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C O M P E T I T I V E N E S S

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Mr. Greg Nelms,  
Assistant Director for Loan Policy & Valuation,  
Loan Guaranty Service (26),  
Veterans Benefits Administration  
Department of Veterans Affairs  
810 Vermont Avenue NW  
Washington, DC 20420

**Re: Comment request on the Loan Guaranty: Revisions to VA  
Guaranteed or Insured Cash-out Home Refinance Loans; RIN 2900-  
AQ42**

Dear Assistant Director Nelms:

We appreciate the opportunity to respond to the Department of Veterans Affairs' (VA) request for comment on "Loan Guaranty: Revisions to VA-Guaranteed or Insured Cash-out Home Refinance Loans." We write to express our concern with aspects of both the process being invoked to make this rule change, and the policy it created.

To encourage veteran homeownership, the VA provides the ability to obtain mortgage products that are backed by the federal government. One such product is the VA Cash-out Loan, which entitles the veteran to refinance high-cost non-mortgage household debt by borrowing against up to 100% of his or her home equity. Enacted in 2008, this opportunity for veterans has been implemented and administered by the VA consistently, and without issue since its inception. We are concerned the interim final rule disrupts this valuable product and would instead harm veterans.

The Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act) requires the VA to promulgate regulations governing cash-out refinance loans.<sup>1</sup> The Act also provided that the VA could waive the notice and comment requirements of the Administrative Procedure Act (APA) upon showing urgent or compelling circumstances. We believe that the requirements of a waiver have not been met and as a result the proposal may run afoul of the rulemaking procedures required by the APA.

For example, the interim final rule went further than what is required in the Act and additionally revised its refinancing rule,<sup>2</sup> and altered its funding fee rule. (The “fee exclusion rules” to be codified at 38 CFR §36.4306(a)(1) & (2)).<sup>3</sup>

While this seemingly minor fee exclusion change may not appear significant, it could curtail the ability of veterans to consolidate higher interest rate debt. We urge the VA to fix this issue.

Moreover, the fee exclusion rules were not addressed in the Act so it logically follows that these rules did not qualify for the APA waiver within the Act. Therefore, the VA should follow formal APA rulemaking procedures, including notice and comment. This also calls into question if there is a sufficient cost-benefit analysis to support this position.

Thank you for considering these comments and we are available to discuss them with you further.

Sincerely,



Tom Quadman

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<sup>1</sup> The Economic Growth, Regulatory Relief, and Consumer Protection Act Section 309 (codified at 38 U.S.C. § 3709).

<sup>2</sup> 38 C.F.R. 38.4306.

<sup>3</sup> Section 36.4306(a)(1) provides that “The amount of the new loan must not exceed an amount equal to 100 percent of the reasonable value, as determined by the secretary, of the dwelling or farm residence that will secure the loan.” Subsection (a)(2) provides that “The funding fee as prescribed by 38 U.S.C. 3729 may be included in the new loan amount, except that any portion of the funding fee that would cause the new loan to exceed 100 percent of the reasonable value of the property must be paid in cash at the loan closing.”