

As filed with the Securities and Exchange Commission on May 7, 2021

Registration No. 333-

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM S-8**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933



**AGNC INVESTMENT CORP.**  
(Exact name of registrant as specified in its charter)  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**26-1701984**  
(I.R.S. Employer  
Identification No.)

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2 Bethesda Metro Center, 12<sup>th</sup> Floor  
Bethesda, Maryland 20814  
(Address of principal executive offices)

**AMENDED AND RESTATED AGNC INVESTMENT CORP.  
2016 EQUITY AND INCENTIVE COMPENSATION PLAN**  
(Full title of the plan)

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Kenneth L. Pollack, Esq.  
Senior Vice President, General Counsel and Secretary  
AGNC Investment Corp.  
2 Bethesda Metro Center, 12<sup>th</sup> Floor  
Bethesda, Maryland 20814  
(301) 968-9300  
(Name and address, including zip code, and telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  x

Accelerated filer  o

Non-accelerated filer  o (Do not check if a smaller reporting company)

Smaller reporting company  o

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.  o

### CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered <sup>(1)</sup>	Proposed maximum offering price per share <sup>(2)</sup>	Proposed maximum aggregate offering price	Amount of registration fee <sup>(2)</sup>
Common stock, par value \$0.01 per share ("Common Stock")	30,000,000.00	\$18.10	\$543,000,000	\$59,242

<sup>(1)</sup> Pursuant to Rule 416 under the Securities Act of 1933, as amended, (the "Securities Act") this registration statement also covers any additional indeterminate amount of shares of Common Stock to be offered or sold pursuant to the Amended and Restated AGNC Investment Corp. 2016 Equity and Incentive Compensation Plan (the "Plan") and shares of Common Stock that may become issuable under the Plan by reason of certain corporate transactions or events, including any stock dividend, stock split, recapitalization or any other similar transaction effected without the receipt of consideration which results in an increase in the number of the registrant's outstanding shares of Common Stock.

<sup>(2)</sup> Estimated solely for the purpose of calculating the registration fee, based, in accordance with Rule 457(c) and Rule 457(h) under the Securities Act, on the average of the high and the low prices of the Common Stock reported on The Nasdaq Global Select Market on May 6, 2021.

## EXPLANATORY NOTE

AGNC Investment Corp. (the "Company") has prepared this registration statement in accordance with the requirements of Form S-8 under the Securities Act of 1933, as amended (the "Securities Act"), to register an additional 30,000,000 shares of its common stock, par value \$0.01 per share ("Common Stock"), that are reserved for issuance under the Amended and Restated AGNC Investment Corp. 2016 Equity and Incentive Compensation Plan (the "Plan"). An amendment to increase the number of shares available under the plan from 10,000,000 to 40,000,000 was described in the Company's definitive proxy statement filed with the Securities Exchange Commission (the "Commission") on March 12, 2021 and was approved by the Company's stockholders on April 22, 2021. The Company previously filed a registration statement on Form S-8 on February 27, 2017 (File No. 333-216282) (the "Initial Form S-8") to register 10,000,000 shares of Common Stock initially authorized for issuance under the Plan. This registration statement relates to securities of the same class as that to which the Initial Form S-8 related and is submitted in accordance with General Instruction E to Form S-8. Pursuant to Instruction E of Form S-8, the contents of the Initial Form S-8 are incorporated herein by reference and made part hereof, except to the extent supplemented, amended, or superseded by the information set forth herein. Only those items containing new information not contained in the Initial Form S-8 are presented herein.

## PART II

### INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

#### Item 8. Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
3.1	<a href="#">Amended and Restated Certificate of Incorporation of AGNC Investment Corp., incorporated herein by reference to Exhibit 3.1 of Form 10-Q for the quarter ended March 31, 2020 (File No. 001-34057), filed May 11, 2020</a>
3.2	<a href="#">Fourth Amended and Restated Bylaws of AGNC Investment Corp., incorporated herein by reference to Exhibit 3.1 of Form 8-K (File No. 001-34057), filed March 11, 2021</a>
4.1	<a href="#">Form of Certificate for Common Stock, incorporated herein by reference to Exhibit 4.3 of Form 10-Q for the quarter ended September 30, 2016 (File No. 001-34057), filed November 7, 2016</a>
5.1*	<a href="#">Opinion of Skadden, Arps, Slate, Meagher &amp; Flom LLP</a>
23.1*	<a href="#">Consent of Skadden, Arps, Slate, Meagher &amp; Flom LLP (included in Exhibit 5.1)</a>
23.2*	<a href="#">Consent of Ernst &amp; Young LLP</a>
24.1*	<a href="#">Power of Attorney</a>

\* Filed herewith.

## SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in City of Bethesda, State of Maryland, on May 7, 2021.

### **AGNC INVESTMENT CORP.**

By: /s/ Kenneth L. Pollack  
Name: Kenneth L. Pollack  
Title: Senior Vice President, General Counsel and  
Secretary

Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the date indicated.

Name

Title

Date

/s/ GARY KAIN  
Gary Kain

Director, Chief Executive Officer, and Chief  
Investment Officer (Principal Executive  
Officer)

/s/ BERNICE E. BELL  
Bernice E. Bell

Chief Financial Officer and  
Senior Vice President (Principal Financial  
Officer)

\*  
Donna J. Blank

Director

\*  
Morris A. Davis

Director

\*  
John D. Fisk

Director

\*  
Prue B. Larocca

Director

\*  
Paul E. Mullings

Director

\*  
Frances R. Spark

Director

\*By: /s/ KENNETH L. POLLACK  
Kenneth L. Pollack  
*Attorney-in-fact*

**[Letterhead of Skadden, Arps, Slate, Meagher & Flom LLP]**

May 7, 2021

AGNC Investment Corp.  
2 Bethesda Metro Center  
Bethesda, Maryland 20814

Re: **AGNC Investment Corp.**  
**Registration Statement on Form S-8**

Ladies and Gentlemen:

We have acted as special United States counsel to AGNC Investment Corp., a Delaware corporation (the "Company"), in connection with the Registration Statement on Form S-8 of the Company (together with the exhibits thereto, the "Registration Statement") to be filed on the date hereof with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933 (the "Securities Act"), relating to the registration of 30,000,000 shares (the "Shares") of the Company's common stock, par value \$0.01 per share (the "Common Stock"), available for future issuance under the AGNC Investment Corp. Amended and Restated 2016 Equity and Incentive Compensation Plan (the "Plan").

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K of the General Rules and Regulations of the Commission promulgated under the Securities Act.

In rendering the opinion stated herein, we have examined the following:

- (a) the Registration Statement in the form to be filed with the Commission on the date hereof;
- (b) the Plan;
- (c) an executed copy of a certificate of Kenneth L. Pollack, Senior Vice President, Chief Compliance Officer, General Counsel and Secretary of the Company, dated the date hereof (the "Secretary's Certificate");

(d) a copy of the Company's Amended and Restated Certificate of Incorporation (the "Amended and Restated Certificate of Incorporation"), certified by the Secretary of State of the State of Delaware as of May 6, 2021, and certified pursuant to the Secretary's Certificate;

(e) a copy of the Company's By-Laws, as amended and in effect as of the date hereof (the "Amended and Restated Bylaws"), and certified pursuant to the Secretary's Certificate;

(f) a copy of certain resolutions of the Board of Directors of the Company relating to the approval of the Plan, the filing of the Registration Statement and certain related matters, and certified pursuant to the Secretary's Certificate;

(g) a copy of the tabulation of votes cast at the Special Meeting of Stockholders of the Company held on April 22, 2021 approving the Plan; and

(h) a specimen certificate representing the Common Stock. We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion stated below, including the facts and conclusions set forth in the Secretary's Certificate.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Company, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts relevant to the opinion stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including the facts and conclusions set forth in the Secretary's Certificate.

In rendering the opinion set forth below, we have also assumed that (i) if issued in physical form, the certificates evidencing the Shares will be signed by one of the authorized officers of the Company and registered by the transfer agent and registrar and will conform to the specimen certificate examined by us evidencing the Common Stock or, if issued in book-entry form, an appropriate account statement evidencing the Shares credited to a recipient's account maintained with the Company's transfer agent has been or will be issued by the Company's transfer agent, (ii) the issuance of the Shares will be properly recorded in the books and records of the Company, (iii) each award agreement under which options, appreciation rights, restricted shares, restricted stock units, performance shares, performance units, dividend equivalents and certain other awards are granted pursuant to the Plan will be consistent with the Plan and will be duly authorized, executed and delivered by the parties thereto, (iv) the consideration received by the Company for each of the Shares delivered pursuant to the Plan shall not be less than the per share par value of the Shares and (v) the issuance of the Shares does not violate or conflict with

any agreement or instrument binding on the Company (except that we do not and will not make this assumption with respect to the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws. We do not express any opinion with respect to the laws of any jurisdiction other than the General Corporation Law of the State of Delaware (the "DGCL").

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that the Shares have been duly authorized by all requisite corporate action on the part of the Company under the DGCL and, when the Shares are issued to the Plan participants in accordance with the terms and conditions of the Plan and the applicable award agreement for consideration in an amount at least equal to the par value of such Shares, the Shares will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Securities Act or the General Rules and Regulations of the Commission promulgated under the Securities Act.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

DJG



**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 333-XXXXX) pertaining to the Amended and Restated 2016 Equity and Incentive Compensation Plan of AGNC Investment Corp. of our reports dated February 26, 2021, with respect to the consolidated financial statements of AGNC Investment Corp. and the effectiveness of internal control over financial reporting of AGNC Investment Corp. included in its Annual Report (Form 10-K) for the year ended December 31, 2020, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Tysons, Virginia  
May 7, 2021

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned directors and officers of AGNC Investment Corp., a corporation organized under the laws of the state of Delaware (the "Corporation"), hereby constitute and appoint Peter Federico, Kenneth Pollack and Kasey Reisman and each of them (with full power to each of them to act alone), his/her true and lawful attorneys-in-fact and agents for him/her and on his/her behalf and in his/her name, place and stead, in all cases with full power of substitution and resubstitution, in any hand and all capacities, to sign, execute and affix his/her seal to and file with the Securities and Exchange Commission (or any other governmental or regulatory authority) the Corporation's Form S-8 Registration Statement, and all amendments or supplements thereto with all exhibits and any and all documents required to be filed with respect thereto, and grants to each of them full power and authority to do and to perform each and every act and thing requisite and necessary to be done in and about the premises in order to effectuate the same as fully and to all intents and purposes as he/she might or could do if personally present, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, each of the undersigned directors and/or officers have hereunto set his/her hand and seal, as of the date specified.

**AGNC INVESTMENT CORP.**

Dated: May 6, 2021

/s/ Gary Kain

Gary Kain

Chief Executive Officer, President and Chief Investment Officer

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Gary D. Kain</u> Gary D. Kain	Director, Chief Executive Officer, President and Chief Investment Officer (Principal Executive Officer)	May 6, 2021
<u>/s/ Donna J. Blank</u> Donna J. Blank	Director	May 6, 2021
<u>/s/ Morris A. Davis</u> Morris A. Davis	Director	May 6, 2021
<u>/s/ John D. Fisk</u> John D. Fisk	Director	May 6, 2021
<u>/s/ Prue B. Larocca</u> Prue B. Larocca	Director	May 6, 2021
<u>/s/ Paul E. Mullings</u> Paul E. Mullings	Director	May 6, 2021
<u>/s/ Frances R. Spark</u> Frances R. Spark	Director	May 6, 2021