SINK OR SWIM? A DEEP DIVE INTO THE CURRENT STATE OF VA'S HOME LOAN PROGRAM IN A COMPETITIVE MARKET

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BEFORE THE

SUBCOMMITTEE ON ECONOMIC OPPORTUNITY

OF THE

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C O N T E N T S

THURSDAY, FEBRUARY 15, 2024

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THURSDAY, FEBRUARY 15, 2024

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:42 p.m., in room 360, Cannon House Office Building, Hon. Derrick Van Orden (chairman of the subcommittee) presiding.

Present: Representatives Van Orden, Ciscomani, Crane, Levin, McGarvey, and Ramirez.

OPENING STATEMENT OF DERRICK VAN ORDEN, CHAIRMAN

Mr. VAN ORDEN. Good afternoon. The subcommittee will come to order.

Before we begin the hearing today, I would like to take a moment to speak about Mike Gill from the Housing Policy Council (HPC). Mike was a tremendous source of knowledge on housing policy to all of us in this room and a good friend to many of those present here today. We appreciate all the work he did to make the lives of veterans better and to impact so many people. We are very sorry to have lost him at such a young age, and our hearts go out to his family and friends. I would ask you that you join me in a moment of silence, please.

Thank you. I want to thank everyone for being here today to discuss Veterans Administration's (VA) home loan program. As I have said many times, this is not a bipartisan committee. This is a nonpartisan committee, and it is going to stay that way. I am very thankful for your cooperation. I just am.

VA's Home loan program is an important benefit for veterans to achieve the American dream of home ownership. I believe it is essential that we support that dream for our veterans who have served our country. I have used this program myself, and it is awesome.

Last year, the VA helped 145,480 veterans to stay in their homes through various programs and communication efforts. This is a great feat, and I do applaud the VA for this on behalf and like to thank them from all the veterans.

Today, our subcommittee has come together to evaluate the VA's home loan program and its performance in this current competitive market, and this program must be protected. As I said, I have used this and so have many of my friends.

This year, the VA intends to roll out the Veterans Affairs Service Purchasing program, or VASP, as a new approach to keep veterans in their homes. I will be honest, I have grave reservations about this proposed program and the unintended consequences this may have on the overall home loan program, and I am concerned that it could actually ultimately destroy it.

During the COVID–19 pandemic, the VA was given the authority to operate a partial claim payment program to address the potential surge in foreclosures for veterans. There have also been proposals to reinstate this authority as an alternative to VASP. I want to make it clear, I firmly believe the VA has the best intentions to serve our Nation's veterans. VA employees across the country work hard to ensure that veterans use the home loan benefits they have rightfully earned by defending our country. I am very eager to hear what you are going to say, what the witnesses are going to say, and the answers to several questions that will be asked that I have about the proposed changes and how the current program is operating.

However, over the last year, the subcommittee has received little information about how the proposed VASP program would operate. We have also received little information about the expected cost of the program and even less information regarding how much such a program would affect the larger mortgage markets.

Recently, we have seen a push from the administration for a moratorium on foreclosures and we have no idea how that is affecting the markets, and all of this is cause for concern. While VA has promised to be transparent about the program, Congress, mortgage lenders, and veterans have been left in the dark for most of the last year. Even though the subcommittee has asked for multiple brief explanations regarding VASP and has even said a bipartisan letter, VA has been silent.

Our current understanding is that VASP will allow veterans who are at least two payments delinquent to refinance their loan down to 2.5 percent interest and that the VA would take over servicing the loan. While this program may benefit some veterans who are at risk of foreclosure, it also poses real moral hazards of encouraging veteran borrowers to become delinquent to take advantage of a much lower monthly payment.

It also poses a risk for VA and other taxpayers who would become responsible if VA-financed loaned ownership experience high delinquency rates. According to the Office of Management and Budget (OMB) last week, VA could be responsible for nearly 21,000 loans under this program. This is very concerning to me as it makes it seem like the program is going to be used as a short-term election gimmick, unfortunately, from the White House, rather than a viable program that would help veterans.

Mr. Bell, I would like to have a follow-up discussion with Josh Jacobs and the full committee chairman to discuss the proposals of this program, and I would appreciate it if you would communicate that message to him and ask him to arrange that with committee staff. Thank you.

I have also heard from stakeholders about the shortage of information on the veteran home loan program and the rising number of foreclosures. This data is essential to understanding the effect of these programs in the mortgage industry and markets.

While I plan to introduce a bill shortly that would require VA to publicly report their home loan data, we need answers on VASP today. These recent concerns and unanswered questions from the VA must be solved before the VA can move forward with VASP in good faith. VA must also be held to the highest standard to ensure the efficient delivery of benefits without a need for Congress to intervene repeatedly.

My focus continues to be on ensuring that veterans remain in their homes whenever possible, and on mitigating housing instability in cases where maintaining a mortgage has become untenable. However, the potential delays and issues with the VASP program's rollout are concerning, especially given that they could evolve into a financial burden of billions of dollars in bailouts, which would fall on the shoulders of taxpayers to bear.

Once again, I thank everyone for coming today. I look forward to the productive discussion on what is going well and what needs to be improved in the VA.

With that, I yield to the ranking member for his remarks. Mike.

OPENING STATEMENT OF MIKE LEVIN, RANKING MEMBER

Mr. LEVIN. I thank my friend, the chairman, and I really thank him, particularly for holding this hearing on a program that has long been one of VA's most important benefits to veterans and has traditionally operated smoothly.

We have an obligation to protect our veterans, especially during times of financial distress, to ensure that they and their families do not lose their homes. The VA Home Loan Guaranty program stood up assistance during the COVID–19 pandemic to do just that, help veterans avoid foreclosure. For those who were not with the committee during that period, it is worth noting that VA proactively took action without the need for congressional authorization. We lauded that decision at the time, and it likely kept thousands of veterans in their homes during a global pandemic.

However, in the last few years, VA ended some of those measures put in place during the COVID pandemic. That termination has coincided with interest rate spikes, making some of VA's traditional foreclosure mitigation measures less impactful or, in some cases, not helpful at all.

I understand VA recently extended some of these measures through May 31, 2024, possibly in response to a letter that Chairman Van Orden and I sent to the agency last month. I appreciate VA's efforts, but I remain concerned with the partial claims program termination, which has forced veterans in distress to choose between foreclosure or higher interest rate loan modifications.

I think we all recognize that VA cannot prevent every foreclosure on the loans it guarantees, but we expect the VA loan guaranty office to exhaust every option so that foreclosures rarely happen. That is why it is my goal to leave this hearing with a comprehensive understanding of what authorities VA has, what authorities

VA needs, and what VA needs financially to ensure foreclosures only occur in the most extreme circumstances.

I have real concerns with the current refund modification program and empathize with the veterans who are trying to navigate it. In agreeing to a modification, veterans are unable to keep the low interest rate they secured before or during the COVID pandemic, resulting in dramatic increases to their monthly mortgage payments. Is this truly an effective way to mitigate foreclosures for veterans who already cannot afford their monthly payments?

We are here today to ask the Department how we can ensure we are providing a useful benefit that empowers veterans and closes any opportunity gaps that exist with their peers who did not serve. It is critical that this subcommittee examine whether the Department has enough resources to adequately support our veterans. It is so important that we get this right, and there is absolutely a need to ensure VA has the funding and the employees to efficiently deliver these benefits.

I hope to learn more from you today on the VASP program. As my friend the chairman said, we need answers on VASP today.

Looking forward also to hearing from our community partners. I thank you all for being here today, and the feedback from the people you all represent will help us review the process as we focus on serving veterans and protecting their earned benefits.

With that, Mr. Chairman, I yield back.

Mr. VAN ORDEN. Thank you, Mr. Levin.

I will now introduce the witness panel. Our witness for this panel is Mr. John Bell, the executive director of education services at the Department of Veterans Affairs. I ask the witness on our first panel to please stand and raise your right hand.

[Witness sworn.]

Mr. VAN ORDEN. Let the record reflect that the witness has answered in the affirmative.

Mr. Bell, you are now recognized for 5 minutes. Please have your seat. There are some lights in front of you, and that means 5 minutes, so please, Mr. Bell.

STATEMENT OF JOHN BELL

Mr. BELL. Yes, sir. Thank you. Good afternoon. Chairman Van Orden, Ranking Member Levin, and other members of the subcommittee. Thank you for this opportunity to speak with you today about the Department of Veteran Affairs' VA home loan program. It is been almost 80 years since those who defeated tyranny at the Battle of the Bulge, the Battle of Midway, and other strongholds of World War II returned home and embraced the Servicemen's Readjustment Act of 1944. Known as the GI Bill, this legislation not only changed the lives of many of those returning men and women, but it also changed the face of America. Using the home loan program, veterans bought 20 percent of all new homes built after the war. Subsequent generations of veterans, like you, Chairman Van Orden, and your grandfather, Ranking Member Levin, and me, continue to have the opportunity to access this earned benefit.

To meet the needs of every generation of the Nation's veterans, VA has improved processes, technology, and the use of data to create a competitive loan product. Data shows VA purchased loans are closing in an average of 32 days, while other industry programs are at 44. While in the past there have been many perceptions that VA appraisals were too conservative, 94 percent of VA appraisals have met or exceeded the sales price this Fiscal Year alone. Even though we are improving the home loan program in many ways, one thing will always remain the same: we are committed to helping veterans stay in their home, as we are as helping them achieve homeownership.

Like other homeowners, veterans face life challenges, such as job loss, divorce, and catastrophic illness, which can derail their lives. When those unexpected challenges happen, and veterans reach out for support, VA and loan servicers are equipped to guide veteran homeowners through the steps that they need to take to retain their homes. As an example, last year a homeowner at risk of losing her home reached out to her assigned VA loan technician, who helped her apply and secure $20,000 in homeowner's assistance funds.

Even as we take pride in these strides and success stories, I acknowledge many veterans were and continue to be affected by the COVID–19 pandemic. In 2021, VA quickly leveraged capabilities to build two temporary safety net programs: the COVID–19 Veterans Assistance Partial Claim Payment program and the COVID–19 Refund Modification program.

Even though the storm of the pandemic has passed, we are preparing to launch the VA Servicing Purchase program, VASP, which is anticipated to assist nearly 40,000 veterans who are at risk of losing their homes. VASP will provide veterans with an affordable scheduled monthly mortgage payment that reduces debt owed over time at a rate much lower than the current market interest rate.

Where the partial claim program provides short-term relief, it may leave veterans with large balloon payments at the end of their loan. Rather than mortgaging their futures for a short term gain, VASP provides veterans long-term financial security and does not burden them with a balloon payment. VASP also ensures the government is better protected from certain financial and legal risk, thus preserving this earned benefit for future generations of veterans.

Mr. Chairman, I opened today's testimony talking about a World War II veteran. It is fitting that in my closing remarks I tell you about a 95-year-old World War II veteran who reached out to us to wage his last battle, which was to retain his home. This veteran fell behind on his mortgage payment and contacted his assigned VA loan technician, who worked diligently and explored every option to advocate for the veteran. I am happy to report that the loan's current, allowing this veteran the dignity to remain in his home.

All of our efforts by our extraordinary staff over the years have transformed our reputation, making VA's home loan program a product of choice instead of the loan of last resort. This prime program truly honors veterans for their immense sacrifices on behalf of this grateful Nation.

This concludes my testimony. I welcome any questions that you or other members of the subcommittee may have.

[THE PREPARED STATEMENT OF JOHN BELL APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Bell. The written statement for Mr. Bell will be entered into the hearing record.

We are now to proceed to questionings, and I ask the members to keep their questioning to 5 minutes. I now recognize myself for 5 minutes.

Mr. Bell, did you get a note from my committee staff saying that I specifically wanted you to address VASP in your testimony?

Mr. BELL. Yes, sir. I believe in my written testimony.

Mr. VAN ORDEN. Well, you did in your written testimony. I wanted to hear it. I wanted to hear you say that stuff out loud because you buried the lead. The one contentious thing that we have that is potentially a problem that we need to discuss openly, you completely ignored. You buried it. You have to get to the ninth page of your testimony before you even address the thing that I am very concerned about.

This speaks to something. I have very little confidence in the Veterans Administration's ability to effectively administer this program that you failed to even mention. I am concerned that you could potentially destroy the VA home loan program and damage the larger housing market.

I understand that you are well-meaning in your intentions. However, the road to hell is paved with good intentions, and I am concerned that you do not have the authority statutorily, in the governing statues for the home loan program and that you are simply making this up.

I have concerns now, and I do not care who is in the White House, because this affects our veterans and is not political. Can you please provide us right now with specific authorities outlined in statute that would authorize such a dramatic and drastic change in operation of the home loan program?

Mr. BELL. Yes, sir, 38 USC 3732, as an authorization for VASP, as well as our current regulation at 38 CFR 4320.

Mr. VAN ORDEN. You interpret these to allow you to potentially make the American public responsible for billions of dollars in debt. Is that what you thought?

Mr. BELL. Those are our thoughts, yes, sir.

Mr. VAN ORDEN. Okay. Well, we are going to talk about that in detail later because you are wrong.

We understand that some express concerns that VASP will target an interest rate of 2–1/2 percent. Most veteran borrowers have an interest rate exceeding 3 percent, and many more recently, because of inflation, are significantly higher. Are you concerned that the borrowers will intentionally default in order to receive a lower payment? If so, what is the VA's plan to address this concern?

Mr. BELL. First and foremost, we were looking for a solution to be able to help 40,000 borrowers stay off foreclosure. With that, we did put in protocols in our policy that we are trying to get released, and in that they would have to make 6 months of mortgage payments when they did a modification throughout our loss mitigation waterfall.

Mr. VAN ORDEN. Okay. I am going to ask you this question again, because it was very simple. Do you think if you are going to allow—if someone has a 7 percent interest rate, for instance, and they default on those payments and you are going to give them a

2–1/2 percent interest rate, knocking off all the rest of that stuff, do you think that maybe people would have the propensity to do that?

Mr. BELL. Well, sir, I think it is relevant here that we talk about our portfolio is not at a 7 percent rate. Our portfolio is 90 percent right now at—almost 90 percent right now at a 2–1/2 to 3 percent coupon rate.

Mr. VAN ORDEN. Okay. I am going to ask you this question one more time.

Mr. BELL. Yes, sir.

Mr. VAN ORDEN. Do you think if you could essentially refinance a home loan for a lower interest rate for free and stick the bill to somebody else, do you think people might do that? That is a yes or no, because I have 1 minute left.

Mr. BELL. Well, speaking from a veteran myself who have used this program for five different times, I find it, you know, I find it hard to believe that a veteran would go through something as major and substantial as a foreclosure on their credit that is going to be there for 5 to——

Mr. VAN ORDEN. Okay, Mr. Bell, no. You did not answer that question and you are really starting to irritate me because this program has the potential to destroy the entire program by driving the Veterans Administration into the dirt, along with other markets. If you can remove, arbitrarily, interest rates, meaning capital, from a market because you thought you could statutorily, and you are wrong, you are going to upset the apple cart. I do not think you have thought this program through.

With that, I yield back because my time has expired.

I now recognize my friend, Mr. Levin.

Mr. LEVIN. Mr. Bell, I appreciate a recent response to our letters on this issue. You indicated that VA is working to publish guidance on the VA servicing program soon with an anticipated program launch in spring 2024. Can you provide any more specificity on the timeline for rolling the program out?

Mr. BELL. Yes, sir. We are working every day to try to get an announcement out for the, one, what is VASP, the policy documents out to the industry, so that they can understand and they can start building their technology to match that policy, as well as set a target date on implementation later in the year. We are working diligently every day to try to get that announcement out. The policy documents have been completed. We are working as hard as we can to get those out.

Mr. LEVIN. Can you run through the options and the costs under the program?

Mr. BELL. Yes, sir. The 2–1/2 percent rate that we talked about before, we had two options at the industry that we talked to the industry, including the panelists, the second panel. We talked with each one of them over 10 times in this past year, as well as numerous bodies, OMB, Ginnie Mae, Consumer Financial Protection Bureau (CFPB). We had——

Mr. LEVIN. Right. I just want to know about the options and the costs.

Mr. BELL. Yes, sir. For the VASP program alone, what it does is it takes the arrears that are owed on the loan. It then puts a term of 30 or 40 years, depending upon what the monthly payment reduction would be for the borrower. It places those arrears inside of that balance so that they are paying one mortgage over a period of time that is consistent. Whether or not it is a 30-year or 40-year term, they are paying that same payment over that time to pay back that debt.

It is not where we are, like the partial claim program, where we took arrears and then we set it aside and we charge 0 percent interest rate for that money. Then at some point in time, there is going to be a balloon payment for the veteran at the 5-year mark, the 6-year mark, where if they go to sell that home, surprisingly now they have got to pay $30,000 or $50,000 to pay off that debt that was secured by the government at the 0 percent interest rate?

Mr. LEVIN. Appreciate that. Running out of time, but wanted to ask you about the Refund Modification program and specifically ask why it allows for much higher monthly mortgage payments when the entire purpose of the program is to avoid foreclosure due to financial hardship and reduce the risk of repeated default.

Mr. BELL. Yes, sir. The Refund Modification program takes into consideration what the market interest rate is today. Because market interest rates have risen so rapidly over the past 2 years, as well as taxes have increased and homeowner's insurance have increased in those particular markets, their payments are going up even if they do a refund modification. The refund modification is, yes, to normally reduce their payment and get them into a better situation. Unfortunately, outside market influences of——

Mr. LEVIN. Gotcha. What are you going to do to make these veterans whole? Obviously that program is not working as you intended.

Mr. BELL. That is why we were, as another part of the loss mitigation waterfall, we wanted to place VASP at the end, as it was the last resort for them. We would go through the loss mitigation options. We put out a circular and policy the other day that said to the industry, if you are going forward through the loss mitigation waterfall and the borrower gets to foreclosure and you are trying to foreclose, you need to come to VA before you can do that. Let us see what options are available for the borrower to make sure that they have——

Mr. LEVIN. What if the veteran has already signed up for a higher interest rate loan modification? What then?

Mr. BELL. VA has a broad—the Secretary has broad authority in a default situation that we can refund a loan and take it on our books. We have done this for 30 years.

Mr. LEVIN. Last question for you because I am running out of time. If you have veterans who are upside down and, you know, unfortunately, these programs are not working as intended, they wind up with higher interest rates, they cannot afford their situation. They wind up housing insecure, food insecure, mental health challenges arise. How is your office working proactively with the rest of the VA to help connect these veterans to the services they need?

Mr. BELL. Again, every veteran's unique and every situation is unique when it comes to servicing, which is why we need——

Mr. LEVIN. All right, so not enough.

I yield back. Thank you.

Mr. VAN ORDEN. I now recognize my friend Mr. McGarvey for 5 minutes.

Mr. MCGARVEY. Thank you, Mr. Chairman. Thank you, Mr. Bell, for being here today.

Obviously, you sense the nature of this panel is to help our veterans, and we want to make sure that our veterans are getting all of these benefits they deserve. I do want to tell you off the bat, I share the concern of some of my colleagues, particularly when we are talking about foreclosures. Even with the VA taking action with VASP, we know that these foreclosures are happening.

I am sure you know this as a veteran yourself, as working in the industry, as long as you have, these foreclosures have devastating effects on our veterans. They have devastating effects on the families of our veterans. They harm the neighborhoods and communities when they happen. These ripples go out a long way for a long time. I really think we need to be thinking about and putting the domino effects of inaction or any slip-ups here as we roll out these new programs front and center of what we are talking about.

I am especially concerned about the knowledge gap that might exist as it relates to our veterans using these programs. We bought our first home for the first time in 2007, which seems like a long time ago now. I know as a first-time home buyer, it is a scary process for anybody, much less whether you are a veteran.

You talk about dealing with this process, then navigating the process of buying a home, taking out a mortgage, and then dealing with the shifting environment in the VA home loan program on top of that, that has got to be pretty daunting for some of our veterans. Let us talk a little bit about the outreach program in particular.

Mr. Bell, what is the outreach strategy to our vets so that they know about what is happening? They know about the current pause in the forbearance repayments, the forthcoming VASP program, what is going on and what does the outreach look like?

Mr. BELL. Yes, sir. Thank you for that question. Outreach is tremendously important to us, and here is what we have done.

We have at the 60-day mark, 120-day mark, and anytime an action is taken, we are sending out letters. We are making proactive outreach to veterans. We took this one step further, and we own any loan that is 90 days-plus delinquent. We then also sent out a new letter that basically gives them information about not only VA, but other state programs that might be available to them, such as homeowner's assistance funds. We also have information about our veteran banking program. They get free credit counseling, and again, they are assigned loan technician in which they can call.

Then we, also, again, we send out the policy to our servicers that if they take a negative action from a foreclosure standpoint moving forward, they have to reach out to us and give us an opportunity to make sure that the veteran is given every option possible before a foreclosure happens.

Mr. MCGARVEY. I appreciate that. My fear, my worry, my concern, that is not enough. We are talking about letters. We are talking about letters that are happening at certain points in time along the way. You know, I am concerned about what is happening today in real time with our vets, like a hotline that vets could call, a portal, any online strategies. Is there anything like that in development today to help our vets with this process so they do not just have the rug ripped out from under them?

Mr. BELL. Yes, sir. We are one of the only agencies out there that have our most experienced individuals answering phone calls. They are answering 860,000 calls a year, or just this past fiscal year. With that, those are our most experienced loan technicians. They are not getting a call center. They are getting directly into someone that can help them because as you stated earlier, it is one of the most trying times in their lives. We wanted not a warm handoff. We wanted them to speak directly to our most experienced loan technicians when they call.

We are also making those outbound calls. We have also put information on our website where veterans can go to, and that is in the letter as well, the links to those websites on how they get more information about the VA.

Mr. MCGARVEY. I appreciate that and my time is running out, so I just want to make this point that we need to be doing everything we can. This outreach is so important in a variety of different ways. I want to make sure you guys are also working with the private mortgage industry and those lenders to make sure they do not misunderstand their roles and are screwing over our vets as well.

I am out of time, though, so I am going to yield back.

Mr. VAN ORDEN. The gentleman's time has expired.

I now recognize the gentleman from the state of Arizona, my great friend, Mr. Juan Ciscomani.

Mr. CISCOMANI. Thank you, Chairman. Thank you, Mr. Bell, for being here today, coming to testify for us.

As we all know, our Nation faces a housing affordability crisis overall. With a shortage of new homes and the price of existing homes skyrocketing, coupled with high interest rates and inflation, families are finding it harder and harder to find a place to call home. Even more of a concern is how these conditions particularly impact our veterans and their families. I have over 70,000 veterans in my district, and I will be interested in hearing today how the VA is working to improve the attractiveness of veterans as homebuyers, not only in urban areas, like Tucson in my district, but also in rural parts of my district, which is then, in terms of landmass, the majority of my district, nearby Cochise County, Greenlee County for me, and Graham County, as well Pinal, also.

Mr. Bell, are you concerned at all that with the level of transparency that appears to be lacking within the VA home loan program? Why is the VA so much less transparent when it comes to home loan data when compared to similar programs administered by Federal Housing Administration (FHA) or United States Department of Agriculture (USDA)? When looking at a program as large as VASP is proposed to be, how can Congress perform its oversight role if we are not able to see this data?

A lot of questions in there, but the theme here is a transparency piece. Access to data, you know, compared to other programs, we would just not have that at the VA. Give me your thoughts and potential solution to that, please.

Mr. BELL. Yes, sir. Data and data transparency is something that is near and dear to my heart. I actually chair the government agency Mortgage Industry Standards Maintenance Organization

(MISMO) Standards Board right now. What my goal is, is for us collectively to share the same data and define the data the same way. I think that is where you see some of the biggest issues and concerns of the industry, is there is not a data standard across origination all the way to servicing that is universally accepted.

Right now, we are almost there with MISMO, working with Mortgage Bankers Association (MBA), you know, to get that finalized. It usually takes around 5 to 7 years to finalize one of those features, like for origination or for appraisal, for servicing. We have asked for that to be done in 18 months, and we have raised our hand to work so that we can do that. Once we do that, we can now tie in the data from performance on how a loan performed with how it was originated. We can start seeing key trends and get information on how to train better and give more education to where we need to have the education.

Mr. CISCOMANI. Well, I am looking forward to seeing how that works. I think this is key and important.

On the same kind of tone here or vein, are you aware if home sellers are statistically less likely to sell to a veteran, and what data exists on this?

Mr. BELL. Thank you for this question, sir. I testified here in December 2021 on the veterans' issues in buying homes. I testified with NAR, the National Association of Realtors. From that hearing, the thing that is the primary theme here is real estate agents are the primary guardian of the veteran through that home loan process.

Mr. CISCOMANI. I am sorry to jump in because I only have 1 more minute, but is there data on that, like specific data on if sellers are less likely to sell to veterans?

Mr. BELL. What we are showing is it's misperception. Right? Again, as I stated earlier, when 94 percent of your appraisals are at or exceeding market price, sales price, that is a pretty good indicator.

The other indicator is we lead the way in the market. Eighty-six percent of veterans that start an application close, which is——

Mr. CISCOMANI. They are different pieces of data and they are not one specific on that.

I have one more question. How does a shortage of VA home loan appraisers impact rural veterans in particular? How can we modernize this process?

Mr. BELL. We have nationally, since we had the 7735 legislation that came from Chairman Bost last year——

Mr. VAN ORDEN. The gentleman's time has expired.

I now recognize the gentlelady from the great state of Illinois, Mrs. Ramirez, for 5 minutes.

Ms. RAMIREZ. Thank you, Chairman.

If you have—it was one sentence to wrap up, you can do that, but you just got 10 seconds.

Mr. BELL. Thank you so much. All I was going to say is we have reduced appraisal timelines by 49 percent since last year, and we are delivering appraisals in 6.7 days and, again, closing loans in 32 days. The data shows the VA home loan program should be the product of choice.

Ms. RAMIREZ. Okay. Thank you. Housing is one of the most important issues for me, and actually one of the reasons why I came to Congress. During the pandemic we saw the importance of being able to provide resources, particularly to our veterans, who, for one reason or the other, were seeing some of the highest housing insecurity levels we had ever seen. I know we like to say that the public health emergency ended on paper, but the reality is our veterans at home are still feeling the impacts of COVID–19.

You know, I think of my district and the city of Chicago, and certainly we see it everywhere. People who have lived in our neighborhoods, who are trying to keep their homes are struggling, but veterans who want to purchase their homes are also struggling finding affordable homeownership. This issue, and particularly talking about loans today, is really important to me.

I know that the VA implemented a COVID–19 Veterans Assistance Partial Claim payment. Let me say it again. The Veterans Assistance Partial Claim payment, PCP, and the COVID–19 Refund Modification, loan modification. I understand that both of those programs have been successful. As the VA continues to work on programs to prevent veterans from experiencing homelessness, Mr. Bell, I do have a few questions to ask you.

Can the VA require loan services to accept ongoing monthly payments if the veteran is behind or delinquent and in danger of foreclosure? Let me restate that for you, just to make sure that you understand the question. If I say it another way, can the VA require servicers to accept payments that are less than the full payment?

For example, we know that there are situations where a veteran had a series of months in which they were not able to make their payments, but now they are in a better position to start making payments again. However, the veteran can only afford to pay the monthly amount, not the rest of it that would cover the cost associated with the months prior.

Can the VA require servicers to accept those monthly payments even though it is not the total amount owed or outstanding?

Mr. BELL. There are cases that we certainly can. There are some limitations, and those limitations will be found at 38 CFR 36.4316. It is a regulation. 36.4316 is the regulation——

Ms. RAMIREZ. It is possible.

Mr. BELL [continuing]. that is the authority.

Ms. RAMIREZ. Okay.

Mr. BELL. There are some drawbacks that we have in that regulation that monitor that. It is a case-by-case type situation.

Ms. RAMIREZ. Let me ask you this follow-up question. Does the VA have the authority to place a moratorium on foreclosures?

Mr. BELL. We just placed a foreclosure moratorium as of December or in December to May 31.

Ms. RAMIREZ. It is already using that authority?

Mr. BELL. Yes, sir—yes, ma'am.

Ms. RAMIREZ. Got it. Let me ask you another question. Regarding the waterfall process, we understand there are different stages in this process. I am trying to get a little more sense on some specific numbers. Can you provide me the number of veterans who are 60 days delinquent, 120 days, or even in forbearance? Do you have those numbers?

Mr. BELL. I have—so, basically, we looked at the 90-day and greater, which is 65,000 borrowers.

Ms. RAMIREZ. 65,000 borrowers are 90 days delinquent?

Mr. BELL. Ninety days or greater, yes, ma'am.

Ms. RAMIREZ. Is there a way for you to follow up and try to get me information who is in that between that 60 and 90?

Mr. BELL. Oh, yes, ma'am.

Ms. RAMIREZ. Okay. Thank you. I would like that.

Then let me just ask you my last question in my 41 seconds left. Do you think that the banks and servicers have a duty to mitigate potential loss by accepting partial payments?

Mr. BELL. Do they have the option to do that? Yes.

Ms. RAMIREZ. No, a duty.

Mr. BELL. A duty to that.

Ms. RAMIREZ. A duty to mitigate potential loss by accepting partial payments.

Mr. BELL. When—I would say it is not industry practice. What we have seen where you are accepting partial payments, is it possible for them to accept them? Yes, it is a——

Ms. RAMIREZ. I am out of time.

Mr. VAN ORDEN. The gentlelady's time has expired.

Ms. RAMIREZ. Thank you.

Mr. VAN ORDEN. We are going to move to a second round of questioning. Do you have any or want me to get go right up?

Okay. I now recognize myself for 5 minutes.

Mr. Bell, in your testimony you said that the median home price is $386,000. Using the number and multiplying it by the number of loan potentially eligible for VASP, which is 27,000, that means that the VA is going to be servicing over $15 billion in loans. Are you concerned that the long-term effects of you putting $15 billion on your books may have a detrimental effect on the Veterans Affairs Administration and, in particular, the ability for us to exercise our GI benefits to get a home loan?

Mr. BELL. Sir, that answer is unequivocally of course I am concerned. Yes, sir, I am always concerned. I was concerned when Partial Claim program certainly took us into a positive subsidy for the first time in 30 years. It is—what I focused on and what we focused on in developing this policy was saving 40,000 veterans from foreclosure.

Mr. VAN ORDEN. Okay, I understand, Mr. Bell.

Mr. BELL. What was the best way to do that?

Mr. VAN ORDEN. Okay. Okay, Okay. I will do a third round of questioning.

Mr. BELL. No, sir. Yes, sir.

Mr. VAN ORDEN. You know what? I will be here by myself with you.

I googled who sets interest rates while we were sitting here because I thought I maybe missed something. You can do it here if you would like, too. The Veterans Affairs Administration did not come up, like you are not here to set these interest rates. How did you come up with 2–1/2 percent?

Mr. BELL. Sir, we can set interest rates when it is in our own portfolio.

Mr. VAN ORDEN. Okay.

Mr. BELL. When we are—when a loan is in default——

Mr. VAN ORDEN. Right, but you are expanding into other people's portfolio. That is my point.

You do not get to set mortgage interest rates. If this was a veteran to you transaction, we would not be having this conversation. This is a veterans to you, to some other people that are going to be on the next panel here, you are entering into another thing. You are going into unchartered waters that, again, you do not have the statutory authority to do so.

How many full-time employees administer this program?

Mr. BELL. Full-time employees total for the loan guaranty program, sir?

Mr. VAN ORDEN. Yes.

Mr. BELL. A little over 900.

Mr. VAN ORDEN. It is 1,062. How many of those people will be focusing on VASP?

Mr. BELL. We have right now—we will have a team of 12 individuals that will be monitoring the contract of the work that the subcontractor and the contractor do for servicing.

Mr. VAN ORDEN. Okay. In other words, you are going to have 12 full-time people watching contractors. How many contractors?

Mr. BELL. Sir, I do not know the exact number of them.

Mr. VAN ORDEN. You do not. That is what I am talking about. You have not thought this through.

Let us just say you did not have contractors. You would have 12 employees servicing $15 billion worth of loans. I will ask the people on the second panel, can you write that down, how many people would normally, you know, watch after $15 billion worth of loans?

You know what, that is really all I have for now. I will yield to Ms. Ramirez, my friend from the great state of Illinois.

Ms. RAMIREZ. Thank you, Chairman.

I think it is just following up from the questions we were asking a little earlier. I want to ask two more questions, Mr. Bell. One is what has VA been instructing loan servicers on the forbearance moratorium?

Mr. BELL. To make sure that before they get to foreclosure that they are coming to VA, because VA might have other options that we can exercise and we want to make sure that all of the options that they have been exercised correctly.

Ms. RAMIREZ. Okay. Then let me ask you a follow up on that. Has the VA heard of any situations where services are still attempting—servicers are still attempting to force veterans into loans at 7 percent?

Mr. BELL. That is through a modification program. The modification program would—again, it goes off of current market interest rate. If they are at, let us say, they are at 3 percent or 5 percent or 4 percent, you know, whatever they are currently at, that modification would go at whatever the current interest rate would be.

Again, that is part of the loss mitigation waterfall. If that issue does not work—and to be honest with you, a veteran should never and a servicer should never force a veteran into any modification program that a veteran does not want to go into at this point in time. That is why it is a loss mitigation waterfall. It is what option will be best suited for that individual, for that veteran at that particular time?

Ms. RAMIREZ. Got it. Mr. Bell, let me ask you then one last follow up on this. Let us say, a veteran, for some reason, ends up with one of these really high interest loans, are they eligible to be able to apply for the VASP program so they can reduce that interest rate?

Mr. BELL. They possibly could if they make the other qualifications.

Ms. RAMIREZ. Okay. Let me just shift gears for my last question, and this actually goes back to connecting the veterans to services. You know, veterans who are foreclosed upon or whose monthly payments increase under the Refund Modification program often face significant challenges to their housing security, certainly is connected to food security, mental health, and more. Tell me a little bit more about how your office is working proactively with the rest of the VA to help connect these veterans to services that they may need.

Mr. BELL. It is a great question. We actually work with the individual regional offices and healthcare centers that have trained staff that are able to talk to the veteran in whatever need that they have. If it is, you know, a fear of facing homelessness, if it is— you know, we get them contacted with homeless coordinators. If it is, you know, where they need help in, you know, a specific need, we also contact that regional office and we find out where we can help at that point in time. We work together.

Ms. RAMIREZ. Okay. Well, thank you. These were my questions. Chairman, I yield back.

Mr. VAN ORDEN. Thank you. Mrs. Ramirez.

I just want to wrap up this panel here, and if you have something else you just want to comment on when we are done, but it was clear from your written testimony, which I read in detail and took a whole bunch of notes, and from your oral testimony today, that the Veterans Affairs Administration has not thought this program through. You have not. You are dealing with $15 billion, which is a tremendous amount of money.

I also want to be crystal clear that the program that we have that I have used with my family to get a home is awesome, and I will do just about anything I can to protect that. You said in your testimony that you understand that you are accepting risk by doing this, and you are risking a hell of a lot more than you think you are. I am not, I am not, going to support anything that could potentially remove what I think is the second best benefit for veterans, the first being the GI bill.

I do not believe you have the statutory authority. If you do, which we deep-dived and I do not think you do, but if you can show me justified that you do, we need to remove that because there is no way you are going to be able to take on $15 billion of potential loss because you think this is a good idea.

I am going to tell you this right now, you are not doing this program. You said you want to start this in spring of 2024. You are not doing this without my permission. That is not a request. It does not matter who is sitting in this chair. If Ranking Member Levin, if the Democrats take control of the House, you are not going to do it without Mr. Levin's permission. That is not a request. You are not going to be legislating from your bureaucracy and that is what you are doing, and that is unacceptable. Your excused, sir.

Mr. BELL. Thank you, sir.

Mr. VAN ORDEN. If the second panel could please takes their seats, we are going to take just a short break. If you want to get some water or something, that would be great.

[Recess.]

Mr. VAN ORDEN. On our second panel, we will hear from the following witnesses: Mr. Ed DeMarco, president of the Housing Policy Council; Mr. Mark Jones, chairman of the Mortgage Bankers Association; and Mr. Sharpe, excuse me, senior attorney at the National Consumer Law Center (NCLC). I would like to welcome you here for the second panel.

I am going to tell you right now, take a deep breath. You are fine. Okay. It is not going to go the same way as the other one. Jeez Louise. Will you guys stand up and raise your right hand, please?

[Witnesses sworn.]

Mr. VAN ORDEN. Thank you. Let the record reflect that the witnesses have answered in the affirmative.

Mr. DeMarco, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF EDWARD DEMARCO

Mr. DEMARCO. Thank you, Mr. Chairman, members of the subcommittee. Thanks for the invitation to be here today.

It is past time that the issues facing the VA Loan Guaranty program, especially those involving assistance to VA borrowers facing hardship, receive this level of congressional attention. The three organizations represented on this panel, the Housing Policy Council, the Mortgage Bankers Association, and the National Consumer Law Center, both together and individually have been engaging with the team at VA for years, focusing on options for assisting VA borrowers delinquent on their mortgages.

At the end of my written statement, you will find a list of HPC correspondence with VA the past several years. Many of these letters were coauthored with MBA, NCLC, or both. We have offered numerous recommendations to VA and, for myself, I am disappointed with where we are today.

While my written statement touches on both origination and servicing issues, I want to provide you here a few thoughts on servicing. First, the team at VA has been and remains approachable. We are grateful that they engage in meaningful discussions, and we have no doubt that their intent is to operate the program in the best interest of veterans.

Second, the VA program has grown enormously since the great financial crisis and today represents roughly 10 percent of all mortgage originations. No longer a niche product that can get by with its own sets of rules and practices, the VA loan guaranty is a meaningful option competing in a marketplace with other mortgage products.

Third, Congress should provide VA with the resources and authority the agency needs to ensure veterans have servicing options at least equivalent to those available to borrowers financed through FHA, USDA, Fannie Mae, or Freddie Mac. Put another way, to operate an effective homeownership benefit program, the VA requires resources to maintain strong risk management practices, to support its growing market share, to operate soundly within the U.S. housing system, and to keep pace with private sector innovation and best practices.

Fourth, the options VA makes available to mortgage servicers in assisting VA borrowers behind on their mortgages falls short of those available to similarly situated homeowners whose loans are backed by FHA, USDA, Fannie Mae, or Freddie Mac. This is not acceptable. Whatever the reason for it, whether the VA lacks the legislative authority, lacks the funding, lacks the human resources, or some other reason, this cannot continue.

I would like to expand a bit more on this last point. While the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020 gave VA borrowers the same opportunity as all other homeowners to obtain mortgage forbearance at the outset of the COVID–19 national emergency, the VA was slower than other mortgage programs in setting up suitable off ramps at the end of a borrower's forbearance period. In October 2020, HPC and MBA jointly wrote the VA requesting they establish a partial claim option as a way of dealing with forborne loan amounts while allowing borrowers to resume making their scheduled monthly payments. Simply put, the partial claim defers the previously missed payments without interest till the loan is paid off or the house is sold.

All the other federally related mortgage programs offer this option, which is particularly suited to families that recover from a temporary COVID hardship and can resume making their mortgage payments. VA began offering this option in July 2021, but sunset the program in October 2022, despite there being thousands of veterans remaining in COVID forbearance or still needing a post forbearance resolution.

While we understood that VA intended for the VASP alternative to be a replacement program, it has been 16 months and we are still waiting on VASP.

HPC members remain committed to the success of the VA Loan Guaranty program and to providing VA borrowers foreclosure avoidance options at least as effective as those available to borrowers in loans backed by FHA, USDA, Fannie Mae, and Freddie Mac. I hope today's hearing helps push us forward to that end.

Thank you.

[THE PREPARED STATEMENT OF EDWARD DEMARCO APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. DeMarco.

The chair now recognizes Mr. Jones for 5 minutes.

STATEMENT OF MARK JONES

Mr. JONES. Chairman Van Orden, Ranking Member Levin, and members of the subcommittee, thank you for this opportunity to testify today on behalf of the Mortgage Bankers Association.

My name is Mark Jones and I am the president of Union Home Mortgage, a national independent residential mortgage lender. Union currently services $23 billion in residential mortgage loans, which includes VA loans. Previously, I cofounded and ran Amerifirst Home Mortgage, a privately held mortgage lender headquartered in Kalamazoo, Michigan. I am here today in my capacity as chairman of the Mortgage Bankers Association. As a lender with deep personal knowledge originating, securitizing, and servicing VA home loan program mortgages, I am honored to be appearing before this subcommittee.

MBA appreciates the subcommittee's focus on the current state of the VA Home Loan Guaranty program, including a review of the agency's procedures/governing mortgages, appraisals, refinancing foreclosures, and the Veterans Assistance Servicing Purchase, or VASP, program, which is scheduled for release later this year. MBA is pleased to offer recommendations designed to help improve various home loan program elements and ensure that our Nation's veterans receive a high-quality home buying experience in a challenging, changing, and competitive market environment.

At the outset of my statement, I want to underscore that MBA and its many individual member firms who originate and service VA loans have a positive and productive working relationship with the agency, one forged over many years of partnership. The VA Home Loan program is one of the most significant benefits that our Nation's heroes earned through their sacrifice and service. MBA recognizes the need to make this important program more accessible and as competitive as other mortgage loan options. Such an effort will involve reaching a bipartisan consensus in Congress, dialog with the VA and key market participants and advocates. MBA looks forward to playing a constructive role.

We were pleased to see the enactment of the Improving Access to the VA Home Loan Benefit Act during the 117th Congress. This has resulted in positive reform, including the expanded use of desktop appraisals as well as proposed improvement to VA's minimum property requirements, which has long been known to hold up transactions. However, housing markets across the country are still supply constrained and continue to favor sellers. There is more that must be done to strengthen the home purchase offer backed by VA. I want to emphasize three key ways MBA believes the VA home loan program can be approved.

The first is to have VA roll out a permanent partial claim option. A partial claim enables veterans to resume making their regular payments while deferring their missed payments to the back end of the loan. It is a crucial loss mitigation tool that exists within every other governmental loan program, but is missing from the VA arsenal. Mortgage servicers need this option to deliver timely payment relief to distressed veteran homeowners and preserve affordable homeownership.

Action by Congress is needed to make this essential option a reality. Language authorizing a partial claim is contained within S. 3728, recently introduced by Senators Tester and Brown.

To be clear, the best and most durable loss mitigation framework for VA loans would to be include both the partial claim option and implementation of VASP.

Another recommendation is to tie the level of VA home loan funding to the actual credit risk within the program. To do so would make the cost of the program cheaper and allow more veterans to be able to purchase a home in the midst of this national housing affordability crisis.

A third opportunity is to delegate management of the VA appraiser panels to lenders, the same way the process works for every other loan program. VA's insistence on tightly managing its own appraisal roster significantly slows things down, making purchase offers backed by VA less competitive.

An additional recommendation is for the VA to adopt a drafting table process and collect real-time input on new initiatives from stakeholders similar to the one used by FHA.

In closing, MBA appreciates this opportunity to comment on many of the critical issues that impact the VA home loan program, including the need for potential legislation to implement needed statutory changes. We look forward to working with Congress to help provide the VA with the resources necessary to implement these changes, and I look forward to answering any questions that the committee may have.

[THE PREPARED STATEMENT OF MARK JONES APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Jones. I want to say that both Mr. DeMarco and Mr. Jones's testimony will be entered into the hearing record.

I now recognize Mr. Sharpe for 5 minutes.

STATEMENT OF STEVE SHARPE

Mr. SHARPE. Thank you. Chairman Van Orden and members of the committee, thank you for the opportunity to testify on behalf of the low-income clients of the National Consumer Law Center regarding the state of the VA Home Loan Guaranty program. I am a senior attorney at NCLC, and this testimony is focused on VA servicing issues. It is grounded in our advocacy and our work with legal aid attorneys and housing counselors across the country.

It is a bedrock principle of Federal housing policy that borrowers who are facing financial hardship should have access to workout options to avoid foreclosure. These home retention policies provide stability for homeowners by giving a path to recovery after financial hardships and provide stability for neighborhoods that suffer when foreclosure hits. These policies also help investors avoid losses, which supports the health of the programs. These policies do not guarantee that all borrowers who fall behind can avoid foreclosure, but they help prevent unnecessary losses.

Unfortunately, since October 2022, homeowners with VA-guaranteed mortgages facing hardship have had limited options to retain their homes. This is the result of a recent dramatic increase in mortgage interest rates and a decision by VA to discontinue a program called the Partial Claim, which had allowed homeowners who could resume their mortgage payments to repay the missed payments at the end of their loans without an increase in their interest rates.

The rise in mortgage interest rates has created significant challenges for FHA, USDA, and the government-sponsored enterprises, but they have all retained programs like the Partial Claim. In contrast, VA no longer has such a program, and we have seen VA's current loan modification program result in increased monthly payments, which are generally not affordable.

A series of stories from National Public Radio (NPR) shows VA borrowers struggling to reach a foreclosure alternative that is affordable and highlights borrowers who have faced dramatic increases in their mortgage payments after a modification. NPR shared the story of a veteran borrower receiving a modification that increased his mortgage payment from 1,750 a month to $2,400 a month, and we have seen similar in our work with legal aid attorneys, borrowers shut out of affordable options and struggling to keep up with higher payments.

These problems have broad significance. As of the end of December 2023, we estimate that there were about 74,000 VA borrowers who are either seriously behind on payments or in the process of losing their home.

The mortgage relief options available for veteran borrowers are less favorable than the options available to other federally backed borrowers. The VA program is a benefit that veterans have earned through service and sacrifice, and that is meant to give them housing stability. There must be a system in place to effectively assist veterans when they fall behind on their loans. We recognize that VA may need to adopt criteria that meet the specific aspects of its program, but that should not result in VA borrowers having worse options than other federally backed borrowers.

We applaud VA for recognizing the problems that its borrowers are facing and for implementing a foreclosure pause until May 31, 2024, to give borrowers a chance to access programs that are in development. However, the pause is only meaningful if VA puts options in place that veterans can access before losing their homes.

We urge VA to take several key steps. VA should immediately release the previously announced VA Servicing Purchase, or VASP, program and ensure that the program is accessible, includes criteria that account for the recent lack of options that have led to growing arrearages, and provides targeted payment relief. Because VASP will not be a one-size-fits-all solution, VA needs to develop further options including the reestablishment of a partial claim program that allows borrowers to resume their payments without a change in interest rates, so that its permanent system for helping borrowers provides meaningful relief in all market conditions and secures the financial health of the VA program.

In developing these alternatives, we urge VA to work with elected officials, veteran service organizations, consumer advocates, industry representatives, and others to identify the resources it needs to implement these programs so that Congress can ensure that funding constraints do not stand in the way of enabling veterans to save their homes. VA should start releasing timely and consistent data on its loan performance using FHA's reporting system as a model. These steps are necessary to provide veteran borrowers what they deserve, a program that honors their service by providing housing stability even in the face of financial hardships.

Thank you.

[The Prepared Statement Of Steve Sharpe Appears In The Appendix]

Mr. VAN ORDEN. Thank you very much, Mr. Sharpe. Mr. Sharpe's testimony will be entered into the record.

I will now recognize myself for 5 minutes.

Let me ask you guys this question. A veteran stops paying his mortgage and we want to pause the foreclosure, right, and let us say there is 100 bucks on his mortgage, right? I was an enlisted guy, so that is about as good as my math is going to get. If there is a 100 bucks there, who is floating that $100?

Mr. JONES. Right now it is the servicing lender because the lender—those loans generally end up in Ginnie Mae-backed securities, and so the lender has to sweep that payment whether they get it or not. The lender is forwarding that payment along.

Mr. VAN ORDEN. Did you want to say something, Mr. DeMarco?

Mr. DEMARCO. Same answer.

Mr. VAN ORDEN. Okay. Let me get this straight. The veteran stops paying for whatever reason, and then that money sits here. If this program went through, the ill-thought out program that we are talking about, where would that $100 go? Who would float that $100 then?

Mr. JONES. We do not really know because we have not seen the details of the program yet. We are waiting for those. The details have not been shared with us yet to where we could answer that question.

Mr. VAN ORDEN. You are saying that this was not well thought out. Okay. I know where it is going to go. That $100 is going to go on the VA's books. It is good for lending institutions because you got a poorly performing mortgage. You get that off your books, that improves your bottom line, and it goes to the American taxpayers and sits there. Correct? Where else would it go, man?

Mr. JONES. Not quite. Because during the period of time, the trial mod that the director talked about, the lender—if the borrower fails on that trial mod, then the lender ends up with that on their books.

Mr. VAN ORDEN. Okay. If they——

Mr. JONES. Because they purchased the loan out of the Ginnie Mae security.

Mr. VAN ORDEN. Yes, but if they have $15 billion worth of stuff, they are managing those loans——

Mr. JONES. Oh, I agree.

Mr. VAN ORDEN. All right. Now let me ask you a philosophical question. I will start with you, Mr. DeMarco. Do you believe in private property rights?

Mr. DEMARCO. Yes, sir.

Mr. VAN ORDEN. Mr. Jones?

Mr. JONES. Absolutely.

Mr. VAN ORDEN. Mr. Sharpe?

Mr. SHARPE. Yes.

Mr. VAN ORDEN. Okay. If the VA is floating $15 billion worth of mortgages and the veteran stops paying it, that means that the government owns the private property, which means, by definition, it is no longer private property, it is public property. If you have private citizens living in public property, because there is no way the VA is going to throw these vets out, so you are going to have private citizens living in public property in perpetuity. They tried that before in the Soviet Union, and they destroyed their entire economy by doing so.

I am not Nostradamus, but I can see the future here. Do you guys see something different than me, Mr. DeMarco?

Mr. DEMARCO. No, Mr. Chairman, the incentives that are created by this program and the risk that it poses to taxpayers are real. In fact, the three organizations sitting before you together sent a letter to the VA in December of last year outlining concerns with some of these program characteristics of VASP that we were hearing about. We have not, as Mr. Jones said, have not seen this yet, but from what we have been hearing, it raises some real concerns, and we outlined that to the VA secretary back in December.

Mr. VAN ORDEN. Did you get any feedback?

Mr. DEMARCO. No, sir. I do not believe we have heard back. We have not.

Mr. VAN ORDEN. Mr. Sharpe?

Mr. SHARPE. I do not believe there has been a response to our December letter.

Mr. VAN ORDEN. Okay. I mean, you gentlemen are obviously, you know, smarter than the average bear. You come from, you know, reputable organizations. How many people have you housed between you? I mean, a gazillion. Right? You, the subject matter experts, wrote the nonsubject matter expert a well-meaning, well-intended, probably very informative, detailed note saying that, oh, by the way, you know, you are essentially creating socialism in the United States because that is where it is going to wind up. They did not even bother to get back to you? Okay. Guess what? That is an issue.

Do me a favor. Send us what you sent them, and I will email that directly to Dennis McDonough. Okay?

Mr. JONES. We certainly will, Congressman. Thank you.

Mr. VAN ORDEN. Appreciate that. Okay, I yield back.

I now recognize the gentlelady from Illinois again, Mrs. Ramirez.

Ms. RAMIREZ. Thank you, Chairman. I also want to thank the three witnesses that are here with us today. I mean, you heard me say before, and certainly housing is a very critical issue for members of this subcommittee.

You know, before I came to Congress, I was the executive director of a homeless service agency, so I got to work with a lot of veterans who were already experiencing homelessness. The idea of purchasing a home was just unimaginable for them. That is why in my time at the state legislature, I worked a lot to ensure, particularly during the pandemic, that we would pass legislation that kept people in their homes. In the state I actually negotiated a foreclosure moratorium with banks at the height of COVID–19 pandemic. We did a lot of negotiation till about two in the morning to get there, but we did it.

I understand how important it is for the industry and government to work together for the people. I want to say thank you, all of you. I actually worked with Shriver at the state level, so it is good to meet you, Mr. Sharpe.

That being said, I heard Mr. Sharpe say there are about 74,000 VA borrowers who are just a paycheck away and at risk of—or actually even closer to that, at risk of losing their home or already in the process. We know that with the COVID forbearances, even with the resources that people had, there is still at least 34,000 people at this moment who are already delinquent.

I want to go to some of my questions I have here for you all. This one is actually a question for all of you. This question is to address, I want you to articulate the value of having private industry in the loan guaranty programs. As a follow-up, I guess my question specifically is, should the VA have a greater role in lending and would that afford the VA more flexibility in offering assistance to borrowers?

I will start with you, Mr. Sharpe.

Mr. SHARPE. Thank you. At this stage, with borrowers lacking real alternatives to avoid foreclosure, we do think that VA's involvement with VASP is necessary right now because there are not other options available. We do think that there should be options that come forward, the Partial Claim specifically, because we do not think that VASP is a long-term solution and that the VA's involvement with loss mitigation is a long-term solution because of the issues of financial health of the VA, also because VASP is going to involve servicing transfers, taking people with a servicer they know and transferring them to another servicer, to the government servicer. We do not know what that is going to look like right now.

We do think while VASP, because we have not had options for the last 16 months, is necessary, we do not think that VA's involvement in taking, you know, foreclosure alternatives on is the right path for the permanent solution; that it could be a part of it, but that we need to have other options available and we need them as soon as possible.

Ms. RAMIREZ. Okay. Just to follow up, and actually this question is for both you, Mr. Sharpe and Mr. DeMarco. You both made the point in your testimony that the VA loan program has less favorable loss mitigation tools than other federally backed loans. Could you explain in the minute that I have the differences in options available for those in financial distress and why they exist? I will continue with you, Mr. Sharpe, and then make sure that Mr. DeMarco gets in.

Mr. SHARPE. Thank you. It is because there is not a Partial Claim program right now to simply allow borrowers to resume their mortgage payments once they fall behind. VA does not have that. FHA, USDA, and the government-sponsored enterprises have a similar program, a partial claim type program. That is really what is making such a big difference in this high interest rate environment.

I can pass it over to Mr. DeMarco. Anything else?

Mr. DEMARCO. I mean, that is certainly central to this. Also the way Partial Claim is done by the VA versus done by other entities is different. Then going beyond that, look, all these mortgage programs are facing, how do I assist a borrower whose note rate that they cannot pay is 3–1/2 percent, and now we are in a 6–1/2 or 7 percent environment? The solutions that, you know, this VASP solution, as best we understand it, could use some improvement from what other programs are actually doing to address that same issue.

Ms. RAMIREZ. Got it. Thank you, Mr. DeMarco, and all of you. I yield back, Chairman.

Mr. VAN ORDEN. Thank you, ma'am.

I just want to wrap up here. As the chairman of the subcommittee, I am responsible for this program. You know what I mean? I am responsible for trying to help get veterans in homes. I am also responsible for homeless veterans. I want to keep veterans over here, not over here. There are a whole lot of I do not know what is going on here. Right? If you guys do not know what is going on here, do you think the VA knows what is going on? They did not even reply to your letter.

I have no confidence, none, zero, that they would be able to administer and run a $15 billion book. Then we are going to devolve into what I said, because the VA is not going to be kicking people out of their homes, default or no default, then the government owns the property. It is no longer private property. It is public property. Private citizens living in public property was tried in the Soviet Union. I will not be signing up for that anytime soon.

With that, I yield back. I would like to recognize, Mrs. Ramirez, if you have any closing comments.

Ms. RAMIREZ. I think just in closing, I think, to you and the panel before, you hear the commitment we have here to our veterans. We want to make sure that in the programs that we have, that we are making it more accessible for our veterans to purchase homes at the interest rates that are affordable to them. Certainly that is why those lower interest rates are so important.

I think the second piece of that is when we see with cost of living going up and all the challenges, veterans are at risk of really being able to keep their home, that we have the resources in place to ensure that they are getting the adequate resources.

I do look forward to working with you and certainly continuing to work with the chairman and the rest of us to make sure that we do everything possible so that our veterans, when they are coming home after what they have gone through, have a home, right, are not at risk of homelessness, but also that they have the adequate resources and that you, particularly those of you in the private industry, are working in partnership with us to make that happen. I look forward to that, and I thank the chairman for the opportunity to be part of this hearing.

Thank you, and I yield back.

Mr. VAN ORDEN. Thank you, Mrs. Ramirez, and thank you guys for coming out again today. Thank you, Mr. Bell, for staying around. I appreciate you listening to these cats.

I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous material. Without objection, so ordered.

This hearing is now adjourned.

[Whereupon, at 4:05 p.m., the subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENTS OF WITNESSES

Prepared Statement of John Bell

Chairman Van Orden, Ranking Member Levin and other Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Veterans Affairs (VA or the Department) home loan program.

Overview

The mission of VA's home loan program is to maximize opportunities for Veterans (which includes certain Service members and survivors) to obtain, retain, and adapt their homes by providing viable and fiscally responsible benefits in recognition of their service to our Nation.

Reflecting on the 80th anniversary of the home loan benefit, VA has guaranteed over 28 million loans, totaling over $3.7 trillion, since the program's inception. This benefit has helped millions of Veterans achieve the dream of home ownership and build wealth for themselves and their families. Some of the reasons the VA home loan program has been so advantageous to Veterans include the following: limited closing costs, competitive interest rates, and no monthly private mortgage insurance. Additionally, VA's home loan program allows for 100 percent financing, which typically does not require a down payment. For instance, a Veteran purchasing a home at the current median price of $386,000 could avoid a 20 percent down payment of $77,000. VA's home loan program experienced record growth in fiscal years (FY) 2020 and 2021 due, in large part, to historically low interest rates. While VA's overall annual volume of new guaranteed loans has declined with rising interest rates, mirroring the mortgage industry as a whole, VA-guaranteed loans still comprise more than 10 percent of the mortgage market, and the program continues to serve millions of Veterans annually.

Current economic factors have heightened unique challenges for Veterans and the program, amplifying common misconceptions about VA home loan benefits. Certain hallmark features of VA's home loan program that safeguard Veterans are often mischaracterized as unnecessary burdens or disadvantages. For example, requiring an appraisal for purchase and cash-out transactions, confirming minimum property requirements, and utilizing monthly residual income to credit-qualify a borrower help ensure that Veterans using their earned benefit are given the best opportunity for an affordable mortgage while mitigating risk to the Government and taxpayers. Yet, these are often portrayed as burdensome. As VA continues improving the homebuying experience for the Nation's Veterans, VA is mindful of retaining the features that led to some of the lowest historical foreclosure rates in the mortgage industry.

Further, VA recognizes that its mission does not end at the home loan closing table. Over the past year, more than 145,000 Veterans and their families have been able to retain their homes and avoid foreclosure because of VA's assistance. Even in the dynamic housing market of the last several years, the rates of foreclosures for VA-backed mortgages are among the lowest in the country. And at the same time, we know that there are still Veterans struggling to make their payments. VA remains steadfast in its commitment to home retention and is taking extraordinary steps to ensure those who go on to experience financial difficulty post-closing have every opportunity to remain in their homes, including standing up the new VA Servicing Purchase (VASP) Program.

Ensuring a High-Quality Homebuying Experience

A little more than 2 years ago, on December 8, 2021, I addressed this Subcommittee on the topics of competition in the homebuying market, misconceptions surrounding VA's home loan program, and appraisal timeliness. While there have been significant changes in the mortgage and homebuying market since then, I am pleased to report that VA continues to build on the success of this program to increase homeownership among Veterans. Through the dedicated service of our talented staff and by leveraging technology, VA has exceeded the expectations of the fast-paced mortgage industry, and we continue to make improvements to further enhance the value of the VA home loan benefit for Veterans.

IMPROVING THE VETERAN AND STAKEHOLDER EXPERIENCE VIA OUTREACH AND TECHNOLOGY

VA continues expanding stakeholder outreach, education, and engagement to help dispel myths about VA-guaranteed loans. In FY 2023, VA convened the Loan Guaranty Service Conference in Kansas City, Missouri where loan guaranty service subject matter experts provided 3 days of training and interactive panel discussions. For the first time in the more than 20-year history of the conference, more than 700 stakeholders from across the mortgage industry were in attendance, including lenders, servicers, and appraisers. I look forward to continuing this training and engagement on an annual basis, as it provides a unique opportunity for VA to engage with Federal and industry partners on issues specific to the Veteran population.

In addition to hosting our own event, VA's public outreach and engagement has more than doubled during the past 2 years with loan guaranty service personnel, including senior leadership such as me, participating in over 100 events in FY 2022, over 250 events in FY 2023, and over 80 events to date in FY 2024. These events, both virtual and in-person, represent a diverse set of interests and stakeholders, including large and small industry gatherings, top-tier media interviews, Veteran and industry-centric podcasts, and Veterans' service and advocacy organizations. One area where VA continues to concentrate its engagement is with real estate professionals, who are often the first person a homebuying Veteran will contact. Following the December 2021 hearing, I collaborated with the National Association of Realtors to produce a two-part educational video series on VA's home loan program to help real estate professionals better serve Veterans in using VA home loan benefits. The feedback received was overwhelmingly positive, and VA is working to release an online toolkit to further assist Veterans and real estate professionals in understanding the benefit and to dispel common misconceptions about the program.

VA also continues to harness technology to better serve Veterans and program stakeholders. In June 2023, VA implemented an online ticket system, transitioning 39 corporate mailboxes that received approximately 500,000 Veteran and stakeholder emails annually into a single technology application – ServiceNow. This online ticket system has resulted in an improved customer experience with faster triage and response times (averaging less than 3 business days for loan-related inquiries), along with improved transparency regarding assignment, status, and escalation of inquiries. Further, data captured on inquiry topics and volume are supporting data-driven decisions around resourcing, communication and website updates, and training.

While the benefits of ServiceNow cannot be overstated, the Loan Guaranty Service is proud to continue to support Veterans and other stakeholders over the phone. Despite declining loan volume since FY 2021, the call volume to the Loan Guaranty Service has actually increased with more than 860,000 phone calls answered in FY 2023 (versus 645,135 phone calls in FY 2022). In FY 2023, the average time for callers to reach an experienced staff member with technical expertise in the appropriate area (such as, underwriting, loan servicing, appraising, or specially adapted housing) was 40 seconds.

VA also continues to improve its certificate of eligibility (COE) process, which provides Veterans with evidence of their eligibility for VA home loan benefits. The percentage of COEs issued instantaneously through automated technology increased from 76.1 percent in FY 2021 to 78.21 percent in FY 2023. VA has also cut in half the average time it takes for manually processing COEs, improving from 2 business days in FY 2021 to less than 1 business day in FY 2024 to date.

New Shift in Market Presents New Challenges

When I testified before this Subcommittee in December 2021, Veterans and other buyers using mortgage financing were struggling to compete with investors using all-cash offers and other favorable terms, such as very short closing periods or no appraisal or property inspection. When interest rates began to rise in 2022, competition from investors and cash buyers decreased and the housing inventory was reduced because many homeowners were reluctant to sell a home with a low mortgage rate. This reduction in inventory has, in certain markets, increased prices and competition. However, affordability in this higher interest rate environment remains a top concern, especially for first-time homebuyers.

While VA is limited in its ability to affect market interest rates, VA data continues to support improved homeownership opportunities for Veterans. In that regard, interest rates on 30-year fixed-rate VA-guaranteed loans are, on average, approximately 50 basis points (or 0.50 percent) lower than conventional and other federally backed housing loans. As for recent declines in loan volume, data indicates refinancing loans were impacted more than purchases. As a percentage of VA's total loan volume, purchase loans have jumped from 32 percent in 2020 to 81 percent in 2023. Furthermore, VA's market share, especially in the purchase market, has remained consistent since 2020, indicating the decline in VA's guaranteed loan volume is commensurate with non-VA mortgage loan products. Finally, in FY 2023, VA succeeded in improving the average timeliness on VA purchase appraisals nationwide, averaging a turnaround of an appraisal within 7 business days which is down from 9 business days in FY 2022.

Appraisals

Regarding appraisals, VA acknowledges that its improved numbers are due, in some part, to the decline in volume. However, I want to assure this Subcommittee of the significant work VA is doing to implement the Improving Access to the VA Home Loan Benefit Act of 2022 (P.L. 117–308) and to prepare for future competitive market cycles. The VA Home Loan Benefit Act requires VA to examine and update regulations, requirements, and guidance related to appraisals for housing loans guaranteed by VA. Since the law's enactment in December 2022, VA has accomplished the following:

- In April 2023, VA submitted recommendations to Congress for improving appraisal timeliness (which included a recommendation that VA be named a member of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council).
- On December 11, 2023, VA filed an Advance Notice of Proposed Rulemaking requesting public comment on amending VA's minimum property requirements.
- VA updated the Loan Guaranty Service's publicly available website to list those counties where additional appraisers are needed to serve Veterans.
- VA is updating internal operations to streamline the designation process for VA appraisers to remove unnecessary barriers.
- VA is drafting a proposed rulemaking that will consider extending the use of VA's Assisted Appraisal Processing Program, which allows VA fee panel appraisers to prepare an appraisal, relying on information collected by certain authorized individuals. VA estimates publication in FY 2025.

While VA believes these efforts, along with ongoing technology improvements and interagency collaboration with the Property Appraisal Valuation and Equity (PAVE) Task Force, will continue to improve the homebuying experience for Veterans, there are ongoing geographic challenges facing the appraisal industry as a whole that should be noted. In rural areas especially, the issue is not whether there is a VA fee panel appraiser but whether there is a real estate appraisal professional. VA cannot solve this issue alone but looks forward to continued collaboration with this Subcommittee, other Federal agencies, and industry partners to find ways to increase the availability of appraisers nationwide.

Loan Assumptions

One feature of the VA-guaranteed home loan benefit is that the loan may be assumed by another qualified borrower. In an assumption, the purchaser(s) steps into the Veteran's shoes and takes over the active mortgage loan at the remaining term and interest rate. With most active VA-guaranteed loans having a mortgage rate below 5 percent, an assumption can mean a significant savings for a purchaser and a marketing tool for Veterans looking to sell their home. Assumptions are processed by the current loan holder, which means the Veteran cannot "shop around" for another institution to process the assumption. Loan holders with authority may underwrite and approve assumption applications without VA prior approval, and those without authority must request VA-approval before closing an assumption.

As interest rates rose in 2022, the number of VA loan assumptions also rose by more than 600 percent. More specifically, 308 VA loan assumptions were processed in calendar year 2022 and 2,244 were processed in calendar year 2023. In early FY 2023, VA heard from Veterans about reporting delays and other impediments with holder assumption processing. To ensure Veterans are not prevented from using this unique feature of their VA-guaranteed loan, VA has taken the following steps:

- Held calls with several loan holders and industry stakeholders throughout FY 2023 to resolve timeliness and processing issues experienced by Veterans seeking to sell their homes through an assumption.
- Provided assumption training to lenders and servicers at the FY 2023 Loan Guaranty Service Conference (May 2023).
- Published VA Circular 26–23–10 on May 22, 2023, iterating existing assumption regulations and procedures.
- Published VA Circular 26–23–27 on December 20, 2023, outlining how VA will use existing oversight authority to address holders' failure to comply with assumption requirements.

VA also recognizes that industry and regulatory changes, including the authorities under the purview of the Consumer Financial Protection Bureau, have changed the regulatory environment and increased costs for assumption processing. Holders are now required to treat assumption applications as applications for credit, which necessitates the employment of licensed mortgage loan officers and other closing and compliance personnel that were not factored into the $300 assumption processing fee currently authorized at 38 C.F.R. § 36.4313(d)(8). As such, VA is exploring options for allowing additional cost offsets for holders processing assumptions while balancing Veterans' interests in keeping assumption costs low.

And while I speak to changes in the regulatory environment, I would be remiss if I did not mention the need for oversight of all parties in the mortgage process. Appraisers, lenders, and servicers are highly regulated by multiple Federal agencies. However, real estate agents remain largely free of Federal oversight but are, in certain ways, the primary guardian of the Veteran during the homebuying process. Real estate agents help the Veteran select a home and guide them toward selecting a mortgage provider, inspector, and closing agent. Neglect or even intentional disregard of a Veteran's interest in any activity during this process can result in unfortunate outcomes for the Veteran. Yet, VA's enforcement authority is extremely limited. VA looks forward to working with Congress and other stakeholders to ensure that all participants in the mortgage process give Veterans a fair shake.

Assisting Veterans Experiencing Financial Difficulty

As a Veteran who has used this program to purchase every home I have owned, I need to express how disheartened I am by the hardships some Veterans have experienced during and after the COVID–19 pandemic. VA has a long history of helping Veterans with retaining their homes or otherwise avoiding foreclosure, including the more than 200,000 Veterans affected by the COVID–19 national emergency (more than 50,000 of whom were assisted through VA's temporary COVID–19 home retention options). I am here today to reinforce VA's commitment to making best use of its authority to continue to help Veterans avoid foreclosure, and to address how the Department plans to assist thousands of Veterans who remain seriously delinquent (greater than 90 days delinquent) on their VA-guaranteed loans.

VA's Temporary COVID–19 Home Retention Programs

The COVID–19 national emergency posed the single largest threat to the home loan guaranty program that VA has faced. VA knew, when facing the COVID–19 national emergency, if the program was to continue and Veterans were to avoid a foreclosure crisis, VA would have to find a new way to respond.

To the lay observer, the most obvious response would have been to establish a partial claim program like the U.S. Departments of Housing and Urban Development (HUD) or Agriculture (USDA). Unlike HUD and USDA, however, VA does not have explicit authority to advance guaranty funds as a loss mitigation option. In short, unlike HUD and USDA, VA cannot offer a partial claim that pulls from the amount VA guaranteed. Although VA does have broad powers to waive, pay, or compensate claims or demands (38 U.S.C. § 3720(a)(3)(4)), it has been VA's longstanding and public position that Congress never authorized a partial advance on the guaranty without termination of the loan. The lack of authority may be because VA only carries 25 percent of the risk of a default through its guaranty, where the other Federal programs carry 90 percent or more of default risk. Furthermore, subtracting from the guaranty can adversely affect the mortgage-backed securities that often serve as the liquidity for lenders that participate in VA's program. So, when VA established the COVID–19 Veterans Assistance Partial Claim Payment (COVID-VAPCP) Program and the COVID–19 Refund Modification Program, VA attempted to create a program as similar to HUD and USDA's partial claim programs as possible while making it fit within VA's existing authority. To do that, VA looked to the well-established authority for the current loan refund program (38 U.S.C. § 3732(a)).

VA's actions to establish these temporary programs were unprecedented; but again, neither VA nor the Nation had faced a threat exactly like the COVID–19 national emergency before. The COVID-VAPCP Program allowed VA to purchase past due payments from the servicer and establish a loan payable to VA for the amount purchased at a 0 percent interest rate while the Veteran resumed regular monthly mortgage installments. Around the same time VA finalized its rulemaking for the COVID-VAPCP Program, it became clear that many Veterans were unable to afford their existing mortgage payments and required payment relief. With historically low interest rates in effect, the COVID–19 refund modification Program allowed for the purchase of past due payments and additional principal amounts, if necessary, followed by a loan modification of the remaining unpaid balance.

VA always intended both programs to be temporary home retention options specifically designed to address the negative financial effects the COVID–19 national emergency had on Veterans with guaranteed loans. As such, the COVID-VAPCP Program expired on October 28, 2022, a date that aligned with then-prevailing Federal guidance signaling that COVID–19 forbearances would end by June 30, 2022. At the time, VA was experiencing operational challenges implementing both temporary programs using its existing, limited resources. In addition, the budgetary effects of using VA's refund authority in this novel way were becoming clearer. The program, which has historically operated without a net cost to the government, began to incur a cost for each new guaranteed loan commitment.

Nevertheless, to ensure servicers could continue offering home retention options that provided payment relief to the most financially distressed Veterans, VA extended use of the COVID–19 Refund Modification Program beyond October 28, 2022. Unfortunately, by this time, interest rates had begun to rise, making the COVID–19 Refund Modification Program less effective. Other factors, such as rising home insurance rates and property taxes, also threatened to dampen or eclipse any savings offered by the program. The average price of home insurance increased by 21 percent from May 2022 to May 2023, and property taxes on single-family homes rose an average of 5.4 percent nationwide in 2021 and another 4 percent in 2022. With these realities in mind, in late 2022, VA began exploring new, permanent home retention solutions to assist Veterans.

VA Servicing Purchase Program

Over the past year, VA has been developing a new home retention program, the VA Servicing Purchase (VASP) Program with significant input from stakeholders on potential operational impact. The VASP Program is consistent with VA's long-standing authority under 38 U.S.C. § 3732(a) and current practice of purchasing Veterans' delinquent guaranteed loans from holders to modify the interest and term of the loan, in an effort to achieve an affordable payment for the Veteran. However, the VASP Program will improve upon current practices by providing a streamlined purchase, meaning Veterans will receive assistance faster and servicers and VA will face less administrative burden in the process. Under the VASP Program, VA will provide holders with program criteria allowing them to identify the loans VA will purchase, execute the modification prior to VA's purchase, and finally transfer the modified loan to VA.

VA strongly believes the VASP Program represents VA's best course of action for Veterans, especially when compared with VA's temporary COVID–19 home retention options. For example, although the COVID-VAPCP provided certain immediate benefits to the Veteran, including no change to the current interest rate or terms of the guaranteed loan, it had certain long-term drawbacks that will not be present in the VASP Program. Specifically, under COVID-VAPCP the second loan payable to VA represents, in essence, a balloon payment that must be repaid in full if the guaranteed loan is paid off, refinanced, or assumed by another person. Imagine planning to upgrade to a new home and discovering the equity you are taking from the sale of your existing home is $50,000 less than you thought because you did not account for the partial claim owed to VA. Or that you have made your final payment to your servicer on your VA-guaranteed mortgage only to discover that you owe the Government $50,000 for the partial claim you forgot you agreed to years ago. These are not far-fetched scenarios and represent outcomes for some Veterans who took advantage of VA's COVID–19 home retention options. Thus, even though the temporary COVID–19 home retention programs were vital, providing approximately $2 billion in emergency assistance so Veterans could retain their homes, VA believes it can more effectively help Veterans through the VASP Program.

The VASP Program loan provides Veterans an affordable, scheduled monthly mortgage payment that reduces the debt owed over time at a rate much lower than the current market interest rate, without the same latent issues such as a balloon payment or potential uncertainty about payoff. The VASP Program is simply a more sustainable option for Veterans who cannot afford other available loss mitigation options such as repayment plans, special forbearances, and traditional loan modifications. In addition to the advantages for the Veteran, the VASP Program ensures that the Government is better protected from certain financial and legal risks that arise when VA holds a junior lien position on a partial claim, especially in the approximately 20 states and the District of Columbia with homeowner association super lien protections. Additionally, the program can be implemented using existing staff and resources. Finally, for loan holders and servicers, the VASP Program is a streamlined, workable home retention option that will help the stability of holders' and servicers' portfolios while they assist Veterans in financial distress.

VA estimates the VASP Program will assist over 40,000 Veterans currently in default. As for the direct assistance to the Veteran, VA estimates the VASP Program loan, which will be modified at a 2.5 percent fixed interest rate with a 30 or 40-year loan term, will result in an average payment reduction of 20 percent (principal and interest). To ensure that Veterans who would experience a payment reduction of less than 20 percent can participate in the VASP Program, VA will require that servicers offer a 3-month trial payment plan with the new, modified monthly mortgage payment that must be successfully completed by the Veteran prior to VA's purchase to ensure the new mortgage payment is an affordable option.

VA is on track to launch the VASP Program in the Spring of 2024. To better understand the implications of certain program features and ensure we avoid some of the operational challenges experienced with the COVID-VAPCP and COVID–19 Refund Modification Programs, VA has spent this past year collecting information from other Federal agencies, Congress, industry stakeholders, and Veteran and consumer advocates. In the interim, VA has worked to mitigate negative consequences for Veterans by extending use of the COVID–19 Refund Modification Program and loan deferment temporary home retention options until the VASP Program is launched and by calling on mortgage servicers to pause foreclosures of VA-guaranteed loans through May 31, 2024. This pause will allow VA to proactively conduct outreach to educate Veterans on available loss mitigation options, provide supplemental servicing in cases where the servicer is not working with the Veteran, and conduct oversight of ongoing loss mitigation efforts.

VA understands that many Veterans accepted loan modifications or COVID–19 Refund Modifications Program at a higher interest rate than they were paying before. VA shares in their discouragement, but the reason for the increase in interest rates was outside VA's control. Market rates industry-wide were at record lows immediately preceding and during the first half of the COVID–19 national emergency. Then they increased rapidly and dramatically. Market rate increases are determined by external factors, and recently rising interest rates have affected all borrowers, not just those with VA-guaranteed loans. VA's home retention options, including traditional and temporary COVID–19 options, have always focused on finding a way to help bring the Veteran's loan current with payments the Veteran can afford. While the COVID–19 options may have required modifying the Veteran's loan using the current market interest rate, the VASP Program will offer a rate that VA will control, one that is not subject to the same market volatility and that simply cannot be found elsewhere in the marketplace at this time. Affordability remains key. Additionally, Veterans are not precluded from refinancing their loan in the future should interest rates decrease, nor are they precluded from participating in the VASP Program should they be unable to make their new mortgage payments and other home retention options are not feasible.

Additional Assistance for Veterans

In addition to the upcoming launch of the VASP Program, VA continues to examine other ways to assist Veterans and their families. This includes working with Congress, including this Subcommittee, to understand if statutory authorities could optimize home retention options, such as the VASP Program, for Veterans.

It also includes continuing to inform Veterans and their families about other opportunities that may assist with affordable homeownership. Loan Guaranty Service recently partnered with the Veterans Benefits Banking Program to inform Veteran borrowers, with delinquent VA loans, of free credit and financial counseling. VA's loan technicians also serve an important role in communicating with Veterans about their VA-guaranteed loans. VA has also updated the home loan program's website and outreach materials to provide information about the many states, territories, and tribes that have homeowner assistance funds available to assist households who are behind on their mortgages and other housing-related expenses (utilities, property taxes, partial claims, and so on) due to the impacts of the COVID–19 national emergency.

Although part of Loan Guaranty Service's mission is to assist Veterans in home retention, this is not always possible given a Veteran's financial position. Similarly, alternatives to foreclosure, such as a short sale or deed-in-lieu, may not always be viable. These situations include, but are not limited to, permanent income reduction, death or divorce of the borrower(s), or property deterioration. Additionally, in some cases Veterans hinder loss mitigation efforts if they are unresponsive to outreach attempts by the servicer or VA. In these cases, VA will continue working with the Veteran to find a soft landing. For example, for properties that are acquired by VA after loan termination, VA offers relocation assistance which financially compensates occupants of VA-acquired properties for voluntarily vacating the property by an agreed upon date; thereby, avoiding the full legal eviction process and costs associated with the eviction.

Special Focus Areas

Native American Direct Loan Program

VA remains committed to making certain that Native American Veterans who are ready and financially able to purchase a home can do so, whether through the Native American Direct Loan (NADL) Program or VA's Guaranteed Home Loan Program. As VA continues to address recommendations from an April 2022 Government Accountability Office report focused on staffing, data collection, performance measurement, planning, and leveraging expertise to mitigate barriers to NADL Program use, we have also taken steps to tackle the two major barriers to home ownership for Native American Veterans on tribal lands which are affordability and accessibility.

In March 2023, VA reduced the interest rate for NADL Program loans from 6 percent to 2.5 percent for a 24-month period. This rate reduction recognizes the unique economic circumstances faced by Native American Veterans living on trust land and increases access by significantly improving affordability. Since implementing this reduced interest rate, VA has issued 43 loan commitments, including 29 interest rate reduction refinancing loans of existing NADL Program loans.

To further improve accessibility of the program, VA continues to conduct outreach to tribes and tribal organizations, including 59 events held in FY 2023 and 15 events held thus far in FY 2024. To ensure VA's seven-person NADL team maximizes its efforts, this year's outreach plans and goals include focused efforts on Tribes with large Veteran populations and leveraging partnerships with Veterans Benefits Administration (VBA) public contact personnel and Veterans Health Administration Veterans Integrated Service Networks. VA is also using tribal engagements to better understand the most effective contact and communication strategy with each Tribe. For example, parts of VA's FY 2024 outreach plan were tailored based on feedback from an August 2023 in-person site visit with the Navajo Nation and Hopi tribal leadership to better engage with tribal housing authorities.

Specially Adapted Housing Grant Program

VA's Specially Adapted Housing (SAH) Grant Program offers housing grants for Veterans with certain service-connected disabilities so they can buy or change a home to meet their needs and live more independently. In FY 2023, VA approved over 2,325 SAH grants to Veterans. This reflects continued success of the program and a 19 percent increase over FY 2022. Currently, SAH agents are serving over 4,400 Veterans with an active SAH grant file, so VA anticipates another record-breaking year for the SAH Program. Finally, the SAH Program recently received the highest Veterans Signals trust scores across all of VBA, demonstrating VA's commitment to delivering exceptional service to the Nation's most severely disabled Veterans.

Conclusion

Mr. Chairman, I hope that my testimony today leads to the conclusion that VA's home loan program is managing the changing currents through responsible, effective and meaningful programs centered on expanding homeownership opportunities and offering affordable solutions when financial difficulties arise. This concludes my testimony, and I welcome any questions that you or other Members of the Subcommittee may have.

Prepared Statement of Edward DeMarco

Testimony of
Edward J. DeMarco
President of the Housing Policy Council

House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity

Hearing Entitled:

"Sink or Swim? A Deep Dive into the Current State of VA's Home Loan Program in a Competitive Market."

Thursday, February 15, 2024

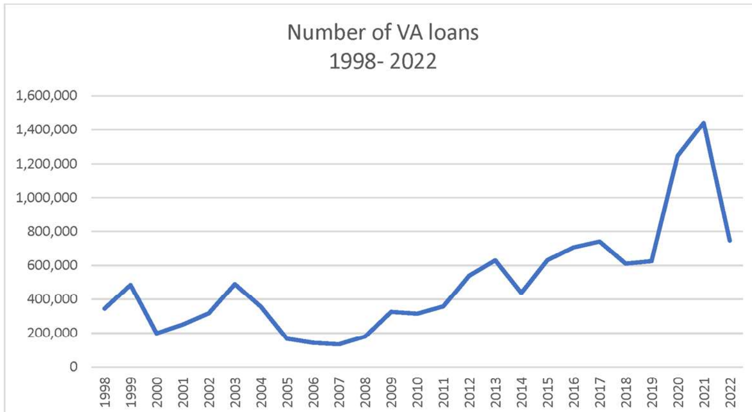
Introduction

Thank you for the invitation to participate in today's hearing. I am here on behalf of the Housing Policy Council (HPC), a trade association comprised of the leading national mortgage lenders and servicers; mortgage, property, and title insurers; and technology and data companies. HPC's members share a common interest in the success and sustainability of the VA Home Loan Guaranty Program.

In fact, HPC and HPC members have a long history supporting active duty servicemembers and Veterans who have served our country. HPC's first president, John Dalton, was the Secretary of the Navy during the Clinton Administration and established within HPC a commitment to working with the Department of Defense (DoD), the Department of Veterans Affairs (VA), and the Consumer Financial Protection Bureau's (CFPB) Office of Servicemembers Affairs to promote access to safe and affordable lending programs and services for military families and veterans.

We have an active working group that coordinates with the DoD to advance policies that facilitate compliance with the Military Lending Act and Servicemembers' Civil Relief Act. We also manage working groups that focus on ways to enhance and expand home lending for Veterans through the VA Home Loan Guaranty Program, the subject of this hearing.

The subcommittee's decision to focus on the VA Home Loan Program is timely. The program has undergone remarkable growth over the last 10 or so years. In the decade between 2011 and 2021, the number of VA originations quadrupled, growing from just over 350,000 loans to over 1.4 million. Even in 2022, when lending activity declined in all segments of the market, VA loan volume was more than double that of 2011, and higher than the very successful mortgage years prior to the COVID-19 National Emergency.



In the wake of this incredible growth, it is appropriate to assess whether the VA has the resources and authority the agency needs to operate the program effectively, fulfilling its mission to those who served our nation and managing the associated mortgage credit risk. Our own informal assessment of the situation leads us to conclude that VA does, in fact, need additional resources to operate its home loan program. Yet, in the absence of additional funding for personnel, technology, or vendors, the VA could deploy its existing resources more efficiently by aligning some of the VA practices with those of the conventional market or other government programs.

To be clear, we believe that some of VA's "tools" and processes were adequate when VA financing volume was lower, when VA financing was a niche lending program. However, to keep pace with the exponential growth in the volume of VA business, the core policies and practices need to be modernized. Updates to the policies and practices would enhance the program – extending the VA home financing opportunity to more Veterans, improving program performance and sustainability, and eliminating the perception that the VA Home Loan Program is hard to deal with, a stigma that affects Veterans' ability to make competitive purchase offers in "hot" real estate markets.

In other words, with or without additional resources dedicated to the VA Home Loan Guaranty program, strengthening and modernizing the agency's policies and practices would allow VA to be more efficient and effective and its programs more appealing for VA borrowers and market participants. Adequately funding needed improvements would enhance the utility of this unique benefit, enabling more Veterans to pursue and secure their American Dream and empowering VA to better fulfill its mission of serving those who have honorably served us.

A critical principle that could guide this Subcommittee's oversight of the VA's future policy decisions is to provide the VA with the resources and authority the agency needs to offer at least equivalent service to borrowers financed through FHA, USDA, Fannie Mae, or Freddie Mac. Put another way, to operate an effective homeownership lending benefit program, VA requires resources to maintain strong risk management practices to support its ever-growing market share, to operate soundly within the complex U.S. housing finance system, and to keep pace with private sector innovations and best practices. Ideally, if we work together to strengthen the VA Program, the VA will someday be able to provide the superior service that our Veterans deserve.

My testimony today includes recommendations that reflect ideas and insights presented during several years of policy discussions between HPC members, other industry associations, and consumer and Veteran advocacy organizations. The recommended program and practice improvements would help VA provide services equivalent to other government agencies. Needed improvements include updates to VA's servicing and loss mitigation programs, property and appraisal standards, and basic program guidance to formally and permanently adopt temporary policy changes made over the last few years. HPC and our members also recommend that the VA, with the support of Congress, improve program transparency, including additional reporting. We believe that VA stakeholders and the agency itself would benefit from a new, publicly available monthly VA Home Loan report on the status of loan activity and performance, a policy drafting table to collect public comments on material policy changes, and an independent government study of program authority and need.

Recommendations to Update VA Policies and Practices

Servicing

In light of the current size and importance of the VA Home Loan program in the marketplace, we believe the VA's current loss mitigation tools and resources are insufficient to meet the needs of Veterans facing financial distress, many of whom require assistance to keep their homes. The VA has significantly fewer and less effective loss mitigation programs than the USDA, FHA, Fannie Mae, or Freddie Mac. We find this to be unacceptable. We wrote a letter to the VA in January of 2023 with consumer groups, Veteran service organizations, and industry partners who all joined with us to express this view.

At the outset of the COVID-19 pandemic, VA, like the other government agencies, did a good job standing up a forbearance program in accordance with passage of the CARES Act. The VA allowed affected borrowers to avail themselves of 12 months of forbearance, suspending mortgage payments without penalty (later extended administratively to 18 months) with the understanding that the missed payments would ultimately be satisfied through a permanent loss mitigation solution. For borrowers whose hardship ended, the VA had a number of traditional loss mitigation programs that a servicer could offer. These programs generally required a loan restructuring, with capitalization of the missed payments (adding the arrearage to the outstanding loan balance) and a change to the rate and term of the mortgage, but no long-term deferral of the missed payments. With rates suppressed by the Federal Reserve, these programs could achieve a reduced payment for borrowers. However, the other government agencies, FHA and USDA, as well as Fannie Mae and Freddie Mac, had programs that permitted a borrower to resume their previous monthly payments and defer the entire amount of missed payments until payoff of the primary mortgage. In October of 2020, HPC requested that the VA set up a similar program.

We were pleased when the VA added this useful tool to its suite of programs in July of 2021. The new Partial Claim program was structured somewhat like the FHA program, permitting a borrower to resume making monthly payments at the previous level, with the accumulated arrearages from the missed payments rolled into a subordinate lien due upon payoff of the primary mortgage. The VA operated this borrower-friendly option from July of 2021 through October 2022; this was the program that servicers would most often discuss with borrowers in forbearance, as the likely form of assistance that would allow the Veteran to exit forbearance and return to paying status.

After termination of this "stand-alone" Partial Claim program, since October of 2022, the VA intermittently continued a related program, the COVID Refund Modification program. This solution was designed to help Veterans who needed a reduction in their monthly payments; it allows the servicer to restructure the loan *in combination with* a Partial Claim. Unfortunately, the loan restructuring component of the program relies on a market rate of interest and rising rates have made this program increasingly less likely to achieve a payment reduction. Further, this program has expired and restarted multiple times, making it very difficult for servicers to offer to borrowers who could not predict when they might be prepared to exit forbearance.

The planned expiration of the standalone partial claim program in fall 2022 came well before the need for such a program dissipated and before any replacement programs were available to help Veterans in financial distress. In fact, HPC wrote to the VA in the summer of 2022, imploring the agency to retain the standalone partial claim program at least until an alternative program was launched. VA leadership indicated that the agency did not have budget authority and funding to maintain the standalone Partial Claim program, due to the federal accounting treatment applied to this program. HPC does not have specialized federal budgeting expertise to recommend a specific proposal or arrangement by which VA could maintain a permanent standalone Partial Claim program, but HPC continues to believe that the VA and Veterans need this critical loss mitigation tool.

As we understand it, the VA intended for the termination of the program to coincide with the implementation of a new program, the Veterans Affairs Servicing Purchase (VASP) program, that would permit a Veteran to have his or her mortgage restructured by their servicer to a below-market note rate with a term extension, to reduce the monthly payment. The restructured loan would be "purchased" by VA and transferred to a VA-procured servicer currently under contract with the agency. While we support the introduction of the new VASP program, its development has been significantly delayed, and the previously existing standalone partial claim program was not extended to bridge the gap.

Further compounding this challenge, VA resource constraints have resulted in multiple lapses of the Refund Modification Program, which permitted principal deferral with loan restructuring to reduce the Veteran's monthly mortgage payment. The intermittent availability of one program and termination of another negatively affected servicers' ability to assist Veterans, limiting the solutions that could be offered to Veterans in need of assistance. HPC acknowledges and appreciates that VA issued an extension of the Refund Modification Program just this week, on February 12, with a new expiration date of May 31st. However, this action may be too late to assist some homeowners. As mentioned above, the VA previously allowed the Refund Modification to expire, and in spite of the announcement this week that the VA has again reopened the program, many servicers had already disassembled their processes for offering it. Further, the short time-frame available to offer the program is insufficient for many servicers to stand up new processes, particularly given the need to dedicate resources to the implementation of VASP.

Yet, in the absence of extensions for the partial claim and refund modification programs, the VA had no effective VA loss mitigation programs that would reduce payments for Veterans facing foreclosure. As a result, on November 30, 2023, the VA announced a "voluntary" foreclosure moratorium, which forestalls these actions to an extent, but exacerbates the financial hardship for the borrowers who are awaiting assistance. During a moratorium period, the arrearage continues to grow, which hurts rather than helps Veterans in need, and makes finding permanent solutions more challenging.[i] We ask again, as we did in summer 2022, that the VA reinstate the standalone partial claim program, which can provide assistance to some VA borrowers, while it completes the design and implementation of the new VASP program.

Further, we believe that the success of VASP depends on features that will allow a maximum number of Veteran borrowers to qualify and to receive adequate payment relief to reperform on their mortgages. Specifically, we recommend that the program design enable the VA to:

- *Maximize borrower eligibility.* The VA should avoid eligibility and approval criteria or factors that would unnecessarily limit the number of borrowers who could receive assistance. For instance, VA should not require the collection of excessive amounts of financial documentation or mandate a residual income analysis to demonstrate affordability. As we've learned from experience - during the Great Financial Crisis, with the Home Affordable Modification Program, and the recent COVID-19 pandemic - payment relief is the single biggest driver of sustainable loan modifications.

- *Process borrower cases promptly*. Prompt, consistent, and unambiguous loss mitigation decisions will be critical to the success of VASP. The VA should establish a VASP process that is efficient, without barriers that would delay an opportunity for a borrower to retain their home. To expedite the process, we believe that the VA should utilize clear pre-screening criteria for servicers to identify borrowers eligible for a loan modification, preferably based on data that require no additional documentation or validation. Without a simplified, data-driven process, servicers will have to collect, and the VA will have to evaluate, a significant volume of documentation to decide whether to purchase a loan. It is important to process the bulk of loans that qualify for VASP promptly. Objective, bright-line parameters should guide both the servicers' data collection process and the VA's decision to approve a loan for purchase and immediately proceed to transfer the servicing to VA's contractor. To develop a streamlined and efficient process, we support efforts by the VA to devote technological resources to automation.

- *Facilitate successful servicing transfers*. At its core, VASP relies on servicing transfers and therefore, VA must implement a servicing transfer process that follows industry standards and practices. Namely, VASP should permit monthly servicing transfers to be completed in bulk. Individual loan transfers are not scalable for servicers or VA's servicer-contractor and raise considerable operational risk issues. We have indicated to VA that the industry stands ready to discuss the servicing transfer process, including the servicer and VA's communications with the borrower, the data to be transferred, and documentation needed to complete the transfer process.

- *Focus on Monthly Payment Reduction*. As we have advocated jointly with consumer groups, the VA should optimize the use of VA resources dedicated to this program by designing VASP to bring a targeted amount of payment relief to borrowers (ideally between a 20-30% payment reduction), rather than designing a program that targets a uniform interest rate (which is what we understand that the VA might be considering).

In addition to VASP, we recommend that the VA update the full suite of loss mitigation programs, engaging with both FHA, Fannie Mae, and Freddie Mac, and with industry participants to utilize features of the various government-initiated COVID-19 loss mitigation solutions. The VA should pursue a comprehensive and durable set of programs that can be used to resolve mortgage delinquency under any economic or market conditions, while preserving needed program flexibility for servicers to work with their borrowers to find the most appropriate solution for each situation.

As mentioned previously, as part of this work, VA should re-introduce a standalone partial claim program that permits deferral of missed payments. A program like this is needed for borrowers whose temporary hardship has ended and who can resume their contractual mortgage payment but need assistance resolving their missed payments. The FHA standalone partial claim program is a workable model for VA.

Appraisals

In the absence of additional funding for personnel, technology, or vendors, the VA should look for areas to use its existing resources more effectively, specifically by adopting best practices of the conventional market.

We believe the VA's current appraisal process is a natural place for alignment, to better serve Veterans and to remedy the negative market perception of the VA Program.

Thus, we commend Chairman Bost and the members of this committee who supported the Improving Access to the VA Home Loan Benefit Act of 2022 (the Act). To us, this simple, common-sense piece of legislation, is meaningful; it calls on the VA to consider adjustments to the VA appraisal process, to establish valuation practices that are more efficient and effective.

Similarly, we note the VA's recent issuance of an Advanced Notice of Proposed Rulemaking (ANPR)[ii] seeks information on ways to improve the agency's collateral valuation processes, including the VA-specific minimum property requirements. The ANPR conveys a receptivity to adopt approaches that align with market-wide residential collateral standards. We recommend that the VA Home Loan Guaranty Program eliminate the Minimum Property Requirements and instead align VA appraisal practices with the conventional market standards established by Fannie Mae and Freddie Mac. Conventional financing is one of the most common alternatives used by Veterans.

While we share the goal behind the minimum property requirement – to protect the health and safety of prospective VA homebuyers – in practice, the current standards hurt Veterans. We have observed over the years, based on the experience of many stakeholders across the housing finance system, that the VA Minimum Property Requirements serve as one of the most significant impediments to the use of VA financing by prospective homebuyers. The standards impose an additional set of requirements that do not reduce the lender's collateral risk or in most cases improve the overall soundness of the property. Instead, the Minimum Property Requirements, in both perception and reality, delay and prevent consummation of sales transactions, making purchase offers based on VA financing less desirable than offers that rely on conventional mortgage loans. Whether real or perceived, the Minimum Property Requirements are considered by market participants to make the VA program more difficult operationally, more time-consuming, and more likely to result in a failed deal. This causes adverse selection that disadvantages VA home loans when other financing is available and increases the costs to originate, underwrite, and close a VA guaranteed loan.

Another unique feature of the VA appraisal process is the VA Appraiser Roster. Over the years, the limited set of appraisers on the Roster has presented a problem, particularly in rural communities. Appraising rural homes is more complicated due to a lack of comparable sales, uniqueness of homes, time between sales, and an expansive geography. These factors require more time, research, and justification for an appraiser to determine an acceptable opinion of value for a rural property. To make this task more challenging in the VA space, VA maintains its own Roster of VA Appraisers who are eligible to perform appraisals for homes that will be security for VA home loans. VA officials have acknowledged that the agency has had difficulty finding qualified appraisers from this Roster who will agree to accept VA assignments in rural areas.

The viability of the VA Appraiser Roster depends on the number and distribution of appraisers across the country. Therefore, we think that it is critical for the VA to provide data on the number of VA approved appraisers in all geographies, especially in rural communities. This would allow policymakers to assess the sustainability of the program, monitor trends, and adapt policy if necessary to address changing market conditions.

Updated Policy Guidance

The last significant overhaul of the VA's Lender Handbook[iii] was in 2019. Absent updates to the Handbook, the primary way that the VA notifies the lending community of policy changes is by issuing targeted and narrow policy instructions, called Circulars. Unfortunately, many of these Circulars have short-term effective timeframes (often 6-12 months) and, at this point, many critical Circulars have since expired. Outdated Handbook guidance, combined with expired Circular guidance,[iv] results in confusion for stakeholders and the potential for inaccurate application of the intended guidance by lenders. With additional staffing resources, we believe that the VA must update the Handbook to reflect current law and regulation, as well as other expired Circular guidance, minimizing the risks of lender non-compliance and/or inconsistent service to Veterans.

For example, the VA should update its policies pertaining to Appraisal Fees and the Residual Income Table.

The VA publishes an allowable appraisal fee schedule for every area of the country, to cap the cost of VA appraisals. In theory, this unique practice protects a consumer from overpaying for an appraisal. However, the VA has not adequately maintained the fee schedule; the last update to the schedule was in December of 2021. When the fee schedule does not keep pace with market conditions, Veterans are not well-served. During periods of peak demand, the fee schedule is too low to entice an appraiser to accept an assignment and in a slow market, Veterans are likely overpaying for appraisals. If the VA wants to continue to maintain price controls on appraisals to protect veterans, there must be a commitment of resources to update the fee schedule multiple times a year. Or perhaps it should consider relying on a competitive market to set prices.

A similar example of a unique program feature that needs updating is the VA's Residual Income table.[v] The rigorous VA underwriting process requires analysis of the Veteran's available income, after paying mortgage and related expenses each month. Unfortunately, the expense side of the VA's test has not been updated for years, and most certainly has not kept up with inflation, and the resulting tables therefore understate the residual income a family actually needs. We acknowledge that updating the residual income table would likely take a significant deployment of resources, but we believe the benefits to the Program and future Veteran borrowers would make this effort worthwhile.

Recommendations for Improving VA Reporting and Transparency

Relative to FHA, Fannie Mae, or Freddie Mac programs, data on VA loans are hard to come by. One way to enhance the VA Home Loan Program is to increase transparency related to VA loan activity, performance, and policy. We recommend that the VA:

- Provide the public with monthly loan activity and performance data, to present the status of VA loans;
- Provide a periodic update on the revenues from running the program;
- Like FHA, create a policy “drafting table” to offer the public a vehicle to provide comments and insight on material changes to the program, prior to implementation; and

Task the Government Accountability Office (GAO) with studying what resources and authorities the VA needs.

Loan Performance Data

Today, the VA does not publish any loan data and therefore does not provide the public with any basic program information on the performance of VA home loans. As a result, stakeholders – from industry to consumer groups to researchers – do not have official figures from the VA regarding the number or proportion of VA loans that are delinquent, nor how many VA borrowers are benefiting from some form of loss mitigation including forbearance. This means that stakeholders also cannot predict the impact of policy changes, like the recently announced VA foreclosure moratorium or the number of borrowers who may qualify for the proposed VASP program.

Without VA-established and -administered reporting, policymakers rely on Ginnie Mae reports for basic information, which only provides insight into loans in Ginnie Mae securities (which is not a particularly good proxy when loans are delinquent and are removed from the securities) or on private company reporting. The VA does publish the VA Annual Benefit Report, but the information in this document suffers from a significant lag in time. Therefore, we recommend that this annual report be supplemented with a monthly public disclosure of VA loan activity and performance data. This would allow policymakers and stakeholders to monitor the business and identify emerging trends or challenges. Ideally, a monthly report would mirror the information currently provided by FHA, Ginnie Mae, Fannie Mae, and Freddie Mac, so that the public would have a real-time opportunity to make comparisons about what is happening with the largest programs in the housing finance ecosystem.

VA Home Loan Revenue Data

We understand from VA officials, that the Home Loan Guaranty Program is experiencing financial and operational strain as a result of the PACT Act as well as the Blue Water Navy Vietnam Veterans Act of 2019, and the associated waiver of the VA funding fee for Veterans who receive compensation for service-connected disabilities. While we applaud the goals of these policy priorities, the reduced revenue for the Home Loan Program poses a challenge for an organization that should operate with sufficient income to offset the losses that necessarily will occur in a lending program. According to a CBO report, in fiscal year 2021, approximately one-half of VA borrowers—specifically, those receiving compensation for a service-related disability or spouses of Veterans who died in service—were exempt from the funding fee.[vi] It is our understanding from VA officials that the proportion has only grown further since 2021.

To track this emerging issue, we request that the VA be required to publish annual information in the VA Annual Benefit Report, that tracks the revenue situation with the program over time, and how that corresponds with the growth of the program, the utilization of the program by Veterans with service-connected disabilities who don't pay a funding fee, and projects how enacted legislative changes might impact those who qualify for the program and/or qualify for a fee waiver when accessing the program.

The current VA Annual Benefit Report already highlights that the percentage of young Veterans receiving service-connected disability benefits has grown dramatically.[vii] The Report also highlights the dramatic increase in utilization of the VA Home Loan Program.[viii] However, the report doesn't present for policymakers the percentage of VA Home Loan utilization by Veterans with a service-connected disability and whether this percentage has increased proportionately.

Our push for transparency in this area is not intended to suggest that servicemembers with disabilities should pay a funding fee, but rather to highlight the implications of this policy on the health and sustainability of the VA

Home Loan program. We believe our common objective should be to offer all qualifying Veterans a comprehensive home loan program that meets their needs throughout their lives and to fund the program adequately to meet that objective.

Policy Drafting Table

With the significance of the VA program in the marketplace, we believe that the VA needs to adopt a procedure like the FHA "Drafting Table," which allows for an informal and efficient public comment process for stakeholders to weigh in on core features and critical details of proposed changes to program rules and requirements as well as to address ambiguities or fix errors before a programmatic change is finalized. In the summer of 2023, HPC joined with consumer and industry groups to request that the VA establish a public process for review and comment on VA's new foreclosure prevention solution (VASP). It was our hope to gain insight on the proposed program features and requirements, to prevent implementation risks for program stakeholders and Veteran beneficiaries alike. In fact, our experience with the FHA Drafting Table is that it not only leads to better programmatic outcomes, but the ability to identify fatal flaws and drafting errors before a proposed change is finalized actually speeds up implementation timelines. Since the VA is currently short on resources and is looking to execute the new VASP program quickly, we believe that this type of iterative policy drafting process can prevent mistakes from being in a final policy document that then often take significant time and resources to correct.

Independent Government Study

At an appropriate time in the future, we propose an independent study conducted by GAO of the VA program and the challenges it faces due to its significant growth, changes in the borrowers' service profiles, and an evolving marketplace. Specifically, we recommend that GAO consider the VA program's performance as the volume of loan activity has increased over the last decade as well as during the COVID-19 National Emergency, to evaluate what additional resources and authorities the VA may need in order to offer services that are at least equivalent to FHA, USDA, Fannie Mae, and Freddie Mac. Additionally, the study should analyze the differences in statutory authority and budgetary support that the different government programs have, and the rational, if any, for the differences.

Concluding Remarks

I conclude by encouraging this Committee to actively assess whether the VA has the resources and authority the agency needs to operate this critical housing program effectively.

On behalf of HPC and its members, thank you for inviting me to participate today.

APPENDIX-Recent HPC Advocacy to the VA

12/14/2023 Joint trade letter with Mortgage Bankers Association (MBA), Center for Responsible Lending (CRL), and National Consumer Law Center (NCLC) on the need for the forthcoming servicing purchase program to target borrower payment reduction, rather than a uniform interest rate.

08/31/2023 Joint trade letter with the MBA and NCLC requesting that the VA start a public process for review and comment on the forthcoming servicing purchase program.

07/26/2023 Joint trade letter with MBA on recommendations for the VA to consider as they developed the servicing purchase program (VASP).

05/30/2023 Joint trade letter with 13 organizations requesting that the VA work with other regulators to develop a reconsideration of value process for appraisals.

01/17/2023 Joint trade letter with 19 organizations (including industry, consumer groups, and veteran service organizations) highlighting our concern that the VA didn't have sufficient resources, tools, and authorities to offer veterans adequate loss mitigation solutions.

01/17/2023 Joint trade letter with MBA in response to the VA ANPR on loss mitigation, that recommends a suite of changes to the process (a partial claim program, a 40-year modification, an expanded purchase program, etc.).

11/30/2022 HPC Letter to VA on recommendations for the VA to consider as they developed the servicing purchase program.

06/22/2022 Joint trade letter with MBA responding to an ANPR on Servicer Tier Rankings, which we support, but raised concerns about the resources and priority of this project.

06/21/2022 Joint trade letter with the MBA calling on the VA to extend their partial claim program past its expiration of October of 2022.

01/08/2021 Join trade letter with 27 other organizations raising significant concerns with a proposed rule on the partial claim program. Our largest concerns were the proposal would require delinquent borrowers to make monthly payments, pay interest expenses, and require extensive paperwork, all elements which were out of synch with FHA, VA, and conventional loss mitigation programs.

01/08/2021 Joint trade letter with MBA on the VA partial claim program, where we raised detailed concerns with the proposed program.

12/17/2020 Joint trade Letter with MBA and the American Bankers Association requesting guidance on expiration of CARES Act forbearance.

10/14/2020 Joint trade letter with MBA laying out significant concerns with the VA deferment loss mitigation option, and instead calling on them to stand up a partial claim program.

02/06/2019 HPC letter to VA on needed revisions to the cash-out refinance home loan rulemaking.

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[i] Further, when VA home loan borrowers are not making their monthly mortgage payments, for those loans pooled in Ginnie Mae mortgage-backed securities (MBS), servicers are obligated to make the pass-through payments to the (MBS) bondholders. This requirement for the servicer to make payments on the borrower's behalf is a significant financial responsibility, an economic burden that many federal regulators have identified as a source of economic stress in the mortgage market. Therefore, a VA program that resolves protracted borrower delinquency is in the financial interests of the borrower, the servicer, and the broader mortgage market alike.

[ii] https://www.govinfo.gov/content/pkg/FR-2023-12-11/pdf/2023-27068.pdf?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov

[iii] https://www.benefits.va.gov/warms/pam26_7.asp

[iv] Examples include:

- The specific program requirements set forth in S. 2155, the Economic, Growth, Regulatory Relief, and Consumer Protection Act (passed in May 2018) are not adopted in Chapter 6 of the Lender Handbook. The Refinance guidance in the Handbook was last updated in April 2009, almost a decade prior to the new statute.
- Several Circulars have been issued on VA IRRRLs, but most have expired. In addition, the VA has not published a final rule of its IRRRL regulations. Regulations for VA Cash-Out refinances were published in December 2019 as an interim final rule and some Circulars have been issued on VA Cash-Out Refinances but have all subsequently expired.
- The requirements for implementing H.R.299 Public Law No: 116-23 - Blue Water Navy Vietnam Veterans Act of 2019 were issues through a number of circulars that have subsequently expired.
- Guidance permitting appraisers to use information collected by an independent third party was issued through a Circular as the Assisted Appraisal Processing Program, but has subsequently expired. An additional Circular was issued extending the rescission period out a year, but that has also since expired.

Table of Residual Incomes by Region For Loan Amounts of $79,999 and Below				
Family Size	Northeast	Midwest	South	West
1	$390	$382	$382	$425
2	$654	$641	$641	$713
3	$788	$772	$772	$859
4	$888	$868	$868	$967
5	$921	$902	$902	$1004
Over 5	Add $75 for each additional member up to a family of 7			

Table of Residual Incomes by Region For Loan Amounts of $80,000 and Above				
Family Size	Northeast	Midwest	South	West
1	$450	$441	$441	$491
2	$755	$738	$738	$823
3	$909	$889	$889	$990
4	$1025	$1003	$1003	$1117
5	$1062	$1039	$1039	$1158
Over 5	Add $80 for each additional member up to a family of 7			

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[vi] https://www.cbo.gov/system/files/2021-09/57024-VA.pdf

[vii] https://www.benefits.va.gov/REPORTS/abr/docs/2022-compensation.pdf

[viii] https://www.benefits.va.gov/REPORTS/abr/docs/2022-loan-guaranty.pdf

Prepared Statement of Mark Jones

MORTGAGE BANKERS ASSOCIATION

Statement of
Mark A. Jones
President, Union Home Mortgage
On Behalf of the Mortgage Bankers Association

U.S. House of Representatives
Committee on Veterans' Affairs
Subcommittee on Economic Opportunity

"Sink or Swim? A Deep Dive into the Current State of VA's Home Loan Program in a Competitive Market"

February 15, 2024
2:30 P.M.

Testimony of Mark A. Jones
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Oversight Hearing

Chairman Van Orden, Ranking Member Levin, and members of the Subcommittee, thank you for the opportunity to testify today on behalf of the Mortgage Bankers Association ("MBA").[1]

My name is Mark Jones, and I am the President of Union Home Mortgage, a national independent residential mortgage lender. I was previously the Co-founder and CEO of AmeriFirst Home Mortgage, a privately held mortgage lender headquartered in Kalamazoo, Michigan.

I am appearing today in my capacity as the current Chairman of the MBA. As a lender with deep personal experience originating, securitizing, and servicing Department of Veterans Affairs (VA) Home Loan Program mortgages, I am honored to be appearing before this Subcommittee for the second time within the past two years.

MBA appreciates this Subcommittee's focus on the topics outlined for discussion with the VA and other important stakeholders at today's hearing, namely the current state of VA's Home Loan Guaranty program – including a review of the agency's procedures governing mortgages, appraisals, refinancing, and foreclosures – and the Veterans' Assistance Servicing Purchase (VASP) program, which is scheduled for release this year.

MBA is pleased to offer recommendations designed to help improve various Home Loan Program elements and ensure that our nation's Veterans receive a high-quality homebuying experience in a challenging, changing, and competitive mortgage market environment. We are, of course, acutely aware that the VA may require additional resources from Congress to implement some of these suggested program improvements and changes.

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 300,000 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 2,200 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.

Testimony of Mark A. Jones
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Oversight Hearing
February 15, 2024

At the outset of my statement, I want to underscore that the MBA – and its many individual member firms who originate and service VA loans – have a positive and productive working relationship with the agency – one forged over many years of partnership.

The VA Home Loan Program is one of the most significant benefits our nation's heroes earn through their sacrifice and service. MBA recognizes the need for making this important program more accessible, operationally efficient, flexible, and competitive against other loan options. This is particularly important during times of individual crisis for Veterans and their families. We understand this work will involve reaching a bipartisan consensus with the members of this Subcommittee, the agency, and all other key market participants and advocates. MBA looks forward to playing a constructive role as part of this ongoing dialogue.

The VA Mortgage Market

The VA Home Loan Program plays a vital role in increasing the availability of mortgage credit for servicemembers, Veterans, and surviving spouses. By guaranteeing a portion of the loan balance, the VA enables lenders to offer loans with more favorable terms, such as no required down payment.

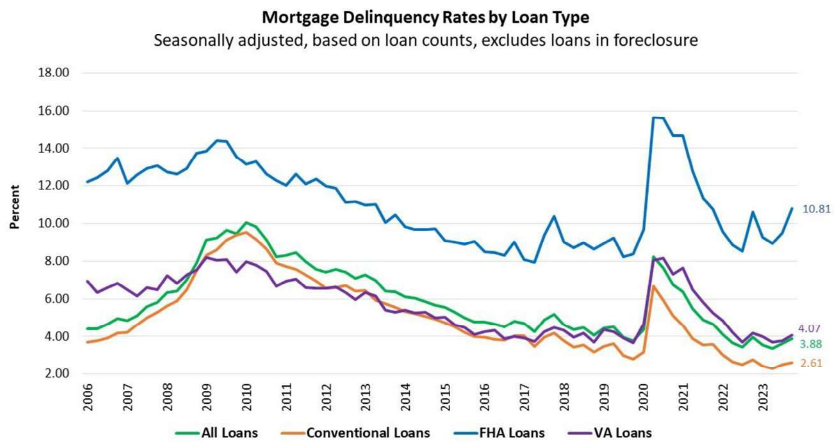
The VA share of total U.S. loan originations in the mortgage market comprises about 10%. VA originations totaled nearly 1.4 million loans in 2020 and, by contrast, just over 590,000 loans in 2022. VA home loans are offered by a wide variety of mortgage lenders – both independent mortgage lenders and depository institutions – throughout the country.

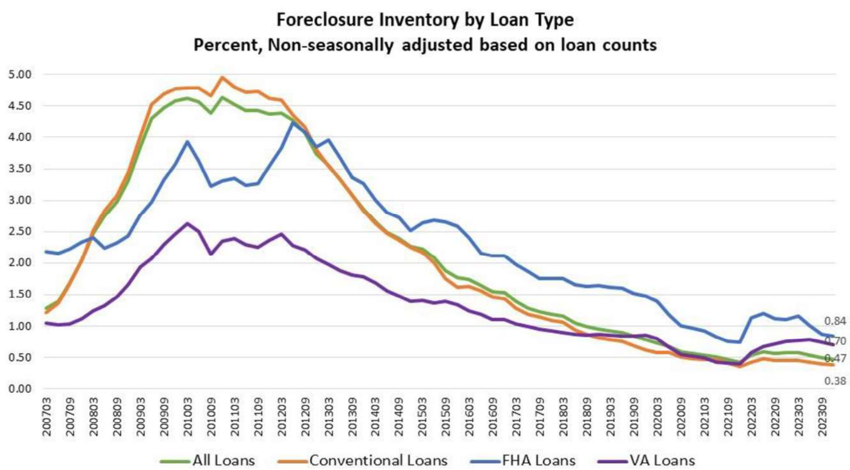
Loss Mitigation Tools

The following five charts help to place VA loan mortgage delinquencies, foreclosures, and loan workouts in context relative to the broader U.S. mortgage market.

As displayed within the first two charts, there are approximately 50 million mortgage loans outstanding in the U.S. Approximately 3.7 million loans outstanding are VA loans. Of those 3.7 million VA loans, a little over 150,500 VA loans (4.07%) are delinquent as of year-end 2023, and around 26,000 VA loans (0.70%) are in foreclosure as of year-end 2023.

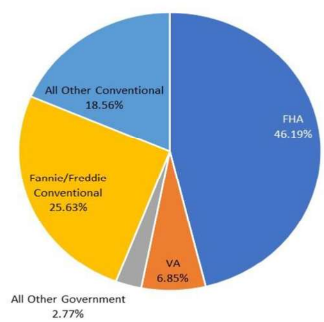
Testimony of Mark A. Jones
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Oversight Hearing
February 15, 2024



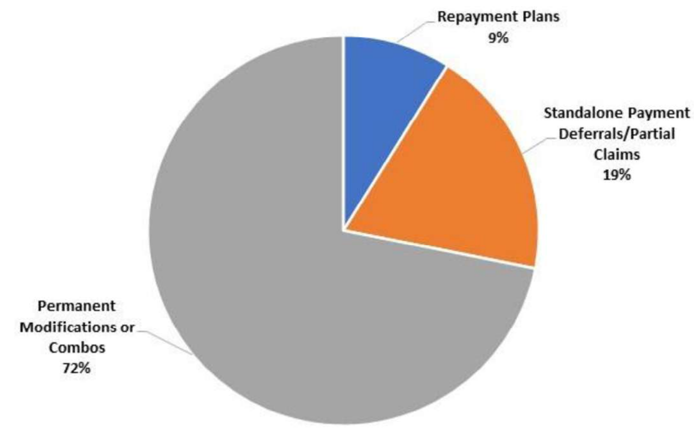


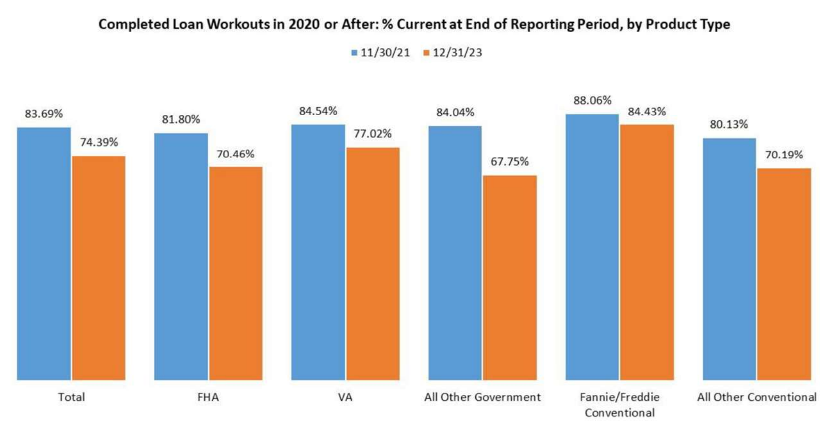
As of year-end 2023, approximately 3 million loans were in loan workouts completed in 2020 or after, with approximately 205,000 (or 6.85%) being VA loan workouts. Workouts include modifications, partial claims, and repayment plans. In the chart that follows, workouts that are paid off are excluded.

Share of Loan Workouts (#) Completed in 2020 or After and with a December 2023 Payment Due, as of 12/31/2023



Of the approximately 205,000 VA Loan workouts with a December 2023 payment due, about 19% are partial claims.





Source: MBA's Monthly Loan Monitoring Survey

Veterans' Assistance Servicing Purchase (VASP) Program

MBA believes the current state of loss mitigation options requires urgent action. We appreciate the dialogue VA has held with program stakeholders, but the time for a public process for review and comment on VA's new VASP program is necessary and overdue – particularly since the agency will need to release those policy recommendations quickly – and concurrently develop an appropriate implementation timeline. Mortgage servicers stand ready to help the VA use VASP as one of its loss mitigation tools to provide the relief needed to help Veterans stay in their homes.

In response to the dramatic increase in mortgage rates, MBA and several other organizations wrote to the VA in January 2023 asking for an expansion of the VA's existing loss mitigation tools to address the mismatch between the mortgage note rates that might need to be modified for Veterans in distress amidst rising market rates. One consideration recommended at that time was for the VA to reconfigure and expand the statutorily authorized refund program, which enables the VA to purchase delinquent loans from servicers and change the terms of the original loans to reduce Veterans' monthly payments.

The VA and all stakeholders would benefit from a transparent process that allows for evaluation and input from a common starting point to identify any potential operational, regulatory, and reputational risks that might pose a barrier to effectively helping Veterans. A critical issue that needs careful consideration is the necessary time and resources servicers will need to implement the VASP program.

VA Partial Claim Option

MBA also believes that VA borrowers facing temporary financial hardships should have access to additional tools to resolve delinquency and avoid foreclosure. For example, the partial claim options available to Federal Housing Administration (FHA) and Rural Housing Service (USDA) borrowers are not currently found in the VA's suite of loss mitigation options. The COVID-19 Veterans' assistance partial claim program expired in October 2022.

A partial claim allows a Veteran borrower to either resume his/her regular payment or achieve a sustainable level of payment reduction with a loan modification. Action by Congress – such as language regarding a partial claim option contained within S. 3728, recently introduced by Senate Veterans' Affairs and Banking Committee Chairmen Tester and Brown, respectively – would again make this essential option a reality.

As the members of this Subcommittee are aware, MBA continues to call for authorization of a permanent partial claim program as the industry's preferred solution. Mortgage servicers can deliver timely payment relief to Veterans, preserve affordable homeownership, and prevent future crises with reliable access to a durable loss mitigation framework that includes both a partial claim option and VASP.

A Broken Assumption Process

The assumption feature of VA loans can be beneficial under the right circumstances, as it can provide a significant premium for the Veteran homeowner looking to sell their home, while providing homebuyers with access to a below-market interest rate. In practice, however, the required process for a homebuyer looking to assume an existing VA loan has become broken over the years – largely because VA regulations have not kept up with the market.

A proper assumption requires a VA loan servicer to complete a full underwriting of the buyer that is assuming the loan in order to: (1) ensure the buyer has the ability to repay and (2) protect taxpayers – and in some cases the Veteran who may remain liable on the loan – from the cost of a default. A typical mortgage underwriting costs a lender somewhere between $3,000 and $4,000 between application and closing. Since 1993 VA has only allowed lenders to charge a $300 flat fee to process an assumption – a fee that has never been adjusted for inflation and was set during a time when neither a full credit underwrite, nor licensed loan officer, were required elements (as they are now). Simply stated, lenders lose thousands of dollars on each assumption transaction.

Additional frustrations with the process include the fact that while many assuming parties must obtain a second mortgage to complete the transaction, VA provides little guidance on acceptable forms of secondary financing. Many lenders are also unable to offer a second-lien product, meaning borrowers must secure it from another source. Finally, the lender is prohibited from making its own credit decision about a borrower it will subsequently have to service – and bear credit risk against – as VA regulations required the lender to approve any assuming party who meets the bare minimum standards prescribed by VA. These standards can be lower than those that a lender would choose to utilize to originate a VA purchase loan.

These broken economics predictably translate to frustration on both sides of the transaction, including poor customer experiences and reduced value in VA servicing – to the detriment of Veterans. As discussed by MBA for many years, VA can fix this broken process by enabling the lender to at least recoup its costs in the transaction. We hope VA elects to pursue this path, so that lenders have the flexibility to create better outcomes for our Veterans.

Testimony of Mark A. Jones
House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Oversight Hearing
February 15, 2024

Appraisal Reform

We are grateful that now-current House Veterans' Affairs Committee Chairman Mike Bost's prior appraisal modernization bill (H.R. 7735) was signed into law during the 117th Congress in late 2022 (now Public Law 117-308). I was privileged to testify before this Subcommittee in May 2022 to discuss the implications of the legislation at that time, as well as the need for VA to remain aligned with other programs so that more Veteran homebuyers see their VA-backed offers accepted against conventional offers, cash offers, or other types of financing.

Though market conditions have changed since I testified in 2022, the need for attention on this topic remains. The still competitive and supply-constrained housing markets across the country continue to favor sellers and, given the conditions that must be met for VA loans to close, lenders report that many sellers give VA applicants low priority when reviewing offers.

The enactment of PL 117-308 has resulted in many positive reforms. These have included the expanded use of desktop appraisals in lieu of physical, "boots-on-the-ground" appraisers, as well as proposed improvements to VA's minimum property requirements (MPRs) which have long been known to hold up transactions. In fact, MBA submitted its comments to VA on MPRs just last week, joining several other trade groups and stakeholders in encouraging VA to align its standards with those of the housing GSEs – Fannie Mae and Freddie Mac.

One area that remains a major concern – and a topic which was not addressed by the appraisal modernization statute – is VA's unwillingness to delegate management of appraiser rosters to lenders. Doing so would align the process with virtually every other loan program. This remains a major contributor to the perception of appraiser shortages in the VA space, as well as the actual heightened appraisal "turn-times" that make VA-backed deals take longer to close.

MBA also encourages VA to lean into appraisal alternatives such as automated valuation models (AVMs), where appropriate, as these can also reduce turn times, minimize costs and friction, and improve the competitiveness of a VA-backed offer. To that end, MBA, in partnership with the Mortgage Industry Standards Maintenance Organization (MISMO®) has initiated a process to develop a common set of testing, validation, and design standards for AVMs which comports with the recent interagency proposed rule on AVMs and hopes to facilitate greater adoption of, and trust in, this type of valuation methodology. We invite VA to join us in these efforts.

While work remains to be done to streamline and evolve VA appraisal standards, improvements have been made, and we thank both the VA and this Subcommittee for their collective efforts to update this process and improve the strength of the VA home loan benefit for Veterans across the country.

"Drafting Table" Policy Option

We encourage Congress to ensure the VA has the necessary resources to implement a permanent public input process for the development of transformative policies before they are required to be implemented. As we noted in our VASP comments, lack of a process for formal stakeholder input has hampered the program's development.

Consequently, MBA believes VA should adopt a "Drafting Table" process for interested stakeholders – similar to the one used to great effect by FHA. This would expedite new program initiatives by providing VA with constructive comments on the impact of changes to a lender's and servicer's operations prior to implementation and enforcement. Transparency and collaboration in policy development will ensure VA's mission goals are achieved, result in a more efficient mortgage program, and improve positive outcomes for Veterans.

VA Funding Fees

As Congress considers multiple pieces of legislation that would expand or alter Veteran benefits across a range of programs, MBA remains concerned about the repeated use of VA home loan funding fee increases to pay for non-housing related Veterans' benefits. MBA opposes legislation that increases or extends VA funding fees to offset the costs associated with new and/or unrelated expenditures.

Simply stated, these funding fee increases and extensions implemented in recent years – and being considered once again – are not in any way correlated with the actual credit risks of Veteran homebuyers. If that were the case, the actual funding fee would be a fraction of where it currently sits today, meaning that far more Veterans would be able to qualify to purchase a home. Instead, that potential opportunity is out of reach for many eligible Veterans. And those who *can* access the benefit are paying far more than they should – in the midst of a housing affordability crisis – to help subsidize other federal programs.

These continued increases – and extensions of prior increases – severely threaten the VA Home Loan Program. While any individual funding fee increase may be small, the cumulative impact of the many hikes and extensions over the past decade is worrisome and significant.

We urge Congress to work with the Biden Administration to ensure that VA funding fees are set at levels commensurate with the risks associated with VA-guaranteed home lending. Moreover, Congress should conduct appropriate oversight and analysis of past funding fee increases – before simply defaulting to the practice of levying further increases or extensions.

* * *

Conclusion

Once again, MBA appreciates the opportunity to comment on the many critical issues that impact the efficacy of the VA Home Loan Program, including the need for potential legislation to implement needed statutory changes. We value our partnership with VA and our shared mission to help Veterans utilize their hard-earned benefit to achieve homeownership.

Our association looks forward to working with the Subcommittee to forge practical solutions – including, but not limited to, the development of legislation to make permanent a VA partial claims option to help distressed borrowers. We also look forward to working with Congress to help provide the VA with the resources necessary to implement changes and improve the delivery of the Home Loan Program benefit to our nation's heroes.

I look forward to answering any questions you may have.

Prepared Statement of Steve Sharpe

Testimony of Steven R. Sharpe
Senior Attorney, National Consumer Law Center[1]
on behalf of its low-income clients

On

"Sink or Swim? A Deep Dive into the Current State of VA's Home Loan Program in a Competitive Market."

Before the United States House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity

February 15, 2024

[1] Since 1969, the nonprofit **National Consumer Law Center® (NCLC®)** has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people in the United States. NCLC's expertise includes policy analysis and advocacy; litigation; expert witness services, and training and advice for advocates. NCLC publishes a series of consumer law treatises including Mortgage Lending, Mortgage Servicing and Loan Modifications, and Home Foreclosures. NCLC attorneys provide assistance on a daily basis to the attorneys and housing counselors working with distressed homeowners across the country.

1. Introduction

Chairman Van Orden, Ranking Member Levin, and Members of the Committee, thank you for the opportunity to testify on behalf of the low-income clients of the National Consumer Law Center (NCLC) regarding the state of the VA Home Loan Guaranty Program.[2] I am a Senior Attorney at NCLC, and I manage our federal mortgage servicing policy work. I will focus my testimony on VA mortgage servicing issues.

It is a bedrock principle of federal housing policy that borrowers who are facing financial hardship should have access to workout options to bring their loans current and avoid foreclosure. These home retention policies provide stability for homeowners by giving them a path to recovery after financial hardships and provide stability for neighborhoods that suffer when foreclosure hits.[3] These policies also help investors avoid losses from unnecessary foreclosures, which supports the health of the programs. These policies do not guarantee that all borrowers who fall behind can avoid foreclosure, but they help prevent avoidable losses.

Unfortunately, since October of 2022, homeowners with VA-guaranteed mortgages facing hardship have had severely limited options to retain their homes and avoid foreclosure. This is the result of the combination of the recent dramatic increase in mortgage interest rates and a decision by VA to discontinue a program that had allowed homeowners who can resume their mortgage payments to repay the missed payments at the end of their loans.

The rise in mortgage interest rates has created significant challenges for FHA, USDA, and the Government Sponsored Enterprises (GSEs), but they all have retained programs to allow borrowers to resume regular payments and pay the arrearage at the end of the mortgage without an increase in their interest rates. In contrast, VA no longer has such a program, and we have seen VA's current flagship loan modification program result in increased monthly payments, which are generally not affordable for borrowers facing hardship.

As a result, the mortgage relief options available for Veteran borrowers are less favorable than the options available to other federally-backed borrowers. The VA Home Loan Program is a benefit program that Veterans have earned through service and sacrifice and that is meant to give them housing stability. As VA states, "[t]he objective of the VA Home Loan

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[2] In my work at NCLC, my duties include serving as a resource to private and legal aid attorneys, as well as to federal and state regulators and enforcement agencies, on complex housing finance issues. Before joining NCLC, I worked for the Legal Aid Society of Southwest Ohio and Indiana Legal Services where I represented low-income homeowners facing the risk of foreclosure since 2005. I am also a contributing author of National Consumer Law Center's Mortgage Servicing and Loan Modifications and Home Foreclosures legal treatises. Thanks to Kanav Bhagat, consultant to the Center for Responsible Lending, and Sarah Mancini, Carolyn Carter, Alys Cohen and Andrew Pizor of NCLC for their help in preparing this testimony.

[3] *See, e.g.*, 42 U.S.C. § 1441 (establishment of national housing policy); 38 U.S.C. § 3732(a)(4)(A) (requiring VA-guaranteed servicer to notify borrower of "alternatives to foreclosure"); 12 U.S.C § 1715u (establishing requirement to evaluate FHA-insured borrower for alternatives to foreclosure); 42 U.S.C. § 1472(h)(13) (establishing requirement to evaluate USDA-guaranteed borrowers for alternatives to foreclosure).

Guaranty program is to help eligible Veterans, active-duty personnel, surviving spouses, and members of the Reserves and National Guard purchase, retain, and adapt homes in recognition of their service to the Nation."[4] To meet this goal, there must be a system in place to effectively assist Veterans when they fall behind on their loans. We recognize that VA may need to adopt criteria and terms that meet the specific aspects of its program, but that should not result in VA borrowers having worse options than other federally-backed borrowers.

We applaud VA for recognizing the problems that its borrowers are facing and for implementing a foreclosure pause until May 31, 2024 to give VA-guaranteed borrowers who are facing a dearth of options a chance to access programs that are in development.[5] However, the pause is only meaningful if VA puts options in place that Veterans can access before losing their homes. We urge the agency to take several key steps:

- VA must immediately release the previously-announced VA Servicing Purchase (VASP) program and ensure that the program is easily accessible, includes criteria that account for the recent lack of options which have led to growing arrearages, and provides targeted payment relief for VA-guaranteed borrowers;

- Because VASP will not be a one-size-fits-all solution, VA needs to develop further options, including the reestablishment of a partial claim program that allows borrowers resume their payments without a change in interest rates, so that its permanent system for helping borrowers provides meaningful relief in all market conditions and secures the financial health of the VA Home Loan Program;

- In developing these alternatives, VA must work with elected officials, Veteran Service Organizations (VSOs), consumer advocates, industry representatives, and other stakeholders to identify any additional resources it needs to implement these options, so that Congress can ensure that funding constraints do not stand in the way of enabling Veterans to save their homes; and

- VA must start releasing timely and consistent data on VA-guaranteed loan performance, using FHA's reporting system as a model.

These steps are necessary to provide Veteran borrowers what they deserve–a program that honors their service by providing housing stability even in the face of financial hardships.

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[4] U.S. Dep't of Veterans Affairs, Annual Benefits Report, Fiscal Year 2022 - Home Loan Guaranty at 1 (Feb. 2023), available at https://www.benefits.va.gov/REPORTS/abr/docs/2022-loan-guaranty.pdf.
[5] U.S. Dep't of Veterans Affairs, VA Circular 26-23-25 (Nov. 30, 2023), https://www.benefits.va.gov/HOMELOANS/documents/circulars/26-23-25.pdf.

2. Today, VA borrowers have limited options to avoid foreclosure when they face financial hardship.

The sharp increase in mortgage rates has challenged the VA's system for assisting delinquent borrowers. Since the 2008 financial crisis, the mortgage industry's primary method for helping delinquent borrowers who cannot afford a simple, short-term repayment plan involves modifying the terms of the mortgage loan to reduce the borrower's monthly payment. Depending on the program, the modification can include adding missed payments to the loan balance, possibly deferring a portion of the loan balance, and adjusting the interest rate and the length of the repayment term.

Research on loan modification performance provides compelling evidence that targeted payment relief is the most cost-effective means for providing loan modifications that reduce redefault rates.[6] VA, FHA, Fannie Mae, Freddie Mac, and USDA all developed loan modification programs that generally seek to provide borrowers a 20% to 25% reduction in monthly payments. These systems do not guarantee payment relief for borrowers because there are limits on how long a servicer can extend a mortgage term and how much of the amount owed a servicer can defer. Moreover, because VA, FHA, and USDA are pooled in Ginnie Mae securities after modifications, agency guidance refers servicers to the prevailing market interest rate in determining the modified interest rate.[7]

The VA modification programs generally worked well when market rates were below or at least near the typical interest rate of outstanding VA loans. However, when market interest rates started to dramatically increase around December 2021, the VA modification systems started to buckle.[8] We estimate that average interest rate for VA-guaranteed loans is currently 4%, which is significantly lower than the Freddie Mac Primary Mortgage Market Survey (PMMS) rate of 6.64% as of February 8, 2024.[9] Many borrowers have rates around 3%.

Because VA ties its foreclosure relief options to the market interest rate, once interest rates started to increase dramatically, some borrowers received loan modifications offers that increased their interest rates and, as a result, increased their post-modification payments. A recent NPR story reported a Veteran borrower receiving a modification that increased his

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[6] The replication kit in the online appendix to Peter Ganong and Pascal Noel, *Liquidity Versus Wealth in Household Debt Obligations: Evidence from Housing Policy in the Great Recession*, American Economic Review, 110(10): 3100-3138 (2020) shows that the causal impact of a 25% reduction in monthly principal and interest payments is to reduce subsequent 5-year redefault rates by 36%. It is available at: GitHub - ganong-noel/mtg_mods_public: Repkit for Liquidity vs. Wealth in Household Debt Obligations: Evidence from Housing Policy in the Great Recession.

[7] U.S. Dep't of Veterans Affairs, VA Circular 26-23-25 (Nov. 30, 2023), https://www.benefits.va.gov/HOMELOANS/documents/circulars/26-23-25.pdf; U.S. Dep't of Hous. & Urban Dev., Mortgagee Letter 2023-03 at 15 (Feb. 13, 2023), https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-03hsgml.pdf;

[8] Freddie Mac, Mortgage Rates (Feb. 8, 2024), https://www.freddiemac.com/pmms.

[9] *Id*. The estimated outstanding interest rate is based on a report run from Recursion Analytics.

mortgage payment from $1750/month to $2400/month.[10] More broadly, with the PMMS rate at 6.64%, if the average seriously delinquent VA borrower received a VA modification today, they would be provided with approximately a 2% reduction in their monthly payment, well short of the 20-25% that has been proven to reduce redefaults, while also substantially increasing their interest rate. Of the population of seriously delinquent VA borrowers who are eligible for a VA modification today, the vast majority would receive a payment reduction of less than 10% under VA's existing modification program. [11]

In this elevated interest rate environment, however, programs that defer past-due payments to the end of the loan term at 0% interest work well. These programs do not require a change in the interest rate of the primary mortgage. And while they do not provide payment relief, borrowers generally face little to no payment increase, depending on the escrowed taxes and insurance. The Fannie Mae and Freddie Mac programs are called payment deferrals. The USDA-guaranteed version of this is the Mortgage Recovery Advance, and the most established version of this program is FHA's Partial Claim program.

VA had a partial claim program from May 2021 through October 28, 2022. In May 2021, the agency finalized its COVID–19 Veterans Assistance Partial Claim Payment (VAPCP) program, which provided a 0% interest rate loan to borrowers that came due at the end of the loan term.[12] In its announcement of this program, VA required all VA partial claims to be entered into by October 28, 2022.[13] It did state, however, that "VA notes that if there are additional extensions of forbearance periods in VA's home loan programs, VA may consider a new rulemaking to adjust the sunset date."[14]

On October 28, 2022, despite the fact that relief from VA's modifications was severely limited by a PMMS rate that was over 7%, VA allowed the VAPCP to lapse. It did so even though many VA borrowers were still in forbearance plans throughout 2023,[15] which is a factor it had identified in 2021 as a reason to consider extending the program. This decision removed a workable option for maintaining a borrower's present interest rate and payment when they have fallen behind on their loans, and put VA-guaranteed borrowers in a worse position relative to other federally-backed borrowers.[16]

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[10] Chris Arnold & Quil Lawrence, NPR, *Veterans fear the VA's new foreclosure rescue plan won't help them* (Dec. 1, 2023), available at https://www.npr.org/2023/12/01/1216213793/veterans-fear-the-vas-new-foreclosure-rescue-plan-wont-help-them.

[11] We base this on a Center for Responsible Lending calculations and estimates based on data purchased from the Mortgage Bankers Association. While VA's regulations impose a 1% cap on interest rate increases connected with loan modifications, we have seen VA waive that cap on interest rate increases in modifications. 38 C.F.R. § 36.4315(a)(8)(ii).

[12] U.S. Dep't of Veterans Affairs, Final Rule, Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program, 86 Fed. Reg. 28692 (May 28, 2021).

[13] *Id.* at 28697.

[14] *Id.*

[15] Pursuant to VA Circular 26-23-8, VA borrowers with pandemic-related hardships are entitled to forbearance as long as they made their requests by May 31, 2023. U.S. Dep't of Veterans Affairs, VA Circular 26-23-8 (Apr. 21, 2023).

[16] While VA left its deferment option in place, it is not mandatory and imposes significant costs on mortgage servicers; therefore, it is our understanding that it is not frequently used.

This decision has had a substantial impact. The series of stories from National Public Radio show borrowers struggling to reach a foreclosure alternative that is affordable, and highlight borrowers who have faced a dramatic increase in their mortgage payment after modification.[17] We are seeing the same pattern in our work with legal aid attorneys across the country – borrowers shut out of affordable options and struggling to keep up with higher payments. For example, a non-profit attorney in North Carolina reported that her client in January of 2024 received a loan modification offer that increased the interest rate from 3.25% to 7.00% and increased the payment from around $1400/month to $2165/month.

Because we lack comprehensive and timely data reporting from the VA, as discussed below, we can only estimate the scope of this problem. As of the end of December 2023, we estimate that there were about 150,000 VA borrowers who were behind on their mortgage and, of those, approximately 74,000 are either seriously delinquent or in the process of losing their home to foreclosure.[18] Unfortunately, these issues are likely to persist as long as the market interest rate is significantly higher than the interest rates that VA borrowers currently have and there is no VA partial claim available.

3. VA must immediately release its VA Servicing Purchase program

The VA has recognized the need to provide foreclose alternatives for its guaranteed borrowers that are effective when mortgage rates are elevated, and in October of 2023, the White House announced that the VA Servicing Purchase (VASP) program was forthcoming.[19] It is our understanding based on conversations with VA that VASP will involve the VA purchasing loans from servicers after the loans are modified, and VA will establish criteria for the loan modifications that servicers will employ. The critical feature of this loan program is that the modified interest rates will not be tied to the market rate because the loans will no longer be pooled in Ginnie Mae securities and instead will be held on VA's balance sheet.

We urge VA to release the details of this program and make it available to VA borrowers as soon as possible. Borrowers who have been in limbo need relief. Moreover, the end of the foreclosure pause that VA put in place to ensure that borrowers do not lose their homes unnecessarily is approaching on May 31, 2024. Finally, loan servicers need to have a period of time to implement VASP. Once they implement it, stakeholders also need time to evaluate the system and see if further policy changes are needed.

[17] NPR, *The VA loan fiasco — NPR investigation stops foreclosures on thousands of veterans*, https://www.npr.org/series/1218572761/va-loan-foreclosure-crisis.
[18] Our estimate is based on the 2023 Q4 Mortgage Bankers Association's National Delinquency Survey, and our assumption that there are approximately 3.7 million VA-guaranteed loans outstanding.
[19] The White House, White House Announces New Actions on Homeownership (Oct. 16, 2023), https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/16/white-house-announces-new-actions-on-homeownership/#:~:text=The%20President%20has%20also%20proposed,or%20low%20wealth%20first%2Dtime.

Of course, VASP must also be substantively impactful, and we believe VASP must include three fundamental components to be effective. We are hopeful from our conversations with VA that the program will meet these guidelines; however, there have not been full criteria placed on any public drafting table despite our urging VA to do so.[20]

First, VA should not impose unnecessary barriers in the VASP evaluation process. Veterans have had no viable loan modification options for almost 18 months, and we know there will be many borrowers seeking access to the program as soon as it is available. VA should release detailed program requirements and should give servicers authority to approve modifications based on those criteria. VASP should not require documentation of income or create a lengthy approval process. VA should empower servicers to make firm VASP offers based on clear guidelines.

Second, VA should ensure that the eligibility criteria do not exclude borrowers who have fallen farther behind because there have been no workable options available. VA should account for how long borrowers have been without reasonable options and factor that period of time into any contemplated cap on the number of months of arrearage that a borrower can have to enter the program. Veterans should not be penalized for the fact that this program has taken time to formulate and launch.

Third, VASP should offer targeted payment relief instead of imposing a uniform interest rate for all VASP borrowers. As discussed in our joint letter with industry trade associations,[21] we are concerned that the VASP Program will do the opposite. Targeting a fixed interest rate for all borrowers, rather than targeting a certain percent payment reduction, is inconsistent with the approach deployed by the GSEs and government agencies over the last several years and could create substantial inequities and unintended outcomes for VA borrowers. Borrower payment reductions will vary widely and in ways that are unrelated to borrower need or the likely effectiveness of the modification. Similarly situated Veterans facing similar hardships will receive different benefits. Veterans with comparable needs for payment reduction may get minimal or no payment relief because their mortgage already has a low interest rate, while others may get some of the most generous payment relief that any government lending program has ever offered because they have a much higher interest rate on their mortgage. Moreover, research has shown that insufficient payment reductions lead to redefaults while excessive reductions could produce surplus benefit, relative to need, for some borrowers.[22] In short, offering the same

[20] Letter to U.S. Dep't of Veterans Affairs from Housing Policy Council, Mortgage Bankers Association, and National Consumer Law Center, Re: Public Comment Process for Foreclosure Prevention Solution for Veteran Borrowers (Aug. 31, 2023), https://www.nclc.org/wp-content/uploads/2023/08/Joint-VA-letter_8.31.23.pdf.

[21] Letter to U.S. Dep't of Veterans Affairs from Center for Responsible Lending, Housing Policy Council, Mortgage Bankers Association, and National Consumer Law Center, Re: Concern with Key Element in the Veterans Assistance Servicing Purchase Program (Dec. 14, 2023), https://www.nclc.org/resources/joint-industry-advocacy-letter-on-the-veterans-assistance-servicing-purchase-program/.

[22] In Laurie Goodman & Jun Zhu, Urban Institute, *Analysis and Evaluation of Loss Mitigation Efforts*, HUD Office of PD&R (Dec. 5, 2023) the authors find that providing payment reduction beyond 30% has diminishing marginal returns. Borrowers who received 10 – 20% payment reductions redefaulted at a rate

interest rate in all VASP modifications does not effectively or equitably distribute the resources available to the VA to help borrowers.

4. VA should develop a system for providing mortgage relief options that work in all market conditions that includes a partial claim and loan modification program along with VASP.

    a. VA should, through a process allowing public input, develop options in addition to VASP.

Once released, we hope that VASP will help to fill the significant gap in home retention options for VA-guaranteed borrowers. We do not, however, believe VASP can stand alone as the primary foreclosure alternative for borrowers who fall significantly behind on their loans. Having VASP as the primary option for borrowers who want to retain their homes would mean that loans that require more intervention than a simple payment plan would go on VA's balance sheet. This would put pressure on VA's finances, and FHA's history with its HUD Assignment Program shows that a full agency takeover of loss mitigation comes with serious risks.[23] Moreover, every loan that goes through VASP will require a transfer of the mortgage servicing rights, and transfers of servicing often lead to accounting problems for borrowers.[24]

We urge VA to evaluate its loss mitigation program and add further options in addition to VASP. At a minimum, the mortgage relief options available for Veteran borrowers should be as favorable as the options available to other borrowers. The options VA developed should work in all market conditions and should include an option that simply allows borrowers to resume their

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of 39% whereas those who received 20 – 30 payment reductions redefaulted at a rate of 27%, an improvement of 12 percentage points. However, those who received payment reductions of 30 – 40% redefaulted at a rate of 22%, suggesting that the additional payment reduction only decreased subsequent redefault rates by 5 percentage points. Moreover, borrowers who received more than 40% payment reductions also redefaulted at a rate of 22%, indicating that payment reductions beyond a certain point have no impact on redefault rates. A study from Milliman finds similar results, as Appendix Figure 11 shows that borrowers who received a payment reduction of less than 10% had higher redefault rates over the next 2 years than borrowers who received no payment reduction at all, and that increasing payment reduction beyond 30% had little marginal impact on 2-year redefault rates. Ryan Huff, Milliman, *Assessing the Effectiveness of Payment Reduction on Preventing Borrower Re-default for Mortgages* (Sept. 2023), available at https://www.milliman.com/-/media/milliman/pdfs/2023-articles/9-25-23_assessing-the%20effectiveness-of-payment-reduction_20230925.ashx.

[23] U.S. Government Accountability Office, Homeownership: Mixed Results and High Costs Raise Concerns About HUD's Mortgage Assignment Program, RCED-96-2 (Oct. 1995), https://www.gao.gov/products/rced-96-2.

[24] Consumer Financial Protection Bureau, Compliance Bulletin and Policy Guidance: Handling of Information and Documents During Mortgage Servicing Transfers, Bulletin 2020-02 (Apr. 24, 2020) ("In supervisory examinations conducted since 2014, the Bureau has continued to find weaknesses in compliance management systems and violations of Regulation X related to mortgage servicing transfers."), available at https://files.consumerfinance.gov/f/documents/cfpb_policy-guidance_mortgage-servicing-transfers_2020-04.pdf; *see also* J.D. Power, *Press Release: Trust is Crucial in Determining Satisfaction with Mortgage Servicers*, J.D. Power Finds (July 28, 2022), https://www.jdpower.com/business/press-releases/2022-us-mortgage-servicer-satisfaction-study (JD Power customer satisfaction survey shows MSR transfers hurt customer satisfaction, erode trust, and create administrative headaches for customers)

regular payments if that's what they need, or to modify and reduce the payment if greater assistance is necessary. We believe additional programs will be complementary to VASP.

In developing alternatives, we urge VA to develop a system for posting policy documents prior to release in a manner that gives stakeholders an opportunity to comment. FHA does this through its Office of Single Family Housing Drafting Table.[25] Posting draft policy in advance allows for stakeholders to discuss ideas with each other and give feedback to the agency on what will work and what needs further development or refinement. It also improves transparency by showing the steps the agency is planning to take to resolve issues. In developing its VASP program, VA did not post draft policy guidance, and as a result, stakeholders still do not have a full understanding of what specific criteria VASP will include.[26]

b. VA should reactivate and update its partial claim program.

As discussed in our recent comment to VA,[27] once VASP is released, the next step the VA should take is to reactivate and update its partial claim program to allow borrowers to retain their contractual interest rates and resume their monthly payments. As discussed above, a partial claim is a non-interest bearing loan from the agency to the borrower that becomes due and payable once the primary mortgage is paid in full or another specified event occurs.[28] It can be used to reinstate a borrower without any change to their other loan terms or it can be incorporated into a loan modification.

The increase in interest rates would impact fewer borrowers if VA had an effective partial claim program today that allowed borrowers to keep their market rates when they can afford to resume their original payments. An effective partial claim program would allow Veteran borrowers to cure their delinquency, retain their below-market interest rate, and resume making their monthly payments when feasible. The lack of a VA partial claim program puts Veteran borrowers in a worse position than FHA-insured, USDA-guaranteed, and GSE borrowers who have access to partial claim programs.

If VA reinstates a partial claim program, it can also explore ways of using it to give a borrower payment relief without modifying the terms of the loan. As described above, the current elevated interest rates make it challenging for servicers who rely on Ginnie Mae securitization to provide payment relief because modified loans carry the prevailing market mortgage rate. However,

[25] U.S. Dep't of Hous. & Urban Dev. FHA's Office of Single Family Housing "Drafting Table," available at https://www.hud.gov/program_offices/housing/sfh/SFH_policy_drafts.
[26] Letter to U.S. Dep't of Veterans Affairs from Housing Policy Council, Mortgage Bankers Association, and National Consumer Law Center, Re: Public Comment Process for Foreclosure Prevention Solution for Veteran Borrowers (Aug. 31, 2023), https://www.nclc.org/wp-content/uploads/2023/08/Joint-VA-letter_8.31.23.pdf.
[27] Comment of National Consumer Law Center and Center for Responsible Lending, Advance Notice of Proposed Rulemaking, Loan Guaranty: Loss Mitigation Options for Guaranteed Loans, 87 Fed. Reg. 62752 (Oct. 17, 2022), https://www.nclc.org/resources/nclc-crl-letter-to-the-va-regarding-loss-mitigation-options-for-guaranteed-loans/.
[28] National Consumer Law Center, Mortgage Servicing and Home Foreclosures, § 8.2.3.1 (2d. ed. 2023).

providing payment relief is crucial to helping borrowers with significant financial hardships avoid foreclosure.

Because FHA-insured lenders also rely on Ginnie Mae securitization, FHA is facing the same challenge of providing payment relief in the current, high-rate environment. FHA has proposed an option that would use partial claim funds to first bring borrowers current and then provide borrowers with monthly payment relief.[29] Under this program, known as a "payment supplement," FHA would deposit the partial claim funds needed to reduce the borrowers' monthly payment in an account held by the loan servicer.[30] The servicer would then draw from the account each month the amount necessary to supplement a partial payment from the borrower, in order to submit the full contractual payment to Ginnie Mae. This system avoids increasing the borrower's interest rate through a loan modification while still providing payment relief. Reinstating the partial claim program would give VA the flexibility to establish a payment supplement program.

VA has the authority to reinstate a partial claim program. In its December 9, 2020 proposed rule regarding the VAPCP,[31] it relied on its authority to purchase indebtedness to prevent foreclosure under 38 U.S.C. § 3732(a) and its broad powers to purchase assets and pay claims under 38 U.S.C. § 3720(a).[32] The purchase authority in 38 U.S.C. § 3732(a) is the same statute that would allow it to operate VASP; however, a partial claim would involve a much smaller purchase. While VA tied its use of its broad powers to disaster in the December 9, 2020 proposed rule, we do not believe the statute has these limitations.

Although we believe VA has the authority to establish a partial claim, we have also supported a Senate bill seeking to clarify VA's partial claim authority.[33] VA's establishment of the partial claim is a high priority and we urge VA to take the measures needed to do so.

c. VA should retain a version of the loan modification program it created in response to the pandemic.

In addition to developing a partial claim program, VA should retain the loan modification program it developed in response to the pandemic. As described above, loan modification programs are successful in avoiding foreclosure when they can provide substantial payment relief to borrowers who have faced significant financial hardships. VA recognized the benefits of payment relief when it implemented the COVID-19 Refund Modification that included a payment

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[29] U.S. Dep't of Hous. & Urban Dev. FHA's Office of Single Family Housing "Drafting Table," available at https://www.hud.gov/program_offices/housing/sfh/SFH_policy_drafts.
[30] U.S. Dep't of Hous. & Urban Dev., Draft Mortgagee Letter - Payment Supplement (posted Nov. 16, 2023), https://www.hud.gov/sites/dfiles/SFH/documents/Draft_ML_Payment_Supplement_11_16_23.pdf.
[31] U.S. Dep't of Veterans Affairs, Proposed Rule, Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program, 85 Fed. Reg. 79142 (Dec. 9, 2020).
[32] *Id.* at 79146.
[33] U.S. Senate Committee on Veterans Affairs, *Press Release: Tester, Brown Team Up to Help Veterans Keep their Homes*, (Feb 2, 2024), available at https://www.veterans.senate.gov/2024/2/tester-brown-team-up-to-help-veterans-keep-their-homes.

reduction of 10 to 25% of the borrower's monthly principal and interest payment, based on the borrower's assessment of an affordable payment. In order to hit the target, VA allowed for the combination of a modification and a partial refund so that arrearages and a portion of the borrower's loan could be purchased by the VA and held at 0% interest. As was the case over the second half of 2021, the refund modification can provide ample payment reduction when the prevailing mortgage rate is low, keep the Veteran borrower in their home, and avoid the foreclosure-related claims on the VA.

VA should make a modification like the COVID-19 Refund Modification a permanent feature of its loss mitigation waterfall. Should interest rates once again fall to levels below the note rate on outstanding VA loans, the refund modification can provide significant payment relief. In addition, VA should explore allowing for a 480-month term to provide additional payment relief when needed to reach the target. FHA's current COVID-19 waterfall, as described in Mortgagee Letter 23-03, provides a useful example of how to incorporate a 480-month term into a waterfall.[34]

d. VA should create a mandatory order in which servicers evaluate borrowers for loss mitigation after it develops the options.

Once the VA revamps its loss mitigation program to include options that are economically viable for Veterans, servicers, and the VA now and going forward, the VA should set out a mandatory order in which servicers should evaluate Veterans for available options. A mandatory waterfall that prescribes the specific steps servicers must take in evaluating foreclosure alternatives will give servicers and borrowers important clarity. Once VA improves its loss mitigation options as discussed above, servicers should be required to follow the prescribed order of the new waterfall, as it would help ensure a consistent loss mitigation experience for all Veteran borrowers and remove any incentives for servicers to offer one loss mitigation option over another.

5. VA should seek the resources it needs to operate effective foreclosure alternatives.

Once the best options for helping Veteran borrowers are determined, it is critical for VA to identify the resources the agency needs to implement its plan. The relevant resources should include any funds that are necessary to provide relief to borrowers and additional personnel that the agency needs to implement and operate the plans. Congress should ask VA to provide it and the public a clear statement of any additional funding that is needed to implement the VASP program, and any funding needed for the other foreclosure prevention options we recommend. This analysis should include any internal staffing needs. VA needs to evaluate its financial situation and work with the Administration, Congress, and other stakeholders to ensure VA has the necessary resources to meet its goals.

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[34] U.S. Dep't of Hous. & Urban Dev., Mortgagee Letter 2023-03 (Feb. 13, 2023), https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-03hsgml.pdf.

We do know that the VA loan program has grown substantially in recent years,[35] and we recognize that some borrowers do not pay a guarantee fee at origination if they are "receiving VA disability compensation (or who would be receiving compensation, but for the receipt of retirement pay or active service pay) or recipients of a Purple Heart who are currently serving on active duty."[36] These trends will certainly impact VA's finances and further illustrate the need for VA to assess and share its resource needs.

6. VA should provide more comprehensive data reporting for its Home Loan Guaranty Program.

The lack of public information regarding VA's loan portfolio underscores the need for the agency to provide more information to stakeholders about the Home Loan Guaranty Program. In order for stakeholders to provide effective feedback, VA should publicly report timely data about its loan portfolio, including how VA-guaranteed loans are performing. Releasing loan performance data to the public would also ensure transparency.

FHA's systems for reporting data to stakeholders provides a clear model. On a monthly basis, HUD issues the FHA Single-Family Loan Performance Trends Report,[37] which lists the total number of FHA-insured loans, the rate of seriously delinquent loans, and the foreclosure rate by month.[38] Because of this report, we can see whether the delinquency rate and foreclosure rate are trending up or down. It provides data about the common reasons borrowers fall delinquent on their loans and the characteristics of the loans that are in default. For example, it is possible to compare how loans originated in 2009 perform in comparison to loans originated in 2023. FHA's system provides a floor of data transparency. Moreover, through its Neighborhood Watch platform,[39] FHA allows the public to search information about loan performance by geography and by servicer.

VA's reports are not as robust as FHA's. VA provides data about foreclosure avoidance, but it only does so on an annual basis. VA's annual reporting cycle makes it more difficult to track trends that occur throughout the year because all of the months are aggregated together.

Moreover, the information that VA reports is less useful than FHA's reports. The categories that VA provides annual data for are: Borrowers saved from foreclosure, Potential claim savings, Foreclosures completed, Claim payments, Borrower contact, Servicer contact, and Default

[35] Ginnie Mae, VA Report at 2 (Nov. 10, 2022) ("Numerically, the proportion of VA loans in Ginnie Mae's portfolio has steadily increased over the past decade, going from 23 percent of issuances in 2011 to nearly 45 percent of all newly issued MBS in Fiscal Year 2021."), https://www.ginniemae.gov/newsroom/publications/Documents/ginnie_mae_report_on_va_liquidity.pdf.
[36] U.S. Dep't of Veterans Affairs, Annual Benefits Report, Fiscal Year 2022, Home Loan Guaranty at 3 (Feb. 2023), available at https://www.benefits.va.gov/REPORTS/abr/docs/2022-loan-guaranty.pdf.
[37] U.S. Dep't of Hous. & Urban Dev., FHA Single-Family Loan Performance Trends Report, available at https://www.hud.gov/program_offices/housing/hsgrroom/loanperformance.
[38] U.S. Dep't of Hous. & Urban Dev, FHA Single-Family Loan Performance Trends Report at 2-3 (Nov. 2023), available at https://www.hud.gov/program_offices/housing/hsgrroom/loanperformance.
[39] U.S. Dep't of Hous. & Urban Dev., HUD Neighborhood Watch, https://entp.hud.gov/sfnw/public/.

resolution rate (percentage). These categories are not precise. For example, the "Borrowers saved from foreclosure" category does not indicate when these borrowers fell behind, how long they were behind, how the number reported compares to the total number of VA borrowers, and how they were saved from foreclosure. VA's "Defaults reported" category does not break down how serious the defaults are and whether the numbers are increasing or decreasing. The remaining categories involve similar imprecision. By contrast, FHA provides a monthly statement of how many total borrowers there are in the program and then it gives a percentage of those borrowers that are 30, 60, and 90 days behind and also a percentage of how many foreclosure starts there are relative to the larger group. Through the Neighborhood Watch system, the public can see what particular foreclosure alternatives were provided.

We urge VA to follow FHA's model and report more data to stakeholders on a monthly basis so we can better understand the status of the VA guaranteed loan program.

7. Other issues facing VA loans

With respect to home appraisal issues, we appreciate VA's release of the recent Advance Notice of Proposed Rulemaking regarding appraisals. But we urge VA to recognize that the broad discretion allowed in the Condition Rating increases the risk of appraisal discrimination and to conduct the appropriate analysis under fair lending laws and the Fair Housing Act's Affirmatively Furthering Fair Housing (AFFH) provision.

With respect to Interest Rate Reduction Refinancing Loans (IRRRLs), we generally support VA's recent proposed rule that limits when it can guarantee IRRRLs; however we urge VA to include additional protections.[40] The definition of "monthly payment" should not include amounts owed as part of a repayment plan. VA should ensure that IRRRLs are not pushed on distressed borrowers when a loss mitigation option would be better. VA should update the Lender's Handbook to prevent lenders from using escrow account balance refunds to evade the prohibition on receiving cash out in IRRRLs.

8. Conclusion

Thank you for the opportunity to testify today. We applaud VA for recognizing the problems that borrowers are facing and for implementing the foreclosure pause until May 31, 2024 so that VA borrowers who are facing a dearth of options have a chance to access programs that VA is developing before they face unnecessary foreclosure. Now it is essential for VA to release programs that will help borrowers avoid unnecessary foreclosures. In developing plans, it is critical for VA borrowers to have options that work in any market condition and that provide relief that is at least as effective as that which FHA-insured and other federally-backed borrowers

[40] Comment of National Consumer Law Center and Center for Responsible Lending, Loan Guaranty: Revisions to VA-Guaranteed or Insured Interest Rate Reduction Refinancing Loans, 87 Fed. Reg. 65,700 (Nov. 1, 2022), available at https://www.nclc.org/wp-content/uploads/2023/01/comments-va-npr-87-fr-65700.pdf.

receive. We look forward to working with VA in developing these ideas. I am happy to answer any questions.