



MORTGAGE BANKERS ASSOCIATION

March 11, 2026

Honorable Patrick J. Zondervan
Executive Director, Loan Guaranty Service
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

RE: VA Draft of Partial Claim and Loss Mitigation Waterfall Changes

Dear Mr. Zondervan,

The Mortgage Bankers Association (MBA)¹ welcomes the opportunity to comment on the Department of Veterans Affairs' (VA) proposed policies establishing a partial claim option and changing the VA's loss mitigation waterfall. The MBA thanks the VA for implementing the *VA Home Loan Program Reform Act* and applauds the VA for its use of the Drafting Table to gather feedback from stakeholders before implementing policy. This demonstrates the VA's commitment to fostering a collaborative relationship with stakeholders that will result in better policy rollouts, more resilient programs, and better outcomes for Veterans. We offer the feedback below and in the requested worksheet in the spirit of that partnership and look forward to working with VA in the next iteration of this policy to incorporate feedback provided.

We want to highlight some of our top-line recommendations below. MBA has also provided the highlighted feedback described below as well as other substantial feedback in our workbook response to the drafting table policy.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

Ensure That the Loss Mitigation Waterfall Works for Both Veterans and Lenders

The VA's proposed loss mitigation process should be simplified to provide Veterans with more effective solutions while minimizing costs for the VA and mortgage servicers. As drafted, Veterans will continue to have worse options than similarly situated non-Veterans under Fannie Mae and Freddie Mac (the GSEs) and Federal Housing Administration (FHA) waterfalls. The following changes would make the loss mitigation process significantly more efficient, aligned, and effective:

- 1) Only allowing payment increase modifications at the last step of the waterfall;
- 2) Adding Forbearance into the waterfall to help Veterans with short-term/temporary hardship;
- 3) Only allowing a Veteran to qualify for one permanent home retention option within a 24-month period;
- 4) Not requiring servicers to make judgment calls on Veteran's ability to afford payment options; and,
- 5) Improving the Trial Payment Plan (TPP) program.

The VA should restructure the waterfall to only allow increased monthly payments as a last resort. Payment reduction is the most important driver of modification performance, and the current policy will lead to higher redefault rates.² Specifically, the waterfall should eliminate the traditional modification and not allow increased payments under a 30-year modification ahead of other loss mitigation options. The 40-year modification should be offered in the next step only if it does not result in a payment increase. Only then should a Veteran be offered a Partial Claim. A modification resulting in a monthly payment increase should be offered as a last step if a Veteran has either used their Partial Claim or is otherwise disqualified from receiving one. As drafted, the proposal will also result in VA borrowers having substantially worse loss mitigation options compared GSE and FHA borrowers.

Special Forbearance agreements, where a borrower agrees in advance to either make a lump sum payment or to a repayment plan, should be eliminated from the waterfall and replaced with a standard forbearance option as the first step of the waterfall. Under a standard forbearance arrangement, the VA would permit Veterans to request forbearance in increments of 1 to 3 months up to a maximum of 12 months of delinquency – including the forbearance period – per default episode. In many cases, Veterans will not know at that time if they can afford a repayment plan or lump sum payment because of the uncertainty

² See Office of Comptroller of the Currency, OCC Reports Mortgage Performance for Third Quarter of 2025, at 10 (Dec. 2025), available at <https://www.occ.gov/publications-and-resources/publications/mortgage-metrics-reports/files/mortgage-metrics-report-q3-2025.html> (showing a lower number of redefaults for borrowers who received a loan modification with a payment decrease than a loan modification with an increased payment), See also U.S. Department of the Treasury, Guiding Principles for the Future of Loss Mitigation: How the Lessons Learned from the Financial Crisis can Influence the Path Forward, at 13-14 (July 25, 2016), available at <https://home.treasury.gov/system/files/136/archive-documents/guiding-principles-future-of-loss-mitigation.pdf>.

created by the hardships they face (e.g., a Veteran might not know if they will be reemployed by the time a plan begins). This onerous requirement is far worse than what other non-Veteran borrowers are offered.

If the VA makes the recommended updates to the loss mitigation waterfall, the VA should also only allow a Veteran to qualify for one permanent home retention option within a 24-month period. The current policy creates a structure where a borrower could avoid foreclosure for a significant period. Additionally, churning through loss mitigation options is damaging to Veterans' equity, which could be used for better exit strategies. In the aggregate, this will increase losses to the VA guarantee fund and servicers. Instead, the VA should align with FHA and state that a financially distressed borrower may qualify for only one permanent home retention option in a 24-month period, except in the case of natural disasters. FHA projected approximately \$1 billion dollars on its existing book of business from limiting borrowers to one loss mitigation home retention option per 24-month period, requiring borrowers to demonstrate they are both willing and capable of performing on revised payment terms.³ As part of this fix, the VA should specify that the VA Disaster Modification and Disaster Extend Modification are not part of the prescribed waterfall, to make it clear that these options are still available notwithstanding the 24-month limit.

The TPP is the best assessment for affordability. Servicers should not be required to assess whether a borrower can afford the new payment or whether the reason for default has been resolved. Instead, borrowers should be required to simply affirm that they can afford the new payment under the workout and then demonstrate their ability to make the monthly mortgage payments through successful completion the TPP. Relatedly, a servicer's assessments of a borrower's ability to afford a payment should also not be a determining factor in whether a borrower is referred to foreclosure or alternatives to foreclosure.

While MBA applauds the VA's incorporation of TPPs to streamline the loss mitigation waterfall, we believe that VA can improve the design of their TPPs to make them more effective. To start, the VA should require an escrow analysis before a servicer offers a TPP. This ensures the TPP accurately reflects tax and insurance. Without an escrow analysis, TPPs may ultimately fail and result in higher redefault rates overall. Additionally, the requirement that the payment be made by the 15th day of the month will cause Veterans unnecessary harm. Instead, the VA should allow servicers to accept payments until the end of the month. Lastly, a servicer should not need to fail a borrower's TPP if the payment was returned for non-sufficient funds. This is unnecessarily harsh given that the matter may be resolved in a short amount of time. There should be some amount of time allowed for a borrower to fix this situation without failing a TPP.

³ Federal Housing Administration, Annual Report to Congress Regarding the Financial Status of the Federal Housing Administration Mutual Mortgage Insurance Fund, at 13 (2025), available at <https://www.hud.gov/sites/default/files/Housing/documents/2025FHAAnnualReportMMIFund.pdf>.

Clarify Ambiguity and Effectuate the Purpose of the VA Partial Claim Program

The Partial Claim is a powerful tool to assist delinquent Veterans. This tool must be carefully incorporated into the other changes the VA is considering to the loss mitigation waterfall. The VA should make the following changes to more effectively incorporate the Partial Claim into the waterfall:

- 1) Minimizing eligibility requirements for Partial Claims as much as possible within the limits of the statute;
- 2) Making appropriate fixes to better align with the servicer advance model;
- 3) Clarifying servicers' responsibilities in administering Partial Claims; and,
- 4) Providing reasonable timelines for administering partial claims.

The previous receipt of a COVID-era Partial Claim or COVID Refund Modification should not disqualify a Veteran from this Partial Claim program. As an initial matter, these Partial Claims were offered during a Stafford Act disaster, i.e. COVID. Other borrowers do not have similar restrictions. The use of pandemic-era loss mitigation options by GSE and FHA borrowers does not count against the GSE and FHA limits on loss mitigation use. Leaving this restriction in place would again put Veterans at a disadvantage relative to GSE and FHA borrowers. Additionally, the VA should provide additional VA Partial Claims to Veterans impacted by natural disasters. Congress gave VA authority to provide additional Partial Claims to Veterans impacted by natural disasters. The VA should recognize Congress' intent to support Veterans impacted by disasters and include guidance on providing additional Partial Claims in these cases.

MBA sincerely appreciates the VA's efforts to structure the VA Partial Claim using a servicer advance model. This is more efficient for all stakeholders and avoids significant challenges faced by the FHA Partial Claim program. MBA recommends that the VA review Chapter 22 and fix policy language and disclosure requirements that are inconsistent with the servicer advance model. For example, the Partial Claim Attestation is described as an agreement between only the servicer and the borrower, but the mandatory language contains statements and references regarding the collectible debt due to the VA. As explained in further detail in the workbook, servicers would not be able to make these statements to Veterans because they could constitute confusing or arguably deceptive statements.

As described in more detail in the workbook, the VA should clarify how servicers can sufficiently verify borrower information before submitting documents to the VA. For example, VA should specify how servicers can confirm that the property is the borrower's primary residence.

Lastly, several requirements have operationally challenging timelines, particularly where borrower documentation or validation of facts by the servicer is required. For example, the time allowed for servicers to upload documents to VALERI is too short and should be extended to at least 15 business days. Even if they miss these deadlines, servicers should still be reimbursed for the advance, so long as the documents have been uploaded

correctly. Rather, the penalty for missing a document upload timeline should be forgoing any separate servicer incentive.

Substantially Increase the Time Allowed for Servicers to Implement this Policy

On both the Partial Claim and waterfall, there are dramatic changes to VA loss mitigation that will take significant time to implement. As FHA did when they made similar changes to their loss mitigation process, a period of no less than 180 days should be given before these requirements are mandatory. If the VA shortens this period, which would be commercially unreasonable, it will set inappropriate expectations for Veterans. The industry experienced this exact issue with the prior Administration's implementation of VASP, where the VA said a program was effective months before servicers were ready. This created unrealistic borrower expectation and communication issues. There is no reason to repeat this mistake again. A staggered implementation could ameliorate these concerns by allowing services who can implement the change quickly to stand up the program before the 180-day implementation timeline.

Thank you for the VA's commitment to the Drafting Table. We welcome the opportunity to discuss these issues further and provide input on alternative approaches that balance Veterans' needs with the operational realities facing mortgage servicers today. Should you have questions or wish to discuss this issue further, please contact Justin Wiseman at jwiseman@mba.org or Kaitlin Hildner at khildner@mba.org.

Sincerely,



Pete Mills
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Mortgage Bankers Association