§ 203.18d Minimum principal loan amount.

A mortgagee may not require, as a condition of providing a loan secured by a mortgage insured under this part, that the principal amount of the mortgage exceed a minimum amount established by the mortgagee.

[53 FR 8880, Mar. 18, 1988]

§ 203.19 Qualified mortgage.

(a) *Definitions.* As used in this section:

(1) *Average prime offer rate* means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to mortgagors by a representative sample of mortgagees for mortgage transactions that have low-risk pricing characteristics as published by the Consumer Financial Protection Bureau (CFPB) from time to time in accordance with the CFPB's regulations at 12 CFR 1026.35, pertaining to prohibited acts or practices in connection with higher-priced mortgage loans.

(2) *Annual percentage rate* is the measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the mortgagor to the amount and timing of payments made and is the rate required to be disclosed by the mortgagee under 12 CFR 1026.18, pertaining to disclosure of finance charges for mortgages.

(3) *Points and fees* has the meaning given to ''points and fees'' in 12 CFR 1026.32(b)(1) as of January 10, 2014. Any changes made by the CFPB to the points and fees definition may be adopted by HUD through publication of a notice and after providing FHA-approved mortgagees with time, as may be determined necessary, to implement.

(b) *Qualified mortgage*—(1) *Limit.* For a single family mortgage to be insured under title II of the National Housing Act (12 U.S.C. 1701 *et seq.*), except for mortgages for manufactured housing and mortgages under paragraph (c) of this section, the total points and fees payable in connection with a loan used to secure a dwelling shall not exceed the CFPB's limit on points and fees for qualified mortgage in its regulations at 12 CFR 1026.43(e)(3) as of January 10, 2014. Any changes made by the CFPB to the limit on points and fees may be adopted by HUD through publication of a notice and after providing FHA-approved mortgagees with time, as may be determined necessary, to implement.

(2) *Rebuttable presumption qualified mortgage.* (i) A single family mortgage insured under title II of the National Housing Act (12 U.S.C. 1701 *et seq.*), except for mortgages for manufactured housing and mortgages under paragraph (c) of this section, that has an annual percentage rate that exceeds the average prime offer rate for a comparable mortgage, as of the date the interest rate is set, by more than the combined annual mortgage insurance premium and 1.15 percentage points for a first-lien mortgage is a rebuttable presumption qualified mortgage that is presumed to comply with the ability to repay requirements in 15 U.S.C. 1639c(a).

(ii) To rebut the presumption of compliance, it must be proven that the mortgage exceeded the points and fees limit in paragraph (b)(1) of this section or that, despite the mortgage having been endorsed for insurance under the National Housing Act, the mortgagee did not make a reasonable and good-faith determination of the mortgagor's repayment ability at the time of consummation, by failing to evaluate the mortgagor's income, credit, and assets in accordance with HUD underwriting requirements.

(3) *Safe harbor qualified mortgage.* (i) A mortgage for manufactured housing that is insured under Title II of the National Housing Act (12 U.S.C. 1701 *et seq.*) is a safe harbor qualified mortgage that meets the ability to repay requirements in 15 U.S.C. 1639c(a); and

(ii) A single family mortgage insured under title II of the National Housing Act (12 U.S.C. 1701 *et seq.*), except for mortgages under paragraph (c) of this section, that has an annual percentage rate that does not exceed the average prime offer rate for a comparable mortgage, as of the date the interest rate is set, by more than the combined annual mortgage insurance premium and 1.15

percentage points for a first-lien mortgage is a safe harbor qualified mortgage that meets the ability to repay requirements in 15 U.S.C. 1639c(a).

(4) *Effect of indemnification on qualified mortgage status.* An indemnification demand or resolution of a demand that relates to whether the loan satisfied relevant eligibility and underwriting requirements at the time of consummation may result from facts that could allow a change to qualified mortgage status, but the existence of an indemnification does not per se remove qualified mortgage status.

(c) *Exempted transactions.* The following transactions are exempted from the requirements in paragraph (b) of this section:

(1) Home Equity Conversion Mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z–20); and

(2) Mortgage transactions exempted by the CFPB in its regulations at 12 CFR 1026.43(a)(3) as of January 10, 2014. Any changes made by CFPB to the list of exempted transactions may be adopted by HUD through publication of a notice and after providing FHA-approved mortgagees with time, as may be determined necessary, to implement.

(d) *Ability to make adjustments to this section by notice.* The FHA Commissioner may make adjustments to this section, including the calculations of fees or the list of transactions excluded from compliance with the requirements of this section as the Commissioner determines necessary for purposes of meeting FHA's mission, after solicitation and consideration of public comments.

[78 FR 75237, Dec. 11, 2013]

§ 203.20 Agreed interest rate.

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

(b) Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

[36 FR 24508, Dec. 22, 1971, as amended at 49 FR 19457, May 8, 1984]

§ 203.21 Amortization provisions.

The mortgage must contain complete amortization provisions satisfactory to the Commissioner, requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Commissioner. The sum of the principal and interest payments in each month shall be substantially the same.

§ 203.22 Payment of insurance premiums or charges; prepayment privilege.

(a) *Payment of periodic insurance premiums or charges.* Except with respect to mortgages for which a one-time mortgage insurance premium is paid pursuant to § 203.280, the mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments continue only so long as the contract of insurance shall remain in effect or for such shorter period as mortgage insurance premiums are payable by the mortgagee to the Commissioner.

(b) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part at any time and in any amount. The mortgage shall not provide for the payment of any charge on account of such prepayment.

[36 FR 24508, Dec. 22, 1971, as amended at 37 FR 8661, Apr. 29, 1972; 48 FR 28804, June 23, 1983; 50 FR 25914, June 24, 1985; 61 FR 36263, July 9, 1996; 79 FR 50837, Aug. 26, 2014]

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize:

(1) The ground rents, if any;

(2) The estimated amount of all taxes;

(3) Special assessments, if any;

(4) Flood insurance premiums, if flood insurance is required by the Commissioner; and

(5) Fire and other hazard insurance premiums, if any. The mortgage shall further provide that such payments shall be held by the mortgagee in a