

Commission has previously noted that different states may reach different results that are each within the range of what a reasonable application of TELRIC principles would produce. After reviewing commenters' criticisms of BellSouth's hot cut charges for SL-2 loops, expedite order charge, promotional tariffs, inflation recovery methodology, and loading factors, the Commission concludes that Florida and Tennessee Commissions followed basis TELRIC principles and there is insufficient evidence to demonstrate that the state commissions committed clear error.

7. Pursuant to this checklist item, the Commission finds that BellSouth also provides nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements themselves. In addition, BellSouth demonstrates that it provides to competitors combinations of already-combined network elements. Accordingly, BellSouth provides UNEs, including UNE combinations, in the two states in the same manner as the Commission approved in Georgia and Louisiana.

8. The Commission also concludes that BellSouth meets its obligation to provide access to its OSS—the systems, databases and personnel necessary to support network elements or services. Based on the evidence presented in the record, the Commission finds that BellSouth provides nondiscriminatory access to each of the primary OSS functions (pre-ordering, ordering, provisioning, maintenance and repair, billing, and change management and technical assistance). BellSouth provides access to its OSS in a manner that enables competing carriers to perform the functions in substantially the same time and manner as BellSouth or, if there is not an appropriate retail analogue in BellSouth's systems, in a manner that permits an efficient competitor a meaningful opportunity to compete.

9. Specifically, regarding change management, the Commission finds that, since the *BellSouth Georgia/Louisiana and Multistate Section 271 Orders*, BellSouth has continued to improve the adequacy of its plan by broadening its scope and by increasing the role of competitive LECs in the process. While the Commission finds that problems still exist with respect to BellSouth's adherence to the change management process, the Commission finds those problems—generally, the quality of software releases and the number of change requests awaiting implementation—are not sufficient to

warrant a finding of checklist noncompliance.

#### Other Checklist Items

10. *Checklist Item 4—Unbundled Local Loops.* BellSouth demonstrates that it provides unbundled local loops in accordance with the requirements of section 271 and our rules in that it provides "local loop transmission from the central office to the customer's premises, unbundled from local switching or other services." More specifically, BellSouth establishes that it provides access to loop make-up information in compliance with the *UNE Remand Order* and nondiscriminatory access to stand alone xDSL-capable loops and high-capacity loops. Also, BellSouth provides voice grade loops, both as new loops and through hot-cut conversions, in a nondiscriminatory manner. Finally, BellSouth has demonstrated that it has a line-sharing and line-splitting provisioning process that affords competitors nondiscriminatory access to these facilities.

11. *Checklist Item 11—Number Portability.* Section 251(b)(2) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Based on the evidence in the record, we find that BellSouth complies with the requirements of checklist item 11.

12. *Checklist Item 13—Reciprocal Compensation.* Based on the evidence in the record, the Commission concludes that BellSouth has in place reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Act in compliance with checklist item 13.

13. *Checklist Items 1, 3, 5, 6, 7, 8, 9, 10, 12, and 14.* An applicant under section 271 must demonstrate that it complies with checklist item 1 (interconnection), item 3 (access to poles, ducts, and conduits), item 5 (unbundled transport), item 6 (unbundled local switching), item 7 (911/E911 access and directory assistance/operator services), item 8 (white pages directory listings), item 9 (numbering administration), item 10 (databases and associated signaling), item 12 (local dialing parity), and item 14 (resale). Based on the evidence in the record, the Commission concludes that BellSouth demonstrates that it is in compliance with checklist items 1, 3, 5, 6, 7, 8, 9, 10, 12, and 14 in the two states.

14. *Section 272 Compliance.* BellSouth provides evidence that it maintains the same structural separation and nondiscrimination safeguards in

Florida and Tennessee as it does in Alabama, Kentucky, Mississippi, North Carolina, South Carolina, Georgia, and Louisiana, states in which BellSouth has already received section 271 authority. Therefore, the Commission concludes that BellSouth has demonstrated that it is in compliance with the requirements of section 272.

15. *Public Interest Analysis.* The Commission concludes that approval of this application is consistent with the public interest. It views the public interest requirement as an opportunity to review the circumstances presented by the applications to ensure that no other relevant factors exist that would frustrate the congressional intent that markets be open, as required by the competitive checklist, and that entry will therefore serve the public interest as Congress expected. The Commission finds that barriers to competitive entry in the local exchange markets have been removed and that the local exchange markets in each state are open to competition. The Commission also finds that the performance monitoring and enforcement mechanisms developed in each state, in combination with other factors, provide meaningful assurance that BellSouth will continue to satisfy the requirements of section 271 after entering the long distance market.

16. *Section 271(d)(6) Enforcement Authority.* Working with each of the state commissions, the Commission intends to closely monitor BellSouth's post-approval compliance to ensure that BellSouth continues to meet the conditions required for section 271 approval. It stands ready to exercise its various statutory enforcement powers quickly and decisively in appropriate circumstances to ensure that the local market remains open in each of the states.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 02-32651 Filed 12-26-02; 8:45 am]

BILLING CODE 6712-01-P

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#### FEDERAL HOUSING FINANCE BOARD

[No. 2002-N-14]

RIN 3069-AB23

#### Monthly Survey of Rates and Terms on Conventional One-Family Non-farm Mortgage Loans

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Notice of methodological changes to the Monthly Survey of Rates and Terms on Conventional One-

Family, Non-farm Mortgage Loans (Monthly Interest Rate Survey or MIRS), and notice of substitution of certain indexes for adjustable-rate mortgages (Notice).

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is implementing several methodological and reporting changes to MIRS and hereby gives notice of the substitution of substantially similar adjustable-rate mortgage (ARM) index rates for certain non-standard index rates in the survey. As part of these changes, several interest-rate series that may be used as an ARM index on a very small number of non-standard ARMs no longer will be made available.

**EFFECTIVE DATE:** January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Joseph A. McKenzie, Deputy Chief Economist, (202) 408-2845 or [mckenziej@fhfb.gov](mailto:mckenziej@fhfb.gov), Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

**SUPPLEMENTARY INFORMATION:**

**I. Background and Statutory Authority**

On September 26, 2000, the Finance Board published in the **Federal Register** (65 FR 57813) a notice proposing several changes to the Monthly Interest Rate Survey aimed at improving the reliability of MIRS data (preliminary notice). Among the proposed changes were: changing the sampling and weighting methodology from one based on lender type and region to one based solely on lender size, eliminating the monthly table of mortgage interest rates and terms by lender type (Table III of the monthly MIRS release), and adding and deleting several metropolitan areas in the quarterly table of mortgage rates and terms by metropolitan area (Table IV of the January, April, July, and October MIRS releases) so that only the largest 32 metropolitan areas would be reported.

The Finance Board conducts MIRS, which provides a statistical base for certain home price benchmarks.<sup>1</sup> By

<sup>1</sup> The Housing and Community Development Act of 1980 tied the Fannie Mae and Freddie Mac conforming loan limits to MIRS. See Pub. L. 96-399, Title III, § 313(a), (b), 94 Stat. 1644-45 (Oct. 8, 1980). Specifically, Fannie Mae and Freddie ZMac are required by their respective statutes, which are nearly identical, to base the change in the annual dollar limit on the "the national one-family house price in the monthly survey of all major lenders conducted by the [Finance Board.]" See 12 U.S.C. 1717(b)(2), 1454(a)(2). The Finance Board inherited the task of conducting the MIRS from the former Federal Home Loan Bank Board (FHLBB) pursuant to section 402(e)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. 101-73, Title VII, § 402(e)(3), 103 Stat. 183 (1989), and was substituted for the former FHLBB in the conforming loan limit

law, the Chairman may approve the adoption of changes to the methodology to be employed that affect the availability of ARM indexes following publication for notice and comment. See 12 U.S.C. 1437 note. MIRS is the only national survey of mortgage rates and terms for both new and existing home sales. And because it reports the terms and conditions on loans closed, which may include loan-to-value ratios, term to maturity, number of points actually charged, and features of ARMs, MIRS is more comprehensive than any similar survey.

The Federal Home Loan Bank Act (Act) provides for the on-going availability of indexes used to calculate the interest rates on ARMs, and authorizes the substitution of substantially similar indexes for indexes that may no longer be calculated or made available. See 12 U.S.C. 1437 note. The Act provides in pertinent part that the Chairperson of the Finance Board "shall take such action as may be necessary to assure that the indexes prepared by the \* \* \* Federal Home Loan Bank Board \* \* \* immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable-rate mortgage instruments continue to be available." *Id.*

With respect to the substitution of substantially similar indexes, the Act provides that as set forth in section 402(e)(4) of FIRREA, "[i]f any agency can no longer make available an index," it may substitute a "substantially similar" index "if the \* \* \* Chairperson of the Finance Board \* \* \* determines, after notice and opportunity for comment, that—(A) the new index is based on data substantially similar to that of the original index; and (B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable." See 12 U.S.C. 1437 note. Thus, the Act provides authority for the changes in the methodology and the designation of a substitute index that are the subject of this Notice.

While the Finance Board does not know of any ARMs whose interest rate is linked to any of the series proposed to be deleted, it is possible that a very small number of non-standard ARMs could be linked to these series. Accordingly, the Finance Board proposed the designation of successor index rates as follows:

(1) For any contract mortgage rate listed in Table III of the monthly MIRS release (mortgage rates and terms by

provisions pursuant to §§ 731(f)(1)(B) and (f)(2)(B) of FIRREA.

lender type) the proposed successor index was the "National Average Contract Mortgage Rate for All Homes by Combined Lenders" as reported in the top panel of Table I in the monthly MIRS release;

(2) For any effective mortgage rate listed in Table III of the monthly MIRS release (mortgage rates and terms by lender type) the proposed successor index was the "National Average Effective Mortgage Rate for All Homes by Combined Lenders" as reported in the top panel of Table I in the monthly MIRS release;

(3) For any contract mortgage rate listed in Table IV of the quarterly MIRS release (mortgage rates and terms by metropolitan area) for a metropolitan area no longer reported the proposed successor index was the "National Average Contract Mortgage Rate for All Homes by Combined Lenders" as reported in Table I in the monthly MIRS release; and

(4) For any effective mortgage rate listed in Table IV of the quarterly MIRS release (mortgage rates and terms by metropolitan area) for a metropolitan area no longer reported the proposed successor index was the "National Average Effective Mortgage Rate for All Homes by Combined Lenders" as reported in Table I in the monthly MIRS release.

The preliminary notice proposed eliminating Table III from the monthly MIRS release, and requested comments on the proposed designation of successor index rates, and several other aspects of MIRS. In particular, the preliminary notice requested comments on a proposed change in MIRS sampling and weighting methodology that would sample lenders based solely on lender size as opposed to the current sampling based on lender type and region.

**II. Analysis of Comment Letters and Changes Made in the Final Notice**

In response to the preliminary notice, the Finance Board received a total of five comment letters—two from housing government-sponsored enterprises and three from trade associations. The comments were nearly unanimous on two points. First, the commenters requested continuation of sampling by lender type because mortgage loans originated by savings institutions (savings and loan associations and mutual savings banks) differ from mortgage loans originated by mortgage companies. Mortgage loans originated by savings institutions tend to be larger, more frequently ARMs, and more frequently non-conforming than mortgages originated by mortgage companies. The commenters feared that

this important mortgage market detail would be lost if savings institutions were not separately sampled. Second, the commenters objected to the immediate adoption of the proposed weighting methodology because there was no information on how the new sampling and weighting methodology would affect the reported data.

Several of the commenters suggested collapsing the "Savings and Loan Association" and the "Mutual Savings Bank" categories on Table III of the monthly MIRS release. Only one of the commenters addressed the issue of ARM indexes, and that comment urged the elimination of Table IV.

In light of the comments received, the Finance Board will implement a number of changes to MIRS beginning with the January 2003 data that will be available in late February 2003. Several of these changes differ from the changes proposed in the preliminary notice. In particular, the major changes that the Finance Board will adopt are as follows:

(1) MIRS data will use a sampling and weighting methodology based on lender size and lender type. There will be four lender-size classes and three lender-type classes (commercial banks, mortgage companies, and savings institutions). This will give a total of 12 cells to sample lenders from;

(2) Table III of the monthly MIRS release will continue to be made available, but the "Savings and Loan Association" and "Mutual Savings Bank" categories will be collapsed in to a single "Savings Institutions" category; and

(3) Table IV that presents quarterly data by metropolitan area will be changed by the addition of the following metropolitan statistical areas (MSAs) or consolidated metropolitan statistical areas (CMSAs):

- Cincinnati—Hamilton, OH—KY—IN CMSA
- Sacramento—Yolo, CA CMSA
- Orlando, FL MSA
- San Antonio, TX MSA
- Las Vegas, NV—AZ MSA
- Norfolk-Virginia Beach-Newport News, VA—NC MSA; and by the deletion of the following MSAs:
- Salt Lake City—Ogden, UT MS
- Greensboro—Winston Salem—High Point, NC MSA
- Rochester, NY MSA
- Louisville, KY—IN MSA
- Honolulu, HI MSA.

The Finance Board is adopting the suggestion made by the commenters to retain sampling and weighting by lender type. The Finance Board entered into a Memorandum of Understanding ("MOU") with the Census Bureau to

design a revised sampling and weighting methodology for MIRS. The Census Bureau recommended a methodology similar to those they use in establishment (*i.e.*, non-household) surveys. The new sampling and weighting design will be by lender type and lender size instead of by lender type and region. The new methodology selects the largest institutions in each of the three lender-type classes with certainty. The probability of selection declines (and the weight increases) as lender size in terms of the number of conventional single-family mortgages originated gets smaller.

Mortgage market developments since the last major revision to the MIRS methodology in 1991 include the pervasive presence of interstate activities, conducted either through depositories with interstate branches or through mortgage companies with multi-state origination capabilities. Indeed, there now are mortgage companies with truly national scope of their operations. Because of widespread interstate operations, it is no longer necessary to sample lenders based on region to achieve an adequate regional dispersion of reported loans each month.

Several of the commenters objected to the adoption of a revised methodology because they were uncertain of the effect the revised methodology would have on the reported data. In response to the commenters' concerns, the Finance Board calculated the effect of the revised methodology on the data: the lender-size/lender-type weighting methodology recommended by the Census Bureau was applied to the raw MIRS loans for the period of August 2001 through August 2002 and compared to the existing reported data. Using 13-month averages for both data sets, the existing methodology data was subtracted from the new methodology data, and the following differences were noted:

Contract mortgage rate .....	0.04%
Effective mortgage rate .....	0.04%
Initial fees and charges .....	0.02%
Principal .....	\$1,573
Purchase price .....	\$1,730
Term to maturity (years) .....	0.16
Loan-to-value ratio .....	0.06%

The Finance Board does not view any of these differences to be economically significant.

The preliminary notice proposed eliminating Table III from the monthly MIRS release. Because the Finance Board is adopting the suggestion of the commenters to retain a sampling and weighting methodology based in part on lender type, the agency also will retain Table III of the monthly MIRS release

with mortgage rates and terms by lender type. Additionally, in response to the comments, Table III will be modified to collapse the former "Savings and Loan Association" and "Mutual Savings Bank" categories into one category called savings institutions. The change is appropriate, in the Finance Board's view, because distinctions between savings and loan associations and savings banks have eroded, and there is little, if any, practical difference between the two charter types. As is discussed below, the decision to retain Table III affects the designation of successor index rates.

In connection with the proposed elimination of Table III, the preliminary notice proposed successor ARM index rates for any interest-rate series from Table III that may be used as an ARM index rate. By retaining a modified Table III, the Finance Board will be able to designate substitute index rates that are more similar to the series deleted than the successor series proposed in the preliminary notice.

In particular, The Finance Board designates successor series as follows:

(1) The designated successor series for the contract mortgage rate for either savings and loan associations (top panel of Table III) or for mutual savings banks (bottom panel of Table III) is the contract rate for savings institutions in the revised Table III;

(2) The designated successor series for the effective mortgage rate for either savings and loan associations (top panel of Table III) or for mutual savings banks (bottom panel of Table III) is the effective rate for savings institutions in the revised Table III;

(3) The designated successor series for any contract mortgage rate listed in Table IV of the quarterly MIRS release for any of the five metropolitan areas no longer reported is the "National Average Contract Mortgage Rate for All Homes by Combined Lenders" as reported in the top panel of Table I in the monthly MIRS release; and

(4) The designated successor series for any effective mortgage rate listed in Table IV of the quarterly MIRS release for any of the five metropolitan areas no longer reported is the "National Average Effective Mortgage Rate for All Homes by Combined Lenders" as reported in the top panel of Table I in the monthly MIRS release.

Thus, for the metropolitan area rates, the successor series are the same as those proposed in the preliminary notice, but the successor series relating to savings and loan associations and mutual savings banks differ from those proposed in the preliminary notice. The Finance Board believes that a contract

(effective) mortgage rate series for savings institutions is substantially similar, in accordance with 12 U.S.C. 1437 note, to the contract (effective) mortgage rate for savings and loan associations (or mutual savings banks), and more so than would be true of the national contract (effective) mortgage rate for all lenders. Savings and loan data constitutes about 80 percent of the proposed savings institutions series and mutual savings bank data constitutes the other 20 percent. In contrast, combined savings and loan association and mutual savings bank data constitute only about 20 percent of the data for all lenders.

The Finance Board also is using this opportunity to modify the MSAs listed in the quarterly Table IV that lists rates and terms by metropolitan area. The change is the deletion of five MSAs and the addition of six MSAs so that the quarterly table presents information for the 32 largest MSAs. Based on 2000 population data, the ranking of the deleted MSAs is as follows:

Salt Lake City-Ogden, UT (35)  
Greensboro-1 Winston Salem-1 High Point, NC (36)  
Rochester, NY (46)  
Louisville, KY-IN (49)  
Honolulu, HI (55).

The changes to MIRS sampling and weighting methodology and tables will occur with the January 2003 data that will be published in late February 2003. The January 2003 implementation will allow the MIRS data to be weighted using a consistent methodology within each calendar year, and permit all interested parties to become familiar with the changes.

Dated: December 20, 2002

**John T. Korsmo,**

*Chairman, Federal Housing Finance Board.*

[FR Doc. 02-32752 Filed 12-26-02; 8:45 am]

**BILLING CODE 6725-01-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011741-004.

*Title:* U.S. Pacific Coast—Oceania Agreement.

*Parties:* Hamburg-Sud, P&O Nedlloyd Limited, P&O Nedlloyd B.V., Australia-New Zealand Direct Line, Fesco Ocean Management Limited, Maersk Sealand.

*Synopsis:* The amendment (1) Adds Maersk Sealand as a party, (2) modifies vessel and allocation provisions to reflect the above, (3) extends the term of the agreement, (4) deletes some cost savings sharing provisions, (5) revises treatment of excess space (6) revises treatment of excess space (7) revises arbitration and governing law provision and (8) restates the agreement.

*Agreement No.:* 011834.

*Title:* Maersk Sealand/Hapag Lloyd Mediterranean U.S. East Coast Slot Charter Agreement.

*Parties:* A.P. Moller-Maersk Sealand, Hapag-Lloyd Container Linie GmbH.

*Synopsis:* The agreement authorizes A.P. Moller-Maersk Sealand to charter space to Hapag-Lloyd Container Linie GmbH in the trade between the U.S. Atlantic Coast and ports in the Spain in the Algeciras-Cadiz range. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: December 23, 2002.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 02-32762 Filed 12-26-02; 8:45 am]

**BILLING CODE 6730-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Office at (202) 619-2118 or e-mail [Geerie.Jones@HHS.gov](mailto:Geerie.Jones@HHS.gov).

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

*Proposed Project 1.* Office for Civil Rights Complaint Forms—New—To enable the Office for Civil Rights to develop an automated option for complaint submittal, standardized complaint forms have been developed. The use of these forms will be voluntary; complaints may be submitted via other means such as letter or e-mail. The Office for Civil Rights (OCR) is responsible for enforcing Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and other statutes which prohibit discrimination by programs or entities that receive Federal financial assistance from HHS. Additionally, OCR has jurisdiction over Federally-conducted programs in cases involving disability-based discrimination under Section 504 of the Rehabilitation Act, over State and local public entities in cases involving disability-based discrimination under Title II of the Americans with Disabilities Act and, effective April 14, 2003, over certain health plans, health clearinghouses and health care providers with respect to enforcement of the standards for privacy of individually identifiable health information rule issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA).

Under these authorities, individuals may file written complaints with OCR when they believe they have been discriminated against or if they believe that on or after April 14, 2003, their right to the privacy of protected health information has been violated. OCR has developed two complaint forms—one for civil rights discrimination complaints and one for complaints alleging violation of the privacy of protected health information.

*Burden Information:* Respondents—individuals; *Average Time per Response:* 45 minutes We estimate that there will be, on average, 2,200 civil rights complaints annually (1,650 burden hours annually), and approximately 21,710 complaints concerning medical privacy (16,283 burden hours annually).

Send comments via e-mail to [Geerie.Jones@HHS.gov](mailto:Geerie.Jones@HHS.gov) or mail to OS Reports Clearance Office, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC, 20201. Written comments should be received within 60 days of this notice.