Federal Register

Monday,
June 19, 2006

Part IV

Department of Housing and Urban Development

24 CFR Part 203

Adjustable Rate Mortgages—Additional Index; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4969–P–01; HUD–2006–0176]

RIN 2502–AI32

Adjustable Rate Mortgages—Additional Index

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

ACTION: Proposed rule.

SUMMARY: This rulemaking proposes to add the one-year London Interbank Offered Rate (LIBOR) as an acceptable index for the rate of HUD-insured Adjustable Rate Mortgage (ARM) products. Under current regulations, only the weekly average yield of U.S. Treasury securities, adjusted to a constant maturity of one year (commonly referred to as the Constant Maturity Treasury index (CMT)), may be used to adjust interest rates on HUD-insured ARMs.

DATES: *Comment Due Date:* August 18, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Interested persons may also submit comments electronically through the Federal eRulemaking portal at: *http://www.regulations.gov.* Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without revision, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the comments by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies submitted electronically are also available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: James Beavers, Director, Home Mortgage Insurance Division, Office of Single Family Housing, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD's previous policy had been to use the weekly average U.S. Treasury securities rate adjusted to a constant maturity of one year as the basis for interest rate adjustments on HUD-insured ARM loans. HUD believed that an index calculated and published by the U.S. Government was appropriate for mortgage loans insured by the U.S. Government (see the responses to public comments on the hybrid ARMs rule published on March 10, 2004, at 69 FR 11500). However, the growing popularity of the LIBOR rate, including in the secondary market, has led to a change in HUD's policy on this issue.

LIBOR is both an international rate determined on the basis of the world economy and a rate that has recently become widely used for ARM loans in the United States. LIBOR loans have become very popular in the secondary market, and this greater liquidity allows lenders to offer lower margins to borrowers.

The LIBOR rate and the Treasury one-year constant maturity index have historically tracked each other closely over time. While the LIBOR rate may often be slightly higher, the better margins available for LIBOR-indexed loans often make LIBOR-based loans a better deal for consumers.

In addition, as LIBOR loans become more popular, it is necessary for HUD to offer a LIBOR option to remain competitive in the secondary market. With the large number of lenders now offering LIBOR-based ARM loans, it no longer makes economic sense for FHA to restrict itself to the Treasury index.

Under the authority of section 251(a) of the National Housing Act, 12 U.S.C. 1715z–16(a), HUD may set by regulation a national interest rate index, and information on the index must be readily available to mortgagors. The one-year LIBOR index is widely published and meets this availability requirement. Information on LIBOR rates is readily available through a variety of media, including the Internet.

II. This Proposed Rule

This proposed rule therefore would amend HUD's regulations at 24 CFR 203.49(b) to add the LIBOR index as an acceptable index for determining interest rate adjustments of HUD-insured ARMs. This rule would not cover Home Equity Conversion Mortgage loans, which are governed by separate regulations at 24 CFR part 206.

III. Findings and Certifications

Impact on Small Entities

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule would permit greater flexibility for lenders that, in offering ARMs to homebuyers, want to have a choice of indices for determining interest rate adjustments for the ARM. However, this rule would not require any small business to take any action or meet any requirements. Therefore, this rule would create no impact on small entities.

Therefore, the undersigned certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required. Notwithstanding HUD's determination that this rule would not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

This proposed rule involves the establishment of interest rates and related external administrative or fiscal requirements or procedures that do not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq*).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This proposed rule would not impose any Federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Executive Order (although not economically significant, as provided in section 3(f)(1) of the Executive Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number applicable to this rule is 14.175.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Therefore, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 203 as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z–16, and 1715u; 42 U.S.C. 3535(d).

2. Amend § 203.49 by revising the first sentence of paragraph (b) to read as follows:

§ 203.49 Eligibility of adjustable rate mortgages.

* * * * *

(b) *Interest rate index.* Changes in the interest rate charged on an adjustable rate mortgage must correspond either to changes in the one-year London Interbank Offered Rate (LIBOR) or to changes in the weekly average yield on U.S. Treasury securities, adjusted to a constant maturity of one year. * * *

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Dated: May 25, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 06–5494 Filed 6–16–06; 8:45 am]

BILLING CODE 4210–67–P