

Ginnie Mae Pass-Through Assistance Program All Participants Memorandum

By **Jonathan C. Wishnia**, **Meagan R. Signoriello**, and **Timothy J. Nichols**

On April 10, Ginnie Mae issued a new **All Participants Memorandum** (APM) officially implementing its Pass-Through Assistance Program (PTAP/C19) for issuers under Ginnie Mae's Single-Family program for which the COVID-19 national emergency has caused liquidity concerns. The PTAP/C19 is not available to issuers under Ginnie Mae's multifamily or reverse mortgage programs. The specific requirements governing the request, acceptance, and provision of PTAP/C19 assistance, including document submission requirements, are incorporated into **Chapter 34, Part 2, Section E** of the Mortgage Backed Securities Guide (the MBS Guide). Issuers may request that Ginnie Mae extend assistance under the PTAP/C19 through a Request for Pass-Through Assistance Related to COVID-19 and Repayment Agreement (Request and Repayment Agreement), and a Master Supervisory Agreement will govern the terms of any PTAP/C19 assistance. While a request for assistance under the PTAP/C19 and/or provision of assistance under the PTAP/C19 will not constitute an event of default under the Ginnie Mae Guaranty Agreement, any breach of the Master Supervisory Agreement or related Request and Repayment Agreements will constitute an event of default under the Master Supervisory Agreement and related Request and Repayment Agreements, the MBS Guide, and the Guaranty Agreement.

Any amounts advanced by Ginnie Mae in a given month will accrue interest at a fixed rate applicable to all issuers, which will be posted by Ginnie Mae on its website on the second business day of each month. Issuers may request assistance through the PTAP/C19 only once per month to cover shortfalls on payments of principal and interest owed to holders of mortgage-backed securities for that month. Critically, issuers may use funds acquired through the PTAP/C19 only to cover principal and interest payment shortfalls associated with loans that are delinquent, including loans in forbearance, as of the date each

request for assistance is submitted. Issuers may not use PTAP/C19 funds to cover other issuer operational or servicing costs.

Third parties providing financing for advances of Ginnie Mae principal and interest should note that, pursuant to the Master Supervisory Agreement, if an issuer defaults, repayment of advances to any third party is subordinate to Ginnie Mae's repayment right under the Master Supervisory Requirements for Requesting PTAP/C19 Assistance.

In addition to the provisions discussed in the APM above, Chapter 34, Part 2, Section E of the MBS Guide also contains additional requirements of which issuers should be aware. Ginnie Mae considers the PTAP/C19 a "last resort," and will assess whether there are sufficient grounds to expect the timely repayment of any assistance advanced by Ginnie Mae through the PTAP/C19. Ginnie Mae also acknowledged that the PTAP/C19 is not intended to address the full extent of solvency issues issuers might face because of the COVID-19 pandemic.

When an issuer makes the initial request for assistance through the PTAP/C19, the issuer must submit a single copy of the Request and Repayment Agreement, properly executed by an authorized corporate official identified in the issuer's form HUD 11702. The maximum monthly assistance amount available to an issuer is based on the sum of principal and interest remittance due to investors on loans for which the issuer did not receive the full monthly payment from the borrower, regardless of the reason for the missed payment. Additionally, an issuer must submit two copies of the Master Supervisory Agreement, properly executed by an authorized corporate official, as well as a signed statement, on the issuer's letterhead, describing the issuer's previous efforts to obtain private financing or other assistance to cover the principal and

interest shortfalls and outlining the issuer's plan for repaying Ginnie Mae for the funds advanced through the PTAP/C19. Ginnie Mae may also request additional supporting documentation.

After an issuer receives funds through the PTAP/C19 the first time, any subsequent requests for assistance through the PTAP/C19 require the issuer to submit only a new Request and Repayment Agreement and any other supporting documentation required by the Master Supervisory Agreement or otherwise requested by Ginnie Mae. Ginnie Mae's approval to advance funds through the PTAP/C19 one month does not constitute approval to advance funds in any other month, and Ginnie Mae will evaluate each PTAP/C19 request for the particular month and retains sole discretion to approve or reject any requests submitted in subsequent months.

An issuer must submit a request for PTAP/C19 assistance, along with the required documentation, no earlier than the fifth business day of the month and no later than the sixth business day of the month. If Ginnie Mae requires additional information, the issuer must submit such documentation within the time frame provided for under the Master Supervisory Agreement or as otherwise required by Ginnie Mae in writing. Failure to submit the documentation timely and accurately may result in an automatic rejection of the request. Issuers must submit

the required documentation via email to PTAP@hud.gov and the email subject line must include the Issuer ID, Issuer Name, and the month and year of the PTAP/C19 request. Issuers must also retain physical copies of the Master Supervisory Agreement and Request and Repayment Agreements bearing wet signatures, which must be mailed to Ginnie Mae upon request.

The amount of funds advanced by Ginnie Mae in accordance with each monthly Request and Repayment Agreement, together with interest, will be due on the last calendar day of the month that is seven months from the month in which the corresponding advance was made, or on July 30, 2021, whichever is earlier. If the last calendar day of a month falls on a weekend or public holiday, the payment will be due on the last business day *before* the last calendar day of the month.

The form documents for the Request and Repayment Agreement and the Master Supervisory Agreement are incorporated in Appendix XI-01A and Appendix XI-02A, respectively, and can be found [here](#) and [here](#).

Visit our *COVID-19 Mortgage & Structured Finance Resource page* [here](#). To see our prior alerts and other material related to the pandemic, please visit the *Coronavirus/COVID-19: Facts, Insights & Resources page* of our website by clicking [here](#).

Contacts

Please contact the listed attorneys for further information on the matters discussed herein.

JONATHAN C. WISHNIA

Partner

Chair, Mortgage & Structured Finance

T: 646.414.6797

jwishnia@lowenstein.com

MEAGAN R. SIGNORIELLO

Partner

T: 973.597.2498

msignoriello@lowenstein.com

TIMOTHY J. NICHOLS

Associate

T: 973.422.2950

tnichols@lowenstein.com

NEW YORK

PALO ALTO

NEW JERSEY

UTAH

WASHINGTON, D.C.

This Alert has been prepared by Lowenstein Sandler LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship. Lowenstein Sandler assumes no responsibility to update the Alert based upon events subsequent to the date of its publication, such as new legislation, regulations and judicial decisions. You should consult with counsel to determine applicable legal requirements in a specific fact situation. Attorney Advertising.