

VA Lenders Handbook (VA Pamphlet 26-7), Chapter 4, Topic 5 — Debts and Obligations

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5. Debts and Obligations Change Date a. Verification Requirements for Debts and Obligations February 22, 2019 • This chapter has been revised in its entirety. All debts and obligations of the borrowers' must be verified and rated. Obtain a credit report with all information for all credit bureaus. See Topic 7, subsection a of this chapter for details on the type of credit report required. For obligations not included on the credit report which are revealed on the application or through other means, the lender must obtain a verification of payment history showing the obligation or other written verification directly from the creditor, including the payment amount and outstanding balance. The lender must also separately verify accounts listed as "will rate by mail only" or "need written authorization." When a pay stub(s) or LES indicates an allotment, the lender must investigate the nature of the allotment to determine whether the allotment is related to a debt or other obligation(s). Examples may include 401K obligation or repayment, child care, child support, or other. For obligations that have not been rated on the credit report or elsewhere, obtain the verification and rating directly from the creditor. Include a written explanation for any obligation that is not rated. Resolve all discrepancies prior to closing. If the credit report, deposit verification, bank statement, or pay stub(s) reveals any debts or obligations which were not divulged by the borrowers): • obtain clarification as to the status of such debts from the borrower(s), then • verify any remaining discrepancies with the creditor. Credit reports and verifications must be no more than 120 days old (180 days for new construction). For automatically closed loans, this means the date of the credit report or verification is within 120 days of the date the note is signed (180 days for new construction). For prior approval loans, this means the date of the credit report or verification is within 120 days of the date the application is received by VA (180 days for new construction). Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-39 5. Debts and Obligations, continued a. Verification Requirements for Debts and Obligations, continued ECOA prohibits requests for, or consideration of, credit history and liability information of a spouse who will not be contractually obligated on the loan, except: • if the borrower(s) is relying on alimony, child support, or maintenance payments from the spouse (or former spouse), or • in community property states. If either of these situations is applicable, the lender must: • Obtain a credit report on the non-purchasing spouse in addition to the Veteran's credit report. • Consider the spouse's credit history in reaching a determination. A Veteran borrower with a satisfactory credit history may be considered a satisfactory risk even though the non-purchasing spouse's credit may be unsatisfactory. • Include the monthly payment of the non-purchasing spouse's debts on the VA Form 26-6393, Loan Analysis. For debts such as judgments and unpaid collection accounts, lenders should consider the Veteran's capacity to address the debt(s). • Develop the facts surrounding any unsatisfied judgments on the spouse's credit report, such as where the judgment was filed and whether the parties were married to one another at the time, and secure a competent legal opinion whether the judgment may become a lien against the property. • Exclude the monthly payment on the

spouse's debts from the loan analysis when a reliable source of income for the spouse is verified to reach such a conclusion which is voluntarily provided. • Document VA Form 26-6393, Loan Analysis, with an explanation of facts and determination when concluding credit worthiness of the Veteran or excluding obligations of the non-purchasing spouse. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-40 5. Debts and Obligations5. Debts and Obligations, continued b. Verification of Alimony and Child Support Obligations The payment amount of any alimony and/or child support obligation of the borrower must be verified. Do not request documentation of a borrower's divorce unless it is necessary to verify the amount of any alimony or child support liability indicated by the borrower. If, however, in the routine course of processing the loan, the lender encounters direct evidence (such as, in the credit report) that a child support or alimony obligation exists, they should make any inquiries necessary to resolve discrepancies and obtain the appropriate verification. Spousal support may be treated as a reduction in income on VA Form 26-6393, Loan Analysis. Child support payment is treated as a liability on VA Form 26-6393, Loan Analysis. c. Analysis of Debts and Obligations Significant debts and obligations include: • debts and obligations with a remaining term of 10 months or more; that is, long-term obligations, and • accounts with a term of less than 10 months that require payments so large as to cause a severe impact on the family's resources for any period of time. Example: Monthly payments of \$300 on an auto loan or lease with a remaining balance of \$1,500, even though it should be paid out in 5 months, would be considered significant. The payment amount is so large as to cause a severe impact on the family's resources during the first, most critical, months of the home loan. Determine whether debts and obligations which do not fit the description of "significant" should be given any weight in the analysis. They may have an impact on the borrower's ability to provide for family living expenses. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-41 5. Debts and Obligations, continued c. Analysis of Debts and Obligations, continued If a married Veteran wants to obtain the loan in his or her name only, the Veteran may do so without regard to the spouse's debts and obligations in a non-community property state. However, in community property states, the spouse's debts and obligations must be considered even if the Veteran wishes to obtain the loan in his or her name only. See Topic 2, subsection c of this chapter. Debts assigned to an ex-spouse by a divorce decree will not generally be charged against a borrower. This includes debts that are now delinquent. d. Borrower(s) as Co- obligor/Co-signor on a Loan or Obligations The borrower(s) may have a contingent liability based on co-signing a loan. The lender may exclude the loan payments from the monthly obligations factored into the net effective income calculation in the loan analysis if: • there is evidence that the loan payments are being made by someone else and the obligation is current, and • there is not a reason to believe that the borrower will have to participate in repayment of the loan. e. Pending Sale of Real Estate A borrower(s) may have a current home and the sale of the real property is needed to complete the transaction. The lender may disregard the payments on the outstanding mortgage(s) and any consumer obligations which the Veteran intends to clear if available information provides a reasonable basis for concluding the equity to be realized from the sale will be sufficient for this purpose. See Topic 4, subsection c of this chapter for necessary documents. f. Secondary Borrowing If the borrower(s) plans to obtain a second mortgage simultaneously with the VA-guaranteed loan, include the second mortgage payment as a significant debt. From an underwriting standpoint, the Veteran must not be placed in a substantially worse position than if the entire amount borrowed had been guaranteed by VA. See Chapter 9 of this handbook for VA limitations on secondary borrowing. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-42 5. Debts and Obligations, continued f. Secondary

Borrowing, continued If the borrower(s) provides written evidence that the student loan debt will be deferred at least 12 months beyond the date of closing, a monthly payment does not need to be considered. If a student loan is in repayment, or scheduled to begin within 12 months from the date of VA loan closing, the lender must consider the anticipated monthly obligation in the loan analysis and utilize the payment established by calculating each loan at a rate of five percent of the outstanding balance divided by 12 months. Example: A borrower has a \$25,000 student loan balance and you multiple it by 5%, which equals \$1,250. This amount (\$1,250) is divided by 12 months to equal a monthly payment of \$104.17. If the payment(s) reported on the credit report for each student loan(s) is greater than the threshold payment calculation above in a above, the lender must use the payment recorded on the credit report. If the payment(s) reported on the credit report is less than the threshold payment calculation above, in order to count the lower payment, the loan file must contain a statement from the student loan servicer that reflects the actual loan terms and payment information for each student loan(s). The statement(s) must be dated within 60 days of VA loan closing, and may be an electronic copy from the student loan servicer's website or a printed statement provided by the student loan servicer. It is the lender's discretion as to whether the credit report should be supplemented with this information.

g. Loans Secured by Deposited Funds Certain types of loans secured against deposited funds (signature loans, cash value life insurance policies, 401(k) loans, or other) in which repayment may be obtained through extinguishing the asset, do not require repayment consideration for loan qualification. The assets required to secure a loan(s) may not be included as an asset on the VA Form 26-6393, Loan Analysis. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-43

5. Debts and Obligations, continued g. Loans Secured by Deposited Funds, continued Use the current balance times 60 percent minus the loan balance to equal the usable amount to consider as an asset. A statement would only be necessary to verify the amount used as an asset.

h. Open 30-Day Charge Accounts An open 30-day charge account is defined as an account in which the borrower(s) must pay off the outstanding balance on the account every month. For open 30-day charge accounts, determine if the borrower(s) pays the balance in full each month, and has verified funds to cover the account balance in addition to any funds required for closing costs.

- If there are sufficient funds, the payment does not need to be included in Section D of the VA Form 26-6393, Loan Analysis, but the obligation should continue to be listed.
- If there are not sufficient funds, a minimum payment of 5 percent of the balance should be considered included in Section D of the VA Form 26-6393, Loan Analysis.

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6. Debts Owed to the Federal Government Change Date February 22, 2019 • This chapter has been revised in its entirety.

a. Title Search Requirements b. VA Form 26- 8937, Verification of VA Benefits The lender is responsible for obtaining the necessary title search to ensure there are no encumbrances that would preclude the borrower from obtaining a loan. The lender is responsible for obtaining the necessary title search to ensure there are no encumbrances that would preclude the borrower from obtaining a loan. Generally, VA Form 26-8937, Verification of VA Benefits, is not needed unless the COE or new IRRRL case number indicates to submit the form to VA before closing. However, ask the Veteran and any Veteran co-obligors (including spouse if a Veteran) if he or she:

- will be discharging within the next 6 months from the military and has completed a PEB or MEB and will be filing for VA disability while still on active duty,
- has recently filed for VA disability and compensation, or VA pension, and VA has not yet made a determination,
- would be entitled to receive VA disability benefits, but in receipt of retirement pay,
- has received VA disability benefits in the past, or
- is an unmarried surviving spouse of a Veteran (has applied and/or in receipt of DIC who died on active duty or as a

result of a service-connected disability. If the Veteran falls under one of the above categories, follow the procedures discussed in Topic 2, subsection m of this chapter. When VA returns the form to the lender and the form indicates that the borrower has any of the following: • an outstanding indebtedness of VA overpaid education, compensation, or pension benefits, • an education or direct home loan in default, • an outstanding indebtedness resulting from payment of a claim on a prior VA home loan, or • a repayment plan for any of these debts that is current, Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-45 6. Debts Owed to the Federal Government, continued b. VA Form 26- 8937, Verification of VA Benefits, continued Then one of the following must accompany the loan package: • evidence of payment in full of the debt, or • evidence of a current payment plan acceptable to VA and evidence that the Veteran executed a promissory note for the entire debt balance. VA may find a repayment plan acceptable if: • the Veteran has been satisfactorily making payments on a repayment plan in effect prior to the lender's inquiry, • the Veteran's overall credit history and anticipated financial capacity after the proposed loan is made indicate a reasonable likelihood that the repayment plan will be honored and the outstanding amount of indebtedness is not so large that it would prevent payment in full, within a reasonable period (approximately 1 year), or • the case involves unusually meritorious circumstances. Examples Consideration would be given to a Veteran with an outstanding/excellent credit history and adequate income whose debt balance is too large to be reasonably paid out in less than 18 months to 2 years. VA will offer special consideration to a Veteran's claim that he or she was not previously aware of an overpayment of benefits. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-46 6. Debts Owed to the Federal Government, continued c. What is the Credit Alert Verification Reporting System (CAIVRS)? CAIVRS is a Department of Housing and Urban Development (HUD) maintained computer information system which enables participating lenders to learn when a borrower has previously defaulted on a federally-assisted loan. More information can be found at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/caivrs The database includes default information from the Department of Agriculture, Department of Education, Department of Justice, HUD, Small Business Administration, Federal Deposit Insurance Corporation, and VA. The VA default information included in the database relates to: • overpayments on education cases, • overpayments on disability benefits income, and • claims paid due to home loan foreclosures which resulted in a debt of the government (Generally type 2 VA loans). CAIVRS Procedures A CAIVRS inquiry must be performed for all borrowers and co-borrowers (Veteran or non-Veteran) on all VA loans, including IRRRLs. The one exception to this policy is that CAIVRS is not required for non-purchasing spouses in community property states. VA assigns a 10-digit VA lender identification number (ID) to each new lender, then automatically forwards the ID number to HUD with a request to grant the lender CAIVRS access. The lender can begin accessing CAIVRS usually between 7 to 10 business days after receiving its VA ID number assignment. To register for CAIVRS access for first time users, please use the following link: <https://entp.hud.gov/idapp/html/f57register.cfm>. Please direct questions concerning problems encountered with accessing CAIVRS to caivrs_admin@hud.gov. If the borrower(s) is found to have a delinquent federal debt through CAIVRS, the validity and delinquency status of the debt should be verified by contacting the creditor agency using the contact phone number and case number reflected on the borrower's CAIVRS report. Continued on next page VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-47 6. Debts Owed to the Federal Government, continued c. What is the Credit Alert Verification Reporting System (CAIVRS)?, continued The creditor agency that is owed the debt can verify that the debt has been resolved. Documentation should be included in the loan file and an explanation must be

provided on VA Form 26-6393, Loan Analysis. It is not necessary for CAIVRS to update the number if documentation is included in the loan file. Once screening is complete, enter the CAIVRS confirmation code on VA Form 26-6393, Loan Analysis, in the space to the right of the “no” block in item 46 for purchase and refinances. For IRRRLs, enter the code on VA Form 26-8923, IRRRL Worksheet, in the Notes section.

d. Borrower with Presently Delinquent Federal Debts When CAIVRS or another source indicates that the borrower has a delinquent Federal debt, the following steps must be taken:

- Suspend processing of the loan application to determine the reason for the non “A” number.
- Give full consideration to the CAIVRS information, and any subsequent clarifying information or documentation provided, in applying VA credit standards. Any non “A” number received does not automatically disqualify a Veteran from using their home loan benefit; however, the lender must document and justify the approval. See Topic 7, subsection b of this chapter for documentation and explanation requirements.
- If a previous VA loan is involved that resulted in a debt to the government (due to foreclosures, short sale, deed in lieu, or other), the borrower may contact the VA Debt Management Center at 1-800-827- 0648 or at dmc.ops@va.gov to make arrangements to repay the debt. Generally, only type 2 VA loans (fifth digit of the VA loan number) result in a debt to VA and are reported. The Veteran’s entitlement cannot be restored until the debt to VA is paid in full. Continued on next page

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6. Debts Owed to the Federal Government, continued

d. Borrower with Presently Delinquent Federal Debts, continued If the fifth digit of the previous loan number is a type 6 VA loan, there is generally a loss to the government and the loss is not reported to CAIVRS. A loss to VA does not need to be repaid; however, the Veteran’s previously used entitlement to guaranty the previous VA loan is not restored until the loss is paid in full. Each agency has their timeliness requirements before removing a non “A” CAIVRS finding. This does not preclude the Veteran or borrower from receiving a VA loan if credit standards are met for VA loans. See Topic 4.07b (13 and 14) of this Chapter for guidelines after a bankruptcy or foreclosure. Example: A borrower suffered a loss on a FHA loan home loan 2 years ago. While HUD has not removed the CAIVRS finding as the 3-year waiting period has not passed for FHA, the lender is eligible to continue processing a VA loan without an “A” CAIVRS finding due to the borrower(s) meeting VA credit guidelines for foreclosures and documented in the loan file. CAIVRS information is only for the lender’s and borrower’s use in processing the loan application. Only those persons having responsibility for screening borrowers and/or co-borrowers may use CAIVRS. Any other use is unauthorized.

e. Treatment of Federal Debts A borrower(s) cannot be considered a satisfactory credit risk if he or she is presently delinquent or in default on any debt to the Federal Government until the delinquent account has been brought current or satisfactory arrangement have been made between the borrower and the Federal agency. Example: A borrower has delinquent taxes and payments have not been made for several years. The establishment of a payment plan after the CAIVRS finding has been addressed may not be sufficient to show a satisfactory payment arrangement to repay the obligation. A borrower(s) cannot be considered a satisfactory credit risk if he or she has a judgment lien against his or her property for a debt owed to the Government until the judgment is paid or otherwise satisfied. VA Pamphlet 26-7, Revised Chapter 4: Credit Underwriting 4-49

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