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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

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January 14, 2021

Mr. Jeffrey M. Martin
Assistant Director, Office of Regulation Policy & Management
Office of the Secretary
Department of Veterans Affairs
810 Vermont Ave. NW
Washington, DC 20420

Dear Mr. Martin:

We write to express our concern about the Department of Veterans Affairs' (VA) proposed COVID-19 Veterans Assistance Partial Claim Payment (COVID-VAPCP) program. As proposed, this program could harm the very veterans and servicemembers (military borrowers) it purports to help by providing them with inferior loss mitigation options. The COVID-VAPCP program could raise monthly costs by adding additional debt for military borrowers, which could cause payment shocks that could threaten borrowers' ability to stay in their homes. Instead, VA should follow the lead of other federal agencies and ensure that each military borrower in forbearance also has access to the cost-free loan deferral or loan modification option that meets the military borrower's financial needs.

VA reports that as of September 2020, more than 183,000 homeowners in forbearance had VA-guaranteed loans.¹ These 183,000 homeowners, and any who have or will enter forbearance in the months ahead, deserve a feasible path to get back on track with payments and remain in their homes. Inexplicably, unlike the Federal Housing Administration (FHA)², U.S. Department of Agriculture (USDA)³, 184 and 184A programs⁴, Fannie Mae⁵, and Freddie Mac⁶, the VA is proposing an inferior option for borrowers after forbearance. Rather than focusing a loan solution on the military borrower's financial needs alone, as other programs do, the VA also makes

¹ "Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program," 85 FR 79142, December 9, 2020, available at <https://www.federalregister.gov/documents/2020/12/09/2020-26964/loan-guaranty-covid-19-veterans-assistance-partial-claim-payment-program#footnote-21-p79145>.

² "FHA's COVID-19 Loss Mitigation Options," Mortgagee Letter 2020-22, July 8, 2020, available at <https://www.hud.gov/sites/dfiles/OCHCO/documents/20-22hsgml.pdf>.

³ "Foreclosure Moratorium Extension and Additional Guidance for Servicing Loans Impacted by COVID-19," December 21, 2020, available at https://content.govdelivery.com/bulletins/gd/USDARD-2b257a7?wgt_ref=USDARD_WIDGET_1.

⁴ Dear Lender Letter 2020-06, May 19, 2020, available at <https://www.hud.gov/sites/dfiles/PIH/documents/DLL-2020-06Section184.pdf>.

⁵ "COVID-19 Payment Deferral," LL-2020-07, last updated November 18, 2020, available at <https://singlefamily.fanniemae.com/media/22916/display>.

⁶ "Freddie Mac COVID-19 Payment Deferral," Bulletin 2020-15, May 13, 2020, available at <https://guide.freddiemac.com/app/guide/bulletin/2020-15>.

access to their modification⁷ and deferral⁸ programs contingent upon the mortgage servicer's finances.⁹ And, unlike other federally-guaranteed programs, the VA has not offered servicers options to offset the cost of a deferral, making it more difficult for VA mortgage servicers to offer a no-cost deferral of forbore payments for military borrowers.

Instead of guaranteeing borrowers an interest-free deferral of forbore payments, as other federally-backed loan programs do, the VA's COVID-VAPCP program offers military borrowers the more costly option of taking on a second, 10-year, negatively amortizing 1 percent interest loan to repay their forbore payments. Borrowers in the COVID-VAPCP must begin repaying these loans within five years, raising their payments beyond their pre-forbearance payments. For borrowers whose mortgage servicers cannot or will not offer a cost-free deferral, this may be their only choice, and a needlessly costly one at that, to stay in their home.

As we learned following the 2008 crisis, modifications that raise a borrower's monthly payments make it more likely they will ultimately default on their loan and face the prospect of being homeless.¹⁰ As a result, military borrowers who were already struggling financially as a result of the pandemic and who then participate in the program could once again fall behind when their payments increase, harming both the family and the VA program. Even if borrowers can make the payments, military borrowers participating in COVID-VAPCP will pay hundreds or thousands of dollars more than another, similarly-situated borrower with a different federally-backed loan or with another servicer.¹¹

If VA establishes a partial claim process, it should financially benefit the veteran or servicemember, not create a new loan that they have to pay back. If VA does not believe that it has the authority to establish such a program that other federal agencies have established, it should bring that issue to Congress's attention. Military borrowers who have struggled during the pandemic should not be left with worse options than all other homeowners with federally-backed loans. Indeed, the least we can do is honor their service by making every effort to help military borrowers stay in their homes.

⁷ "Extended Relief Under the CARES Act for those Affected by COVID-19," Circular 26-20-12, April 8, 2020, available at https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_12.pdf; as amended by "Extended Relief Under the CARES Act for those Affected by COVID-19," Circular 26-20-12 Change 1, September 9, 2020, available at https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_12_change1.pdf.

⁸ "Deferment as a COVID-19 Loss Mitigation Option for CARES Act Forbearance Cases," Circular 26-20-33, September 14, 2020, available at https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_33.pdf.

⁹ "Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program."

¹⁰ "The Determinants of Subprime Mortgage Performance Following a Loan Modification," Maximilian D. Schmeiser and Matthew B. Gross, *Journal of Real Estate Finance and Economics*, February 24, 2015, available at https://www.urban.org/sites/default/files/2015/08/10/schmeiser_and_gross_jrefe_2016.pdf.

¹¹ "Economic Regulatory Impact Analysis for RIN 2900-AR05(P), Loan Guaranty: COVID-19 Veterans Assistance Partial Claim Payment Program," December 7, 2020.

We look forward to working with you on a better solution for VA borrowers.

Sincerely,



Sherrod Brown
United States Senator



Jack Reed
United States Senator



Jon Tester
United States Senator