Section 3 Loan Terms, Insurance, Inspections, and Fees

135 Interest Rate Requirements (7 CFR 762.124(a))

A Fixed and Variable Rates

The interest rate on a guaranteed loan or line of credit may be fixed or variable as agreed upon between the borrower and the lender. The lender may charge different rates on the guaranteed and the non-guaranteed portions of the note. The guaranteed portion may be fixed while the unguaranteed portion may be variable, or vice versa. If both portions are variable, different bases may be used.

If a variable rate is used, it must be tied to an index or rate specifically agreed to between the lender and borrower in the loan instruments and the rate adjustments must be in accordance with normal practices of the lender for nonguaranteed loans. Upon request, the lender must provide the Agency with copies of its written rate adjustment practices.

FSA may request copies of lender's written rate adjustment practices if the loan approval official has reason to believe the interest rates are not in line with local lending practices. Rate adjustment practices will be maintained in lender's operational file. See subparagraphs 48 B, 51 B, and 54 B.

*--B Maximum Interest Rates

At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the nonguaranteed portion of a fixed or variable rate CL, **OL, or FO loan may not exceed the rates established and announced by the Agency on the FSA website (www.fsa.usda.gov)** and as outlined below.

- For variable rate loans or fixed rate loans with rates fixed for less than five years, 675 basis points (6.75 percentage points) above the prior business day's Secured Overnight Financing Rate (SOFR).

- For loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the prior business day's 5-year Treasury note rate.

The lender is not required to tie its guaranteed loan interest rates to SOFR or 5-year**--*** Treasury, nor is it required that the rate remain below the maximums throughout the term of the loan. This requirement only sets the maximum rate that may be charged to the customer at the time of loan closing or restructuring.

Note: The maximum rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with an interest rate fixed for less than 5 years, regardless of program type (CL, OL or FO), the *--maximum rate is based on SOFR.**--***

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

*--B Maximum Interest Rates (Continued)

For loans with interest rate fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

At loan closing and the lender loan file review, the authorized agency official will verify the interest rate charged to the guaranteed customer at closing did not exceed the maximum rate, and document on applicable file review checklist.

To obtain rates for each index, the authorized agency official can access the links for the following Web pages:

- **https://www.newyorkfed.org/markets/reference-rates/sofr**. Scroll down to the table and select the rate for the appropriate date. If an earlier date is needed, scroll down further to enter a new date range under Historical Data Search and select SOFR Overnight Rates.**--***

- 5-year Treasury at **https://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yield**, scroll down to the chart and lookup the appropriate date under the "5Yr" column. Historical data is available using the "Select Time Period" drop down list.

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Note: The 5-yr Treasury note rate may also be listed as Treasury Constant Maturities as published on the Federal Reserve web site.

The following examples are provided to illustrate how to determine the maximum interest rate.

Example 1: Lender closes a 4-year GOL. The rate is fixed at 7.5% on the date loan *--closes. The prior business day's SOFR rate on date loan closes is 2.5% and the prior business day's 5-year Treasury rate is 2.0%.

The maximum rate would be 9.25% (SOFR rate 2.5% plus maximum spread 6.75% = 9.25%).**--***

In this example, the lender's rate does not exceed the maximum rate and; therefore, meets the limitation.

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

*--B Maximum Interest Rates (Continued)

Example 2: Lender closes a 7-year GOL. The rate is fixed for the first 3 years at 8% on the date loan closes and variable for the remaining term. The prior business day's SOFR rate on date loan closes is 2.0% and the prior business day's 5-year Treasury rate is 1.75%.

The maximum rate would be 8.75% (prior business day's SOFR rate 2.0% plus maximum spread 6.75% = 8.75%).**--***

In this example, the lender's rate does not exceed the maximum rate and; therefore, meets the limitation.

Example 3: Lender closes a 20-year GFO. The rate is fixed for the first 5 years at 7.0% *--on the date loan closes and variable for the remaining term. The prior business day's SOFR rate on date loan closes is 2.0% and the prior business day's 5-year Treasury rate is 1.0%.

The maximum rate would be 6.5% (prior business day's 5-year Treasury rate 1.0% plus maximum spread 5.5% = 6.5%).**--***

In this example, the lender's rate exceeds the maximum rate and; therefore, does not meet the limitation.

*--C Maximum Interest Rate When SOFR Falls Below 1.75 Percent

In the event the SOFR rate is below 1.75 percent, the maximum interest rate shall not exceed the following.

- For variable rate loans or fixed rate loans with rates fixed for less than 5 years, 775 basis points (7.75 percentage points) above the prior business day's SOFR.

- For loans with rates fixed for 5 or more years, 650 basis points (6.5 percentage points) above the prior business day's 5-year Treasury note rate.**--***

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

--C Maximum Interest Rate When SOFR Falls Below 1.75 Percent (Continued)--

Note: The rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with interest rate fixed for less than 5 years, regardless of program type (CL, OL or FO), the maximum rate is *--based on the SOFR. For loans with interest rates fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

The following examples are based on the SOFR below 1.75%.

Example 1: Lender closes a 15-year GFO. The rate is fixed for the first 3 years at 8.75% on the date loan closes and variable for the remaining term. The prior business day's SOFR rate is 1.0% and the prior business day's 5-year Treasury rate is 0.75%.

The maximum rate would be 8.75% (SOFR 1.0% plus maximum spread 7.75% = 8.75%).

In this example, the lender's rate does not exceed the maximum rate and; therefore, does meet the limitation.

Example 2: Lender closes a 20-year GFO. The rate is fixed for the first 5 years at 7.0% on the date loan closes and variable for the remaining term. The prior business day's SOFR rate on the date the loan closes is 1.5% and the prior business day's 5-year Treasury rate on the date loan closes is 1.0%.**--***

The maximum rate would be 7.5% (5-year Treasury rate 1.0% plus maximum spread 6.5% = 7.5%).

In this example, the lender's rate does not exceed the maximum rate and; therefore, meets the limitation.

--D Interest Charges--

Interest must be charged only on the actual amount of funds advanced and for the actual time the funds are outstanding. Interest on protective advances made by the lender to protect the security will be charged at the note rate limited to *--subparagraph B or C.**--***

Interest on protective and emergency advances, made by the lender to protect the security, must not exceed the rate specified in the loan instruments. The charge of interest on legal fees, broker's fees, and other expenses paid in conjunction with bankruptcy, liquidation, or other servicing is not covered by the guarantee.