§ 203.45 Eligibility of graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed by §§ 203.18, 203.18a, and 203.29; or,

(2) An amount which, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed 97 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance. However, if the mortgagor is a veteran, the mortgage amount, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed the applicable limits prescribed for veterans in § 203.18(a).

(d) The mortgage must contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary. The sum of the payments to principal and/or interest may increase annually for a period of five years at a rate of 2½ percent, 5 percent or 7½ percent or for a period of ten years at a rate of 2 percent or 3 percent. Any required increase in payments shall occur on the anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, the sum of the payments to principal and interest in each month shall be substantially the same.

(e) The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(f) Sections 203.21 and 203.44 shall not apply to this section.

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)). It does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4), 203.18 (c) through (e), 203.43, 203.43a, 203.43j, or 203.49.

(h) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 245 of the National Housing Act.

[41 FR 42949, Sept. 29, 1976, as amended at 45 FR 33966, May 21, 1980; 45 FR 56341, Aug. 24, 1980; 49 FR 19453, 19458, May 8, 1984; 49 FR 23584, June 6, 1984; 52 FR 48201, Dec. 21, 1987; 53 FR 8881, Mar. 18, 1988; 53 FR 9869, Mar. 28, 1988; 55 FR 34805, Aug. 24, 1990; 58 FR 41003, July 30, 1993]

§ 203.47 Eligibility of growing equity mortgages.

A mortgage containing provisions for accelerated amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart, subject to compliance with the additional requirements of this section.

(a) The mortgage must contain complete amortization provisions, satisfactory to the Secretary, requiring monthly payments by the mortgagor not in excess of the mortgagor's reasonable ability to pay, as determined by the Secretary.

(b) The mortgage must contain a provision setting forth the payments required for principal and interest in each year of the mortgage.

(c) The monthly payments for principal and interest for the initial year, or such other initial period as the commissioner may approve, shall be determined on the basis of a 30-year level payment amortization schedule. Subsequent monthly payments for principal and interest may increase annually, biennially or at such other interval that is greater than one year, as the Commissioner may approve. The subsequent periodic increases may be up to five percent above the payments for principal and interest for the previous period.

(d) No later than at the time that a loan application is offered to a prospective mortgagor, the mortgagee shall explain fully to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(e) The mortgage amount shall not exceed the limits prescribed by § 203.18, 203.18a, or 203.29.

(f) Sections 203.21 and 203.44 shall not apply to this section.

(g) This section shall not apply to a mortgage which meets the requirements of § 203.43, § 203.43a, or § 203.49.

(h) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 245(a) of the National Housing Act.

[49 FR 19453, May 8, 1984, as amended at 49 FR 23584, June 6, 1984; 53 FR 8881, Mar. 18, 1988; 58 FR 41003, July 30, 1993]

§ 203.49 Eligibility of adjustable rate mortgages.

A mortgage containing the provisions for periodic adjustments by the mortgagee in the effective rate of interest charged shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section. This section shall apply only to mortgage loans described under sections 203(b), 203(h) and 203(k) of the National Housing Act.

(a) *Interest-rate index.* Changes in the interest rate charged on an adjustable rate mortgage must correspond to changes in the weekly average yield on U.S. Treasury Securities adjusted to a constant maturity of one year. Except as otherwise provided in this section, each change in the mortgage interest rate must correspond to the upward and downward change in the index.

(b) *Amortization provisions.* The mortgage must contain amortization provisions satisfactory to the Secretary, allowing for periodic adjustments in the rate of interest charged corresponding to changes in the interest rate index.

(c) *Frequency of interest rate changes.* Interest rate adjustments must occur on an annual basis, except that the first adjustment may occur no sooner than 12 months nor later than 18 months from the date of the mortgagor's first debt service payment. To set the new interest rate, the mortgagee will determine the change between the initial (i.e., base) index figure and the current index figure, or will add a specified margin to the current index figure. The initial index figure shall be the most recent figure available before the date of mortgage loan origination. The current index figure shall be the most recent index figure available 30 days before the date of each interest rate adjustment.

(d) *Method of rate changes.* Interest rate changes may only be implemented through adjustments to the mortgagor's monthly payments.

(e) *Magnitude of changes.* The adjustable rate mortgage initial contract interest rate shall be agreed upon by the mortgagee and the mortgagor. Subsequent adjustments to this interest rate shall correspond to annual changes in the interest rate index, subject to the following conditions and limitations:

(1) No single adjustment to the interest rate may result in a change in either direction of more than one percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of one percentage point may not be carried over for inclusion in an adjustment in a subsequent year. Adjustments in the effective rate of interest over the entire term of the mortgage may not result in a change in either direction of more than five percentage points from the initial contract interest rate.

(2) At each adjustment date, changes in the index interest rate, whether increases or decreases, must be translated into the adjusted mortgage interest rate, except that the mortgage may provide for minimum interest rate change limitations and for minimum increments of interest rate changes.

(f) *Pre-loan disclosure.* The mortgagee shall explain fully and in writing to the mortgagor, no later than on the date upon which the mortgagee provides the (prospective) mortgagor with a loan application, the nature of the obligation taken. The mortgagor shall certify that he or she fully understands the obligation. Such mortgagee disclosure must include the following items: