level the work across all Loan Technicians nationwide, thus resulting in increased work throughout all RLCs. Therefore, decisions to voluntarily reassign one or more Loan Technicians in VALERI must be done with consideration of the effects that such actions will have on all Loan Technicians available for case assignment. An RLC must obtain the Office of Field Operations (OFO) approval prior to reassigning more than one Loan Technician via the Strategic Reassignment Approval Process outlined below:

(a) The Loan Guaranty Officer (LGO) notifies the RO Director or Designee of the intent to strategically reassign Loan Administration staff to other duties within the set timeframe.

(b) The VARO Director or Designee communicates their intent to strategically reassign caseload(s) to the VA Area Office.

(c) VA District Office reviews for approval prior to sending to OFO.

(d) OFO notifies VA Central Office (VACO) Loan Guaranty Service, and RO Director or Designee of their approval to reassign selected staff from Loan Administration.

(e) VACO Loan Guaranty Service inactivates selected staff from VALERI, flags all of their assigned cases for nationwide redistribution, and confirms with affected LGO and OFO when actions are complete.

b. Employee Absences

1. Loan Technicians. When Loan Technicians are out of the office, their caseloads will either be monitored or redistributed depending upon the duration of the absence. When a Loan Technician is away for 20-business days or less, all casework will be completed within the respective RLC. When a Loan Technician is out of the office for 21-business days or more, the LAO may request that VACO perform a nationwide redistribution of the technician's caseload (if an LAO knows the technician will return reasonably close to the 20 day cutoff, they may elect not to have the cases reassigned). NOTE that these procedures apply only to employee absence, and not temporary reassignment to complete other duties.

(a) Short-term Absences. If a Loan Technician will be out of the office for 20-business days or less, their cases will remain in their workbasket. The technician's SLT must review the workbasket on a daily basis to ensure that processes requiring immediate attention are completed.

(b) Long-term Absences. If a Loan Technician is out of the office for 21 business-days or more, the LAO may request, with a copy to their LGO, that VACO Loan Guaranty Service redistribute the entire caseload. LAOs may reassign individual cases on an as-needed basis prior to the nationwide redistribution.

2. Senior Loan Technicians – The SO or LAO is responsible for designating a backup to handle responsibilities while an SLT is out of the office for any period of time. When an SLT is out of the office, the designated backup will monitor the team's workbasket and complete actions needed for the absent SLT. If needed, the SLT can obtain a list of loans to review from an SO.

3. Servicing Officers – The LAO is responsible for designating another SO to handle responsibilities while the SO is out of the office for 20 business-days or less. When an SO is away for 21 business-days or more, his or her teams may be temporarily reassigned to other SOs within the same RLC.

(a) Short-term Absences – When an SO is away for 20 business-days or less, another SO will monitor the workbaskets of the absent SO's team members to ensure work is completed timely.

(b) Long-term Absences – If an SO is out of the office for 21 business-days or more, the LAO may request, with a copy to their LGO, that VACO Loan Guaranty Service reassign his or her teams to other SOs within the same RLC.

4. Loan Administration Officers – When an LAO is out of the office for 1 or more days, he or she will designate an SO within the RLC to be the acting LAO. The LAO will notify VACO Loan Guaranty Service, with a copy to their LGO, of the role change prior to the absence and include the expected return date.

(a) Planned Absences – When an LAO plans to be out of the office for one or more business

days, he or she will contact VACO Loan Guaranty, with a copy to their LGO, prior to the absence and designation of an SO to be the acting LAO. VACO Loan Guaranty will adjust each user's role in VALERI for the duration of the absence.

(b) Unexpected Absences – When an LAO is unexpectedly out of the office for 1 or more business days, the LGO will contact VACO Loan Guaranty and designate an SO within the RLC to be the acting LAO during the absence. VACO Loan Guaranty will adjust each user's role in VALERI accordingly for the duration of the absence.

c. Office Closure.

An entire RLC may halt operations for a period of time in the instance of a natural disaster or other catastrophic event. If the RLC actively participates in a telework program and can complete the necessary work during the office closure, the LGO or designee will notify the VALERI helpdesk at [valerihelpdesk.vbaco@va.gov](mailto:valerihelpdesk.vbaco@va.gov), as soon as possible that no assistance is needed during the closure. VACO Loan Guaranty Service will follow the office closure policy as noted below unless the impacted office notifies the VALERI helpdesk that work can be retained and completed within the RLC. Information will be relayed to all RLCs as it becomes available. If the closure is less than 6-business days, other RLCs will monitor the affected RLC's work and ensure important processes are completed timely. If an RLC remains closed for more than 6-business days, all affected caseloads may be redistributed nationwide. OFO will contact VACO Loan Guaranty Service of the affected RLC's closure and expected return to operating status. NOTE: if an RLC is expected to be reopened shortly after the business day 6, that station's workload may remain and the back-up RLC will continue to monitor important processes until the office is functional again.

1. 5-Business Days or Less. VACO Loan Guaranty Service will maintain a list of RLCs in alphabetic order (as shown below), and on a rotational basis direct a back-up RLC to monitor the affected RLC's caseload. The back-up RLC listing is as follows:

- (a) Atlanta
- (b) Cleveland
- (c) Denver
- (d) Houston
- (e) Phoenix
- (f) Roanoke
- (g) St. Paul
- (h) St. Petersburg

2. Should the assigned back-up RLC be unable to perform the duties required, that assignment will rotate to the next available RLC. The LAO in the back-up RLC will access the closed station's workbasket and distribute the most important time-sensitive processes internally. The back-up RLC will complete all of these processes in addition to all approvals and certifications associated with these processes. The most important time-sensitive processes are listed below:

- (a) Review Non-Routine Acquisition.

(b) Certify Routine Acquisition.

3. The following processes should only be completed if the foreclosure sale date is imminent (< 7 calendar days away):

(a) Review Substantial Equity.

(b) Notify Veteran of Substantial Equity.

(c) Postpone Loan Termination Action.

(d) Notify Veteran of Postponed Loan Termination Action.

4. 6 business-days or more. VACO Loan Guaranty Service will contact OFO to determine the likely opening date of the affected RLC. Based on mutual agreement with OFO, VACO Loan Guaranty Service will inactivate the affected RLC's staff and redistribute their caseloads nationwide. These users will be reactivated when the RLC returns to operating status.

## 2.07 ACCESSING VALERI

a. VALERI is a web-based application which provides technicians and servicers the ability to gain access to VA-guaranteed loan data. They can log on to the website at <https://www.vbavaleri.com/GSM2.0/LoginForm.aspx>. The following section describes the applications that are available for each role:

1. Administration. The administration application allows SOs and LAOs to make adjustments within VALERI when necessary, such as loan modification terms or the extension or adjustment to a Notice of Value (NOV).

2. NewTrak. The primary application a technician uses to complete tasks and processes. All Loan Administration employees and employees with Read Only High (ROH) have access to the VA NewTrak application.

3. Reports. The Reports application allows SOs, LAOs, ROH, and servicers access to view and create reports based on their role within the VALERI application.

4. Servicer Web Portal. This application allows SLTs, SOs, LAOs, and servicers access to information and the servicers the ability to report on each loan. This access enables VA technicians to see what data can be reported and viewed by the servicer and is essential in providing guidance to servicers on any reporting issues. VACO staff with designated roles of Subject Matter Expert (SME), Super Admin or Central Office Servicer Liaison (COSL) has access to all available applications within VALERI.

b. Procedures for Requesting Access or Change to Employee Status/Role. RLCs and VACO may request VACO Loan Guaranty Service, Loan Management to initiate or change an employee status or role. Types of requests include the following:

1. Add a new employee.
2. Deactivate an account for an employee who is retiring, being reassigned, or being terminated.
3. Eligible/ineligible for case assignment (only at RLC level).
4. Promotion from ALT to LT.
5. Coverage of LAO by the SO during out of office situations.

6. The LGO, ALGO, LAO, VACO Assistant Director or equivalent will submit a request to the VALERI Helpdesk at VALERIHHelpDesk.vbaco@va.gov. When the LGO is not the requester, the LGO will be copied on the request. The request must include the following:

- (a) Specific action requested.
- (b) Employee's name.
- (c) RLC or VACO Staff Office.
- (d) Employee's VA e-mail address.
- (e) Employee's toll-free number and extension.
- (f) Employee's Role (ALT/LT/SLT/SO/LAO/Read Only High).
- (g) Employee's Supervisor (only at RLC level).
- (h) Assigned VALERI Team (only at RLC level).
- (i) RLC/VACO Mailing Address.

7. Once the request is received by the VALERI Helpdesk, a VACO Loan Management Supervisor will review and take appropriate action. After the request has been fully processed, employees new to VALERI will receive an email with their user name and temporary password. The temporary password is time sensitive and all new VA employees should immediately log into the VALERI application to validate their access. Employees with only a status or role change will not receive an email from VALERI, but should be notified by their supervisor once the change is completed.

## 2.08 NEWTRAK APPLICATION

a. NewTrak is an application that enables VA technicians to handle a variety of business processes, tasks, holds, and issues. NewTrak allows the ability to:

1. Manage, view and complete processes, within individual workbaskets, that are opened based on data reported by the servicer or timeframes set by VA for such reviews. Examples of these processes are: Adequacy of Servicing (AOS), Pre-approval, Pre-foreclosure Review, claims, and post audits.

2. View, filter, search, and sort current or delinquent loans.

3. Review detailed information on a VA-guaranteed loan, including events generated by data submitted by the servicer.

4. Add case notes on individual loans.

5. Upload and view documents.

6. Complete, review and add tasks, holds or issues on cases that need further review.

b. The NewTrak home page has several features such as a Toolbar, an Announcements Area, and links for business process activities.

1. The NewTrak Toolbar provides the following options:

(a) The Tasks link allows a user to view and complete all tasks assigned.

(b) The Workbasket link allows a user to view and access their active workbasket.

(c) The logout link logs a user out of the VALERI application website, and back to the login screen.

(d) The Exit link returns the user to the application's screen.

2. The NewTrak Announcements panel displays current, and archived notices issued by VACO.

3. The NewTrak links provide the following options:

(a) The Task link allows a user to view and complete all tasks assigned. All user roles have the task link feature.

(b) The Administrative Actions link allows the LAO the ability to reassign cases from one

user to another on an as needed basis.

(c) The Holds/Issues link allows the SLT, SO, and LAO the ability to view, review and approve/deny a hold or issue that was recommended on a loan.

(d) The My Work Groups link allows a user, based on role, to access, and perform work that needs completion, approval, and/or certification. All user roles have the My Work Groups link feature.

4. Within NewTrak, users can view the following information:

(a) The Loan Information link shows loan information along with all events a servicer reports on the loan. Events are located under the Event Inbox which shows the business rules and data elements associated with each event submitted by the servicer. A data element is information reported by the servicer that provides VA with the required information and status on a loan.

(b) VALERI evaluates all events against a set of business rules that define whether or not the servicer is complying with VA rules and servicing regulations. VALERI identifies whether the event failed any business rules, and whether or not there are any regulatory infractions that were identified due to a business rule failure.

(c) The following list identifies the status of each event reported to VA:

- (1) Pending. The event is in a holding stage waiting processing.
- (2) Not Processed. The event was withdrawn or cancelled by the servicer prior to processing.
- (3) Accepted. The event was evaluated correctly and does not require further review.
- (4) Requires Review. The event requires further review due to a failed business rule within the event.
- (5) Rejected. There was at least one fatal business rule failure which caused VALERI to reject the event.

5. Technicians are required to review and determine the validity of all business rule failures prior to any payments being made to the servicer.

6. The Payment History link displays the payment transactions for the loan. It details information on the transaction type, transaction number, servicer name, servicer number, payment amount, payment approval date, payment certification date, and payment status.

c. Workbasket Overview. VALERI routes processes to a technician's workbasket for completion. The workbasket displays the following details about each process step: Loan Number, Funding Fee Exempt, Process, Step, Due, RLC, Tech Name, Servicer Number, and Servicer Name. The workbasket automatically defaults to reflect all process steps by due date.

If a step is overdue, the process will show in red font. Technicians also have the ability to add filters within their workbaskets to allow them to access items according to specified criteria. For example, a filter can be created that allows a technician to quickly access all post audit processes that are open. These filters can be saved, edited and deleted, as necessary.

d. Process Due Dates. All timeframes for process due dates are shown in calendar days and must be completed within the established VALERI timeframes. Timeliness for completing all processes is reflected in the RLC station's performance. If a technician will be away from work during a period of time and the process will become due in their workbasket, they should attempt to complete those processes prior to the due date. If a technician is unable to complete those processes, a supervisor has the ability to reassign a case or a process that will come due during their absence.

e. Policies for Accessing Other Workbaskets. To provide flexibility, and facilitate the reassignment of work, VALERI allows certain roles to view workbaskets of other employees. However, Loan Management in CO restricts the viewing of workbaskets according to the following rules: LAOs may view the workbaskets for all employees at the RLC. SOs may view the workbaskets of all the technicians they directly supervise. SLTs may view the workbaskets of all the technicians assigned to their team.

f. Complete VALERI Processes. When VALERI initiates a process on a loan, it routes the process and all of its steps to the VA-assigned technician's workbasket. Technicians can:

1. Access and view a VALERI process.
2. Complete a VALERI process.
3. Place a hold on a loan.
4. Add an issue to a loan.
5. Add case notes.
6. Open a manual process.

g. Case Note Documentation. The technician must document contact and action taken in the VALERI case notes for all interactions with the Veteran, spouse, or authorized third party representative and the servicer of the loan. In addition to entering a detailed record of the communication, VALERI case notes should list a call back number and/or clear email address, if available. Case notes can also be used for information that clarifies a situation and are integral to certain processes. For example, case notes must be documented when a borrower contacts VA to report that the servicer has returned a payment to them. In this situation, the technician would document the complaint and any additional information that the borrower provides. Case notes are accessible through the Notes Link on the toolbar. Case notes can be one of the following types:

1. Borrower Contact.
2. Loss Mitigation.
3. Servicer Contact.
4. Others.

h. Manual Processes. VALERI initiates most processes automatically based on what events have been reported on the loan. However, VALERI also provides technicians the ability to manually open certain processes when necessary. This may be needed if the technician identifies further review. For example, if a borrower reaches out directly to VA, the technician has the ability to manually open the Refund process for review. The Manual Process feature is located on the top toolbar of the Loan Information screen or the Process Screen. Once opened, the process will show in the technician's workbasket for completion.

#### 2.09 SERVICER WEB PORTAL (SWP)

Servicers use the SWP to access VALERI. SWP is the primary means for servicers to communicate with VA on the status of guaranteed loans. It enables servicers to report events, submit claims, submit appeals, and upload documents in VALERI. All VA technicians have access to information in the SWP.

#### 2.10 REPORTS

SOs and LAOs have access to view and generate reports in VALERI through the Reports application. Servicers have access to various servicer operational reports for loans within their portfolio.

#### 2.11 HANDLING PAPER / ELECTRONIC DOCUMENTS

One of the goals of the VALERI application is to promote a paperless environment. Technicians must upload all documents received in paper form or via electronic mail in the VALERI application immediately upon receipt. Documents are managed through the Documents link on the top toolbar.

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### 3.01 INTRODUCTION

a. Servicers are responsible for reporting loan events electronically on all current loans to VA throughout the life of the loan in accordance with 38 CFR 36.4317. Late reporting is a regulatory infraction that may affect a servicer's tier ranking. Occasionally, servicers may need to report information through email, telephone, fax, or letter. Information may also be received directly from borrower(s) contacting VA regarding their loan such as escrow inquiries, payment disputes, etc.

b. Servicers must service VA loans within the requirements of VA regulations. Each servicer determines the best approach to fit individual borrower circumstances. Additionally, servicers are required to comply with all applicable local, State, and Federal laws, such as the Real Estate Settlement Procedures Act (RESPA), as amended, and regulations governing the VA Home Loan program.

### 3.02 SERVICER PERFORMS GENERAL LOAN SERVICING ACTIVITIES

a. Servicers are required to comply with general loan servicing requirements for VA-guaranteed loans. This will include responding to borrower inquiries, establishing quality control measures, complying with VA regulatory requirements and following the appropriate procedures for:

1. Maintenance of records.
2. Income tax statements.
3. Advances.
4. Prepayments.
5. Late charges and other fees.
6. Payment of taxes.
7. Insurance.
8. Escrow accounts.
9. Application of funds.
10. Legal proceedings.
11. Servicemembers Civil Relief Act (SCRA).

b. Refer to the VALERI VA Technician Manual and VA Servicer Handbook M26-4 for more details on these general loan servicing requirements.

### 3.03 SERVICER REPORTING REQUIREMENTS (38 CFR 36.4317)

a. General loan events reported on current loans provide a snapshot of how each loan is performing and allows VA to forecast future liabilities. The following events are required to be reported by the servicer on current VA-guaranteed loans, however no action is required by the VA Loan Administration (LA) department:

1. Monthly Loan Status Update (MSU). VA requires servicers to report a MSU for all VA loans that are current or fewer than 61 days delinquent. Each update includes the unpaid principal balance and the payment due date.

2. Servicing Transfers. There are two events servicers must report when they sell and purchase loans. The servicer selling the loan must report the Servicing Transfer/Transferring Servicer event and the servicer purchasing the loan must report the Servicing Transfer/Receiving Servicer event. This process enables both servicers to report accurate data.

3. Release of Liability. Servicers must report the Release of Liability event regardless of the loan status when an obligor has been released from liability. A mortgagor remains liable on the VA-guaranteed mortgage indebtedness unless he or she is released from personal liability. Assumptions of loans for which loan commitments were made on or after March 1, 1988, must have the prior approval of VA or a VA automatic lender. With some exceptions, approval of an assumption of a loan releases the Veteran from any future liability to VA, including liability for any loss resulting from the default of the purchaser or subsequent owner of the property. Failure to secure approval could lead to the acceleration of the loan after the transfer.

b. Assumptions and releases of liability are generally processed by holders, and include a funding fee and processing charge. The release of liability agreement does not release the Veteran's entitlement, unless the person assuming the loan is a Veteran who has entitlement available to use as a substitute. VA Loan Production (LP) is responsible for examining Releases of Liabilities that servicers have completed and providing guidance. For more information, refer to Chapter 5, Topic 7, of the VA Lenders Handbook.

1. Transfer of Ownership (38 CFR 36.4309, 38 CFR 36.4303(l)). Servicers are required to report the transfer of ownership event, regardless of the loan status, when they learn that an authorized transfer of ownership has been completed. VA requires this event to determine the liable obligor on the loan.

c. VA requires servicers to report the Transfer of Ownership event in VALERI when the title holder of the property securing a VA-guaranteed loan changes. Servicers are required to process a release of liability on loans originated on or after March 1, 1988, before reporting the transfer of ownership. A release of liability is not required before reporting a transfer of ownership on a loan originated before March 1, 1988. VA requires the transfer of ownership event to determine the liable obligor on the loan. If the loan is or becomes 61 or more days delinquent, VA expects liable obligors to participate in any effort to cure the delinquency.

d. Technicians should advise any borrower who contacts VA regarding a transfer of ownership that they may remain liable to VA for any loss that may occur as a result of a future default and subsequent claim payment. The borrower should execute a release of liability with the servicer to protect them should the loan go into default. Technicians must document the case notes regarding any action taken.

e. LP is responsible for providing servicers with guidance for processing assumptions and releases of liability in connection with transfers of ownership.

1. Unauthorized Transfer of Ownership (38 CFR 36.4309). Servicers are required to notify VA via telephone call, email, fax, or letter after learning of an unauthorized transfer of ownership. This information is required to determine whether the unauthorized transfer led to foreclosure and a subsequent claim on the loan. An unauthorized transfer is a transfer of ownership made on a loan originated on or after March 1, 1988, without the prior approval of VA or an automatic lender.

f. When a servicer reports an unauthorized transfer of ownership, the VA-assigned technician will add an “unauthorized transfer of ownership” issue on the loan in VALERI. Technicians will also add a regulatory infraction for an unauthorized transfer of ownership. If the servicer fails to report the unauthorized transfer by the 7th day of the month following the month in which they discover that the unauthorized transfer occurred, a regulatory infraction for late reporting will also be included. Refer to Chapter 18, Regulatory Infractions, of this manual for guidance on adding a regulatory infraction in VALERI. Technicians should also encourage the servicer to attempt to contact the borrower and execute a retroactive release of liability with them upon hearing of an unauthorized transfer of ownership. The servicer should not accelerate the loan if the loan is performing. Technicians must document the case notes regarding any action taken.

g. VA Loan Production (LP) is responsible for examining Releases of Liabilities that servicers have completed and providing guidance. For more information, refer to Chapter 5, Topic 7, of the VA Lender’s Handbook.

1. Partial Release of Security (38 CFR 36.4327). Servicers are required to report the Partial Release of Security event regardless of the loan status when they have released the lien on a portion of the security for the loan. A partial release of security releases a portion of a secured property from the lien. For example, partial releases may involve requests from the state or local government to widen a roadway. Occasionally, borrowers request that portions of their properties be released so that they may subdivide or provide gifts of land to their children or to another recipient. In most cases, the borrowers are paid an amount of consideration for the property. Servicers must follow guidelines established by VA to complete partial releases of security. These guidelines include:

(a) No obligated borrower is released from liability.

(b) The servicer must obtain a VA appraisal on the security, the portion to be released, and the value of the remaining security, prior to making a decision regarding a partial release request with the exception of cases such as eminent domain. To order a VA appraisal for a partial release

of security, the servicer must contact the Construction and Valuation office of the Regional Loan Center with jurisdiction over the state in which the property is located. Regarding eminent domain cases, if the information provided by, or on behalf of, the borrower is insufficient for making a decision, the borrower must agree to pay for the cost of a VA appraisal.

(c) The consideration received for the release should be equal to the fair market value of the property being released. In state or local Government cases, the amount of the consideration is rarely negotiable, and the property will be taken by eminent domain if the servicer does not grant the release. In these cases, the only decision to be made is the disposition of the compensation. No VA appraisal is required for state and local Government property acquisitions.

(d) The consideration received for the release must be applied to the principal balance unless the loan to value (LTV) ratio is 80 percent or lower. The LTV ratio is calculated using the current principal balance of the loan and the value of the security remaining after the release. For example, a borrower is offered \$10,000 for a portion of the security on her loan. The consideration is appropriate, and the value of the remaining security will be \$190,000 after the release. The principal balance of the loan is \$160,000, but the balance must be \$152,000 ( $\$190,000 \times 0.80$ ) to meet VA's LTV ratio requirement before the consideration can be released to the borrower. In this case, the servicer must apply \$8,000 of the consideration to reduce the principal balance and the remaining \$2,000 can be released to the borrower. Failure to apply the \$8,000 to reduce the principal balance is a regulatory infraction for claim adjustment.

(e) The loan must be current if a portion of the consideration is given to the borrower.

(f) If delinquent, a portion of the proceeds may be used to bring the loan current.

(g) The portion of the property still subject to the lien must be fit for dwelling purposes.

2. Loan Paid in Full (38 CFR 36.4303). The Loan Paid in Full event is reported by the servicer when the loan obligation has been fully satisfied by receipt of funds. This event should not be reported when a servicer is transferring the servicing rights to another servicer or when a loan has been terminated or acquired by VA.

3. Contact Information Change. VA requires servicers to report the Contact Information Change event, regardless of the loan status, for all VA loans when they become aware of changes with the borrower's contact information.

4. Occupancy Status Change. VA requires servicers to report the Occupancy Status Change event, regardless of the loan status, for all VA loans when they become aware of any change in occupancy of the property.

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#### 4.01 DELINQUENT LOAN SERVICING

a. A loan becomes delinquent when a borrower misses one or more mortgage payments. Servicers are responsible for servicing delinquent loans, and working with the borrower to reach an agreement that will bring the loan current or avoid foreclosure, whenever feasible. During the delinquency, VA reviews the loan under the Adequacy of Servicing (AOS) process in order to ensure the servicer is in compliance with VA regulations and to protect the interests of Veterans and the government. In addition to the oversight review, VA may become involved on an exception basis when:

1. A Veteran contacts VA for assistance.
2. VA determines additional assistance is required.

b. VA regulations require servicers to attempt contact with the borrower by telephone. The servicer must also send the loss mitigation letter within 45-days of delinquency for Early Payment Defaults (EPDs) and within 75-days of delinquency for non-EPDs. A default is considered an EPD if the borrower becomes delinquent within 6-months following loan origination or the execution of a modification agreement. VA sends an automated loss mitigation letter to borrowers on all loans that reach 120-days delinquent.

c. VA may become involved in the loan's servicing at other times during the delinquency for reasons such as assistance with appraiser access, requesting forbearance for the servicer/borrower to resolve payment disputes, etc.

#### 4.02 SERVICER REPORTING REQUIREMENTS (38 CFR 36.4317)

a. Loan events reported on delinquent loans provide a snapshot of how each loan is performing and allows VA to forecast future liabilities. The following events are required to be reported by the servicer throughout the delinquency period on VA-guaranteed loans:

1. Electronic Default Notification (EDN). The servicer must electronically report the EDN event in VALERI (VA Loan Electronic Reporting Interface) when a loan becomes 61-days delinquent. Once the EDN event is processed, the case will be assigned to a VA-technician until the loan is brought current, terminated, or paid in full.

b. The servicer can submit an EDN event through the Servicer Web Portal (SWP) before day 61 of delinquency in cases where a reason for default such as "imminent default," or "property problems" is reported. Imminent default is determined if the servicer has valid reason/documentation that the borrower will not have the ability to make future payments on the loan.

c. When a loan becomes delinquent and VA is notified, additional oversight is provided to ensure adequate servicing is provided to the borrower. The following delinquent loan activities may require additional review by the VA-assigned technician.

1. Loss Mitigation Letter Sent. The servicer may notify VA when a loss mitigation letter has been mailed to the borrower regarding their delinquent loan status.
2. Delinquency Status. VA requires servicers to report a Delinquency Status for all loans that are past due and an EDN has previously been submitted on the loan. Each update includes the unpaid principal balance and the payment due date.
3. Default Cured/Loan Reinstated. Servicers must notify VA once a borrower reinstates the loan.
4. Default Reported to Credit Bureau. VA requires servicers to report all delinquent VA-guaranteed loans to the credit bureau. Servicers must report this event to VA to validate the reporting to the credit bureau.
5. Partial Payment Returned. Servicers must return all partial payments within 10 days to the borrower and notify VA of any return of funds.
6. Foreclosure Attorney Contact Information. When servicers refer a loan to an attorney to begin foreclosure proceedings, they submit the event to notify VA that the loan has been referred.
7. Contact Information Change. VA requires servicers to report the Contact Information Change event, regardless of the loan status; for all VA loans they become aware of changes with the borrower's contact information.
8. Occupancy Status Change. VA requires servicers to report the Occupancy Status Change event, regardless of the loan status, for all VA loans when they become aware of any change in occupancy of the property.

#### 4.03 ADEQUACY OF SERVICING (AOS)

- a. During the delinquency, VALERI will initiate AOS processes for oversight to ensure the servicer is attempting to contact the borrower and service delinquent loans in accordance with VA regulations. The initial AOS process will open at day 120 of delinquency, and the review must be completed. Additional AOS processes will open throughout the delinquency to ensure the loan is being adequately serviced.
- b. The purpose of the AOS process is to ensure the Veteran has been given every opportunity to pursue all possible loss mitigation options in order to avoid foreclosure. Before completing the AOS, the VA-assigned technician must review the following:
  1. VALERI case notes.
  2. Servicer uploaded case notes, if available, or information received from the servicer.

3. Any issues on the loan.

4. All reported events (overriding any failed business rules within these events).

c. Technicians should determine if contact with a borrower is required during the AOS process. If contact information in VALERI is no longer valid or numbers provided are not in service, the loan technician must attempt to locate a working number using an online search engine or other available search options and document the case notes. If a borrower is in active bankruptcy or was active in bankruptcy during the default, no contact should be initiated with the borrower. If the borrower initiates contact with VA, the technician should discuss all available options and document a summary of the conversation in the case notes.

d. If the technician determines the servicer has not provided adequate servicing, annotate the AOS case notes accordingly and pursue loss mitigation or alternatives to foreclosure directly with the borrower.

e. Additional AOS processes will open during the delinquency for VA to perform periodic reviews to ensure the servicer continues to provide adequate servicing on delinquent loans. If follow-up is warranted to monitor activity between AOS processes, the VA-assigned technician must document the case notes, and establish a task to monitor the servicer's activities. If follow up is not warranted, the VA-assigned technician must document the case notes and complete the AOS process within the allowable timeframe established in VALERI.

f. VA services loans on an exception basis when the borrower is in need of VA's involvement, or VA determines the servicer has not adequately assisted the borrower to retain home ownership or avoid foreclosure. VA's involvement may require collection of financial, and/or other pertinent information and discussion as to what options are available to ensure that the Veteran has every opportunity to retain his or her home, or avoid foreclosure. The VA Loss Mitigation Tool in VALERI retains financial information obtained, and provides guidance as to what options may be beneficial to the borrower. The VA-assigned technician will document all communication and determinations in the case notes.

#### 4.04 SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

a. In order to ensure Veterans receive appropriate relief under the Servicemembers Civil Relief Act (SCRA), VA conducts a review during the AOS process to identify if a servicer has determined a borrower is protected under SCRA or VA may be notified of a borrowers protection at any time during the life of the loan. If the Veteran is identified as eligible, the VA-assigned technician documents the case notes and adds the SCRA indicator in VALERI. This indicator will identify the loan for any future pre-foreclosure review or claim payment to ensure the borrower was afforded all available protections under the Act.

b. To be considered eligible, the loan must have originated prior to the military member's current period of active military service, and meet the following requirements:

1. The servicemember was called to active duty.
2. The servicemember's loan originated prior to his or her current period of active military service.
3. Active duty military service affects the servicemember's ability to make payments.
4. The servicemember provided the servicer with a written notice requesting relief and a copy of his or her military orders in accordance with current law.

c. VA is not charged with enforcement of the Act, as that is delegated to any court of competent jurisdiction of the United States or of any State. If violations of SCRA mortgage provisions are discovered, VA will act to appropriately notify the Department of Justice and other stakeholder agencies/regulators of those violations.

d. If a borrower is deemed eligible for SCRA protection in the form of a reduced interest rate, but the loan eventually terminates, the servicer must report the rate change on the Basic Claim event. (Refer to Chapter 14, Claims, for more information)

#### 4.05 REVIEW OF SUBSTANTIAL EQUITY

a. VALERI calculates potential substantial equity by comparing the reported appraised value from WebLGY to the servicer reported unpaid principal balance (UPB). A Review of Substantial Equity process will open when VALERI determines that the loan-to-value is equal to or greater than 120 percent of the UPB.

b. The VA-assigned technician must review the process to determine if the appraised value is greater than or equal to 1.2 times the total indebtedness, including review of any lien/judgment amounts. Lien and judgment information will be obtained from the servicer. If the information from the servicer is not received timely, the technician will move forward in completing their review based on the information of record at the time. The technician will record their decision in VALERI notes and complete the process.

c. If the review decision indicates substantial equity exists, the Notify Veteran of Substantial Equity process will then open. The technician must attempt communication with the borrower by telephone and letter. The letter should notify the borrower of the potential equity and encourage them to contact the servicer to explore any loss mitigation options or sell the property to avoid foreclosure. VALERI case notes must be thoroughly documented with the technician's actions and a copy of the letter must be uploaded to the loan documents in VALERI. A template for this letter is available on the VALERI intranet site at [http://vbaw.vba.va.gov/bl/26/valeri\\_intranet.htm](http://vbaw.vba.va.gov/bl/26/valeri_intranet.htm).

d. When warranted, the VA-assigned technician may request the servicer consider postponement of pending liquidation proceedings, if there is evidence the borrower desires to maintain home ownership to allow extra time for the borrower to explore other options. If postponement is not feasible based on the circumstances of the loan, the technician must document the case notes and complete the process in VALERI. If the determination is made to request postponement, the technician must document the case notes and complete the process. The Postpone Loan Termination Action process will then open for technician review. The VA-assigned technician must contact the servicer to confirm if they agree to postpone the loan termination action. If the servicer agrees to postpone loan termination, the technician will notify the Veteran by telephone and letter. All actions must be clearly documented and supported in the VALERI case notes.

#### 4.06 REVIEW EARLY PAYMENT DEFAULT

a. VA reviews early payment defaults any time a servicer reports an EDN and the loan becomes delinquent within 6-months from the first payment due date on the modification agreement.

b. An EPD process will open for the VA-assigned technician's review to determine if the modification was the result of an improper decision by the servicer. The VA-assigned technician will complete an analysis of the loan modification underwriting package provided by the servicer to ensure compliance with 38 CFR 36.4340 and Chapter 4 of the VA Lender's Handbook. If the review determines the loan modification was not in compliance with regulations, a regulatory infraction will be automatically added to the loan upon completion of this process. There may be a claim adjustment, if a loan terminates and there was an increase to VA's liability.

c. An EPD that may occur on a loan origination will be reviewed by the Loan Production (LP) Department at the Regional Loan Centers.

d. Loan modification is discussed in more detail in Chapter 5, Loss Mitigation, of this Manual.

#### 4.07 PARTIAL PAYMENT (38 CFR 36.4316)

a. VA will review all cases where a borrower reports their payment was returned by the servicer. VA must review the circumstances to determine if the payment was improperly returned by the servicer.

b. In the event the servicer returns a payment(s), it must be sent back to the borrower within 10-days from the date of receipt of such payment, with a letter of explanation if one or more of the following conditions exist:

1. The property is tenant-occupied and rental payments are not being submitted to the servicer to be applied to the loan.

2. The payment is less than 1 full monthly installment, including the escrow portion of the payment and late charge, if applicable, unless the lesser payment amount has been agreed to under a documented agreement.

3. The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under a documented agreement.

4. The payment is less than the amount agreed to in a documented agreement.

5. The amount tendered is in the form of a personal check, and the servicer has previously notified the mortgagor in writing that only cash or certified remittances are acceptable.

6. A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no documented retention agreement is in place.

7. The servicer has initiated foreclosure proceedings by taking the first action required under local law.

8. The servicer's lien position would be jeopardized by acceptance of the partial payment.

c. If none of the above conditions exist, servicers must accept the partial payment by applying the funds to the borrower's account or holding the funds in a suspense account. When partial payments held in suspense add up to the full monthly installment, including the escrow portion of the payment, servicers must apply the funds to the borrower's account. A regulatory infraction will be added to the loan by the VA-assigned technician along with proper documentation of their findings if the review shows the servicer failed to accept a partial payment in accordance with VA regulatory requirements. A servicer's failure to accept a partial payment does not constitute a defense to any legal action to terminate the loan and may result in a partial or total loss of guaranty per 38 CFR 36.4328 (b).

d. Servicers must notify VA when the payment is returned if they do not accept a partial payment for any reason by submitting the Partial Payment Returned event through the SWP.

#### 4.08 BANKRUPTCY

a. When a borrower files for bankruptcy protection, servicers are typically prevented from making contact. Servicers must report the bankruptcy events in VALERI to include the type of bankruptcy (Chapter 7, 11 or 13 filing) and provide updates such as relief filed, relief granted, dismissed, or discharged. VA will not attempt contact with Veterans who have filed bankruptcy; however, if the borrower reaches out to VA, VA will discuss the Veteran's options and the loss of entitlement should the loan terminate and VA pays a claim.

b. Should a loan terminate subsequent to a bankruptcy filing, VALERI automatically allows an additional 180 days of interest at claim review, as long as the filing and update events have been reported in VALERI by the servicer.

#### 4.09 PROPERTY PRESERVATION

a. Servicers are required to protect and preserve the property during the delinquency of the loan. An inspection is required when a servicer is aware of any physical conditions which negatively impact the property value and before day 60 of delinquency or before referring the case to an attorney, whichever is earlier, unless a loss mitigation option is active and the property remains occupied. Additional inspections are required at least once per month after the initial inspection or referral to an attorney.

b. Whenever a servicer becomes aware that the property is vacant, they are required to take appropriate measures to protect the property from vandalism, weather, etc. If a property is confirmed to be abandoned, servicers are required to report the information to VA and begin action to terminate the loan.

c. The VA-assigned technician will add a regulatory infraction during post-audit review if the servicer failed to complete all required property inspections per 38 CFR 36.4350(i).

d. For additional guidance, refer to Appendix H – Property Preservation Requirements and Fees.

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### 5.01 LOSS MITIGATION OPTIONS

a. Loss mitigation is an option available to help Veterans avoid foreclosure on delinquent loans, and reduce possible loss to the government. VA delegates the primary responsibility for loss mitigation to servicers. VA recognizes five loss mitigation options and pays an incentive to the servicer when any of these options are successfully completed. The loss mitigation options are divided into either home retention options or alternatives to foreclosure. Home retention options include repayment plans, special forbearances, and loan modifications. Alternatives to foreclosure include compromise sales and deed-in-lieu (DIL) of foreclosure.

b. VA also has a refund option that is available for eligible borrowers as an alternative to foreclosure. Please refer to Chapter 9, Refunds, of this Manual for additional information regarding the refunding process.

c. VA technicians may become involved in the loss mitigation process when borrowers contact VA directly to request assistance or when the VA-assigned technician determines that a loss mitigation option should be pursued after reviewing the Adequacy of Servicing (AOS) or Pre-Foreclosure process on the loan. The VA Loan Electronic Reporting Interface (VALERI) has a loss mitigation tool which enables technicians to generate loss mitigation recommendations for borrowers. The loss mitigation tool is available within the application. The tool requires financial information and the borrower's intent and, in turn, will generate a recommendation for a repayment plan, special forbearance, loan modification, compromise sale, or DIL of foreclosure.

d. VA encourages servicers to consider loss mitigation options that allow the Veteran to retain their home. However, if circumstances show that the borrower is unable to retain the home, or that home retention options are not feasible, the servicer should proceed with reviewing alternatives to foreclosure. Even though VA encourages servicers to consider loss mitigation for retention options, VA regulation does not require such review if the borrower is unable or unwilling to retain their home. Servicers must select the best option for all parties involved as early in the delinquency as possible.

e. A home retention option should not be approved unless it is within the borrower's financial ability to reinstate the delinquency. The servicer should not require a substantial sum from a delinquent borrower unless there is ample justification. It is inadvisable to encourage a delinquent borrower to obtain funds from another means for a payment to cure the default on the loan. The additional burden of installment payments on such a loan is likely to worsen the already difficult financial position and increase the possibility of future default on the mortgage.

f. Home retention options include:

1. Repayment plan.
2. Special forbearance.
3. Loan modification.

g. If the servicer and the borrower cannot resolve the delinquency through a home retention option, the servicer should consider alternatives to foreclosure.

h. Alternatives to foreclosure include:

1. Compromise sale.
2. DIL of foreclosure.

i. When servicers report a home retention event through their nightly file or manually through the Servicer Web Portal (SWP) and the loan reinstates, VALERI processes a Default Cured/Loan Reinstated (DCLR) event and VA will review for incentive payment eligibility. When servicers report an alternative to foreclosure event, VA reviews incentive payment eligibility at the time of claim review.

j. When loss mitigation options are not feasible, the servicer should immediately refer the loan to foreclosure in order to reduce potential losses to the Government and to ensure the Veteran's indebtedness is not unduly increased. VA encourages servicers to continue to pursue loss mitigation options even after initiating the foreclosure process.

## 5.02 SERVICER REPORTING REQUIREMENTS (38 CFR 36.4317)

a. Loan events reported on loss mitigation provide a snapshot of how each loan is performing and allows VA to forecast future liabilities. The following events are required to be reported by the servicer when a loss mitigation option has been approved/completed:

1. Repayment Plan Approved. The servicer must report the event by the seventh day of the following month once the repayment plan is approved.
2. Special Forbearance Approved. The servicer must report the event by the seventh day of the following month once the special forbearance is approved.
3. Loan Modification Approved. The servicer must report the event by the seventh day of the following month once the loan modification has been approved.
4. Loan Modification Complete. The servicer must report the event by the seventh day of the following month once the borrower and servicer has executed the loan modification agreement.

5. Compromise Sale Complete. The servicer must report the event by the seventh day of the following month once the compromise sale closes.

6. DIL Complete. The servicer must report the event by day 7 after the deed is recorded or sent for recording.

7. Default Cured/Loan Reinstated. Servicers must notify VA once a borrower reinstates the loan.

### 5.03 ACCEPTANCE OF ELECTRONIC SIGNATURES

a. VA has no objections to the use of electronic signatures on repayment, forbearance, or modification agreements between loan servicers and borrowers, provided they are readily identifiable during a Post Audit review. The Electronic Signatures in the Global and National Commerce Act (P.L. 106-229) provides that with respect to any transaction in or affecting interstate or foreign commerce that "a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form."

b. However, servicers must ensure compliance with all regulations governing VA-guaranteed home loans, including the requirement to obtain and maintain a lien of proper dignity (38 CFR 36.4354), which will require compliance with local real estate laws, especially concerning documentation of modifications to existing loans, which may vary from region to region.

### 5.04 REPAYMENT PLAN (38 CFR 36.4301)

- a. A repayment plan is a written executed agreement, by and between the borrower and the servicer to reinstate a loan that is a reportable default (61 or more calendar days delinquent) by requiring the borrower to pay the normal monthly payment, plus a portion of the delinquency each month. To be eligible for an incentive, the repayment plan must be established for at least a 3-month period.
- b. During the repayment agreement, servicers must monitor the agreement each month and take appropriate action if the borrower does not comply. Plans may be renegotiated at any time.

### 5.05 SPECIAL FORBEARANCE (38 CFR 36.4301)

- a. A special forbearance is a written agreement, executed by and between the borrower and servicer where the servicer agrees to suspend or reduce payments for 1 or more months on a loan that is a reportable default (61 or more calendar days delinquent), and the borrower agrees to pay the total delinquency at the end of the

specified period or enter into a repayment plan. Typically the period of forbearance is between a 3-and 4-month period. Circumstances such as unemployment, natural disasters, or cases resulting from prolonged illness may prompt the consideration of a longer duration.

- b. During the forbearance period, servicers must monitor the agreement and take appropriate action if the borrower does not comply. Agreements may be renegotiated at any time.

#### 5.06 LOAN MODIFICATION (38 CFR 36.4315)

a. A loan modification is a written agreement by, and between the servicer and all obligors on the loan, which permanently changes one or more of the terms of a loan and includes re-amortization of the balance due. VA considers the execution date of the loan modification agreement to be the date of the borrower's signature. The loan modification must be consistent with VA regulatory requirements and sound lending practices. If the loan originated prior to January 1, 1990, and includes a transferee, servicers must ensure that no previous obligor is released from liability by the completion of a loan modification.

- b. A loan modification must meet the following conditions:

1. The loan is in default.
2. The event or circumstances that caused the default has been or will be resolved and is not expected to re-occur.
3. The obligor is considered to be a reasonable credit risk based on a review by the servicer of the obligor's creditworthiness as specified in 38 CFR 36.4340.
4. At least 12 monthly payments have been made since the closing date of the loan.
5. The current owner(s) is obligated to repay the loan and is party to the loan modification agreement.
6. The loan modification will reinstate the loan and cure the default.
7. Loan has not been modified within the past 3 years.
8. Loan has not been modified more than three times over the life of the loan.
9. Must bear a fixed interest rate which may not exceed the most recent Freddie Mac Weekly Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages (United States Average), rounded to the nearest one-eighth of one percent (0.125 percent), as of the date the modification agreement is approved, plus 50 basis points AND no more than 1 percent higher than the existing interest rate on the loan.

c. The new loan modification terms do not exceed the shorter of:

1. 360 months from the due date of the first installment required under the new modification OR

2. 120 months after the original maturity date of the loan at origination unless the original term was less than 360 months, in which case the term may be extended to 480 months from the due date of the first installment on the original loan.

d. Only the following items may be included in the modified loan: unpaid principal, accrued interest, deficits in the taxes and insurance accounts, any legal and foreclosure fees incurred to date, title insurance policy fee or update fee, and advances required to preserve the lien position, such as homeowner association fees, special assessments, water and sewer liens, etc.

1. No processing fee charged by the servicer.

2. All late fees and any other actual costs incurred and legally chargeable including, but not limited to, the cost of a title insurance policy for the modified loan, but which cannot be capitalized in the modified indebtedness may be waived or collected directly from the borrower as part of the modification process.

3. Servicer ensures the first lien position remains intact.

4. The guaranty dollar amount will not exceed the greater of:

(a) The original guaranty amount of the loan being modified (if the loan modified amount is less than the original loan amount, the amount of guaranty will be equal to the original guaranty percent applied to the modified loan amount), OR

(b) 25 percent of the loan being modified subject to the statutory maximum specified at 38 U.S.C 3703(a)(1)(B).

5. Borrower does not receive any cash back from the modification.

e. If regulatory requirements for a loan modification are not met and the servicer believes the option would be in the best interest of the Veteran and the Government, the servicer must submit a request for pre-approval consideration in VALERI for VA review. Refer to Chapter 6 for more information on pre-approvals.

#### 5.07 STREAMLINE LOAN MODIFICATION

a. “Streamline” loan modification options allow servicers to extend permanent payment relief under certain circumstances when the borrower has not submitted a complete loss mitigation application. Previously, the loss mitigation options available to

a borrower could only be utilized if the borrower requested loss mitigation assistance and provided financial documentation to the servicer. In an effort to further assist borrowers in retaining their homes, this section explains the VA streamline loan modification.

b. Evaluation of Borrower - Servicer evaluation of the borrower's financial information is not required for streamline loan modifications. An exception is granted for 38 CFR 36.4315(a)(3) requiring borrower creditworthiness to be evaluated under the criteria specified in 38 CFR 36.4340. To be eligible for the VA streamline loan modification program, borrowers must successfully complete a 3-month trial payment plan (TPP) period and sign the streamline loan modification agreement in order to receive a permanent loan modification. Participation in the VA streamline modification option is subject to servicer discretion. Participants are encouraged to continue solicitation throughout the borrower's delinquency and the foreclosure process.

c. Eligibility:

1. Holders will ensure the first-lien status of the modified loan.
2. At least 12 monthly payments have been made since the closing date of the loan.
3. The loan must be in default.
4. There must be at least a minimum 10 percent reduction in the monthly principal and interest (P&I) payment.

d. Eligibility Exclusions - The loan and/or borrower is ineligible for the VA streamline loan modification option if any of the following apply:

1. The loan is not in default.
2. Less than 12 months of payments have been made since the mortgage loan was originated.
3. The loan has been modified more than three times over the life of the loan.
4. The property securing the mortgage loan must not have been abandoned or condemned.
5. The 10 percent minimum reduction in the monthly P&I payment cannot be achieved.
6. The loan is not reinstated to performing status by virtue of the loan modification.
7. The borrower previously defaulted on a prior streamline loan modification.

8. At the time the borrower is evaluated for the streamline loan modification, the borrower has submitted a complete loss mitigation application that is currently under review or is performing under a default curing loss mitigation option.

**Note:** Servicers have discretion to consider other eligibility exclusion criteria including, but not limited to, loans in active bankruptcy, mediation or litigation, upon advice of servicer's counsel.

e. TPP:

1. A 3-month TPP is required of the borrower to demonstrate their ability to make the modified monthly mortgage payment. The servicer shall send the streamline loan modification TPP agreement within 15-calendar days of the date the servicer determines the borrower to be eligible. If the servicer sends the TPP on or before the 15th day of a calendar month, the servicer must use the first day of the successive month as the first TPP due date. If the servicer sends the TPP after the 15th day of the month, the servicer must use the first day of the second successive month as the first TPP due date.

(a) Example: The TPP is sent out on January 14; the date of first payment on the TPP is February 1. The TPP is sent out on January 18; the date of first payment on the TPP is March 1.

2. To accept the offer, the borrower can notify the servicer verbally or make the first trial plan payment. The borrower must make each of the three scheduled trial payments by the last day of the month in which they are due.

f. Final modification - After successfully completing the three trial payments, the servicer will provide the borrower with the streamline loan modification agreement. The servicer should prepare the agreement early enough in the trial period to allow sufficient processing time so that the modification becomes effective on the first day of the month following the final trial period month. If the borrower does not make the final trial payment on or before the due date in the TPP (but does make the final payment before the end of the month in which it is due), then the servicer may complete the streamline loan modification agreement so that the modification becomes effective on the first day of the second month following the final trial period month. The borrower will not be required to make an additional trial period payment during the (interim) month in between the final trial period month, and the month in which the modification becomes effective. The borrower must sign and return the streamline loan modification agreement, and agree to set up an escrow account for taxes, hazard, and flood insurance prior to the beginning of the TPP if one does not currently exist.

g. Waterfall to New Payment:

1. Capitalization - The servicer must follow 38 CFR 36.4315 with respect to amounts

included in the modified indebtedness for a streamline loan modification. The servicer capitalizes accrued interest through the modified effective date and any required escrow advances accrued during the TPP.

2. Interest Rate Adjustment - The interest rate shall be a fixed rate not to exceed the weekly Freddie Mac Primary Mortgage Market Survey Rate for 30-year fixed rate conforming mortgages, rounded up to the nearest one-eighth of one percent (0.125%) as of the date the modification agreement is approved, plus 50 base points AND no more than 1 percent higher than the existing interest rate on the loan. Servicers may offer an interest rate below the maximum allowable rate at their discretion. Servicers may request pre-approval from VA to complete the modification with an interest rate based on the approval date of the Trial Payment Plan (TPP) instead of the interest rate at the time of the modification approval. All pre-approval requests must be submitted prior to the TPP agreement or loan modification, as VA does not grant pre-approvals for actions a servicer has already completed.

3. Term Extension - The unpaid balance of the modified loan will be re-amortized over the remaining life of the loan, or if the loan term is to be extended, the maturity date will not exceed the shorter of:

(a) 360-months from the due date of the first installment required under the modification, or

(b) 120-months after the original maturity date of the loan (unless the original term was less than 360-months, in which case the term may be extended to 480-months from the due date of the first installment on the original loan).

h. Standard servicer incentives for a completed modification will apply.

i. Loss Mitigation Packages - The following guidance applies to circumstances involving the receipt of a loss mitigation package during the streamline process:

1. If the servicer receives a complete loss mitigation package prior to mailing the VA streamline loan modification TPP offer, the borrower is ineligible for the VA streamline loan modification option, and the servicer must evaluate the borrower for the best VA loss mitigation options based on the completed package received.

2. If the servicer receives an incomplete loss mitigation package prior to mailing the VA streamline loan modification TPP offer, the borrower is still eligible for the VA streamline loan modification option. An incomplete loss mitigation package should not affect a streamline consideration, offer of a TPP or a performing TPP. VA is not requiring servicers to obtain a full loss mitigation package from the borrower for review when the aforementioned circumstances exist. A TPP is an active loss mitigation plan with the intent of bringing the loan current and keeping the borrower in the home. The borrower should have the opportunity to successfully complete the TPP and receive a

permanent modification. If the TPP fails, then mortgage servicers should follow up to collect relevant information related to the borrower's circumstances to resolve the delinquency or avoid foreclosure.

3. If the servicer receives a complete loss mitigation package after a TPP has commenced, a performing TPP should continue while the servicer evaluates the package. A full loss mitigation package may allow the servicer to offer the borrower a more favorable modification. If the servicer determines a more favorable modification should be offered, the borrower should be allowed to continue with the TPP for consistency. The borrower should be notified immediately of the alternate modification terms.

4. If the borrower sends in a full loss mitigation package that indicates an inability to afford the new payment, the TPP should continue so that the borrower has the opportunity to demonstrate their ability and desire to make the payment. A borrower that successfully completes the TPP should receive the earned permanent modification.

5. The servicer must resume follow-up solicitation for an incomplete loss mitigation application in accordance with applicable law if the borrower does not accept the VA streamline loan modification TPP offer.

#### 5.08 COMPROMISE SALE (38 CFR. 36.4322(e))

a. A compromise sale is a sale to a third-party for an amount less than the borrower's total eligible indebtedness (TEI) on the loan. This alternative should be considered when a private sale is not feasible due to little or no equity. The servicer must agree to release the lien in exchange for the proceeds of the sale.

b. Servicer may complete a compromise sale if the following conditions exist:

1. Servicer has determined the loan insoluble. Note: Servicer evaluation of the borrower's financial information is not required if the loan is 60 or more days delinquent, and the borrower has requested a compromise sale. In those instances, exceptions are granted for 38 CFR 36.4350(h)(2) and (3), eliminating a servicer's requirement to establish employment status, present income of the borrower(s), as well as current monthly expenses of the borrower(s) including household and debt obligations.

2. The net proceeds equal or exceed the net value of the property securing the loan.

3. Current owner of the property will not receive any proceeds from the sale of the property.

c. When a servicer completes a compromise sale option on a loan that is less than 61-days delinquent, they will need to report the Electronic Default Notice (EDN) event by choosing "imminent default," or if appropriate "property problems" as the reason for

default. The EDN must be submitted prior to completing the closing for the compromise sale or reporting the Compromise Sale Complete event in VALERI.

d. Any liquidation appraisal for a property originally scheduled for foreclosure will not require a second appraisal if a subsequent compromise sale offer is made on the property. The exterior-only liquidation appraisal will be sufficient to complete the compromise sale without any further delays.

e. If regulatory requirements for a compromise sale are not met and the servicer believes the option would be in the best interest of the Veteran and the Government, the servicer must submit a request for pre-approval in VALERI. Refer to Chapter 6 of this Manual for more information on pre-approvals.

#### 5.09 DEED-IN-LIEU (DIL) OF FORECLOSURE (38 CFR 36.4322(f))

a. A DIL of foreclosure is a voluntary transfer of a property from the borrower to the servicer for a release of all obligations under the mortgage.

b. In cases when a default is insoluble and there is little or no likelihood of a private sale, consideration should be given to accept a DIL of foreclosure. Completing a DIL may save on foreclosure costs, cut down on possible decreases in the value of the security and reduce or eliminate the amount of the Veteran's indebtedness. A DIL is completed when the deed to the servicer from the Veteran is sent for recording, or is recorded. The property is considered conveyed to VA when the servicer reports the Transfer of Custody (TOC) event in VALERI. Servicers must submit the full title package to VA's property management contractor. [Refer to the Title Documentation, Insurance, and Timeframe Requirements on the VALERI Internet.]

c. Servicer may complete a DIL if all of the following conditions exist:

1. The loan is insoluble. Note: Servicer evaluation of the borrower's financial information is not required if the loan is 60 or more days delinquent and the borrower has requested a DIL. In those instances, exceptions are granted for 38 CFR 36.4350(h)(2) and (3), eliminating a servicer's requirement to establish employment status, present income of the borrower(s), as well as current monthly expenses of the borrower(s) including household and debt obligations.

2. The VA net value of the property has been determined by subtracting the estimated costs to the VA for the acquisition and disposition of the property from the "as is" value available on the Notice of Value (NOV).

3. Clear title can be obtained.

4. An agreement, signed by the borrower, to vacate the property when the deed is recorded or to give possession of the property to VA immediately upon notification to do so.

d. When a servicer completes a DIL option on a loan that is less than 61 days delinquent, they will need to report the EDN event by choosing “imminent default” or, if appropriate, “property problems” as the reason for default. The EDN must be submitted prior to reporting the Deed-in-Lieu Complete event.

#### 5.10 NOTICE OF VALUE (NOV) EXTENSION – ALTERNATIVES TO FORECLOSURE

a. VA requires an appraisal to be valid at the time of closing for the compromise sale or recording (or sent for recording) of the DIL alternative. If a servicer is pursuing an alternative to foreclosure and the NOV will expire prior to the completion of the alternative, services must order a new appraisal before approving or denying the alternative.

b. In rare instances, VA has the ability to extend the NOV if it will expire before a servicer has completed the alternative.

c. If the NOV was valid on the date of approval of a foreclosure alternative, but will expire between approval and completion of the compromise closing date or DIL of foreclosure recorded date, the servicer must request an extension. The request must be submitted to the VA-assigned technician prior to the expiration date of the NOV. The servicer must adequately provide justification as to why the extension is required. Generally, VA will extend an appraisal if the following are met:

1. The NOV extension request is received before the closing of the compromise sale or DIL of foreclosure execution or recorded date, whatever is reported by the servicer.

2. The request is received prior to the NOV expiration date.

3. The appraiser gained access to the property and there are no known extenuating circumstances that exist that may diminish the value of the property.

4. The expiration date will be extended by no more than 14 days.

d. Any requests that fall outside of these general requirements will be reviewed by the VA-assigned technician on a case-by-case basis, and a recommendation submitted to the Servicing Officer (SO).

e. If a servicer approves a compromise sale or DIL of foreclosure without taking VA’s appraised value into consideration, they are in violation of 38 CFR 36.4322. On a compromise sale, VA will issue a regulatory infraction, not pay a claim until the net value is established, and an adjustment may be made to the claim if VA’s liability was increased. On a DIL of foreclosure, VA will issue a regulatory infraction, will not accept custody of the property, and will not pay a claim until the net value is established. In rare instances, if the servicer discovers and corrects their error, VA may consider acceptance of custody and pay a claim once the net value is established.

### 5.11 RELOCATION ASSISTANCE FOR VA BORROWERS

- a. VA authorizes servicers to advance \$1,500 in relocation assistance to borrower occupants who complete a short sale with a VA compromise claim, or who execute a DIL. VA will treat this as a reimbursable expense that may be included as a part of the eligible indebtedness on the basic claim event in VALERI.
- b. VA expects servicers to proactively notify eligible borrowers of the availability of foreclosure alternatives, and to encourage completion of a short sale or DIL by providing the homeowner a written agreement describing the requirements for receipt of a relocation incentive. In the case of a DIL, the agreement must specify that the property will be unencumbered by other liens or restrictions on the title, it will be kept in good and safe condition, and it will be left ready for sale in “broom clean” condition (i.e., clear of all personal belongings and reasonably clean) upon the homeowner’s departure.
- c. Relocation assistance can provide necessary funds to conduct a move or pay for lodging for borrowers who are faced with the loss of their home. For servicers, the transfer of ownership via DIL or short sale is typically shorter than a foreclosure time period, and the property is left in better condition via DIL, which preserves the condition and value of the property by minimizing the time it is vacant and subject to vandalism and deterioration. In addition, alternatives to foreclosure options generally provide a substantially better outcome than a foreclosure sale for borrowers, investors, and communities.

### 5.12 LOAN MODIFICATION OVERSIGHT

- a. VA performs several reviews during the life of the loan. Reviews are performed to ensure that VA’s liability was not increased due to non-compliance with VA regulatory requirements. The reviews may include Suspicious Loan Modification and Early Payment Default on a modified loan.
- b. Suspicious Loan Modification (38 CFR 36.4315).
  1. VA performs a review of a loan modification if the servicer failed to report all necessary data elements in the Loan Modification Complete event and/or VALERI determines the data has failed regulatory requirements. When this occurs, VALERI will open up a Review Suspicious Loan Modification process for review by the VA-assigned loan technician. All broken business rules in the Loan Modification Complete event must be reviewed to determine the validity of regulatory infractions. Violations of these infractions could result in VA requesting a revision to the loan modification or possible claim adjustments. Corrections may be required by the servicer if the terms negatively impact the Veteran or the Government. Servicers must complete all corrections within 60 days of notification by VA. Failure to make corrections within the required timeframe could result in VA making an adjustment to the claim if the loan becomes delinquent and

subsequently terminates. The VA-assigned technician must document their review in the VALERI case notes.

2. The following are some errors that may require further review by the VA-assigned technician:

- (a) The loan modification did not cure the default.
- (b) The interest rate on the modified loan exceeds the maximum allowable rate.
- (c) The term of the modified loan exceeds the maximum allowable term.
- (d) The new loan does not amortize to within \$50 of zero over the new term.

c. Early Payment Default (EPD) on a Modified Loan.

1. VA reviews early payment defaults any time a servicer reports an EDN and the loan became delinquent within the first 6 months of the first payment due date on the loan modification agreement. When this occurs, VALERI will open up a Review Early Payment Default process for review by the VA-assigned technician. An EPD may be the result of an improper decision by the servicer to modify the loan.

2. VA will complete an analysis of the loan modification underwriting package to ensure it complies with 38 CFR 36.4340 and Chapter 4 of the Lender's Handbook. Servicer errors may result in a regulatory infraction being added and possible future claim adjustment.

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### 6.01 PRE-APPROVAL

a. VA requires servicers to follow VA regulatory requirements for servicing loans guaranteed by VA unless extenuating circumstances prevent them from doing so. If servicers must deviate from a regulatory requirement, they can submit a pre-approval request to VA for review. A pre-approval means “prior approval” to deviate from a regulation based on the circumstances of the loan.

b. Servicers may request to deviate from a regulation more than once if circumstances change during the life of the loan. If a servicer needs to deviate from multiple regulations at a given time, they should submit all requests to deviate in one pre-approval request. It is the servicer’s responsibility to adhere to all other regulatory requirements and ensure all actions are in the best interest of the Veteran and Government.

c. Servicer’s must submit a pre-approval request to The VA Loan Electronic Interface (VALERI) through the Servicer Web Portal (SWP) along with supporting documentation to justify the need to deviate from a VA regulation. When this occurs, VALERI will automatically open up a Pre-Approval process for review by the VA-assigned technician.

### 6.02 PRE-APPROVAL REGULATIONS

a. Pre-approval regulations are:

1. Modify a current loan (38 CFR 36.4315(a)(1)).
2. Modify a loan with less than 12 payments (38 CFR 36.4315(a)(4)).
3. Modify a loan more than once in a 3-year period (38 CFR 36.4315(7)).
4. Modify a loan more than three times (38 CFR 36.4315(7)).
5. Modify a loan with questionable credit history (38 CFR 36.4315(a)(3)).
6. Modify a loan with an interest rate exceeding Freddie Mac rate requirements (38 CFR 36.4315(a)(8)(i)).
7. Modify a loan with interest rate more than one percent higher than existing rate (38 CFR 36.4315(a)(8)(ii)).
8. Modify a loan with a term longer than allowable (38 CFR 36.4315(a)(9)).
9. Acceptance of a compromise sale for less than net value (38 CFR 36.4322(e)(1)(ii)).
10. Other regulatory requirement - any deviation from regulatory requirements caused by unusual circumstances.

b. The VA-assigned technician will review the documentation provided by the servicer as well as their pre-approval request. If further clarification is needed during the review from the servicer, the VA-assigned technician will contact the servicer, document the VALERI case notes with VA's pre-approval decision and notify the servicer by e-mail or telephone. VA's decision can also be viewed on the pre-Approval Status Report and on the individual case in the SWP.

c. VA should only complete an underwriting review on a loan modification if the servicer is requesting to modify a loan with questionable credit history or requests VA to review underwriting as part of their justification.

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### 7.01 INCENTIVE PAYMENT (38 CFR 36.4319)

a. Department of Veterans Affairs (VA) administers the incentive payment program to encourage servicers to provide every opportunity for Veterans to retain homeownership or avoid foreclosure. Servicers are eligible for an incentive payment upon the successful completion of a loss mitigation option which meets VA regulatory requirements. Incentive payment amounts may vary based upon the loss mitigation option, and the servicer's tier ranking. VA does not charge any portion of an incentive payment to the borrower, and the payment does not affect the guaranty of the loan.

b. If an incentive payment is denied by VA, servicers have 30-days from the denial date to exercise the option to appeal the decision in the VA Loan Electronic Interface (VALERI). For more information on appeals, refer to Chapter 16 of this Manual.

### 7.02 ELIGIBILITY FOR PAYMENT

a. If the loss mitigation option meets all VA regulatory requirements, VALERI automatically generates a routine incentive payment by opening a certify incentive payment process.

b. If the completed loss mitigation option does not meet VA regulatory requirements, VALERI will initiate the review non-routine incentive process, which requires a technician review and recommendation. If the payment is approved, VALERI presents the payment to a certifying designee for certification of the payment. If the recommendation to deny the incentive is approved, the process is then complete.

### 7.03 DETERMINATION OF INCENTIVE AMOUNT

a. VA determines the incentive payment amount based upon the:

1. Most recent home retention option or alternative to foreclosure event submitted on the loan.

2. Servicer's tier ranking at the time the loan is brought current through a home retention option or completed alternative to foreclosure.

3. Incentive amounts for each loss mitigation option are reviewed and published in the Federal Register when a change occurs. The lists of incentive amounts are located in 38 CFR 36.4319.

### 7.04 PAYMENT TIMING AND FREQUENCY

a. The incentive is presented for payment on home retention options after VALERI processes a Default Cured Loan Reinstated (DCLR) event, or at time of claim for

alternatives to foreclosure. Servicers are eligible for one incentive payment per reportable default when a successful loss mitigation option is completed.

b. Repayment Plan. VALERI automatically generates a repayment plan incentive payment for certification when all of the following criteria are met:

1. The loan was at least 61-days delinquent during the default period.
2. The servicer reported the Repayment Plan Approved event.
3. VALERI processes a DCLR event.
4. The repayment plan reported by the servicer was for at least 3 months in duration. (The servicer is entitled to an incentive if the borrower reinstates prior to the estimated cure date as long as the plan was established for at least 3 months.)
5. VA did not prevent any incentives to the servicer.
6. There are no business rule failures that would require further review.

c. Special Forbearance. VALERI automatically generates a special forbearance incentive payment for certification when all of the following criteria are met:

1. The loan was at least 61-days delinquent during the default period.
2. The servicer reported the Special Forbearance Approved event.
3. VALERI processes a DCLR event.
4. The special forbearance event indicated at least 1 month in duration and servicer provided an estimated cure date.
5. VA did not prevent any incentive to the servicer.
6. There are no business rule failures that would require further review.

d. Loan Modification. VALERI automatically generates a loan modification incentive payment for certification when all of the following criteria are met:

1. The loan was at least 61-days delinquent during the default period.
2. The servicer reported the Loan Modification Approved event.
3. The servicer reported the Loan Modification Complete event.
4. VALERI processes a DCLR event.

5. There are no business rule failures that would require further review.
- e. Compromise Sale. VALERI automatically generates a compromise sale incentive payment for certification when all of the following criteria are met:
  1. The loan was at least 61 days delinquent during the default period.
  2. The servicer reported the Compromise Sale Complete event.
  3. VA did not prevent the incentive to the servicer.
  4. The servicer has submitted the claim event and the event has successfully processed in VALERI.
  5. There are no business rule failures that would require further review.
- f. Deed-in-Lieu (DIL) of Foreclosure. VALERI automatically generates a DIL of foreclosure incentive payment for certification when all of the following criteria are met:
  1. The loan was at least 61-days delinquent during the default period.
  2. The servicer reported the DIL Complete event.
  3. VA did not prevent the incentive to the servicer.
  4. The servicer has submitted the claim event and the event has successfully processed in VALERI.
  5. There are no business rule failures that would require further review.

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### 8.01 FORECLOSURE (38 CFR 36.4322)

a. Servicers are delegated the authority to complete all termination actions on a VA-guaranteed loan. When a delinquency cannot be resolved and the loan has been deemed insoluble, or the property has been abandoned, the servicer should proceed with foreclosure action. VA encourages servicers to continue loss mitigation efforts even after foreclosure proceedings have commenced.

b. At any time prior to the liquidation sale, servicers must accept funds to cure a delinquency unless the servicer obtained prior written approval from VA, or if reinstatement of the loan would adversely affect the dignity of the lien or is otherwise precluded by state law (38 CFR 36.4309 (h)).

### 8.02 SERVICER REPORTING REQUIREMENTS

a. Foreclosure events reported on delinquent loans provide a snapshot of how each loan is performing, and allows VA to forecast future liabilities. The following events are required to be reported by the servicer on delinquent VA-guaranteed loans. Submission of several events below requires action by the VA-assigned technician:

1. Foreclosure Referral: Services must submit the event to notify VA that they have referred this loan to an attorney to begin foreclosure action on a delinquent loan.

2. Foreclosure Sale Scheduled: Servicers must submit the event to notify VA that a foreclosure sale has been scheduled. In the event the servicer either postpones or cancels a foreclosure sale, a new Foreclosure Sale Scheduled event must be reported within 7-days from the date the servicer learns of the new sale.

3. Results of Sale: Servicers must submit the event to advise VA of the results of the foreclosure sale.

4. Confirmed Sale Date with No Transfer: Servicers must submit the event to notify VA on all loans located in a confirmation state where they have received confirmation, but do not wish to convey the property to VA.

5. Transfer of Custody (TOC): Servicers must submit the event to notify VA within 15 days of foreclosure, confirmation of sale, or deed-in-lieu (DIL) of foreclosure if they wish to convey the terminated property to VA.

6. Invalid Sale Results: Servicers must submit the event to notify VA if they have determined that the foreclosure sale was invalid so the property can be removed from VA's inventory, if conveyed.

7. Improper TOC: Servicers must submit the event to notify VA if custody was transferred in error so the property can be removed from VA's inventory.

### 8.03 PRE-FORECLOSURE REVIEW

a. Prior to loan termination, VA conducts a pre-foreclosure review of the loan to ensure that the borrower(s) have received every opportunity to retain homeownership or avoid foreclosure. When a Foreclosure Sale Date Scheduled event is reported by a servicer, the VA Loan Electronic Reporting Interface (VALERI) determines if a pre-foreclosure review has been completed in the previous 6 months. If a pre-foreclosure review has not been completed, VALERI will automatically open a pre-foreclosure review process, which requires technician review and recommendation. If a pre-foreclosure review has been completed within the previous 6-months, VALERI will not open the process.

b. VA loan technicians have the ability to manually open a pre-foreclosure review process if they have been notified of a pending foreclosure sale, as long as the loan is in a guaranty issued status and being reported in default by the servicer. During VA's review, if it is determined the loan is soluble; the assigned technician will proceed with taking action for possible loss mitigation or alternative actions. Refer to Chapter 5, Loss Mitigation, of this Manual for additional information on loss mitigation options.

### 8.04 NOTICE OF VALUE (NOV) AND EXTENSIONS

a. At least 30 days prior to the scheduled or anticipated date of the foreclosure sale, the servicer must request that VA assign an appraiser to conduct a liquidation appraisal. If the property is vacant, the servicer must provide the appraiser access to the property. The Construction and Valuation (C&V) Section at the Regional Loan Center (RLC) of jurisdiction where the property is located, may reach out to the VA-assigned technician for assistance in contacting the servicer for access to vacant properties. If state laws prevent the servicer's ability to provide access to a vacant property, the appraiser must contact the C&V Section of the RLC in the jurisdiction where the property is located for approval to conduct an exterior-only report. An interior appraisal will no longer be required in cases where the property was originally scheduled for foreclosure and a subsequent compromise sale offer is made. The exterior-only liquidation appraisal will be sufficient to complete the compromise sale without any further delays. The only exception to this rule is if the purchaser is a Veteran or surviving spouse. The liquidation appraisal is valid for 180 calendar days from the date of issuance; however, the C&V section may specify a shorter validity period if rapidly-changing market conditions exist in the area. Failure to order the appraisal timely, or a delay in providing the appraiser access to a vacant property, may delay the completion of the foreclosure sale.

b. If the servicer has Servicer Appraisal Processing Program (SAPP) authority to process liquidation appraisals under 38 CFR 36.4348, the appraiser will forward the liquidation appraisal report directly to the servicer for determination of fair market value. If the servicer does not participate in SAPP, the appraiser will forward the liquidation appraisal report to the RLC of jurisdiction, for determination of fair market value. If the servicer learns of any material damage

to the property after the appraisal has been completed, but prior to the foreclosure sale, the servicer must contact the C&V Section of the RLC of jurisdiction for specific guidance.

c. If the NOV will expire prior to the foreclosure sale date, the servicer may request an extension of the NOV by contacting the VA-assigned technician. A Servicing Officer or Loan Administration Officer will generally grant a 14-day extension in VALERI, as long as the following conditions apply:

1. The NOV extension request is received before the foreclosure sale.
2. The request is received prior to the NOV expiration date.
3. The current occupancy status of the property and explanation as to why the extension is necessary has been provided.
4. No known extenuating circumstances exist that may diminish the value of the property.

d. Any requests that fall outside of these general requirements will be reviewed by VA on a case-by-case basis. If VA denies the servicer's request to extend the validity period of the NOV, the servicer must order a new VA appraisal.

e. The servicer will compute and determine the bid type and amount by taking the fair market value of the property, minus estimated costs incurred by VA in acquiring and disposing of the property. The number to be subtracted from the fair market value will be calculated by multiplying the fair market value by the current Net Value cost factor. The Net Value cost factor is published by VA in the Federal Register per 38 CFR 36.4301. Current and past rates for the Net Value cost factor can be viewed on the VALERI Internet site located at [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp).

f. The servicer is required to follow VA requirements and comply with all federal, state, county, and local foreclosure laws when scheduling and carrying out a foreclosure sale. Once the foreclosure sale is complete, the servicer must report the Results of Sale event in VALERI. This event will terminate all loans that are in a "guaranty issued" status, except those that are located in a Confirmation/Ratification state. Guidance information for each state can be found in Appendix G, State Foreclosure Process and Statutory Bid Information.

g. VA also requires servicers to report the type of foreclosure, either judicial or non-judicial, in VALERI. The type of foreclosure is defined by state and county law and is required to determine what fees are allowable at the time of claim.

#### 8.05 PRE-FORECLOSURE DEBT WAIVER (38 CFR 36.4326 (e))

a. A pre-foreclosure debt waiver is a complete release of VA's right to collect a debt from the obligor, but does not restore the Veteran's entitlement. VALERI automatically opens a Pre-Foreclosure Debt Waiver Review process for all type 2 loans or any assumed type 6 loans for potential waiver of debt. The following explains the difference between a type 2 and type 6 loan:

1. Loan Type 2. If the security for the loan is a manufactured home and the loan was processed under the provisions of Title 38 U.S.C., Section 3712, or if the security for the loan is not a manufactured home and the loan closed prior to January 1, 1990.

2. Loan Type 6. If the security for the loan is not a manufactured home and the loan closed on or after January 1, 1990.

b. A waiver of the debt may be warranted in instances where the borrower's financial ability would prohibit them from repaying any debt established within a 6-year period.

c. VA may deny a pre-foreclosure debt waiver in cases of fraud, misrepresentation, or bad faith:

1. Fraud and/or willful misrepresentation may have occurred when the original lender obtained guaranty as a result of willful and material fraud or misrepresentation (e.g., borrower hiding unacceptable credit, or submitting materially false information such as income, credit, or deposit verification).

2. Bad faith occurs when a borrower refuses to work with the servicer, and VA to pursue a loss mitigation option and is in willful default. In addition, should VA discover there was an unauthorized transfer of ownership, or the borrower allowed the transfer of ownership to an unqualified party, these situations could be reviewed as possible reasons to establish a bad faith debt (e.g., borrower does not have a financial hardship; however, due to declining values on the VA-guaranteed property, the borrower purchased a new property within the same area, moved out and willfully defaulted on the VA home loan that resulted in a termination).

d. These instances above are not necessarily a reason to disallow a pre-foreclosure debt waiver; however, the VA-assigned technician will review each case carefully in order to make a determination and must document the case notes accordingly.

#### 8.06 FORECLOSURE BID AND LOAN TERMINATION (38 CFR 36.4322)

a. The servicer calculates the bid amount using the total eligible indebtedness (TEI) included the unpaid principal balance, accrued unpaid interest allowable and charges reasonably necessary associated with the liquidation of the loan. For more information on how TEI is calculated, refer to Chapter 14, Claims, of this Manual.

b. There are two bid types the servicer may determine:

1. Total debt. The VA Net Value is greater than or equal to the reported TEI.

2. Net value. The VA Net Value is less than TEI.

c. If the net value of the home is \$0.00 or less, the servicer should not bid more than the unguaranteed portion of the loan indebtedness at the foreclosure sale unless there are competitive bidders and the servicer wants to acquire the property.

#### 8.07 AUCTION SERVICE FOR THE TERMINATION OF VA LOANS

a. VA authorizes servicers to use an auction service in localities where available to legally complete the termination of a VA-guaranteed loan through an auction sale as opposed to a traditional foreclosure sale. The servicer must comply with VA regulations and determine the likelihood of increased sale proceeds. VA cannot recommend or advise which auction service to use. However, mortgage holders are accountable for the “selected auction service’s” failures to follow all state and local laws in addition to errors invalidating an auction sale.

1. The results of the auction must be equal to or higher than Net Value, as VA will only apply proceeds of sale equal to or greater than net value to the guaranty claim. All properties will be sold “AS IS”. VA does not provide financing for properties sold by foreclosure sale or auction.

2. The terms or conditions of an agreement to sell the property via an auction sale are between the servicer and the auction service. VA does not maintain a direct relationship with auction services nor does VA directly reimburse auction fees.

#### b. Guidance to Servicers.

1. Priority of Review. VA expects servicers to exert all reasonable efforts to assist Veteran borrowers in retaining ownership of their homes, or mitigating losses when retention is not possible. If the servicer has exhausted all loss mitigation efforts and determines the loan insoluble, they may use the traditional method of foreclosure or an auction service to terminate the loan.

2. Appraisal. Mortgage servicers must obtain a VA appraisal to determine the “Net Value.” At least 30-days prior to an auction sale, the holder must request that VA assign an appraiser to conduct a liquidation appraisal to establish fair market value. The “Net Value Factor” is applied to the fair market value to determine a net value bid.

3. Marketing. In order for auction expenses to be eligible for reimbursement on a VA claim, properties selected for an auction sale will be marketed for a minimum of 15-days prior to the scheduled sale, and sold for an amount equal to, or greater than, the “Net Value Bid.” Mortgage servicers must ensure that they employ a non-affiliated auction service to market properties to the greatest number of potential bidders possible. Auction services may use all marketing tools available including advertisement through television, radio, newspaper, and the internet to expose properties to potential buyers in multiple geographic regions. Marketing of the property should be designed to alert the largest number of potential buyers and provide those potential buyers a means to participate in the auction process. A mortgage servicer that employs an auction service meeting all VA auction marketing requirements will be eligible for reimbursement of auction fees on a successful sale without the actual calling or crying the sale.

4. **Servicer Reporting Sale Results to VA.** Servicers will continue to report bid results to VA through the VALERI application. Servicers will report the amount of the highest bidder to VA on the “Results of Sale” event in the VALERI application. The credit to indebtedness must equal or exceed the net value of the property securing the loan.

5. **Servicer Claiming Fees Related to Termination Through an Auction Service.** VA reimburses servicers that utilize auction services, and does not reimburse the actual auction service entity. When a property is successfully sold at auction, VA will reimburse an “auction fee” up to 5 percent of the sales price at the time of claim submission. The “auction fee” will be reviewed by VA, and considered payable up to the maximum guaranty amount of the loan. When submitting the claim under guaranty, the fee incurred must be included as a line item expense.

(a) When calculating the total eligible indebtedness (TEI) for a loan that will go through the auction process, the servicer must calculate the estimated auction fee using 5 percent of the Net Value bid, to be included in the TEI. Failure to include the estimated auction fee with regular liquidation expenses could result in a Total Debt bid. VA does not pay a claim under guaranty for Total Debt bids on properties not conveyed to VA. If an outstanding auction fee results from a Total Debt bid, the auction service must seek reimbursement from the mortgage servicer.

(b) VA will not pay an “auction fee” for homes offered at an auction sale, but not actually sold to a third party. If a property is conveyed to VA in error after a completed auction sale, the property will be reconveyed to the mortgage servicer and any acquisition paid, plus the costs associated with accepting and maintaining property in the VA REO portfolio, will be collected from the mortgage servicer.

6. VA foreclosure timeframes will not be extended to accommodate an auction sale. Mortgage servicers are expected to terminate insoluble loans in accordance with Appendix G: State Foreclosure Process and Statutory Bid Information, and not increase the liability of the Secretary when liquidation is the most prudent course of action. The decision whether to pursue a second auction sale or to proceed with a traditional foreclosure to terminate a loan is not mandated by VA.

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CHAPTER 9. REFUNDS

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9.01 REFUND CONSIDERATION (38 CFR 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 obligation.

b. VA determines if the following conditions under 38 CFR 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 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](#), *Financial Status Report*.
4. [VA Form 26-6807A](#), *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 following is considered 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/Copy of 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 must be submitted to the appropriate Loan Guaranty National Practice Group (NPG) for review. 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. 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. 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 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](http://vbaw.vba.va.gov/bl/26/valeri_intranet.htm).

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### 10.01 PROPERTY ACQUISITIONS (38 C.F.R. 36.4323)

a. Servicers have the option to transfer custody of a property to the Department of Veterans Affairs (VA) after a loan is terminated through foreclosure, or deed-in-lieu (DIL) of foreclosure. All transfers are conditional upon Loan Guaranty National Practice Group (NPG) approval of title. The Transfer of Custody (TOC) event must be submitted to VA within 15 days of loan termination. The transfer of custody occurs on the day the TOC event is reported in the VA Loan Electronic Reporting Interface (VALERI). If the TOC event is not reported within the allowable 15-day timeframe, VALERI will reject the event and the servicer may submit an appeal for VA consideration. Refer to Chapter 16 of this Manual for more information on Appeals.

b. If all VA regulatory requirements are met at the time the TOC event is submitted, VALERI will automatically open the Review Non-Routine Acquisition process in the VA-assigned technician's workbasket for review. The assigned technician must complete the review, make a recommendation, and fully document the case notes within the VALERI established timeframe. There must be two reviews for all payments. The approving official cannot certify the same payment in VALERI.

### 10.02 ELIGIBILITY TO TRANSFER CUSTODY

a. Prior to initiating a TOC event, servicers must determine eligibility to transfer custody. A servicer may initiate a TOC event when all of the following conditions are met:

1. The loan was terminated through a foreclosure or DIL.
2. If the net value of the property is less than the unguaranteed portion of the indebtedness (i.e., the total eligible indebtedness, minus VA's maximum claim payable under the guaranty), the servicer must write off all indebtedness not covered by the maximum claim payable and the acquisition payment and must send a deficiency waiver notice to the borrower once the claim is paid. If a bankruptcy discharge has previously been obtained on the loan, notice of the deficiency waiver is not required.
3. The servicer did not rent the property to a new tenant, or extend the term of an existing tenancy, on other than a month-to-month basis during an after-sale redemption period.
4. The title of the property is or will be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community in which the property is located.
5. There has been no breach of any conditions affording a right to the exercise of any reverter.
6. If a partial release of security was granted on the property, there was full compliance with the requirements for partial releases of security as described in 38 C.F.R. 36.4827.

### 10.03 TOC EVENT REPORTING

a. If the servicer chooses to transfer custody of the property, they must report the TOC event to VA within 15 days of loan termination. Loan termination is defined as:

1. Foreclosure: The date of legal termination as defined under state law.
2. DIL: The date the deed is recorded or the date the deed is sent for recordation.

b. When a loan is terminated in a confirmation/ratification state, the servicer must provide the date of confirmation/ratification in the TOC event. The servicer is also responsible for providing all insurance and property tax information, including all taxing authority property identification numbers. It is important to note that the holder of the loan must pay any taxes, special assessments, or ground rents due within 30 days after the date of transfer of custody to VA.

c. In states that require a Confirmation of Sale, there could be lengthy delays between the foreclosure sale and confirmation. In such cases, if the servicer plans to convey the property to VA, VA may require the servicer to order a new VA appraisal at the servicer's expense and provide a copy of the most recent property inspection completed.

d. Each TOC submitted in VALERI is evaluated against VA regulatory requirements. VALERI rejects the TOC event if any of the following conditions apply:

1. The loan is not guaranteed.
  2. The loan is not terminated (i.e., the servicer did not report the appropriate event that identifies a loan termination in VALERI).
  3. The successful bidder specified on the Results of Sale event was "third party."
  4. The servicer reports the TOC event 16 or more days from the date of loan termination.
- e. Servicers can review the rejected TOC events on the Servicer Events Report Log Report.

### 10.04 ACCEPTANCE OF PROPERTIES

a. Conveyance of properties to the Secretary of Veterans Affairs is addressed in Title 38 C.F.R. 36.4323, titled "Election to Convey Security." The regulation provides that the conveyance is subject to a number of provisions, particularly that the holder will convey the title to the Secretary of Veterans Affairs via a special warranty deed and must provide evidence to the Secretary of acceptability of title (which need not be provided if the transfer is via a general warranty deed). Thus, the fact that VALERI accepts an event to report the notice of election to convey, does not mean the Secretary has actually accepted conveyance of the property until the other provisions of 38 C.F.R. 36.4323 are satisfied.

b. Additional State Transfer Requirements. In some states, both the Grantor (seller) and the Grantee (buyer) are required to execute a transfer deed. Additionally, some states require execution of other documents by the Grantor and/or the Grantee. Sometimes these documents must accompany the transfer deed when it is submitted for recordation. Some documents are required to establish status and value for future real estate taxes, while others may relate to potential taxable income from the sale of real estate. VA will sign such documents when they are clearly in conformance with their stated purposes (e.g., to establish real estate tax value). However, VA's signature does not deem acceptance of a property. Furthermore, when there are questionable items shown, such as a report that a deed to VA is a DIL of foreclosure, although such a deed should be to the loan holder, with a subsequent transfer deed to the Secretary of Veterans Affairs, then VA may seek clarification from the appropriate NPG prior to execution of the document. The following are examples of uncommon document requirements:

1. Kentucky. VA is required to sign a special warranty deed to reflect acceptance of the deed transfer to comply with state recordation requirements.

2. California. Per California Government Code, Section 27281, VA is required to sign a Certificate of Acceptance to transfer the property to a political corporation or governmental agency for public purposes. Conveyances to VA are actually made to the Secretary of Veterans Affairs as an officer of the United States, as part of a salvage operation under the Home Loan Guaranty program. Therefore, such properties do not fit this section of the California Government Code, which requires either a resolution of acceptance on the part of the political corporation, or else a certificate of acceptance substantially in the form provided in the code. Accordingly, such a certificate is not necessary. However, if a local jurisdiction demands such a form in order to record a deed involving the Secretary, then authorized VA officials will sign a certificate to include the qualifying language: "is accepted if the Grantee determines the property meets the requirements of part 36 of Title 38, Code of Federal Regulations. The Grantee consents to the recordation thereof by its duly authorized officer. Nothing herein waives the Grantee's authority to determine that the property is not acceptable pursuant to 38 C.F.R. 36.4323."

3. Delegated Signature Authority. Under 38 C.F.R. 36.4345, "Delegation of Authority," employees filling certain positions are authorized to sign documents related to real estate transfers on behalf of the Secretary of Veterans Affairs. Designated positions include Loan Guaranty Officers and Assistant Loan Guaranty Officers, who are authorized to sign documents for properties nationwide. Any time a VA employee signs a document on behalf of the Secretary, the document should include a signature block that cites the delegation of authority. Above the line for the signature should be something similar to the following "(Name of employee, position) on behalf of the Secretary of Veterans Affairs, an Officer of the United States, pursuant to the delegation of authority at 38 C.F.R. 36.4345, but subject to the limitations of 38 C.F.R. 36.4323." This signature will describe the authority of the individual signing the document, and also serve as notice that whatever the document may state, VA retains its right to determine acceptability of title to the property and to reconvey if the title is not acceptable.

4. VA Address. For any documents requiring an address for VA, use:

Department of Veterans Affairs  
Loan Guaranty Service  
3401 West End Avenue, Suite 760W  
Nashville, TN 37203

### 10.05 ACQUISITION PAYMENT CALCULATION

a. VALERI determines the acquisition payment for a loan terminated through a foreclosure sale or DIL of foreclosure based on the net value and the servicer reported total eligible indebtedness.

b. The net value is calculated by multiplying the VA Net Value cost factor times the “As is” value from the Notice of Value (NOV) issued in WebLGY. The Net Value cost factor represents the cost VA incurs from acquiring and disposing of properties. The Net Value cost factor is published by VA in the Federal Register per 38 C.F.R. 36.4301. Current and past rates for the Net Value cost factor can be viewed at: [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp).

c. For example, if a servicer forecloses on a property with an NOV “As is” value of \$100,000 and the VA Net Value cost factor is 15.95 percent, VALERI calculates the net value as follows:

1. NOV “As is” Value: \$100,000.
2. Application of VA cost factor (15.95 percent x \$100,000) = \$15,950.
3. Net value (\$100,000 minus \$15,950) = \$84,050.

d. The net value calculated by VALERI is compared to the amount reported by the servicer in the Results of Sale or DIL Complete event. If there is a discrepancy, VALERI uses its calculation of net value to determine the acquisition payment.

e. There are two types of acquisition payments the servicer may receive:

1. Total debt. If the net value is greater than or equal to the reported total eligible indebtedness, the acquisition payment is the unpaid principal balance (UPB) as reported in the most recent Delinquency Status Update.
2. Net value. If the net value is less than total eligible indebtedness, the acquisition payment is the net value amount.

### 10.06 ACQUISITION NOTIFICATION

a. The determination of the acquisition payment is posted on the Servicer Web Portal (SWP). For information such as the acquisition amount, certification date, bid type, and disbursement status, servicers may view the Acquisition Payment Status Report. Technicians can view and

research the payment determination in VALERI in order to address servicer inquiries when funds for an acquisition payment are not received within 14 days after the Financial Management System (FMS) issued a payment transaction number.

b. If an acquisition payment is denied, servicers have 30 days from the denial to exercise the option to appeal a decision. For more information on appeals, refer to Chapter 16.

#### 10.07 SUBMISSION OF INSURANCE POLICIES AND TITLE DOCUMENTS (36.4323)

a. The servicer must submit all required documents to VA's property management contractor within 60 days of loan termination in most jurisdictions. In some cases, due to redemption periods, confirmation hearings after sales, and/or delays in recorders' offices, other timeframes after the sale may apply. A list of required title documents, property management contact information, and allowable timeframes can be located at: [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp?expandable=0&subexpandable=4](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp?expandable=0&subexpandable=4).

b. The title policy documentation must insure the Secretary of Veterans Affairs in an amount equal to the consideration for the property. Consideration amounts are defined as the acquisition payment made to the servicer at time of the TOC. VA pays the consideration as net value or the UPB on total debt cases.

c. If the title is not approved, VA's Contract Assurance – Property Management section notifies the servicer and VA-assigned loan technician. Custody of the property is returned to the servicer and a Bill of Collection (BOC) is issued to recover acquisition funds and any other additional costs. For detailed information on returns of custody and BOCs, please refer to Chapter 11, Return of Custody, and Chapter 17, Bills of Collection, of this Manual.

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### 11.01 RECONVEYANCE OF PROPERTY

a. Department of Veterans Affairs (VA) reconveys a property to the servicer for the following reasons:

1. Invalid sale.
2. Improper transfer of custody (TOC).
3. Title problems.

b. Reconveyance of the property back to the servicer commences after the servicer reports an improper TOC or Invalid Sale event, or after VA determines the need to reconvey the property. Once the Improper TOC or Invalid Sale event is processed in the VA Loan Electronic Reporting Interface (VALERI), a Bill of Collection (BOC) is initiated to recover the acquisition and/or other additional costs. The servicer can review all notices on the BOC Status and Offsets report in the Reports application of VALERI. The report includes the date VA reconveyed the property and the reason for the return.

c. Invalid Sale. An invalid sale occurs when any of the following exist:

1. Invalid sale results due to bankruptcy.
2. Procedural errors by the court, attorney, and/or servicer (including title problems, missing publication, litigation).
3. Contested foreclosure.
4. Third party fails to consummate.
5. The borrower is protected under the Servicemembers Civil Relief Act (SCRA).

d. Improper TOC. An improper TOC occurs when any of the following exist and the servicer has no option to reconvey in the future:

1. A third party was the successful bidder and the servicer transferred custody to VA in error.
2. The servicer has chosen to retain the property and transferred custody to VA in error.
3. VA's Loan Guaranty National Practice Group (NPG) reviewed and determined the servicer failed to provide clear and marketable title.
4. The servicer failed to provide all required title documents to VA within the required

timeframes.

e. If reconveyance is necessary, the servicer must report the Invalid Sale or Improper TOC event in the Servicer Web Portal (SWP) and VALERI will automatically initiate a BOC Process. The process will be completed by the VA-assigned technician. If the loan is unassigned in VALERI, the last office that certified a payment will complete the process to issue the BOC. The technician must fully document case notes with their review of the loan and their recommendation for the BOC. All recommendations are then reviewed for approval and certification before the BOC is issued. The BOC process must be completed within the VALERI-established timeframes.

f. Title Problems. When VA reconveys a property to the servicer due to title issues, VA's Contract Assurance – Property Management (CA-PM) section is the point of contact and notifies the servicer, by letter, with the reason(s) for the return. CA-PM also notifies the appropriate Regional Loan Center (RLC) of the reconveyance, via email. The VA-assigned technician, or designated technician at the RLC, must manually open the Return of Custody process to monitor the reconveyance. The VA-assigned technician must thoroughly annotate the notes regarding the reconveyance, upload all supporting documents, and contact the servicer to advise them to submit the Improper TOC event so the BOC can be established. If the servicer does not report an Invalid Sale or Improper TOC event within the VALERI-established timeframe, the VA RLC will submit the event to begin the process of transferring the property back to the servicer.

g. If the servicer discovers an invalid sale or improper TOC after reporting the TOC event, they should not report the invalid sale or improper TOC event until VA has certified the acquisition payment.

#### 11.02 PREPARATION/EXECUTION OF QUITCLAIM DEEDS

a. When a servicer elects to convey a property to VA following loan termination, the servicer typically records a deed to the property in VA's name. If the servicer does not provide title evidence by the established state title submission due date or if it is deemed unacceptable by VA's NPG, VA's property management contractor handles the preparation of a quitclaim deed to transfer the title of the property back to the servicer. For state title submission due dates, please refer to the Title Documentation, Insurance and Timeframe requirements located at: [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp) .

b. It may be necessary to record a quitclaim deed back to the servicer in circumstances where VA did not acquire the property, an invalid sale was held, or a third party was the successful bidder and the servicer recorded the deed to VA in error. If a property was conveyed in error, the servicer must prepare a quitclaim deed for VA's execution to remove VA from title. The servicer should forward the quitclaim deed documents to the assigned technician. If the loan is unassigned in VALERI, the quitclaim documents should be forwarded to the Loan Administration Officer (LAO) at the VA RLC of

jurisdiction where the property is located. Refer to Chapter 12, Quitclaim Deeds, of this Manual for additional guidance.

### 11.03 RECONVEYANCE DISPUTES

a. Servicers can notify VA's property management contractor of any concerns pertaining to the reconveyance of an asset due to untimely or unacceptable title. The dispute must be emailed to the designated contact at VA's property management contractor at [title-va-reconveyance@vrmco.com](mailto:title-va-reconveyance@vrmco.com) and must be received directly from the servicer (not the foreclosure attorney). The email submission must include the following information:

1. Email Subject Line: Reconveyance Dispute.
2. Title Package Due Date.
3. Copy of Pre-Reconveyance or Incomplete Letter.
4. Copy of Final Reconveyance Letter.
5. Proof of compliance in resolving any/all noted deficiencies by the due date in either the Pre-Reconveyance or Incomplete Letter.
6. Reason for Dispute.

b. Reconveyance Disputes must be submitted within 10 business days of receipt of the Final Reconveyance Letter. VA will respond to disputes within 72 hours of receipt through VA's property management contractor.

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## 2.01 QUITCLAIM DEEDS

a. When a servicer elects to convey a property to the Department of Veterans Affairs (VA) following loan termination, the holder typically records a deed to the property in VA's name. VA pays an acquisition amount for the property after the Transfer of Custody (TOC) event is submitted, reviewed, and certified in the VA Loan Electronic Reporting Interface (VALERI). Servicers must provide acceptable evidence of title to VA per the Title Documentation, Insurance, and Timeframe Requirements link at: [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp).

b. If the servicer does not provide acceptable title timely, or if the title is deemed unacceptable based on the authority delegated in 38 CFR 36.4345 (f), VA's property management contractor prepares a Quitclaim Deed (QCD) to transfer the property back to the servicer. If an extension is necessary for a servicer to provide acceptable evidence of title, an extension request must be received by VA's property management contractor via email prior to the date title documents are due. All QCD inquiries regarding title reconveyance and execution of said document should be directed to VA's property management contractor at the link above.

c. The following examples reflect situations when a servicer erroneously records a deed transferring title of the property to VA:

1. A third party was the successful bidder at a foreclosure sale and the servicer deeded the property to VA instead of the third-party bidder.

2. VA denies conveyance of the property, but the servicer previously executed a deed into VA's name.

3. A foreclosure sale was not valid; however a deed to VA was prepared in advance and recorded.

4. There may also be cases where deeds were recorded to VA on properties securing Federal Housing Administration (FHA) loans.

## 12.02 REQUESTING A QUITCLAIM DEED

a. Whenever a servicer or its agent determines that a QCD is needed to transfer any interest previously conveyed to VA, the request will be sent via email to the VA-assigned technician. The email will explain the reason for the request and include an electronic version of the QCD to be executed by VA, along with instructions for transmittal of the executed deed to the party that will handle recordation.

b. Any request for a QCD on a VA-guaranteed loan not assigned to a VA technician will be sent to the Loan Administration Officer (LAO) at the VA Regional Loan Center (RLC) of jurisdiction. If the LAO finds that the need for a QCD is the result of a prior default, the request will be forwarded for handling to the LAO of the previously VA-

assigned technician. The LAO will verify VA has no interest in the property and review the deed in accordance with the following paragraph:

1. The VA-assigned technician will review the request for the execution of the QCD, fully document case notes with their review and recommendation, and forward the request to the LAO. If the loan is not assigned to a technician in VALERI, the LAO will document the case notes. In either case, the LAO will review the deed to ensure that it conveys only the interest VA had in the property without any type of warranty. In addition, the effective date of the QCD must be the same date as the initial transfer of the property to VA. By using the same date as the initial transfer to VA, the QCD essentially demonstrates that VA never accepted title to the property, despite the previously recorded deed. In addition, nominal consideration should be shown, along with a statement somewhere in the quitclaim deed that the property was conveyed in error.

### 12.03 EXECUTING A QUITCLAIM DEED

a. Execution of the QCD ensures the property is transferred from VA's name to the correct holder of the property. If the deed appears acceptable under the general guideline described above, it will be sent to the Loan Guaranty Officer (LGO) or Assistant LGO for execution and transmittal in accordance with the request. Under 38 CFR 36.4345(b), the LGO or ALGO has the authority to execute deeds in any area of the country on behalf of the Secretary of Veterans Affairs. Execution of the QCD must be completed within 7 days to avoid delays in the servicer's ability to respond to liens, code violations, taxes, etc. that may have been assessed on the property and remove VA's name promptly from the title.

b. In some cases, there may be a delay or no request from the servicer for a QCD when conveyances are not accepted or the QCD to VA may have been erroneously recorded without any notice to VA. VA's first notice may be in the form of a tax bill or a code violation from local authorities. In such cases, after determining that VA should not be the owner of a property, the responsible LAO will ensure that contact is initiated with the servicer to prepare a QCD for VA's execution. If the servicer delays the preparation of the QCD, the RLC will prepare and execute a QCD back to the servicer.

c. Per 38 CFR 36.4345, "Delegation of Authority," employees filling certain positions are authorized to sign documents related to real estate transfers on behalf of the Secretary. Designated positions include Loan Guaranty Officers and Assistant Loan Guaranty Officers, who are authorized to sign documents for properties nationwide. Anytime a VA employee signs a document on behalf of the Secretary, the document should include a signature block that cites the delegation of authority. Above the line for the signature should be something similar to the following "(Name of employee, position) on behalf of the Secretary of Veterans Affairs, an Officer of the United States, pursuant to the delegation of authority at 38 CFR 36.4345, but subject to the limitations of 38 CFR 36.4323." This signature will describe the authority of the individual signing the document, and also serve as notice that whatever the document may state, VA retains

its right to determine acceptability of title to the property and to reconvey if title is not acceptable.

d. Any document requiring an address for VA, use “Secretary of Veterans Affairs, an Officer of the United States of America, successors and assigns, at (insert address of VA office of geographic jurisdiction [may be different than the office of the assigned VALERI technician]).” For a listing of VA RLC geographic jurisdictions, and the address for the appropriate RLC to be inserted into the conveyance information in the preceding sentence, please refer to <http://www.benefits.va.gov/homeloans/rlcweb.asp>. If an in-state address is required in a particular state, contact the RLC of geographic jurisdiction for the address of the VA Regional Office in the state. If a personal name is required for the Secretary, use the official name of the current Secretary of VA.

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### 13.01 INDEMNIFIED LOAN AGREEMENTS

a. An indemnification agreement (IA) may be established when it is determined egregious underwriting was conducted by the originating lender. Audit reviews are performed by VA Central Office (VACO) Quality Assurance or the Loan Production (LP) section at the Regional Loan Center (RLC) of jurisdiction when completing a full review. The IA is prepared by VACO Quality Assurance for specified loans or subsequent VA interest rate reduction refinancing loans that go into default, as defined in 38 CFR 36.4301, within 5 years of the date of guaranty to establish reimbursement for any loss incurred.

b. Any servicer who accepts transfer of servicing rights on the loan will be allowed to transfer property and convey title to VA and receive a claim payment. VA will pursue the originating lender for reimbursement of losses incurred as a result of the termination action.

c. If a loan modification is executed on an indemnified loan, servicers are still eligible for an incentive payment for completing the loan modification.

### 13.02 INDEMNIFICATION REQUIREMENTS

a. Indemnification shall be made in accordance with the following terms:

1. Where, as of the date of signing of an IA, a claim under guaranty has not been submitted to VA, the property will not be conveyed to VA and no claim under guaranty shall be submitted by the original servicer. All VA requirements for servicing and payment of loan fees will be observed in respect to such mortgage. In the event of a claim under guaranty from a transferee of a mortgage covered by this agreement, indemnification will be in accordance with paragraph (2) or (3) whichever applies.

2. Where a VA guaranty claim is pending, or has been paid in full, and the property is owned by VA, reconveyance of the property will be accepted by the servicer and indemnification will be made to VA for its investment. VA's investment includes, but is not limited to: the amount VA paid to the servicer when the servicer conveyed the property to VA; the full amount of the guaranty claim; all taxes and assessments; all maintenance and operating expenses, including costs of rehabilitation and preservation of the property; and all sales expenses, where applicable. In the event VA does not reconvey the property to the servicer, VA's loss will be calculated in accordance with paragraph (3).

3. Where a VA guaranty claim has been paid in full and the property has been sold by VA to a third party, the amount of indemnification is VA's investment as defined in paragraph (2), minus the sales price of the property.

4. In the event that VA determines that reimbursement is due from the servicer

under the terms of the agreement, VA will submit a request to the servicer via certified mail. The servicer must remit funds to VA within 30 days from the date of the letter. If full payment is not received timely, the servicer will also be liable for interest on any unpaid balance from the date of the letter until the date the payment is received by VA. The interest rate is determined by the Secretary of the Treasury pursuant to section 11 of the Debt Collection Act of 1982 (31 U.S.C. § 3717) representing the Current Value of Funds Rate used in assessing interest on debts due to the United States.

5. Any material breach of the terms and conditions of the agreement shall constitute independent grounds for imposing administrative sanctions by VACO Quality Assurance against the servicer pursuant to 38 CFR, Parts 2 and 36.

6. VACO Quality Assurance notifies the VA-assigned technician, or the RLC of jurisdiction where the property is located, of the indemnified loan and forwards a copy of the indemnification agreement. The VA-assigned technician must upload the agreement into the VA Loan Electronic Reporting Interface and annotate the case notes accordingly.

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#### 14.01 CLAIMS (38 CFR 36.4324)

a. Servicers must submit claims to the Department of Veterans Affairs (VA) for reimbursement of any fees, costs, and losses associated with the termination of a guaranteed home loan within 365 days of termination. If a servicer fails to submit a claim within the required timeframe, they may submit an appeal late claim event to VA for consideration. Refer to Chapter 16, Appeals, of this Manual for more information.

b. Claims may be submitted on the following situations:

1. Foreclosure.
2. Deed-in-Lieu (DIL) of foreclosure.
3. Compromise sale.
4. Terminated mobile home.

5. Refund. On refunded loans, the servicers must submit the refund claim within 60-days of VA's approval date. Refer to the Chapter 9, Refunds, of this Manual for more information.

#### 14.02 ELIGIBILITY FOR CLAIM PAYMENT

a. Claims must be submitted by the servicer to VA electronically through the Servicer Web Portal (SWP). The VA Loan Electronic Reporting Interface (VALERI) initiates a routine Certify Claim Payment process if all regulatory infractions (RI) have been addressed and there are no failed business rules associated with the claim event. If the loan has outstanding RIs or the claim event has failed business rules, VALERI will initiate a Review Non-Routine Claim process for further review by the VA-assigned technician.

b. Further review is required for the following situations:

1. The Servicemember Civil Relief Act is included on the Basic Claim Event.
2. The Insurance loss proceeds are included in the Basic Claim Event.
3. The Invalid Sale Results Event was reported for the current default.
4. The pending RIs on the loan.
5. The claim is a refund claim.
6. The claim is for a Texas Veterans Land Board Loan.

c. Servicers have two options when filing a claim through the SWP:

1. **Basic Claim Event.** This initial claim event should include all credits, advances and expenses associated with the termination of the loan. VA defines loan termination as:

(a) Foreclosure. The date of legal termination as defined under state law. Refer to Appendix G, “State Foreclosure Process and Statutory Bid Information.”

(b) DIL of Foreclosure. The date the deed is recorded or the date the deed is sent for recording.

(c) Compromise Sale. The compromise sale settlement date per the Closing Disclosure.

2. **Supplemental Claim.** The supplemental claim(s) should include all credits, advances, or expenses which were omitted from any previous claim.

d. VALERI rejects the basic claim or supplemental claim submitted by the servicer if any of the following conditions exist:

1. Loan is not guaranteed.
2. Submitted more than 365 days after loan termination.
3. No termination event previously submitted by the servicer.
4. Bid was total debt and the property was not acquired by VA.

#### 14.03 CLAIM PAYMENT CALCULATION

a. VALERI calculates the final claim payment based upon total eligible indebtedness, maximum guaranty, and credit to the indebtedness.

b. To determine the gross claim payment for a loan terminated through compromise sale, DIL of foreclosure, or foreclosure, VALERI subtracts the credit to the indebtedness (net value or actual proceeds of the sale) from its calculation of the total eligible indebtedness (TEI). To determine the claim payment for a refunded loan, VALERI uses its calculation of TEI as the claim payment. VA may adjust the TEI calculation during a review of a non-routine claim if there are unsubstantiated items.

c. TEI includes the following:

1. **Unpaid Principal Balance (UPB).** VALERI calculates the unpaid principal balance

as of the date of the foreclosure sale (or the date of confirmation of the sale in confirmation/ratification of sale states), closing date of the compromise sale (Closing Disclosure settlement date), or date the DIL is recorded or submitted for recording (depending on which is reported in the DIL Complete event). VALERI calculates the unpaid principal balance by amortizing the loan based upon the original or modified loan amount. VALERI compares this amount to the amount reported with the most recent delinquency status update (DSU), and uses the lower of the two amounts to calculate the TEI.

2. Accrued Unpaid Interest. VA pays interest on the unpaid principal balance and advances. Interest on these items is allowed up to the date of loan termination, as long as the date of termination is less than or equal to 210 days from the due date of the last paid installment, plus the maximum allowable state foreclosure timeframe. For example, if the maximum allowable state foreclosure timeframe is 180 days, VA allows interest up to 390 days (210 + 180) from the due date of the last paid installment.

(a) VA will pay interest beyond the maximum timeframe if the bankruptcy filed event was reported (VA automatically adds 180 days to the maximum interest timeframe when the bankruptcy filed event is reported). Maximum allowable state foreclosure timeframes are published annually in the federal register.

(b) VALERI calculates accrued unpaid interest based upon the interest rate reported at loan origination or modification, and adjusts for any interest rate changes reported to VA with the Basic Claim event.

3. Interest on Unpaid Principal Balance. VA pays accrued daily interest on the unpaid principal balance of the loan. The interest applied to any month's unpaid principal balance is the interest rate on the loan for that month.

4. Interest on Advances. VA pays interest on amounts advanced prior to the loan termination date. VALERI calculates accrued daily interest on advances using the interest rate on the loan. For example, for a loan with a six percent fixed rate of interest, VA will pay six percent on an advance from the day it was advanced to the date of loan termination, subject to the maximum allowable timeframe. Similarly, VALERI calculates the interest on an advance on an Adjustable Rate Mortgage (ARM) based upon each month's unique interest rate.

(a) VALERI calculates the interest amount only after it subtracts the escrow credit balance from the earliest advances to the account. For example, if the current escrow credit balance is \$500, and the first advances made to the account were \$200 for taxes, \$200 for insurance, and \$100 for mowing, VALERI eliminates any interest owed on these advances from the total interest calculation.

5. Liquidation Expenses. VA allows certain liquidation expenses, up to maximum allowable amounts, in the calculation of TEI. The maximum allowable amount for each liquidation expense varies by state and type of foreclosure process (judicial or non-

judicial). Maximum allowable amounts for liquidation expenses are located in Appendix G, State Foreclosure Process and Statutory Bid Information. Allowable liquidation expenses are determined based on the paid date reported by the servicer on the claim event in conjunction with the maximum allowable fee cost schedule, frequency schedule and aggregate allowable, with exception to attorney fees. Liquidation expenses are grouped into the following categories:

(a) Attorney Fees. Allowable attorney fees are determined based on the termination date of the loan. Fees must be reported separately at the time of the claim and include:

(1) Foreclosure attorney fees. Foreclosures re-start attorney fees after cancellation of a foreclosure sale. (Note: VALERI automatically pays a restart fee of “0” on the claim. These fees may be paid to the servicer through the appeal claim process.)

(2) DIL attorney fees.

(3) Bankruptcy attorney fees.

(4) Ad litem/curator fees/warning order attorney fees.

(5) Attorney service taxes.

(6) Mediation fee. (Note: VALERI automatically pays a mediation fee of “0” on the claim. These fees may be paid to the servicer through the appeal claim process.)

(b) Appraisal Fees. Allowable appraisal fees include:

(1) Cost of having a VA appraiser determine the market value of the property.

(2) Cost of having a VA appraiser update the market value of the property. (Note: VALERI automatically pays an appraisal update of “0” on the claim. These fees may be paid to the servicer through the appeal claim process.)

(3) Cost of a court-ordered appraisal.

(4) Appraisal service taxes.

(5) Mileage expenses for a VA appraiser to travel to the property.

(6) **Note:** The actual VA appraisal fee is payable in addition to the maximum guaranty on a claim. The allowable appraisal amount is determined based on the appraisal completion date reported by the servicer on the basic claim event.

(c) Title Expenses. Allowable title expenses include expenses incurred for:

(1) Initial termination title review (search of records performed by a title company or

attorney prior to a foreclosure sale to ensure a valid foreclosure).

(2) Title updates that occur prior to termination (close examination of all public records that affect the title to the property, including reviewing past deeds, wills, and trusts).

(3) Initial termination title commitment/guaranty from the title company (written commitment from the title company stating the conditions under which they will insure the title to the property).

(4) Final termination title documentation (require endorsement fees).

(5) Title service taxes.

(d) Filing Fees. Allowable filing fee expenses include expenses incurred for the recording or filing of:

(1) Bankruptcy-related motions (specifically, the motion for relief of stay).

(2) Index number.

(3) Lis pendens.

(4) Summons.

(5) Petition.

(6) Complaint.

(7) Judgment.

(8) Request for judicial intervention.

(9) Military affidavit.

(10) Posting notice of sale.

(11) Notice affidavit.

(12) Notice of publication affidavit.

(13) Order confirming sale.

(e) Recording Fees. Allowable foreclosure recording fees include amounts charged by public officials for recording or filing of:

- (1) Substitution of trustee (appointment, agreement, or document).
- (2) Notice of default/foreclosure notice/notice of pendency/power of attorney.
- (3) Summons.
- (4) Judgment.
- (5) Certificate of non-redemption.
- (6) Sheriff's/Trustee's Certificate of Sale.
- (7) Assignment of sheriff's/trustee's certificate of sale.
- (8) Foreclosure deed (sheriff's, trustee's, referee's, or commissioner's deed).
- (9) Assignment of sheriff's/trustee's deed.

(f) Deed to VA. Allowable DIL recording fees include amounts charged by public officials for recording or filing of:

- (1) Warranty deed from owner to holder.
- (2) Estoppel affidavit.
- (3) Deed to VA.
- (4) Deed of re-conveyance/full release/satisfaction of mortgage.

(g) Foreclosure Facilitation Fees. Allowable foreclosure facilitation fees include amounts charged by public officials to facilitate the foreclosure process, including:

- (1) Sheriff's/administrators/commissioner's fees and costs (including court costs).
- (2) Trustee/referee/master in equity fees.
- (3) Auctioneer's fees.
- (4) Court recorder fees.
- (5) Prothonotary/clerk's fees.
- (6) Attorney/notary fees.

(g) Other Fees and Costs. Allowable other fees and costs include expenses for:

- (1) Publication of sale (advertisement in appropriate newspaper or on the internet).
  - (2) Personal service of papers on any necessary party of interest.
  - (3) Statutory required mail.
  - (4) Service of papers by publication.
  - (5) Service of papers by certified mail.
  - (6) Investigation fees related to service. (**Note:** VALERI automatically pays an investigation fee of “0” on the claim. These fees may be paid to the servicer through the appeal claim process.)
  - (7) Non-extinguishable liens.
  - (8) Committee fees and costs.
  - (9) Transfer tax/documentary stamps.
  - (10) Municipal lien certificate.
  - (11) Title V septic (Massachusetts) fees and costs. (**Note:** VALERI automatically pays Title V septic in addition to maximum guaranty.)
  - (12) Poundage.
  - (13) Mennonite notices.
  - (14) Relocation assistance/borrower incentive.
  - (15) Property inspections.
6. Advances. VA allows advances in the calculation of total eligible indebtedness, up to maximum allowable amounts. When properties are conveyed, VA will pay lienable items such as accrued taxes, water, sewer, special assessments, and ground or water rents up to 30 days past the date of conveyance to VA. The maximum allowable amount for each advance varies by state. Maximum allowable amounts for advances are located on the VALERI Fee Cost Schedule at: [http://www.benefits.va.gov/homeloans/servicers\\_valeri.asp](http://www.benefits.va.gov/homeloans/servicers_valeri.asp). VALERI calculates advances based on the paid date reported by the servicer on the claim event and allowable up to the interest cutoff date or termination, whichever is earlier, with the exception of taxes. Advances are grouped into the following categories:

(a) Advances for Insurance. Allowable insurance advances include amounts advanced for payment of flood, homeowners/fire/hazard, wind, earthquake, and force placed insurance coverage prior to the loan termination date.

(b) Advances for Taxes. Allowable advances for taxes include amounts advanced for payment of city, county/parish, school, levy, township, municipal utility district (MUD), public utility district taxes, special assessments, and ground rent payments. Advances for taxes paid after the loan termination date is not allowable if VA did not acquire the property.

(c) Advances for Property Preservation. Allowable property preservation expenses include amounts advanced for:

(1) Yard maintenance such as mowing, shrub trimming, and snow removal services.

(2) Winterization of property units with dry/wet/radiant heat, winterization of pools/spas/hot tubs, and amounts paid to repair/replace/install a reduced pressure zone (RPZ) valve.

(3) Utilities such as electricity, gas, oil, propane, water, and sewer.

(4) Equipment repair or replacement such as sump pump repair and/or installation, services for pumping water from basement, water well repair or replacement, and septic system maintenance.

(5) Securing and re-securing the property, temporary roof repairs, securing in-ground or above ground pools, securing hot tubs or spas, and maintenance of pools, spas, and hot tubs.

(6) Boarding the property with 1/2", 5/8", or 3/4" plywood or polycarbonate/clearboard.

(7) Hazard abatement such as advances to take necessary actions in compliance with state and federal regulations with regards to environmental hazards (such as asbestos and radon).

(8) Debris removal such as removal of cubic yards of debris from the property, and removal of vehicles from the property in compliance with state and local requirements.

(d) Advances for Association Fees. As required by state law, amounts advanced by the servicer to pay homeowner's association (HOA), Planned Unit Development, and/or condo association fees.

(e) Less any Credits. Any credits on the borrower's account not already applied to the unpaid principal balance reduce the borrower's TEI. VALERI calculates credits based upon information you report with the Basic Claim event. Credits include:

- (1) Refunds of insurance premiums.
- (2) Tenant rents.
- (3) Insurance loss proceeds.
- (4) Escrow credit balance.
- (5) Suspended credits (partial payments held in suspense).
- (6) Buy-down credits from origination (seller buy downs).
- (7) Interest on escrow.
- (8) Other credits for application to liquidation expenses.
- (9) Other credits for application to advances.
- (10) Tax refunds.

d. Sample Calculation of TEI. VALERI calculates TEI at the time of the claim using the UPB, accrued unpaid interest, paid liquidation expenses, and advances, less any credits. For example, a loan is terminated through foreclosure with:

1. UPB: \$80,000
2. Accrued unpaid interest on UPB and advances: \$8,000
3. Paid liquidation expenses: \$4,000
4. Advances: \$2,000
5. Credits: \$900
6. TEI:  $(\$80,000 + \$8,000 + \$4,000 + 2,000 - \$900)$ : \$93,100

e. Under 38 U.S.C. 3712, VA is obligated to pay the servicer a claim up to maximum guaranty on any terminated loan and final accounting of the loan. The guaranty protects the servicer against loss if the Veteran or a subsequent borrower fails to repay the loan. VA will guarantee 25 percent of the principal loan amount, up to the maximum guaranty. Guaranty amounts vary with the size of the loan and the location of the property.

#### 14.04 ALLOWABLE CLAIM ITEMS FOR VA REIMBURSEMENT

a. The VALERI Fee Cost Schedule and the VALERI Fee Cost Schedule Frequency located on the VALERI website at [http://www.benefits.va.gov/HOMELOANS/servicers\\_valeri.asp](http://www.benefits.va.gov/HOMELOANS/servicers_valeri.asp), identifies each line item per state and provides maximum allowable limits that a servicer may seek reimbursement from VA once a loan has terminated. Appendix H, Property Preservation

Requirements and Fees, provides guidance to servicers regarding VA's minimum requirements to protect and preserve a delinquent property.

b. VA does not reimburse for day-to-day expenses or advances associated with the cost of doing business. This includes, but is not limited to, broker's price opinion (BPO), trip charges, regular mail, courier fees, photos, and photo copies.

c. The information below provides descriptions of basic reimbursable claim items.

1. Advances. An amount the servicer pays on behalf of the borrower for the maintenance or repair of the security, payment of accrued taxes, special assessments, ground or water rents, and premiums on casualty insurance against loss or damage to the property.

(a) Insurance(s). Insurance which protects the homeowner and/or servicer from property losses during a fixed period of time. VA requires servicers to ensure that insurance policies are maintained in an amount sufficient to protect the security against risks or hazards and to the extent customary in the locality. Force placed insurance must be put in place by the servicer when the homeowner's insurance lapses or is cancelled. Insurance advances are allowable through the established interest cutoff date on terminated loans. The maximum allowable amount is based on a yearly and/or monthly premium.

(b) Taxes. Taxes levied on the property by a governing authority where the property is located. Billing frequency varies by state and the VA maximum allowable amount applies to each line item claimed. If the property is acquired by VA, taxes are allowable up to 30 days after conveyance or the confirmation/ratification of sale date when required under local law. If the property is not acquired by VA, taxes are allowable through the established interest cutoff date or the termination date, whichever is earlier.

(c) Special Assessment. Tax that can be imposed by a municipality for expenses such as installation of water or sewer lines, street paving, or street lighting. If the property was acquired by VA and unpaid fees resulted in a lien, special assessments will be allowable up to 30 days after loan termination or the confirmation/ratification of sale date when required under local law. If the property is not acquired, special assessments are allowable through the established interest cutoff date or the termination date, whichever is earlier.

(d) Ground Rent. Fee that is paid for the use of land when title to a property is held as a leasehold estate, rather than as fee simple. If the property was acquired by VA and fees resulted in a lien, fees will be allowable up to 30 days after loan termination or the confirmation/ratification of sale date when required under local law. If the property is not acquired, fee is allowable through the established interest cutoff date or the termination date, whichever is earlier.

(e) Association Fees. A fee collected from each homeowner of a multi-unit building

or community to fund common area repairs/improvements, ground maintenance, and security. If the property was acquired by VA and fees resulted in a lien, fees will be allowable without limitation of the interest cutoff date to clear title. If the property is not acquired, fees are allowable through the established interest cutoff date or the termination date, whichever is earlier. Unless required by local authority, VA does not reimburse for late charges, interest, or attorney's fees.

2. Property Preservation. Maintenance completed to preserve, protect and secure a vacant/abandoned property. These fees are allowable through the established interest cutoff date. The following are reimbursable on the claim under guaranty:

(a) Utilities. Utility advances are allowable from the first uncured default through the interest cutoff date on properties not conveyed to VA. Utility advances on conveyed properties are reimbursable up to 30 days from conveyance. VA will not reimburse late fees/charges.

(b) Securing.

(1) Securing of the Property. Fees to secure a property are allowable from the first uncured default to the interest cutoff date. If multiple securing advances are claimed, VA will pay up to the aggregate amount. Lockboxes are part of securing and will be included in the aggregate amount.

(2) Resecuring of the Property. Fees to resecure a property after initial securing. The system will automatically deny this expense on the initial claim. Servicers may file an appeal or supplemental claim, with justification and supporting documentation.

(3) Boarding. Fees to board a property are allowable from the first uncured default to the interest cutoff date. If multiple boarding advances are claimed, VA will pay up to the aggregate amount for each plywood or polycarbonate/clearboard size if the completion dates are the same. If multiple boarding advances are claimed and completion dates are different, VA should only be paying the first boarding advance.

(4) Hazard Abatement. An expense that can be imposed by a municipality for the removal of hazards related to unsafe conditions in connection with a vacant property. These fees are allowable from the first uncured default to the interest cutoff date or the termination date, whichever is earlier.

(5) Debris Removal. Removal of unhealthy or hazardous materials from the exterior and interior of properties prior to transferring custody of vacant properties. Reimbursement of this expense is based on cubic yards and must be itemized. These fees are allowable from the first uncured default to the interest cutoff date or the termination date, whichever is earlier.

3. Expenses. Fees incurred by the servicer to complete the termination of a mortgage loan.

(a) Foreclosure or DIL Attorney Fees. Fees incurred due to the termination of a mortgage loan through foreclosure or DIL of foreclosure. These are paid as an aggregate not to exceed the maximum allowable in VA regulation. Only foreclosure attorney fees are reimbursed on the initial claim when a loan has been reviewed for a DIL, but the end result is foreclosure; DIL attorney fees are not reimbursable. However, when a foreclosure has commenced on a loan that terminates through a DIL, the foreclosure and DIL attorney fees can be combined, to be reimbursed up to maximum allowable for each.

(b) Foreclosure Restart Attorney Fee. Fees incurred if local law requires the foreclosure process to be restarted when the foreclosure action is canceled or postponed. A restart may be the result of a bankruptcy filing, VA requested delay, property damage/hazardous conditions, or attorney errors. The system will automatically deny this expense on the initial claim. Servicers may file an appeal or supplemental claim, with justification and supporting documentation, to validate circumstances that were beyond the control of the servicer or their attorney.

(c) Bankruptcy Attorney Fees (Chapter 7, 11, and 13 filings). Bankruptcy attorney fees are only allowable if a motion for relief was filed. Multiple bankruptcy attorney line items are allowable, up to the maximum aggregate amount. VA limits the amount reimbursable for multiple bankruptcy filings.

(d) VA Appraisals. An appraisal completed by a VA fee appraiser for liquidating purposes. The system will allow one appraisal. Servicers may file an appeal or a supplemental with justification and supporting documentation for additional appraisal expenses. This fee is allowed to be reimbursed over maximum guaranty.

(e) Appraisal Service Tax. Is an expense that can be imposed by a municipality.

(f) Court Appraisal. An expense required by a judicial foreclosure state and is not paid above maximum guaranty.

(g) Mileage. Fee paid to a VA fee appraiser to travel to the property;

(h) Appraisal Update. An updated appraisal report completed by a VA fee appraiser for liquidating purposes. The system will automatically deny this expense and servicers may file an appeal or supplemental claim, with justification and supporting documentation, for additional appraisal expenses.

(i) Initial Termination Title Review. An expense incurred for a search of records performed by a title company or attorney prior to termination of a loan. VA will only reimburse one initial title fee on a terminated loan. The search may consist of:

- (1) Identifying all liable parties with an interest in the property;
- (2) Reviewing past deeds, wills, and trust to make sure the title has passed correctly to

each owner; and

(3) Confirming there are no outstanding prior mortgages, judgments, liens, overdue special assessments, or outstanding restrictive covenants.

(j) Title Updates that Occur Prior to Termination. An expense completed to update the initial title search information to ensure that no changes have occurred. VA will only reimburse one title update on a terminated loan, requiring all additional updates to be appealed with supporting documentation and justification.

(k) Initial Termination Title Commitment/Guaranty. A written commitment from a title company stating the conditions which they will insure title to the property. VA will only reimburse one initial termination title commitment/guaranty fee on a terminated loan.

(l) Final Termination Title Documentation. An expense incurred by the servicer to pay required endorsement fees to ensure marketability of the property. If the property is acquired by VA, one final termination fee is allowable.

(m) Filing Fees. Expenses charged by public officials for the filing of documents associated with the loan.

(n) Recording Fees for Foreclosure or DIL. Expenses charged by public officials for the recording of documents associated with the loan. The Deed to VA, Assignment of Sheriff's/Trustee's Deed, and Assignment of Sheriff's/Trustee's Certificate of Sale are not allowable unless the property is acquired by VA.

(o) Foreclosure Facilitation Fees. Expenses charged by public officials to facilitate the foreclosure action as required by state law.

(p) Relocation Assistance/Borrower Incentive. An incentive paid by the servicer to a Veteran occupant, not to exceed \$1,500, subsequent to the completion of a compromise sale or execution of a DIL of foreclosure and is reimbursable to the servicer.

(q) Investigation Fee Related to Service. Expense incurred for investigation services. The system will automatically deny this expense on the initial claim. Servicers may file an appeal or a supplemental with justification and supporting documentation to validate this expense. Skip trace is not considered an investigation fee and will not be payable.

(r) Non-Extinguishable Liens. Expense incurred by the servicer to pay for any liens that are not released by the foreclosure action in order to obtain clear title.

(s) Committee Fees and Costs. Fees and costs incurred by the servicer to convene the committee to confirm the sale where there is an equity and/or Internal Revenue Service lien against the property.

(t) Transfer Tax/Documentary Stamps. Expense imposed by a public official for the transfer of title from one person (or entity) to another.

(u) Municipal Lien Certificate. Legal document that lists all taxes, assessments, and water charges owed on a property. This document is requested to make sure all charges are paid current prior to foreclosure.

(v) Title V Septic (Massachusetts). Massachusetts State Law requiring all individual sewage systems to be inspected prior to the transfer of the property to another entity. A licensed inspector approved by the Board of Health must conduct the inspection. Fees associated with this process are payable only if the servicer transfers custody to VA. This fee is allowed to be reimbursed over maximum guaranty.

(w) Poundage. An expense imposed by a public official to handle funds received for a third party sale in the state of Oklahoma only.

(x) Mennonite Notices. An expense imposed by the court to notify every party holding a legally-protected property interest whose name and address can reasonably be determined by diligent efforts (ex. Mennonite board of Missions v. Adams).

(y) Property Inspections. An inspection of a property to determine its condition. VA will reimburse up to two inspections per month. Property inspections are paid based on the completed date reported by the servicer on the claim event and is allowable up to the interest cutoff date or termination date, whichever is earlier.

(z) Service (to Serve Homeowners). The procedure of delivering court documents to the borrower giving legal notice and enabling that person to respond to the proceeding before the court. Each jurisdiction has specific rules regarding the means of delivery for notification to the homeowner. The type of fee that is claimable:

(1) Personal service such as a sheriff or private entity personally delivers the documents;

(2) Service by publication such as the attorney publishes the notice in a local newspaper or such; and

(3) Service by certified mail such as the attorney would require proof of delivery by the mailing service.

(aa) Posting Notice of Sale. A filing fee imposed by the court in order for an attorney to proceed with serving the homeowners for foreclosure.

(bb) Estoppel Affidavit. A document that is executed by the borrower, for a DIL, attesting to deed the property of their own free will.

(cc) Mediation Fee. An attorney fee cost associated with the foreclosure which is

required by the local jurisdiction. The system will automatically deny this expense on the initial claim. Servicers may file an appeal or a supplemental with justification and supporting documentation to validate this expense.

(dd) Vacant Property Registration. A fee incurred for a vacant property prior to foreclosure in certain municipalities due to state laws. The system will automatically deny this expense on the initial claim. Servicers may file an appeal or supplemental claim, with justification and supporting documentation.

(ee) Servicers are also eligible for an incentive payment upon the successful completion of an alternative to foreclosure option which meets VA regulatory requirements. This fee is paid over maximum guaranty. The following items are payable above the maximum guaranty:

- (1) VA liquidation appraisal fees.
- (2) Title V septic fees in the State of Massachusetts only if VA acquired the property.
- (3) Incentive payment for a DIL of foreclosure or compromise sale.

(ff) Maximum guaranty is calculated differently on original versus modified loans:

(1) Original Loans. For original loans that have not been modified, VALERI calculates maximum guaranty as the lesser of the original guaranty amount or the original guaranty percentage applied to total indebtedness at the time of liquidation.

(a) Example. If VA originally issued a \$36,000, 40 percent guaranty on a \$90,000 loan and the total indebtedness is \$95,000, the guaranty is capped at the original guaranty amount of \$36,000. This is because the original guaranty amount of \$36,000 is less than the original guaranty percentage applied to the total indebtedness ( $40\% \times \$95,000 = \$38,000$ ). If total indebtedness on the same \$90,000 loan is \$80,000, the amount of guaranty would be 40 percent of the total indebtedness or \$32,000 ( $40\% \times \$80,000$ ) because this is less than the original guaranty amount.

(2) Modified loans. For loans that have been modified, VALERI calculates the maximum claim payable as the lesser of the modified loan's guaranty amount or the modified loan's guaranty percentage applied to the total indebtedness at the time of liquidation.

(a). VALERI calculates the adjusted guaranty amount and guaranty percentage for the modified loan based upon the following scenarios:

1. If the loan was modified before February 1, 2008, and the modified loan amount is greater than the original loan amount, the dollar amount of guaranty will be equal to the dollar amount of guaranty on the original loan. In this case, the original dollar amount of guaranty remains the same and the guaranty percentage is reduced.

2. If the loan was modified before February 1, 2008, and the modified loan amount is less than or equal to the original loan amount, VALERI determines the guaranty percent to be equal to the original percent of guaranty. In this case, the guaranty percentage remains the same and the original dollar amount of guaranty is reduced.

3. If the loan was modified on or after February 1, 2008, the dollar amount of the guaranty may not exceed the greater of the original guaranty amount of the loan being modified or 25 percent of the loan being modified subject to the statutory maximum specified in 38 U.S.C. 3703(a)(1)B.

4. When the modified loan amount is greater than the original loan amount, the original dollar amount of guaranty remains the same if greater than 25 percent of the modified loan amount and the guaranty percentage is reduced.

5. When the modified loan amount is less than or equal to the original loan amount, the guaranty percentage remains the same if greater than 25 percent and the original dollar amount of guaranty is reduced. The guaranty will never drop below 25 percent on loans modified on or after February 1, 2008.

#### 14.05 VA DETERMINES CREDIT TO INDEBTEDNESS

a. VA subtracts the credit to indebtedness from the TEI to determine the gross claim payment. Unless the property is located in a state or locality with statutory bid requirements, the credit to indebtedness is always the greater of net value, amount bid at sale, or actual proceeds of the sale. For total debt bids, where the servicer transfers custody of the property to VA, the credit to the indebtedness is the unpaid principal balance. VALERI calculates the credit to the indebtedness based on the bid type, outcome of the sale, and if the property is located in a state or locality with statutory bid requirements.

b. Credit to Indebtedness for Foreclosure Sales in States *Without* Statutory Bid Requirements.

1. Net value bid type where the holder retains or transfers custody of the property. Credit to indebtedness is the net value.

2. Net value bid type where a third party is the successful bidder. Credit to indebtedness is the greater of net value or actual third party bid amount.

3. Net value overbid where the holder retains or transfers custody of the property. Credit to indebtedness is the actual overbid amount.

4. Net value underbid where the holder retains or transfers custody of the property.

Credit to indebtedness is the net value.

5. Total debt bid where the holder transfers custody of the property. Credit to indebtedness is the UPB.

6. Total debt overbid where holder transfers custody of the property. Credit to indebtedness is the UPB.

7. Total debt underbid where holder transfers custody of the property. Credit to indebtedness is the UPB.

c. Credit to Indebtedness for Foreclosure Sales in States *With* Statutory Bid Requirements.

1. Statutory net value overbid where the holder retains the property. Credit to indebtedness is the actual bid amount.

2. Statutory net value overbid where the holder transfers custody of the property. Credit to indebtedness is the net value.

3. Statutory net value overbid where a third party is the successful bidder. Credit to indebtedness is the actual third-party amount.

d. A list of states and localities with statutory bid requirements is located in Appendix G, State Foreclosure Process and Statutory Bid Information. .

e. For a DIL of foreclosure, if the net value is less than the borrower's TEI, VA credits net value. If the net value is more than the borrower's TEI and the servicer transfers custody of the property, VA credits the UPB.

f. For a compromise sale, VA credits the net value or the actual proceeds of the sale, whichever is greater. VA credits actual proceeds of sale on loans where the servicer submitted a pre-approval request and received approval to accept less than net value.

#### 14.06 VA CALCULATES CLAIM PAYMENT

a. Once VALERI determines TEI, maximum guaranty, and the credit to the indebtedness, the claim payment for loans terminated through foreclosure, DIL of foreclosure, and compromise sale is calculated as follows:

1. Determine Gross Claim Amount. The gross claim amount equals the TEI, minus the credit to the indebtedness. The following describes how VALERI calculates TEI and credit to the indebtedness.

(a) Example. A servicer holds a foreclosure sale on a property with a net value of \$88,130 and total eligible indebtedness of \$95,000. According to VA guidelines, the servicer must bid the lower of net value or TEI. In this example, the servicer bids the correct net value of \$88,130 and is the successful bidder. They retain the property and file a claim for the remainder of the indebtedness. The gross claim amount would be the TEI, minus the credit to indebtedness ( $\$95,000 - \$88,130 = \$6,870$ ).

2. Compare Gross Claim Amount to Guaranty Amount. If the guaranty amount is greater than or equal to the gross claim amount, the amount payable is the gross claim amount. If the guaranty amount is less than the gross claim amount, the amount payable is the maximum guaranty amount, plus any VA liquidation appraisal fees, Title V septic fees in the State of Massachusetts on VA-acquired properties, and any incentive payment for a DIL of foreclosure or compromise sale.

3. Determine Total Amount Payable at Claim. The total amount payable at claim may differ from the amount calculated in Step 2 if the loan termination type was a compromise sale or DIL. In these cases, the total amount paid at claim is the claim amount payable, plus any incentive amount payable. Incentives are paid only when the case is eligible for an incentive payment.

#### 14.07 OTHER REVIEW CONSIDERATIONS ON CLAIM PAYMENT

a. RIs. Prior to claim payment, all RIs will be reviewed to determine if VA's liability has been increased, and if a monetary adjustment is warranted to reduce the claim payment. If the gross claim is in excess of the calculated maximum guaranty after adjustments have been made, the claim payable will remain at maximum guaranty. If the gross claim is less than the calculated maximum guaranty after adjustments have been made, the gross claim will be payable at the reduced amount. VA only penalizes the servicer for the amount that should not have been included in the claim if they had complied with the regulation.

b. Bankruptcy. When a portion of the debt owed on a loan has been legally discharged by a bankruptcy court (cram-down), the amount discharged by the court shall be treated as a prepayment to principal as of the date of the discharge. VA will allow and pay the bankruptcy attorney fees and filing fees only when the servicer reports a Bankruptcy Update Event in VALERI with relief of stay filed or stay lifted information.

c. Joint Loans. A loan made between a Veteran and non-Veteran is considered a joint loan. VA will credit the net value to the TEI (only including the Veteran's share of the eligible liquidation expenses). VA's liability will be equal to the Veteran's share of the balance remaining, not to exceed the original maximum amount of guaranty, plus the cost of the liquidation appraisal, Title V septic fees in the State of Massachusetts on VA-acquired properties, and any incentive paid for a compromise sale or DIL of foreclosure.

d. Open Issues. All open issues must be resolved and adjustments made prior to

claim payment. This includes, but is not limited to, cases with potential fire loss, extenuating property conditions, or where VA requested a postponement of foreclosure.

#### 14.08 CREDITS TO CLAIM

a. All credits applicable to the indebtedness are listed separately on the claim to show the description for each credit. Most credits, such as insurance premium refunds, any rents collected by the holder, and any funds the servicer applied to the account to reduce the indebtedness, must be credited prior to loan termination or the servicer's submission of the Basis Claim event.

b. The following are examples of credits to claim:

1. Escrow Balance. The last positive escrow balance and/or any funds applied to the tax and insurance account will be credited unless the holder has also claimed advances for the payment of taxes and/or insurance premiums. If this is the case, advances will be reduced by applying the balance in the tax and insurance account to the earliest advances.

2. Origination Buy-down. The amount of any unspent funds escrowed with a third party for application to the loan, such as funds contributed by the seller to pay part of the interest due on the loan according to a fixed schedule. These funds will be applied as a credit to reduce the indebtedness on the loan.

3. Unapplied Funds. Any payments held in suspense because they are less than the amount of a full-monthly installment will be applied as a credit to reduce the indebtedness on the loan.

4. Insurance Loss Proceeds. Any hazard insurance proceeds received by the servicer during the life of the loan must be credited to the indebtedness upon receipt, unless the proceeds were used to restore the property. If the proceeds are received during the delinquency or after termination of the loan, the funds should be listed as loss proceeds credit on the Basic Claim Event. Proceeds of an insurance loss arising from a total or near total destruction of the property, should normally be sufficient to cover the mortgage debt. A terminated loan with a net claim under the guaranty indicates that either the property was not adequately insured or if the coverage was adequate, that the insured loss was settled for less than the insurer's full liability. If it is established that any insurable damage to the security was inadequately insured or that any damage settlement was inequitable, Regional Loan Centers (RLCs) will submit the claim to VA Central Office for review.

#### 14.09 SERVICER RECEIVES CLAIM PAYMENT

a. VA will review and make a determination on a claim payment. Payment information can be located on the Payment History link on the SWP. For information on how VA calculated the claim payment, including any information on items that were allowed or disallowed, servicers may view the Claim Payment Status Report in VALERI.

Servicers may contact the VA-assigned technician to research a claim payment if the funds are not received within 14 days after the Financial Management System (FMS) issued a payment transaction number.

b. On initial claims, the servicer has 30 days from the claim decision or rejection to exercise the option to appeal. For more information on appeals, refer to Chapter 16.

#### 14.10 SUPPLEMENTAL CLAIMS

a. A servicer may submit a Supplemental Claim Event with fully-supported documentation for VA to review any additional credits, advances, or expenses that were not submitted on the original Basic Claim Event. All previously submitted claims (original, appeal or supplemental) must be certified before the servicer can submit any additional supplemental(s) for consideration. Items not supported with adequate documentation will be denied.

#### 14.11 CLAIM PROCESS FOR MOBILE HOMES (38 CFR 36.4824)

a. Servicers must file all claims for manufactured (mobile) homes not affixed to a permanent foundation by submitting required documentation to the St. Paul RLC. Mobile home claims differ from terminated or refund claims because they require Manual claim calculation.

b. Servicers are required to submit one of the following forms along with supporting documentation after the sale or other liquidation of the security for the loan:

1. [VA Form 26-8629](#), *Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only)*, OR

2. [VA Form 26-8630](#), *Manufactured Home Loan Claim Under Loan Guaranty-(Manufactured Home Unit and Lot or Lot Only)*.

c. Servicers do not upload any documentation in the SWP.

d. The payment information will not be displayed on the Claim Payment Status Report or on the Payment History link in VALERI because the mobile home loan does not exist in VALERI.

e. Once the claim payment information is properly entered into FMS, the servicer should receive their claim payment within 14 days.

#### 14.12 FUNDS RECEIVED BY VA AFTER CLAIM PAYMENT

a. VA may receive funds from a servicer after receipt of the claim payment. If it is determined that these funds are due to VA for the reduction of the Veteran's debt, funds will be retained. If the credit would not reduce the net claim payable, the funds will be

returned to the servicer. The Loan Guaranty office must be able to identify all subsequent credits to the loss associated with a Veteran's use of entitlement in order to issue future Certificates of Eligibility, and the Debt Management Center must also accurately track each credit to a Veteran's debt, where appropriate.

b. Upon receipt of funds, the RLC should annotate WebLGY's liquidation screen to account for the credit. In VALERI, the VA-assigned technician should document the case notes and create an "issue" to identify and consider the recovered amounts in any future claim reconsideration request. The RLC will submit the funds to the Administrative Loan Accounting Center for processing.

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### 15.01 POST AUDIT

a. The post audit process protects the interests of both the Veteran and the government. The primary objectives of the post audit are to confirm the appropriateness of payments, account for regulatory infractions, and to make adjustments, as necessary. VA conducts monthly post audit reviews on the following types of cases:

1. Repayment Plan. A repayment plan is eligible for post audit 30-days from the date the incentive payment is confirmed by VA's Financial Management System (FMS).
2. Special Forbearance. A special forbearance is eligible for post audit 30-days from the date the incentive payment is confirmed by Financial Management System (FMS).
3. Loan Modification. Loan modifications are eligible for post audit 90-days from the date the incentive payment is confirmed by FMS. Loan modifications for which VA did not pay an incentive are eligible for post audit 90-days from the date the Default Cured Loan Reinstated event processes.
4. Deed-in-Lieu of Foreclosure (DIL). A DIL is eligible for post audit 60-days from the date the claim payment is confirmed by FMS.
5. Compromise Sale. A compromise sale is eligible for post audit 60-days from the date the claim payment is confirmed by FMS.
6. Foreclosure. A foreclosed loan is eligible for post audit 60-days from the date the claim payment is confirmed by FMS.
7. Partial Release of Security. A partial release of security is eligible for post audit 60-days after the VA Loan Electronic Reporting Interface (VALERI) receives the Partial Release of Security event.

### 15.02 VALERI SELECTION, NOTIFICATION, AND ASSIGNMENT OF CASES

- a. On a bi-monthly basis, VALERI selects a random sample of eligible cases for post audit review. When necessary, VA Central Office (VACO) may identify an additional pool of cases for post audit review.
- b. VALERI automatically assigns and distributes cases nationwide to technicians for review. VALERI does not distribute a post audit case to the same technician who was originally assigned the loan.
- c. Once cases are selected, servicers are notified of the selected cases on the Post audit Selection Report on the first and fifteenth day of each month.

15.03 REQUIRED DOCUMENTATION (38 CFR 36.4324(d)(5))

a. Servicers are required to retain records for 3 years and provide supporting documentation on cases selected for post audit within 30-days. VA does not routinely give servicers additional time to submit documents without detailed justification to support a servicer's extension request. If the servicer uploads a document after day 30, but before the VA-assigned technician concluded their review, the document will be used to complete the post audit. If the servicer did not submit the required document, but the information can be clearly and unquestionably verified by an alternative source, it is acceptable to use another document to validate the field.

b. A deficiency waiver letter is required to be sent to the borrower no later than 15-calendar days after receipt of the guaranty claim payment on all loans where VA paid a maximum guaranty claim and the property was conveyed to VA. NOTE: VA does not require a copy of the deficiency waiver letter if the borrower filed bankruptcy during the default period. The deficiency waiver letter must include the date and amount of the indebtedness that has been waived. In the event a servicer fails to provide evidence validating a deficiency waiver notice was sent covering all regulatory requirements, a regulatory infraction with no monetary value will be added during the post audit review. The absence of a deficiency waiver letter does not increase or decrease VA's liability.

c. VALERI lists the supporting documentation servicers are required to submit in the Servicer Web Portal (SWP) under the Submit Documents link.

d. The following provides a definition for each post audit document required:

1. Foreclosure debt analysis. The document used to calculate total debt to determine bid type at time of foreclosure.

2. Appraisal for partial release of security. A VA appraisal showing the reasonable value of the security before and after the partial release, as well as the value of the security being released.

3. Appraiser's invoice. Invoice from an appraiser identifying the property that was appraised.

4. Attorney's notice of procedural errors. Document from the attorney explaining what procedural error caused either a delay in the foreclosure process or an invalid sale.

5. Bill and evidence of payment. An invoice outlining work completed.

6. Compromise sale approval letter. The servicer compromise sale approval letter that was sent to the borrower.

7. Insurance proceeds check (copy). A copy of the check issued by an insurance company to cover property damage.

8. Deficiency waiver letter. Notification from the holder to the borrower that they would be held harmless from the unguaranteed portion of the loan. Must include dollar amount being waived and the date the letter was sent.
9. DIL approval letter. The servicer DIL approval letter that was sent to the borrower.
10. Evidence of the secondary lienholders (title or judgment). A lien report, or other legal document, that shows any judgments or liens on a property.
11. Evidence of third party's failure to consummate sale. In the case of a successful third party bid, a document that shows the third party was unable to remit funds bid at sale to complete the transaction.
12. Financial information. All financial documentation that was used to approve the alternative to foreclosure such as income, expenses, and residual income.
13. Foreclosure attorney referral notice. Letter from the servicer to an attorney to authorize foreclosure proceedings.
14. Closing Disclosure. Document prepared by a closing agent describing a real estate transaction, including the escrow deposits for taxes, commissions, loan fees, points, and hazard insurance.
15. Insurance adjuster's report. An insurance adjuster's settlement recommendations for insurance claims, or claims for damages. Copy of document(s) providing evidence that an insurance claim was filed. This evidence will also provide information on the approval, or denial of the insurance claim.
16. Itemized attorney invoice. Invoice for any services provided by an attorney towards the termination of a loan.
17. Itemized invoice for service provided related to property preservation and work completed. Invoices for services of all work completed and materials used (if applicable).
18. Itemized invoice of work completed. A copy of the invoice(s) listing all repairs that have been completed, the materials used, if applicable, and the amount paid.
19. Itemized invoice of work completed and materials used. An invoice from a property preservation company or general contractor outlining materials, and repairs completed to property.
20. Itemized invoice of work completed and waste management facility receipt. Invoice from the property preservation company, as well as receipt from dumping facility outlining debris removal, including the date, address of the property from which the debris was removed, number of yards dumped, and description of items being dumped or disposed.

21. Ledger/loan payment history. All ledger/payment histories from the first uncured default showing all debits/credits to the account, including refunds for tax and insurance. This includes running balances for principal, escrow, and suspense/unapplied accounts.

22. Loan modification agreement. The executed loan modification agreement between the servicer and the borrower that changed one or more terms of an existing mortgage loan such as the interest rate, number of years allowed for repayment, or amount of monthly payment.

23. Loan modification approval letter. The servicer's loan modification approval letter that was sent to the borrower.

24. Loan modification worksheet. The worksheet used to process the loan modification showing the old and new terms of the loan.

25. Loss mitigation analysis. Documentation supporting the loss mitigation or alternative to foreclosure decision. This would include documentation showing the compromise sale or DIL completed was a cost savings to VA over foreclosure.

26. Loss mitigation letter. The servicer's letter sent to borrower explaining loss mitigation options.

27. Military documentation showing active duty status. A copy of the mortgagor's military orders, which; include the date, and duration of the active-duty status.

28. Mortgage note. The note, including variable mortgage addendums if applicable, is a written agreement between the borrower and servicer signed at closing to repay a loan. The note is secured by a mortgage, serves as proof of indebtedness, and states the manner in which it shall be paid. The note also states the actual amount of the debt secured by the mortgage and renders the mortgagor personally responsible for repayment.

29. Foreclosure document (per state requirements). Requirement document(s) providing results of sale.

30. Official notice providing evidence of unusual property circumstance. Documentation supporting an unusual property circumstance (i.e., demolition, methamphetamine lab, police seizure).

31. Electronic bankruptcy docket report. A Docket Report for each bankruptcy filed during the default period.

32. Partial release of security instrument. The legal document used for releasing a portion of the security.

33. Payment return letter. The servicer's letter to the borrower explaining the reason for the returned payment.

34. Property inspection verification. A document that includes at minimum the following: date of the property inspection, cost of the inspection and occupancy status.
35. Public/official notice of contested foreclosure. A document filed that shows the borrower has contested the foreclosure action.
36. Public/official notice of postponed/cancelled foreclosure sale. State required document showing a foreclosure sale has been either postponed or canceled.
37. Public/official notice of scheduled foreclosure sale. Document giving legal notice of the date, time, and place of sale.
38. Purchase agreement. The executed legal agreement detailing the sale of the property, including the price and terms of the sale.
39. Recorded deed from the homeowner to servicer. The recorded legal document that was used to transfer ownership from the borrower, to the servicer on a DIL.
40. Release of liability. A formal agreement absolving a mortgagor from responsibility under a mortgage because another party has agreed to assume the mortgage obligation.
41. Repayment plan agreement. The written repayment plan agreement between the borrower and servicer.
42. Servicing case notes. All servicing case notes that can be generated from the servicer's operating system during the life of the current default. The servicing notes should include: collection notes, loss mitigation notes, bankruptcy notes, foreclosure notes, and tax/insurance notes, etc.
43. Sheriff's appraisal/notice of value (NOV). A document that shows the "as-is" value of the property, which is used to determine the bid amount for a foreclosure sale or alternative to foreclosure.
44. Title company invoice. Invoices showing work completed, date completed, and amount due.
45. Underwriting package. All underwriting documentation that was used for the approval of the loan modification, such as the credit report, financial information, and hardship letter.
46. Special forbearance agreement. The written special forbearance agreement between the borrower and servicer.

#### 15.04 TECHNICIAN REVIEW REQUIREMENTS

- a. During a post audit review, the VA-assigned technician determines the validity of the application of mortgage payments, credits, and disbursements from the borrowers account during

the default period. VA-assigned technicians review the cumulative claim to validate that all suspended/unapplied funds have been properly accounted for and applied to the account during the default period. If an error is identified and the only ability to correct it is through the post audit process, the VA-assigned technician makes the adjustment and documents the case notes of the action. All post audit reviews must be completed within the VALERI established timeframes. Regional Loan Centers (RLCs) are not charged with a negative accuracy finding for any unidentified servicer omission.

b. VA-assigned technicians use all available documents and resources to verify information during their review. If an appraisal invoice has not been provided by the servicer, the VA-assigned technicians review the appraisal information in WebLGY to determine if an invoice is available in order to validate the fee.

### 15.05 POST AUDIT RESULTS

a. Results of the post audit review can be found on the post audit Detail Results Report. Regulatory infractions issued on the post audit may impact the servicer's performance for tier ranking purposes. If the final results reveal an overpayment, VA will issue a bill of collection (BOC), which can be found on the BOC Status and Offsets report.

### 15.06 QUARTERLY POST AUDIT REPORTS

a. Every quarter, VACO analyzes system-generated reports to identify patterns, trends, or common mistakes to determine if there are servicer specific issues. If the error trend continues on a regular basis, VACO may increase the number of cases selected for post audit. Servicer consequences of continued negative post audit findings include:

1. Tier ranking is adversely affected.
2. Mandatory training.
3. Full on-site audit.
4. Referral to the Office of the Inspector General.

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### 16.01 APPEALS

a. Servicers may submit an appeal when they disagree with a VA payment or event decision. All appeals must be submitted within 30 days from the date of VA's decision.

b. Servicers must provide supporting documentation and their justification at the time the appeal is submitted in the Servicer Web Portal (SWP). Servicers may not appeal a VA decision more than once. As a result, if there are multiple disallowed items on a claim payment, they must submit only one appeal inclusive of all items.

### 16.02 APPEALABLE ITEMS

a. Servicers may appeal the following:

1. Denied Incentives.

2. Claims:

(a) Late Claim. Claims submitted beyond 365 days after termination.

(b) Denied Claim. Where VA's decision was to deny (e.g., deny a claim in a situation of an indemnification agreement and the servicer is the originating lender).

(c) Paid Claim. Disallowed items or amounts, unpaid principal balance, proceeds of sale, and days of interest.

(d) Negative Claim. Claim is negative and generates a bill of collection (BOC).

3. Acquisitions:

(a) Late Acquisition. Transfer of Custody (TOC) was not submitted within 15 days of termination (results of sale, confirmation of sale, or deed recorded).

(b) Denied Acquisition. TOC where VA denied acceptance of the property.

(c) Paid Acquisition. When the servicer believes they were entitled to a different amount.

4. Regulatory Infractions. Regulatory infraction, which VA imposed and the servicer believes to be invalid.

5. BOC. BOC imposed which the servicer believes to be invalid.

6. Post-Audit Claim. When the servicer disagrees with VA's findings on a post-audit claim.

### 16.03 REVIEW OF THE APPEAL

a. VA-assigned technicians carefully review and consider reimbursement over the listed maximum allowable on the claim within reason. This is especially important for items where the servicer has no control, such as foreclosure facilitation/recording/filing fees or other items that may be established by local governmental or independent authorities. Appeals submitted without proper documentation will result in the denial of the appeal.

b. VA allows interest for 210 days from the due date of the last paid installment, plus the maximum allowable state foreclosure timeframe. If delays occur which are beyond the control of the servicer, they may submit an appeal for additional interest on the loan. Servicers are not allowed additional interest if the delay was due to an error by the servicer's attorney or the servicer.

c. Items that cannot be paid above the regulatory maximum include attorney fees (foreclosure, deed-in-lieu of foreclosure, bankruptcy), property inspections, appraisal fees, and bankruptcy filing fee.

d. Appraisal updates, investigation fee related to service, special assessments, attorney fees for foreclosure restarts, and vacant property registration, may be allowed at the time of appeal with the proper documentation and justification submitted.

e. For final accounting/investor purposes, servicers may submit an appeal on loans where a claim may have reached the maximum guaranty payable. No payment may be issued; however, VA will carefully review and consider any item that may be approved as an allowable item. Servicers can view VA's decision via the Appeal Status Report. The report provides information regarding the final decision, justification, and approved/disallowed amounts. Appeal decisions may be used by the servicer to obtain reimbursement funds from their investor.

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### 17.01 BILL OF COLLECTION

- a. A bill of collection (BOC) is issued any time VA determines that a servicer should not have received all or part of a payment from VA. BOCs can be generated by the VA Loan Electronic Reporting Interface (VALERI) or by a VA technician. The VA-assigned technician reviews, makes a recommendation to establish the BOC against the servicer, and documents the case notes.
- b. Once an Assistant Loan Technician or Loan Technician completes the necessary processes for a BOC, the VALERI application automatically routes the BOC to an approval workbasket for an approving designee to complete.
- c. The approving/certifying designee, Senior Loan Technician (SLT), Servicing Officer (SO) or Loan Administration Officer (LAO), reviews the financial data and case history prior to approving, denying, or certifying BOCs. Based on VA regulation to ensure data integrity, VALERI prohibits the same user from approving and certifying the same BOC.
- d. Once the approving official certifies the BOC, the servicer has 45 days to satisfy the debt. If the debt has not been satisfied timely, VA will offset future payments to the servicer until the amount of the BOC is recovered. Servicers can view the BOC Status and Offsets report for a detailed description of each debt established.

### 17.02 BILL OF COLLECTION TYPES

- a. The following is a list of potential BOCs that may be issued on a loan:
  1. Cancelled Guaranty. VA only makes payments on guaranteed loans. VALERI automatically opens a BOC process for review if a payment was made on a loan and the WebLGY system later notifies VALERI that the loan was not eligible for guaranty. This can happen as a result of an Inspector General review or a determination that either the Veteran or the property was ineligible for guaranty. The BOC is issued for the amount of any payments previously paid to the servicer on the loan.
  2. Incentives. A BOC for an incentive payment may be issued if VA paid the incentive twice for the same default or the Default Cured Loan Reinstatement (DCLR) event is reported by the servicer in error.
  3. Property Acquisition Overpayment. VALERI generates a BOC for a negative claim when the credit to indebtedness (proceeds of sale/acquisition payment) exceeds the total eligible indebtedness calculated by VALERI and the property is conveyed.
  4. Invalid Sale Identified after VA paid an Acquisition and/or Claim Payment. When an Invalid Sale event is reported by the servicer, a BOC will be generated to collect the acquisition amount, plus the property management assignment fee. The servicer may receive an additional BOC from VA's Contract Assurance – Property Management Unit (CA-PM) for any additional management expenses incurred while the property was in VA's custody. All BOCs must be

satisfied before VA will accept any future transfers of custody (TOC) on the loan. If VA paid a claim, VALERI will issue a separate BOC for any claim payments.

5. Improper TOC Identified after VA Paid an Acquisition and/or Claim Payment. When an Improper TOC event is reported by the servicer or VA, VALERI calculates the BOC to include the acquisition amount, plus the property management assignment fee. The servicer may receive an additional BOC from VA's CA-PM for additional management expenses incurred while the property was in VA's custody. Although custody was returned to the servicer, the servicer may still be entitled to a claim payment. If the bid was a total debt bid, VA will issue a BOC to recover both the acquisition amount and all claim payments. If the bid was a net value bid and VA paid a claim, VALERI may include a separate BOC for any amount no longer payable to the servicer. In some instances, the BOC may not be necessary on maximum guaranty claim payments.

6. Post Audit. A BOC may be issued on a post-audit review for the following reasons:

- (a) Failure to substantiate claimed items with the exception of the VA appraisal.
  - (b) Failure to support home retention options with incentives paid.
  - (c) Credits not previously reported on the claim, but substantiated by the ledger.
  - (d) If VA's liability was increased at time of claim due to an egregious loan modification identified by an early payment default review.
  - (e) Regulatory infraction identified.
- b. The servicer may appeal a BOC within 30 days of VA certifying the post-audit review. For more information on appeals, refer to Chapter 16 of this Manual.

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CHAPTER 18. REGULATORY INFRACTIONS

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### 18.01 REGULATORY INFRACTIONS

a. Servicers are required to adhere to VA regulatory requirements. In certain circumstances, the servicer may need to obtain VA approval to deviate from a regulation. All pre-approval requests must be submitted to and approved by VA prior to servicers taking any action outside of VA regulation. Refer to Chapter 6 of this Manual for additional information on pre-approvals.

b. A regulatory infraction occurs when a servicer does not comply with VA regulatory requirement(s). Regulatory infractions are system generated or manually added by a VA technician anytime throughout the life of the loan, after termination, and when conducting a post audit. All regulatory infractions are reviewed by the VA-assigned technician to determine if a monetary adjustment is warranted prior to claim payment or post-audit certification. All reviews must be completed within the VA Loan Electronic Reporting Interface (VALERI) established timeframes and properly documented in case notes.

c. VA records all approved regulatory infractions in VALERI to gather information for servicer performance purposes.

### 18.02 REGULATORY INFRACTIONS DESCRIPTIONS

a. The following provides descriptions of system-identified and technician-identified infractions.

#### 1. System-Added Infractions.

(a) Servicers must deliver to the Secretary all legal documents, including proper loan assignments required as evidence of loan transfer, within 60-calendar days of a VA loan refund notice. Identified during the refund process when the VA-assigned technician enters the date the title documents were received and the date is more than 60-calendar days after the refund approval date (38 CFR 36.4320).

(b) Transfer of ownership on a delinquent loan. Identified when the servicer reports the Transfer of Ownership event on a loan where an electronic default notice (EDN) was previously reported and the default has not cured (38 CFR 36.4303).

(c) Release of liability on a delinquent loan. Identified when the servicer reports the Release of Liability event on a loan where an EDN was previously reported for the current default and the default has not cured (38 CFR 36.4309).

(d) Failure to maintain adequate insurance. Identified when the servicer reports the Transfer

of Custody event and the servicer reports that the expiration date of any of the current insurance policies is prior to the report date of the event. (38 CFR 36.4329)

## 2. Technician-Added Infractions.

(a) Late loss mitigation letter sent. Identified when VA determines that the servicer failed to send the loss mitigation letter within 45-calendar days of delinquency on early payment defaults or 75-calendar days of delinquency for non-early payment defaults (38 CFR 36.4350(g)(1)(iv)).

(b) Excessive late charges. Identified when VA determines that the amount of late charges the servicer reported on the EDN or Delinquency Status Update (DSU) equals more than four percent of any installment paid more than 15-days after the due date (38 CFR 36.4312(c)).

(c) Failure to order an appraisal timely. Identified when the servicer reports the Transfer of Custody event and the servicer reports that the expiration date of any of the current insurance policies is prior to the report date of the event (38 CFR 36.4322(b)(1)).

(d) Improper partial release of security (loan to value). Identified when VA determines the servicer completed a release for a portion of the property outside of the regulatory requirements without pre-approval from VA, which results in a negative impact on the security for a guaranteed loan (38 CFR 36.4327).

(e) Improper return of partial payments. Identified any time VA determines the servicer returned a partial payment to the borrower in error (38 CFR 36.4316).

(f) No contact attempted. Identified any time VA determines the servicer failed to attempt contact with the borrower (38 CFR 36.4350(g)).

(g) Failure to accept funds to reinstate. Identified when the servicer refuses to accept sufficient funds to bring the delinquency current at any time prior to termination unless accepting the funds would adversely affect the dignity of the lien or precluded by law (38 CFR 36.4309(h)).

(h) Failure to complete property inspections. Identified when a servicer fails to complete property inspections securing the loan when:

(1) The condition of the property may be in jeopardy,

(2) Before day 60 of delinquency or before initiating action to liquidate a loan, whichever is earlier, or

(3) At least monthly once liquidation proceedings have started unless servicing information shows the property remains owner occupied. Note: an infraction may not be warranted if the borrower is under an active repayment plan (38 CFR 36.4350(i)).

(i) Loan terminated without appraisal. Identified when the servicer completed the termination

of a loan without obtaining a fair market value from a VA appraisal (38 CFR 36.4322(b)).

(j) Unauthorized transfer of ownership. Identified when the servicer reports the Transfer of Ownership event on loans that originated on or after March 1, 1988, and they do not also report the Release of Liability event at the same time, or when VA discovers an unauthorized transfer of ownership (38 CFR 36.4309).

(k) Failure to send loss mitigation letter. Identified when VA determines the servicer failed to send the loss mitigation letter to the borrower during any delinquency of the loan (38 CFR 36.4350(g)(1)(iv)).

(l) Improper modification. Identified when a servicer reports a Loan Modification Complete event and the terms fail to comply with regulatory requirements unless the servicer received pre-approval (38 CFR 36.4315).

(m) Improper bid amount (incorrect calculation). Identified when the servicer reports the Results of Sale (ROS) or Deed-in-Lieu Completed event and it is determined the servicer used incorrect calculations to complete the termination of the loan (38 CFR 36.4322(c)).

(n) Events. Identified when servicer fails to report required events to VA throughout the life of the loan (38 CFR 36.4303).

(o) Technician Identified Other Infraction. Identified when VA becomes aware the servicer has failed to comply with any other regulatory requirement not specified in VALERI (38 CFR 36.4300 series).

### 3. System-Added OR Technician-Added Infractions.

(a) No supporting documentation. Identified any time VA determines the servicer failed to substantiate information during the post-audit review or any process where documentation is required (38 CFR 36.4324(d)(5)).

(b) Late reporting. Identified when a servicer reports an event electronically to VA after the event's reporting timeframe expires (servicer-added) OR when a servicer reports an event to VA via telephone call, email, fax, or letter after the event's reporting timeframe expires and fails to report adequate justification for the delay (technician-added) (38 CFR 36.4317).

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### 19.01 DISASTERS

a. This chapter addresses Department of Veterans Affairs (VA) guaranteed home loans affected by a Federal Emergency Management Agency (FEMA) disaster such as flooding, tornado, storms, etc. This includes ecological or other human-made disasters, and provides guidance on what actions should be taken to assist the affected borrowers. Affected borrowers are considered those borrowers whose homes were damaged or destroyed, the families of those killed, those who suffered considerable personal injury, those who provide assistance to impacted family members, and those whose work environments were destroyed, severely damaged or compromised as a result of the disaster. Servicers must check with FEMA to obtain the specific counties included in the federally declared disaster area and corresponding declaration dates, along with any amendments to the declaration, at [www.fema.gov/disasters](http://www.fema.gov/disasters). Any VA loan which closed prior to the date of the declared disaster is eligible for VA loss mitigation options. Please refer to Title 38, Code of Federal Regulations (CFR), section 36.4329 (Hazard Insurance), regarding insurance coverage for properties which may have been damaged or destroyed by the disaster.

### 19.02 BORROWER ASSISTANCE

a. VA encourages servicers of guaranteed loans to extend all available options to borrowers in distress as a result of a disaster. Responsible counseling with borrowers should help servicers determine whether the delinquency is related to a disaster, or whether it stems from other sources that must be addressed. The proper use of authorities granted in VA regulations may be of assistance to servicers in appropriate cases. For example, 38 CFR 36.4311 (Prepayments), allows the reapplication of prepayments to cure or prevent a default. This means that if a borrower has made enough additional prepayments, the pre-payments may be reversed, the principal balance increased up to the scheduled balance and then pre-payments may be re-applied as regular installments. Also, 38 CFR 36.4315 (Loan modifications), allows the terms of any guaranteed loan to be modified without the prior approval of VA, provided certain conditions in the regulation are satisfied.

### 19.03 MORATORIUM ON FORBEARANCE

a. Although the loan servicer is ultimately responsible for determining when to initiate foreclosure and completing a termination action, VA requests that servicers establish a 90-day moratorium from the date of a disaster on initiating new referrals to foreclosure on affected loans. VA regulation 38 CFR 36.4324(a)(3)(ii) allows additional interest on a guaranty claim when termination has been delayed due to circumstances beyond the control of the servicer, such as VA-requested forbearance. If the servicer notifies the VA-assigned technician of forbearance due to a disaster, the VA-assigned technician must identify that loan in the VA Loan Electronic Reporting Interface (VALERI) to ensure case notes are documented properly and interest is adjusted accordingly. Any questions about impact should be discussed with the VA-assigned technician.

#### 19.04 VA DISASTER LOAN MODIFICATION

a. The VA Disaster Loan Modification allows servicers to extend permanent payment relief to impacted delinquent borrowers when the borrower has not submitted a complete loss mitigation application. All impacted borrowers should have an opportunity to be considered for a VA Disaster Loan Modification as long as eligibility requirements are met.

b. Evaluation of Borrower - Servicer evaluation of the borrower's financial information is not required. Pre-approval is automatically granted for 38 CFR 36.4315(a)(3) requiring borrower's creditworthiness to be evaluated under the criteria specified in 38 CFR 36.4340.

c. If eligible for the VA Disaster Loan Modification program, borrowers must successfully complete a 3-month Trial Payment Plan (TPP) period and sign the VA Disaster Loan Modification Agreement in order to receive a permanent loan modification.

d. Servicers are encouraged to continue VA Disaster Loan Modification solicitation efforts throughout the delinquency and the foreclosure process, up to 12 months after the federally-declared disaster.

19.05 ELIGIBILITY FOR VA DISASTER LOAN MODIFICATION. Following forbearance relief, servicers may offer a VA Disaster Loan Modification to delinquent borrowers impacted by a disaster, subject to the following conditions:

- a. The mortgage loan is a VA-guaranteed first lien mortgage loan.
- b. The borrower has been impacted by a federally-declared disaster.
- c. The mortgage loan was no more than 30 days past due at the time of the disaster.
- d. The mortgage loan is at least 60 days delinquent after the disaster forbearance period has ended. Servicers may offer a disaster modification to a borrower prior to the expiration of the forbearance period if clear evidence exists that the borrower is ready to resume monthly installments.
- e. The servicer must follow 38 CFR 36.4315 with respect to amounts included in the modified indebtedness, Interest Rate Adjustment, and Term extensions.
- f. The borrower has not submitted a complete loss mitigation package or is not performing under a loss mitigation option at the time of consideration for a VA Disaster Loan Modification.

- g. The borrower must complete a TPP.
- h. The servicer may not offer a TPP in connection with the VA Disaster Loan Modification more than 12 months after the federally-declared disaster event.
- i. Servicers have discretion to consider other eligibility exclusion criteria including but not limited to, loans in active bankruptcy, mediation or litigation, upon advice of servicer's counsel.

#### 19.06 TRIAL PAYMENT PLAN (TPP)

a. A 3-month TPP period is required to demonstrate the ability to make the modified monthly mortgage payment. VA encourages the servicer to provide the written TPP offer within 15-calendar days of the date the servicer determines the borrower to be eligible. If the servicer sends the TPP on or before the 15th day of a calendar month, the servicer must use the first day of the following month as the first trial plan payment due date. If the servicer sends the TPP after the 15th day of a calendar month, the servicer must use the first day of the successive month following the next month as the first trial plan payment due date. To accept the offer, the borrower can notify the servicer verbally or make the first TPP. The servicer must provide the borrower foreclosure protection, by placing any foreclosure proceedings on hold, upon receipt of the first TPP. The borrower must make each of the three scheduled trial payments by the last day of the month in which the payment is due.

#### 19.07 FINAL VA DISASTER LOAN MODIFICATION AGREEMENT

a. After successfully completing the TPP, the servicer will provide the borrower with the VA Disaster Loan Modification Agreement. The servicer must prepare the agreement early enough in the trial period to allow sufficient processing time so that the modification becomes effective on the first day of the month following the final trial period month.

b. In the event the borrower does not make the final trial period payment on or before the due date set forth in the TPP (but does make the final trial period payment before the end of the month in which it is due), the servicer may complete the VA Disaster Loan Modification Agreement making it effective on the first day of the second month following the final trial period month. In this scenario, the borrower will not be required to make an additional trial period payment during the (interim) month in between the final trial period month, and the month in which the modification becomes effective.

c. The borrower must sign and return the VA Disaster Loan Modification Agreement. The borrower must agree to set up an escrow account for taxes, hazard, and flood insurance prior to the beginning of the TPP, if one does not currently exist.

### 19.08 SERVICER INCENTIVES

- a. Standard incentives for a completed loan modification will apply.

### 19.09 LATE CHARGE WAIVERS

- a. VA believes that many servicers waive late charges on loans in a disaster area, and encourages all servicers to adopt such a policy for any loans that may have been affected due to the ripple effect of the disaster.

### 19.10 CREDIT AND VA REPORTING

- a. VA urges servicers to consider suspension of credit reporting on Veteran borrowers who have been affected by a disaster to avoid damaging credit records.

- b. VA will not penalize servicers for any late default reporting as a result of the disaster. This may include direct damage to servicer facilities located in the disaster area or their operations which have been impacted by business partners within the disaster areas.

### 19.11 EXCEPTIONS

- a. The below conditions do not apply to the VA Disaster Loan Modification:
  1. Fewer than 12 months of payments have been made since the mortgage loan was originated.
  2. The mortgage loan was previously modified in the past 3 years; or the mortgage loan was previously modified 3 or more times, regardless of the modification program or dates of the prior modifications.
  3. The borrower previously defaulted on a prior Streamline Loan Modification TPP or a Streamline Loan Modification.
- b. The servicer may seek pre-approval from VA prior to completion of the VA Disaster Loan Modification for any issues that are outside of the policy guidance provided in this chapter.