

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR-4745-P-01]

RIN 2502-AH84

Eligibility of Adjustable Rate Mortgages

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: Pursuant to a recent statutory revision, this rule makes available new adjustable rate mortgage products for single-family homes tailored to the needs of borrowers. This rule also makes provisions for the frequency and amount of interest rate changes for these new products.

DATES: *Comment Due Date:* May 12, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: James Beavers, Home Mortgage Insurance Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, at (202) 708-2121. Persons with hearing- or speech-impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

A. Background

Section 251 of the National Housing Act, 12 U.S.C. 1715z-16 (Section 251) authorizes the Secretary to insure adjustable rate mortgages (ARMs). Congress enacted revisions to this statute in the Veterans Affairs, HUD, and Independent Agencies Appropriations Act for Fiscal Year 2002 (Pub. L. 107-73, approved November 26, 2001; 115 Stat. 651, at 674). Prior to this statutory change, Section 251 permitted the Secretary to insure ARMs where the adjustments: (1) Were made on an annual basis; (2) were, as to each

adjustment, limited to an annual cap of 1 percentage point on the outstanding loan balance; and (3) were limited, for the life of the loan, to a maximum increase of 5 percentage points above the initial interest rate.

The recently-enacted revision adds additional categories of ARMs to these pre-existing ones. Under this revision, which adds a new subsection (d) to Section 251, the Secretary may insure ARMs on single-family properties that have interest rates that are fixed for the first three years or more of the mortgage term; that are thereafter adjusted annually; and are not limited to adjustments of one percentage point if the interest rate remains fixed for more than five years.

The new statute also amends the information disclosure requirements of Section 251. HUD must require mortgage lenders to make available to the mortgagor, at the time of applying for an ARM under this section, a written explanation of the features of an adjustable rate mortgage. This explanation must be consistent with the disclosure requirements under the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, applicable to variable rate mortgages secured by a principal dwelling. The regulation includes this provision; however, the provision would be self-implementing even were it absent from the regulation.

The rate index provisions remain unchanged. As in the statute prior to the recent revisions, the interest rate must be based on a national index approved in regulations, information about which is readily accessible to borrowers from generally published sources.

HUD's current regulations on adjustable rate mortgages eligible for mortgage insurance are found at 24 CFR 203.49. This proposed rule would amend that section.

B. This Proposed Rule

This proposed rule would add a new paragraph (a) between the introductory paragraph and current § 203.49(a), which is redesignated as § 203.49(b). The effect of this paragraph would be to recognize specific categories of adjustable rate mortgages as eligible for insurance, based on the year of the loan in which the rate may first be adjusted. These categories are one, three, five, seven and ten-year ARMs.

Proposed § 203.49(d) would specify the time periods mortgages must be adjusted for each of the different types of ARMs. In each case, in accordance with current practice, the rule proposes a six-month "window" for adjustment. In other words, groups of mortgages, the anniversary dates of which fall into a

six-month period, can be adjusted together. This is convenient for lenders, and also allows GNMA, when pooling mortgages for purposes of issuing mortgage-backed securities, to have larger pools. For example, if the adjustment date of a particular set of mortgages to be pooled is June 1, 2001, GNMA can include mortgages with adjustment dates going back to January 1, 2001, in the pool. Those January 1 mortgages would not adjust until June 1, 2001. This proposed window for adjustments is a matter of administrative convenience and would not change the fact that five-year ARMs fall under the maximum cap provisions (one percentage point for the annual adjustment and five percent total variance in rates for the life of the loan) in 12 U.S.C. 1715z-16(a).

Proposed § 203.49(e), "Magnitude of changes," is redesignated as § 203.49(f) and revised to take into account the new types of ARMs. Section 203.49(f)(1) covers one, three and five-year ARMs. Following the statutory provisions applicable to adjustable rate mortgages that have an interest rate that is fixed for five or fewer years, adjustments would be limited to a maximum of one percentage point in variance from the prior interest rate. If the underlying index changes more than one percentage point, the rule proposes that the excess amount may not be made up in an adjustment the following year. Finally, the overall total cap in adjustments of five percentage points over the life of the loan from 12 U.S.C. 1715z-16(a) would be implemented in this paragraph. Because of the insertion of new § 203.49(f)(2), described in the following paragraph, new § 203.49(f)(3) contains the material in current § 203.49(e)(2).

Proposed § 203.49(f)(2) would implement the somewhat different requirements for seven and ten-year ARMs. The one-year and total loan adjustment caps do not apply to ARMs in these categories. The proposed rule would permit for these ARMs a change in annual adjustments of up to two percentage points, and the total mortgage change may go up to six percentage points.

Proposed § 203.49(i), redesignated from § 203.49(h) in the current rule, would amend the cross-references to eliminate the cross-reference to mortgage insurance for disaster victims, 24 CFR 203.18(e). The effect of this change is to permit insurance of ARMs under this provision. Finally, technical revisions would be made to § 203.49(i), which is redesignated as § 203.49(j) in this proposed rule.