

(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:

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(1) The fact that the mortgage interest rate may change, and an explanation of how changes correspond to changes in the interest rate index;

(2) Identification of the interest rate index, its source of publication and availability;

(3) The frequency (i.e., annually) with which interest rate levels and monthly payments will be adjusted, and the length of the interval that will precede the initial adjustment;

(4) A hypothetical monthly payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage, subject to the provisions of the mortgage instrument.

(g) *Annual disclosure.* At least 25 days before any adjustment to a mortgagor's monthly payment may occur, the mortgagee must advise the mortgagor of the new mortgage interest rate, the amount of the new monthly payment, the current index interest rate value, and how the payment adjustment was calculated.

(h) *Cross-reference.* Sections 203.21 (level payment amortization provisions) and 203.44 (open-end advances) do not apply to this section. This section does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4) (mortgagors of secondary residences), 203.18(c) (eligible non-occupant mortgagors), 203.18(d) (outlying area properties), 203.18(e) (disaster victims), 203.43 (miscellaneous type mortgages), 203.43c (mortgages involving a dwelling unit in a cooperative housing development), 203.43d (mortgages in certain communities), 203.43e (mortgages covering houses in federally impacted areas), 203.45 (graduated payment mortgages), and 203.47 (growing equity mortgages).

(i) *Aggregate amount of mortgages insured.* The aggregate number of mortgages insured pursuant to this section and § 234.79 of this chapter in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Commissioner under title II of the Act during the preceding fiscal year.

(j) *Insurance authority.* Mortgages complying with the requirements of this section shall be insured under

this subpart pursuant to section 251 of the National Housing Act.

[49 FR 23584, June 6, 1984, as amended at 53 FR 8881, Mar. 18, 1988; 54 FR 111, Jan. 4, 1989; 55 FR 34805, Aug. 24, 1990; 61 FR 36264, July 9, 1996]

EFFECTIVE DATE NOTE: At 69 FR 11501, Mar. 10, 2004, §203.49 was amended by redesignating paragraphs (a) through (j) as paragraphs (b) through (k) respectively, adding a new paragraph (a), and revising newly designated paragraphs (d), (f), (g), (i), and (j), effective Apr. 9, 2004. For the convenience of the user, the revised and added text is set forth as follows:

§ 203.49 Eligibility of adjustable rate mortgages.

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(a) *Types of mortgages insurable.* The types of adjustable rate mortgages that are insurable are those for which the interest rate may be adjusted annually by the mortgagee, beginning after one, three, five, seven, or ten years from the date of the mortgagor's first debt service payment.

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(d) *Frequency of interest rate changes.* (1) The interest rate adjustments must occur annually, calculated from the date of the mortgagor's first debt service payment, except that, for these types of mortgages, the first adjustment shall be no sooner or later than the following:

(i) One-year adjustable rate mortgages—no sooner than 12 months or later than 18 months;

(ii) Three-year adjustable rate mortgages—no sooner than 36 months or later than 42 months;

(iii) Five-year adjustable rate mortgages—no sooner than 60 months or later than 66 months;

(iv) Seven-year adjustable rate mortgages—no sooner than 84 months or later than 90 months; and

(v) Ten-year adjustable rate mortgages—no sooner than 120 months or later than 126 months.

(2) 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 specific 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.

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(f) *Magnitude of changes.* The adjustable rate mortgage initial contract interest rate shall be agreed upon by the mortgagee and the mortgagor. The first adjustment to the contract interest rate shall take place in accordance with the schedule set forth under paragraph (d) of this section. Thereafter, for all adjustable rate mortgages, the adjustment shall be made annually and shall occur on the anniversary date of the first adjustment, subject to the following conditions and limitations:

(1) For one-, three-, and five-year adjustable rate mortgages, no single adjustment 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 for 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) For seven- and ten-year adjustable rate mortgages, no single adjustment to the interest rate shall result in a change in either direction of more than two percentage points from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of two percentage points 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 six percentage points from the initial contract rate.

(3) 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.

(g) *Pre-Loan Disclosure.* The mortgagee is required to make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

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(i) *Cross-reference.* Sections 203.21 (level payment amortization provisions) and 203.44 (open-end advances) do not apply to this sec-

tion. This section does not apply to a mortgage that meets the requirements of §§203.18(a)(4) (mortgagors of secondary residences), 203.18(c) (eligible non-occupant mortgagors), 203.18(d) (outlying area properties), 203.43 (miscellaneous type mortgages), 203.43c (mortgages involving a dwelling unit in a cooperative housing development), 203.43d (mortgages in certain communities), 203.43e (mortgages covering houses in federally impacted areas), 203.45 (graduated payment mortgages), or 203.47 (growing equity mortgages).

(j) *Aggregate amount of mortgages insured.* The aggregate number of adjustable rate mortgages insured pursuant to this section and 24 CFR part 234 in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under Title II of the National Housing Act during the preceding fiscal year.

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§ 203.50 Eligibility of rehabilitation loans.

A rehabilitation loan which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under section 203(k) of the National Housing Act.

(a) For the purpose of this section:

(1) The term *rehabilitation loan* means a loan, advance of credit, or purchase of an obligation representing a loan or advancement of credit, made for the purpose of financing:

(i) The rehabilitation of an existing one-to-four unit structure which will be used primarily for residential purposes;

(ii) The rehabilitation of such a structure and refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(2) The term 'rehabilitation' means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary and improvements for accessibility to the handicapped) or repair of a structure, or facilities in connection with a structure, and may include the provision of such