

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 00170.1. Revision No. 01.3.

■ 2. Stay § 117.537 from 12:01 a.m. on September 30, 2024, through 11:59 p.m. on May 30, 2025.

■ 3. Add § 117.T538 to read as follows:

### § 117.T538 Townsend Gut.

The draw shall not be required to open from 12:01 a.m. on September 30, 2024, through 11:59 p.m. on May 30, 2025.

**M.E. Platt,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

#### RIN 2900–AS08

### Loan Guaranty: Adjustable Rate Mortgages, Hybrid Adjustable Rate Mortgages, and Temporary Buydown Agreements

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its rules on interest rates for adjustable rate mortgage (ARM) loans and hybrid adjustable rate mortgage (h-ARM) loans. The proposed rule would ensure VA's existing interest rate regulation reflects current statutory requirements regarding these loans, in a way that makes the loans a more viable, safe product for Veterans. The proposed rule would also solidify requirements for temporary buydown agreements to help Veterans temporarily reduce their interest rates and, in effect, lower their monthly mortgage payments for a specific period of time.

**DATES:** Comments must be received on or before August 20, 2024.

**ADDRESSES:** Comments must be submitted through [www.regulations.gov](http://www.regulations.gov). Except as provided below, comments received before the close of the comment period will be available at [www.regulations.gov](http://www.regulations.gov) for public viewing,

inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on [www.regulations.gov](http://www.regulations.gov) as soon as possible after they have been received. VA will not post on [Regulations.gov](http://Regulations.gov) public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages individuals not to submit duplicative comments; however, we will post comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking. In accordance with the Providing Accountability Through Transparency Act of 2023, a plain language summary (not more than 100 words in length) of this proposed rule is available at [www.regulations.gov](http://www.regulations.gov), under RIN 2900–AS08(P).

**FOR FURTHER INFORMATION CONTACT:** Stephanie Li, Assistant Director for Regulations, Legislation, Engagement and Training, and Terry Rouch, Assistant Director for Loan Policy and Valuation, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8862. (This is not a toll-free telephone number.)

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Legal Authority

VA's home loan guaranty program assists eligible Veterans<sup>1</sup> to purchase, construct, improve, or refinance a home. Since the benefit was initially introduced in 1944,<sup>2</sup> Congress has enacted laws expanding the types of loans VA may guarantee. Additionally, sections 3703(c), 3710, and 3720 further provide the Secretary broad discretion in regulating the terms and conditions of loans, establishing underwriting standards, and consenting to modified loan terms such as interest rates. 38 U.S.C. 3703, 3710, and 3720. Lastly,

<sup>1</sup> The term “Veteran” is more expansive for the home loan program than for some other VA benefits. In addition to Veterans defined at 38 U.S.C. 101, the term includes active duty service members, members of the National Guard and Selected Reserve, surviving spouses, and spouses of those individuals who are determined missing in action or prisoners of war. See 38 U.S.C. 101, 3701, and 3702. For more information, please visit VA's website at <https://www.va.gov/housing-assistance/home-loans/eligibility/>.

<sup>2</sup> Servicemen's Readjustment Act of 1944, Public Law 78–346, 58 Stat. 284.

under 38 U.S.C. 501, “[t]he Secretary has authority to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department.” Based on these authorities, VA proposes to amend 38 CFR part 36 as discussed below.

#### A. Adjustable Rate Mortgages and Hybrid Adjustable Rate Mortgages

Two types of loans VA may guarantee are ARM loans pursuant to 38 U.S.C. 3707 and h-ARM loans pursuant to 38 U.S.C. 3707A. Initially, Congress allowed VA to guarantee ARM and h-ARM loans under temporary programs, but VA's authority was eventually made permanent.<sup>3</sup>

#### B. Temporary Buydown Agreements

A temporary buydown agreement is commonly included in a mortgage contract and involves using up-front funds deposited into an escrow account to temporarily reduce the interest rate, effectively lowering the monthly mortgage payment for a specific period lasting anywhere from one to three years. These agreements are often used as a marketing tool for lenders, sellers, and builders, as they provide the Veteran with a lower payment at the beginning of their loan. The up-front funds deposited into an escrow account may be funded by the seller, lender, builder, or Veteran.

VA has in recent years permitted the use of temporary buydown agreements<sup>4</sup>

<sup>3</sup> In 1992, Congress authorized VA to guarantee ARM loans beginning in fiscal year (FY) 1993. Veterans Home Loan Program Amendments of 1992, Public Law 102–547, sec. 3(a)(1), 106 Stat. 3633, 3634. This authority, which expired at the end of FY 1995, was later extended through FY 2008, then through FY 2012, and then, in 2012, made permanent. Veterans Benefits Improvement Act of 2004, Public Law 108–454, sec. 404, 118 Stat. 3598, 3616; Veterans' Benefits Improvement Act of 2008, Public Law 110–389, sec. 505, 122 Stat. 4145, 4176; Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, Public Law 112–154, sec. 208, 126 Stat. 1165, 1179. Legislation authorizing VA to guarantee h-ARM loans was first enacted in 2002. Veterans Benefits Act of 2002, Public Law 107–330, title III, sec. 303(a), 116 Stat. 2820, 2825. The statutory authority, codified at 38 U.S.C. 3707A, expired at the end of FY 2005 but was later extended through FY 2008, and then through FY 2012. Veterans Benefits Improvement Act of 2004, Public Law 108–454, sec. 405, 118 Stat. 3616–3617; Veterans' Benefits Improvement Act of 2008, Public Law 110–389, sec. 505, 122 Stat. 4176. In 2012, Congress made permanent VA's authority to guarantee h-ARM loans. Public Law 112–154, sec. 209, 126 Stat. 1179.

<sup>4</sup> When temporary buy-down agreements were still considered novel, VA was concerned that a Veteran's payment of the up-front escrows could be considered a “cash-advance fee,” in violation of the regulation at 38 CFR 36.4313. VA published administrative guidance explaining the position. See Circular 26–18–4, “Policy Reminder for Lender's Payment or Credit of Veterans Costs in VA

and proposes to amend 38 CFR part 36 as discussed below to codify the terms and conditions VA finds acceptable.

## II. Discussion of Proposed Changes

VA is proposing changes to regulations in 38 CFR part 36 that would define ARM loans, h-ARM loans, and temporary buydown agreements, as well as outline requirements for guarantee. Through this proposed rulemaking, VA is looking to provide clarity in the regulations to improve Veterans' and lenders' understanding of VA requirements for guarantee of these loan products.

### A. Definitions and Clarifying or Conforming Amendments

#### 1. Defining ARM Loans and h-ARM Loans

In 38 CFR 36.4301, VA proposes to define an "adjustable rate mortgage loan" as "[a] loan for the purpose of acquiring, constructing, or refinancing a single-family dwelling unit with an interest rate that may change on an annual basis" and "hybrid adjustable rate mortgage loan" as "[a] loan for the purpose of acquiring, constructing, or refinancing a single-family dwelling unit with an interest rate that is fixed for a period of time, after which the interest rate may change on an annual basis." While "adjustable rate mortgage loan" and "hybrid adjustable rate mortgage loan" are commonly used terms in the housing finance industry, VA notes that many lending programs consider a h-ARM loan to be a subset or type of ARM loan.<sup>5</sup> For purposes of VA-guaranteed loans, each loan type is distinct and subject to separate statutory requirements.<sup>6</sup> Thus, VA proposes to add definitions for these terms to avoid confusion among Veterans and lenders.

#### 2. Conforming Amendments Related to Proposed ARM Loan and h-ARM Loan Definitions

VA's current regulations do not differentiate between ARM and h-ARM loans and refer only to "an adjustable rate mortgage." Because VA is proposing to provide specific definitions for each term in § 36.4301, VA is also proposing amendments in 38 CFR 36.4306(a)(3)(i)(H), 36.4306(b)(4),

36.4307(a)(3), 36.4312(a), and 36.4340(b)(2)(iv). The purpose of these proposed changes is to ensure that any regulation applicable to both ARM and h-ARM loans identifies them both in the rule text. Since the requirements apply to both ARM and h-ARM loans, in § 36.4306(a)(3)(i)(H), VA is proposing to add "loan or a hybrid adjustable rate mortgage loan" after "adjustable rate mortgage," and in § 36.4306(b)(4), VA is proposing to add "or hybrid adjustable rate" after "adjustable rate." For the same reason, in § 36.4307(a)(3), VA is proposing to add "loan or a VA-guaranteed hybrid adjustable rate mortgage loan" after "adjustable rate mortgage," and in § 36.4312(a), VA is proposing to add "loan or hybrid adjustable rate mortgage loan" after "adjustable rate mortgage." Lastly, in § 36.4340(b)(2)(iv), VA is proposing to add "or hybrid adjustable rate" after "adjustable rate."

#### 3. Paragraph Headings

To enhance the readability of § 36.4312, VA proposes adding paragraph headings. Specifically, for paragraph (a), VA proposes to add the paragraph heading "General." For paragraphs (b), (c), and (d), VA proposes to add the paragraph headings "Discount points," "Excess interest charges," and "Adjustable rate mortgage loans and hybrid adjustable rate mortgage loans," respectively.

#### 4. Authority Citations

Finally, VA proposes to remove the paragraph-specific authority citations in paragraphs (a), (b), and (c), and amend the authority citation at the end of § 36.4312.

### B. Requirements for ARM Loans and h-ARM Loans

Current 38 CFR 36.4312(d) outlines certain guarantee requirements for adjustable rate mortgage loans, effective October 1, 2003. However, such requirements do not distinguish between ARM loans and h-ARM loans. VA proposes to clarify in the introductory text to paragraph (d) that the requirements outlined thereafter apply to both loan types by deleting the current text and inserting "Adjustable rate mortgage loans and hybrid adjustable rate mortgage loans that comply with the requirements of this paragraph (d) are eligible for guaranty."

#### 1. Section 36.4312(d)(1) Interest Rate Index

Both 38 U.S.C. 3707(b)(1) and 3707A(c)(1) require VA to specify interest rate adjustment provisions that "correspond to a specified national

interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources." VA's current regulation at § 36.4312(d)(1) specifies that changes in the interest rate correspond to changes in the weekly average yield on 1 year (52 weeks) Treasury bills adjusted to a constant maturity.

While VA is not proposing any changes to the current interest rate index used by lenders for ARM loans and h-ARM loans, VA is proposing to amend existing paragraph (d)(1) for length and readability. VA believes that the industry name of the interest rate index and its publication source should be sufficient for lenders and other program participants to identify the interest rate index and to refer to appropriate online resources on the internet to find out additional particulars if necessary.

#### 2. Section 36.4312(d)(2) Frequency of Interest Rate Changes

Current § 36.4312(d)(2) outlines requirements regarding the frequency of interest rate changes, stating that such adjustments must occur annually except for the first adjustment, which may occur no sooner than 36 months from the date of the first mortgage payment. A retrospective review of VA's regulatory changes for this section reveals that this section was amended, effective May 2, 2005, to implement guarantee requirements for h-ARM loans.<sup>7</sup> The amendments mirrored the then-existing regulatory requirements for ARM loans except for the requirement that the first adjustment occur no sooner than 36 months from the date of the first mortgage payment, as opposed to annually for ARM loans. Notably, Congress reauthorized VA's guarantee for ARM loans in 2004, including the requirement that interest rate changes occur on an annual basis, between the publication of the proposed and final rule for h-ARM loan requirements.<sup>8</sup> The elimination of the requirements for ARM loans appeared to be inadvertent, as VA continued to guarantee such loans following the regulatory requirements in place prior to May 2, 2005.

VA proposes to correct this error and spell out the frequency of interest rate change requirements for both ARM loans and h-ARM loans in paragraph (d)(2). Specifically, VA proposes to divide paragraph (d)(2) into four

Home Loans" (Feb. 23, 2018), [https://www.benefits.va.gov/HOMELANS/documents/circulars/26\\_18\\_4.pdf](https://www.benefits.va.gov/HOMELANS/documents/circulars/26_18_4.pdf). Upon better understanding of the buydown arrangements, however, and upon learning that the position could prejudice Veterans' position in the marketplace, VA allowed the Circular to expire (Jan. 1, 2020) without renewal.

<sup>5</sup> Daniel Liberto, *Adjustable-Rate Mortgage (ARM): What It Is and Different Types*, Investopedia (Apr. 11, 2023), <https://www.investopedia.com/terms/a/arm.asp>.

<sup>6</sup> See 38 U.S.C. 3707 and 3707A.

<sup>7</sup> See 70 FR 22596 (May 2, 2005); 68 FR 58293 (Oct. 9, 2003).

<sup>8</sup> See Veterans Benefits Improvement Act of 2004, Public Law 108-454, sec. 404-405, 118 Stat. 3616-3617.

paragraphs, incorporating existing language applicable to both ARM loans and h-ARM loans and adding the interest rate change requirements for ARM loans. Paragraph (d)(2)(i) would state that any interest rate adjustments for ARM loans must occur on an annual basis starting from the date of the Veteran's first scheduled monthly mortgage payment due date.<sup>9</sup> Paragraph (d)(2)(ii) would state that the first interest rate adjustment for h-ARM loans must not occur sooner than 36 months from the date of the Veteran's first scheduled monthly mortgage payment due date.<sup>10</sup> Thereafter, for h-ARM loans, any interest rate adjustments would occur on an annual basis.<sup>11</sup> For example, if a Veteran closed on an ARM loan on June 15, and the first payment due date on the loan was scheduled for August 1, any future adjustment in the interest rate would occur on August 1. In the case of a h-ARM loan with a three-year fixed interest rate, the first adjustment in the interest rate would occur on August 1 three years after the first mortgage payment due date; any subsequent adjustments would occur annually on August 1.

Paragraph (d)(2)(iii) would contain existing language from § 36.4312(d)(2) with minor adjustments for consistency with other amendments. Specifically, it would state that “[t]he adjusted rate will become effective the first day of the month following the rate adjustment date. The first monthly mortgage payment at the new rate will be due on the first day of the following month.”

Finally, paragraph (d)(2)(iv) would contain existing language from § 36.4312(d)(2), with minor changes to clarify the lender's required actions in setting the new interest rate. VA notes that the language in proposed paragraph (d)(2)(iv) was amended in 2015 as part of VA's final rule on adjustable rate mortgage notification requirements and look-back period.<sup>12</sup> VA's amendments in 2015 were to align VA's look-back requirements with the Truth in Lending Act (TILA), as revised by the Consumer Financial Protection Bureau (CFPB) in the 2013 TILA servicing rule.<sup>13</sup>

### 3. Section 36.4312(d)(3) Method of Rate Changes

VA proposes to amend the text under paragraph (d)(3) to replace “adjustments to the borrower's monthly payments” with “adjustments to the [V]eteran's

scheduled monthly payment amount.” VA believes the clarification that an interest rate change shall only be implemented through an adjustment in the scheduled monthly payment amount would help avoid confusion for stakeholders. As currently written, “adjustments to the borrower's monthly payments” could be interpreted as allowing a lender to implement the interest rate change by adjusting other attributes of the borrower's monthly payment—for example, by changing the number of monthly payments to two.

### 4. Section 36.4312(d)(4) Initial Rate and Magnitude of Changes

VA is proposing changes to paragraph (d)(4) for clarity and to align § 36.4312 with current requirements for ARM and h-ARM loans. To improve the readability of this paragraph, VA proposes to amend the introductory text in paragraph (d)(4) to state that “[t]he lender and the [V]eteran must agree upon the initial interest rate. Future adjustments in the interest rate must be based upon changes in the interest rate index, subject to the following conditions and limitations:”.

VA proposes to remove the term “annual” and replace with “future.” VA is proposing this amendment because while “annual” interest rate adjustments occur in ARM loans, for h-ARM loans, the adjustments are “annual,” but only after the initial fixed interest rate period of at least three years. Therefore, VA determined use of the term “future” was more appropriate for this introductory text. VA also proposes to replace “adjustments in the interest rate shall correspond to annual changes in the interest rate index” with “adjustments in the interest rate must be based upon changes in the interest rate index” because this is a more accurate description of future adjustments. Specifically, lenders must derive and calculate future adjustments in the interest rate using the applicable interest rate index at the time of the adjustment.<sup>14</sup>

In addition to the above changes to the introductory text, VA proposes the following amendments to paragraph (d)(4). First, VA proposes revisions to paragraph (d)(4)(i) to state that, for adjustable rate mortgage loans, no single annual adjustment to the interest rate would result in a change in either direction of more than 1 percentage point from the interest rate in effect for the period immediately preceding that adjustment.<sup>15</sup> Index rate changes in excess of 1 percentage point would not

be carried over for inclusion in an adjustment in a subsequent year.<sup>16</sup> Adjustments to the interest rate over the entire term of the loan would be limited to a maximum increase of 5 percentage points from the initial interest rate.<sup>17</sup>

VA also proposes to redesignate current paragraph (d)(4)(ii) as (d)(4)(iv) and insert new paragraphs (d)(4)(ii) and (d)(4)(iii). In proposed new paragraph (d)(4)(ii), VA would outline that for h-ARM loans that have an initial interest rate fixed for less than 5 years: no single annual adjustment to the interest rate would result in a change in either direction of more than 1 percentage point from the interest rate in effect for the period immediately preceding that adjustment; index rate changes in excess of 1 percentage point would not be carried over for inclusion in an adjustment in a subsequent year; and adjustments to the interest rate over the entire term of the loan would be limited to a maximum increase of 5 percentage points from the initial interest rate.<sup>18</sup>

In proposed new paragraph (d)(4)(iii), VA would outline that for h-ARM loans that have an initial interest rate fixed for 5 or more years: no single annual adjustment to the interest rate will result in a change in either direction of more than 2 percentage points from the interest rate in effect for the period immediately preceding that adjustment; index rate changes in excess of 2 percentage points will not be carried over for inclusion in an adjustment in a subsequent year; and adjustment to the interest rate over the entire term of the loan is limited to a maximum increase of 6 percentage points from the initial interest rate.<sup>19</sup> Finally, in redesignated paragraph (d)(4)(iv), VA proposes minor clarifying edits for improved comprehension.

### 5. Section 36.4312(d)(5) Interest Rate for Underwriting Purposes

VA proposes to redesignate current paragraphs (d)(5) and (d)(6) to paragraphs (d)(6) and (d)(7), respectively, and add a new paragraph (d)(5) to outline requirements pertaining to underwriting ARM loans and h-ARM loans. While VA prescribes underwriting guidelines for guaranteed loans at 38 CFR 36.4340, specific guidance is needed to ensure that lenders understand how to evaluate a Veteran's ability to repay a loan where the monthly mortgage payment may be subject to future increases associated

<sup>9</sup> See 38 U.S.C. 3707(b)(2).

<sup>10</sup> See 38 U.S.C. 3707A(b)(1).

<sup>11</sup> See 38 U.S.C. 3707A(c)(2).

<sup>12</sup> See 80 FR 48254 (Aug. 12, 2015).

<sup>13</sup> *Id.*; 78 FR 10902 (Feb. 14, 2013).

<sup>14</sup> See 38 U.S.C. 3707(b)(1) and 3707A(c)(1).

<sup>15</sup> See 38 U.S.C. 3707(b)(3).

<sup>16</sup> *Id.*

<sup>17</sup> See 38 U.S.C. 3707(b)(4).

<sup>18</sup> See 38 U.S.C. 3707A(b)(2)–(3), (c).

<sup>19</sup> *Id.*

with an increase in the interest rate.<sup>20</sup> In proposing specific underwriting guidelines for ARM and h-ARM loans, VA considered factors such as lenders' use of constant maturity treasury (CMT) rates in establishing initial interest rates for ARM and h-ARM loans; the potential that a Veteran's mortgage payment could increase at a rate greater than anticipated increases in the Veteran's income, especially for ARM loans; and the underwriting standards applicable to adjustable rate mortgages within the Federal Housing Administration's (FHA's) Section 251 Adjustable Rate Mortgage program.<sup>21</sup>

Accordingly, in proposed new paragraph (5), VA would outline that ARM loans subject to underwriting must be evaluated at an interest rate not lower than 1 percentage point above the initial interest rate.<sup>22</sup> VA proposes this requirement because the interest rate for an ARM loan could potentially increase by as much as 1 percentage point after only 12 months. Therefore, requiring the lender to consider the Veteran's ability to repay using the higher interest rate ensures that the Veteran would be able to adjust to the increased monthly mortgage payment. VA notes that this underwriting requirement is a floor, not a ceiling. Thus, lenders may, when underwriting ARM loans, evaluate the borrower using an even higher initial interest rate depending on other applicable credit and risk factors.

For h-ARM loans subject to underwriting, VA is proposing in new paragraph (d)(5) that they be evaluated at an interest rate not lower than the initial interest rate. Given the delayed interest rate adjustments, as well as the annual and maximum interest rate adjustments for h-ARM loans, VA believes there is less immediate concern for a Veteran's ability to repay the guaranteed loan at a higher interest rate. Therefore, VA is not proposing to require lenders to underwrite h-ARM loans at an interest rate that is above the initial interest rate. As with ARM loans, VA is not requiring lenders to underwrite h-ARM loans at the initial rate but is instead setting an interest rate floor for evaluating the Veteran under 38 CFR 36.4340. If desired, lenders may, when underwriting h-ARM loans, evaluate the borrower using an initial interest rate that is higher depending on other applicable credit and risk factors.

#### 6. Section 36.4312(d)(6) Pre-Loan Disclosure

In redesignated paragraph (d)(6), VA proposes amendments to align the pre-loan disclosure requirements with the CFPB's pre-loan disclosure requirements ("Loan Estimate").<sup>23</sup> While developing this proposed rule, VA realized that all but one of its current pre-loan disclosure requirements under current paragraph (d)(5) are covered by the disclosure requirements of the loan estimate. Under the CFPB regulations at 12 CFR 1026.37, lenders are required to provide a loan estimate to borrowers of ARM and h-ARM loans. However, the requirement for the lender to obtain a signature from the borrower acknowledging the receipt of the loan estimate is optional.<sup>24</sup> And so, in redesignated paragraph (6), VA is proposing to include an additional requirement for the lenders to obtain the Veteran's signature acknowledging the receipt of the disclosure and to retain the signed disclosure in the loan file. VA is proposing the additional requirement for the lender to retain the signed disclosure in the loan file to ensure that such disclosures are available for VA's compliance and audit purposes.<sup>25</sup> In sum, VA is proposing to revise its current pre-loan disclosure requirements to state that the lender must provide the Veteran with disclosures in accordance with the timing, content, and format required by the regulations implementing the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.37(b)(6)(ii) and (j). The lender must make a copy of this disclosure, signed by the Veteran acknowledging the receipt of the disclosure, a part of the lender's permanent record on the loan.

#### 7. Section 36.4312(d)(7) Post-Closing Disclosures

To further clarify the timing and purpose of its post-loan closing disclosure requirements in proposed redesignated paragraph (d)(7), VA proposes to change the paragraph's heading from "Disclosures" to "Post-closing disclosures." VA also proposes to replace the term "borrower" with "veteran" and revise the last sentence for consistency with other paragraphs in this section.

#### C. Requirements for Temporary Buydown Agreements

VA is proposing to add a new paragraph (e) under § 36.4312 that

would outline requirements for temporary buydown agreements. In the proposed introductory text in paragraph (e), VA would state that temporary buydown agreements that comply with the requirements of this paragraph (e) may be established to temporarily reduce loan payments for up to the first 36 monthly payments of the loan. VA's proposed maximum period of 36 monthly payments is consistent with current industry standards for these types of agreements. Typically, temporary buydowns are established for one-, two-, or three-year periods.<sup>26</sup> While the buydown agreement can be structured in various ways, the most common structures are a 3–2–1 and 2–1 buydown agreement.<sup>27</sup> In a 3–2–1 buydown, the loan interest rate is reduced by 3 percent in the first year, 2 percent in the second year, and 1 percent in the third year.<sup>28</sup> Starting in year four, the loan interest rate agreed upon in the mortgage note would be charged for the remainder of the mortgage term.

#### 1. Section 36.4312(e)(1) General Terms and Conditions

In proposed paragraph (e)(1)(A), VA would prohibit lenders from using temporary buydown agreements as a cash-advance on principal, such as through subsidizing payments through an above market interest rate, discount points, or a combination of discount points and above market interest rate. In proposed paragraph (e)(1)(B), VA would clarify that any temporary buydown funds provided by the Veteran must not be included in the loan amount. In other words, the Veteran cannot borrow the monies used to fund the buydown account.

#### 2. Section 36.4312(e)(2) Documenting the Agreement

In proposed paragraph (e)(2), VA would require lenders to provide Veterans with a clear, written explanation of the temporary buydown agreement, including a description of the number of monthly payments for which the assistance will run, the total payment assistance amount, and the monthly payment schedule reflecting the amount of each monthly buydown payment and the Veteran's monthly payment. VA would also require a copy

<sup>26</sup> Julia Kagan, *Buydown: Definition, Types, Examples, and Pros & Cons*, Investopedia (May 26, 2023), available at <https://www.investopedia.com/terms/b/buydown.asp>.

<sup>27</sup> *Id.*

<sup>28</sup> Julia Kagan, *3–2–1 Buydown Mortgage: Meaning, Pros and Cons, FAQs*, Investopedia (Apr. 26, 2023), available at <https://www.investopedia.com/terms/1/3-2-1-buydown.asp>.

<sup>20</sup> See 38 U.S.C. 3707(c) and 3707A(d).

<sup>21</sup> *Id.* See also 24 CFR 203.49; *Single Family Housing Policy Handbook* (Handbook 4000.1), II.A.8.f.vii., Oct. 31, 2023, <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsgghdbk1223.pdf>.

<sup>22</sup> See 38 U.S.C. 3707(c).

<sup>23</sup> 12 CFR 1026.37.

<sup>24</sup> 12 CFR 1026.37(n).

<sup>25</sup> See 38 CFR 36.4333(c).

of the buydown agreement, signed by the Veteran, to be made a part of the lender's permanent record on the loan. This proposed requirement would ensure the Veteran receives and acknowledges the terms and conditions of the temporary buydown agreement. It would also make certain such agreements are available for VA compliance and audit purposes.<sup>29</sup> VA is proposing that the lender must make a copy of the buydown agreement, signed by the Veteran, a part of the lender's permanent record on the loan.

### 3. Section 36.4312(e)(3) Acceptable Loan Types

In proposed paragraph (e)(3), VA would state that temporary buydown agreements would only be permitted for fixed rate mortgage loans. This proposed limitation is consistent with other federal housing agency policy for these types of agreements.<sup>30</sup>

### 4. Section 36.4312(e)(4) Interest Rate for Underwriting Purposes

VA recognizes that the purpose of a temporary buydown agreement is to help Veterans with their monthly payments in the initial years of the loan. To that extent, it is understood and expected that once the term of the temporary buydown is over, the Veteran will be able to make the monthly mortgage payments based on the interest rate of the loan. Therefore, in proposed paragraph (e)(4), VA would require lenders to underwrite loans with temporary buydown agreements using the interest rate stated on the mortgage note. VA would also provide that temporary buydown agreements may be treated as a compensating factor when underwriting a loan pursuant to § 36.4340, if there are indications that the Veteran's income used to support the loan application will increase to cover the yearly increases in loan payments or that the buydown plan may be used to offset a short-term debt.

### 5. Section 36.4312(e)(5) Escrow Account

VA believes that it is extremely important that the temporary buydown funds used to supplement and effectively reduce the Veteran's monthly mortgage payment during the agreement period are securely held by the holder in a separate escrow account and used solely for the intended purpose of paying part of the borrower's monthly

mortgage payment. Therefore, VA is proposing, in proposed paragraph (e)(5), the requirement that holders secure temporary buydown funds in a separate escrow account and that such funds be used only to pay the monthly buydown payments in accordance with the temporary buydown agreement.

In developing this rule, VA contemplated whether such an escrow account should be held by the holder or by a third-party escrow agent. To avoid potential delays in timely processing of monthly buydown payments, VA decided to propose that the holders hold the escrow accounts. However, VA is interested in receiving comments on whether such an escrow account should be held by a third-party escrow agent, and if so, why.

In addition to the above, in proposed paragraph (e)(5), VA would outline how the temporary buydown funds would be treated in the event of a loan termination or assumption during the agreement period. Specifically, VA proposes that in situations where the loan is terminated during the agreement period, for example due to a foreclosure or prepayment, the funds must be credited against any outstanding indebtedness. If a new borrower assumes the loan during the agreement period, VA proposes that any remaining temporary buydown funds be used as initially intended. Therefore, proposed paragraph (e)(5) would provide that if the loan is assumed during the agreement period, the holder must continue to pay out the monthly buydown payments on behalf of the new borrower in accordance with the temporary buydown agreement.

### 6. Section 36.4312(e)(6) Frequency and Magnitude of Buydown Payment Changes

Consistent with current industry practice,<sup>31</sup> proposed paragraph (e)(6) would provide that any reduction in the amount of the monthly buydown payment must be reflected in the temporary buydown agreement and must occur only on an annual basis following the date of the first monthly mortgage payment due date. Additionally, proposed paragraph (e)(6) would state that no reduction will result in an increase of the Veteran's monthly payment that corresponds to an increase of more than 1 percentage point in the interest rate of the loan.

### D. Information Collection Approvals

VA also proposes to amend the Office of Management and Budget (OMB) control numbers listed at the end of 38 CFR 36.4312. Specifically, VA proposes to delete the current number listed, which references the information collection requirement under CFPB's regulations pertaining to ARM and h-ARM loans. Consistent with VA's discussion in the below Paperwork Reduction Act section, VA proposes to list the OMB control numbers assigned to those VA information collections approved by OMB. The first, OMB control number 2900-0515, is an already approved collection pertaining to lenders' and holders' recordkeeping requirements. The second is a new information collection explained below in further detail; as such, no control number has yet been assigned by OMB.

### Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). This

<sup>29</sup> See 38 CFR 36.4333.

<sup>30</sup> See Department of Housing and Urban Development (HUD) Handbook 4000.1, Federal Housing Administration (FHA) Single Family Housing Policy Handbook, 4000.1(II)(A)(8)(f)(vi), 463 (Jan. 18, 2023), <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsg-011823.pdf>.

<sup>31</sup> Julia Kagan, *Buydown: Definition, Types, Examples, and Pros & Cons*, Investopedia (May 26, 2023), available at <https://www.investopedia.com/terms/b/buydown.asp>.

proposed rule would only impose a rule familiarization cost to lenders, estimated at \$10.04 per lender, regardless of size. As previously noted, VA has relied on its statutory authority to guarantee ARM and h-ARM loans and loans with temporary buydown agreements. As such, VA does not anticipate the amendments would result in changes to lenders' processes. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Paperwork Reduction Act

This proposed rule contains provisions constituting collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that do not require revision. Specifically, the collection of information pertaining to recordkeeping requirements under 38 CFR 36.4312 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0515.

This proposed rule also includes provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing the collection of information or take such other action as is directed by OMB.

Comments on the new collection of information contained in this rulemaking should be submitted through [www.regulations.gov](http://www.regulations.gov). Comments should be sent within 60

days of publication of this rulemaking. The collection of information associated with this rulemaking can be viewed at: [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain).

OMB is required to make a decision concerning the collection of information contained in this rulemaking between 30 and 60 days after publication of this rulemaking in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the provisions of this rulemaking.

The Department considers comments by the public on new collection of information in—

- Evaluating whether the new collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the new collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The new collection of information associated with this rulemaking contained in 38 CFR 36.4312 is described immediately following this paragraph, under its respective title.

*Title:* Interest Rates 38 CFR 36.4312.

*OMB Control No:* 2900–XXXX (New/TBD).

*CFR Provision:* 38 CFR 36.4312.

• *Summary of collection of information:* The new collection of information in proposed provision 38 CFR 36.4312 pertains to VA's proposed requirements for lenders to obtain the Veteran's signature on pre-loan disclosures for ARM and h-ARM loans. While developing this proposed rule, VA realized that all but one of its current pre-loan disclosure requirements are covered by the disclosure requirements of the loan estimate. Under the CFPB regulations at 12 CFR 1026.37, lenders are required to provide a loan estimate to borrowers of ARM and h-ARM loans. However, the requirement for the lender to obtain a signature from the borrower acknowledging the receipt of the loan

estimate is optional.<sup>32</sup> VA is proposing to include an additional requirement for the lenders to obtain the Veteran's signature acknowledging the receipt of the disclosure and to retain the signed disclosure in the loan file. The proposed changes to 38 CFR 36.4312 would also require lenders to prepare temporary buydown agreements with certain required elements, as proposed in VA's rule, and obtain the Veteran's signature on such agreements.

• *Description of need for information and proposed use of information:* The rule would require lenders to provide Veterans with a clear, written explanation of ARM and h-ARM loan terms and temporary buydown agreements. VA is requiring the signature on the pre-disclosure statement to help ensure that Veteran borrowers are adequately informed of pre-loan disclosures in the loan closing process (as covered under the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.37(b)(ii) and (j)). These agreements will be available for VA's compliance and audit purposes.

• *Description of likely respondents:* Veterans obtaining ARM or h-ARM loans or loans with temporary buydown agreements and lenders offering such loans.

• *Estimated number of respondents:* Temporary Buydown Agreements—500 loans per year  
ARM and h-ARM loans—4,888 loans each year

• *Estimated frequency of responses:* One time per loan.

• *Estimated average burden per response:*

Temporary Buydown Agreements—10 minutes per lender to prepare temporary buydown agreement; 5 minutes per Veteran to understand and sign agreement

ARM and h-ARM loans—5 minutes per veteran to understand and sign pre-disclosure form

• *Estimated total annual reporting and recordkeeping burden:* By multiplying the annual number of respondents and the burden per response, VA estimates a total burden of 450 hours per year for Veterans and 84 hours per year for lenders.

• *Estimated cost to respondents per year:* VA estimates the total information collection burden cost to be \$17,578 per year (84 hours × \$40.62 + 450 hours × \$31.48 per hour).

\* To estimate the total information collection burden cost for Veterans, VA used the U.S. Bureau of Labor Statistics (BLS) mean hourly wage for hourly

<sup>32</sup> 12 CFR 1026.37(n).

wage for “all occupations” of \$31.48 per hour.<sup>33</sup> The mean hourly wage of lenders is \$40.62 based on BLS wage code—“13–2072 Loan Officers.”<sup>34</sup>

#### List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on June 13, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 36 as set forth below:

#### PART 36—LOAN GUARANTY

- 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and 3720.

#### Subpart B—Guaranty or Insurance of Loans to Veterans With Electronic Reporting

- 2. Amend § 36.4301 by adding definitions of *Adjustable rate mortgage loan* and *Hybrid adjustable rate mortgage loan* in alphabetical order to read as follows:

##### § 36.4301 Definitions.

\* \* \* \* \*

**Adjustable rate mortgage loan.** A loan for the purpose of acquiring, constructing, or refinancing a single-family dwelling unit with an interest rate that may change on an annual basis.

\* \* \* \* \*

**Hybrid adjustable rate mortgage loan.** A loan for the purpose of acquiring, constructing, or refinancing a single-family dwelling unit with an interest

rate that is fixed for a period of time, after which the interest rate may change on an annual basis.

\* \* \* \* \*

##### § 36.4306 [Amended]

- 3. Amend § 36.4306 by:

- a. In paragraph (a)(3)(i)(H), adding “loan or a hybrid adjustable rate mortgage loan” after “adjustable rate mortgage”; and
- b. In paragraph (b)(4), adding “or hybrid adjustable rate” after “adjustable rate”.

##### § 36.4307 [Amended]

- 4. Amend § 36.4307(a)(3) by adding “loan or a VA-guaranteed hybrid adjustable rate mortgage loan” after “adjustable rate mortgage”.

- 5. Amend § 36.4312 by:

- a. Revising the last sentence in paragraph (a);
- b. Adding paragraph headings to paragraphs (a), (b), and (c);
- c. Removing the authority citations immediately following paragraphs (a), (b), and (c);
- d. Revising paragraph (d);
- e. Adding paragraph (e);
- f. Revising the OMB citation at the end of the section; and
- g. Revising the authority citation at the end of the section. The revisions and additions read as follows:

##### § 36.4312 Interest rates.

(a) *General.* \* \* \* This paragraph does not apply in the case of an adjustable rate mortgage loan or hybrid adjustable rate mortgage loan being refinanced under 38 U.S.C. 3710(a)(8), (a)(9)(B)(i), or (a)(11) with a fixed rate loan.

(b) *Discount points.* \* \* \*

(c) *Excess interest charges.* \* \* \*

(d) *Adjustable rate mortgage loans and hybrid adjustable rate mortgage loans.* Adjustable rate mortgage loans and hybrid adjustable rate mortgage loans must comply with the requirements of this paragraph (d) to be eligible for guaranty.

(1) *Interest rate index.* Changes in the interest rate charged on an adjustable rate mortgage must correspond to changes in the weekly average yield on 1 year (52 weeks) Treasury bills adjusted to a constant maturity. The weekly average 1 year constant maturity Treasury bill yields are published by the Federal Reserve Board of the Federal Reserve System.

(2) *Frequency of interest rate changes.*

(i) For adjustable rate mortgage loans, any interest rate adjustments must occur on an annual basis starting from the date of the veteran’s first scheduled monthly mortgage payment due date.

(ii) For hybrid adjustable rate mortgage loans, the first adjustment must not occur sooner than 36 months from the date of the veteran’s first scheduled monthly mortgage payment due date. Thereafter, any interest rate adjustments must occur on an annual basis.

(iii) The adjusted rate will become effective the first day of the month following the rate adjustment date. The first monthly mortgage payment at the new rate will be due on the first day of the following month.

(iv) To set the new interest rate, the lender will determine the change between the initial (*i.e.*, base) index figure and the current index figure. The lender must use as the initial index figure the most recent figure available before the date of the note. For loans where the date of the note is before January 10, 2015, the lender must use as the current index figure the most recent index figure available 30 days before the date of each interest rate adjustment. For loans where the date of the note is on or after January 10, 2015, the lender must use as the current index figure the most recent index figure available 45 days before the date of each interest rate adjustment.

(3) *Method of rate changes.* Interest rate changes may only be implemented through adjustments to the veteran’s scheduled monthly payment amount.

(4) *Initial rate and magnitude of changes.* The lender and the veteran must agree upon the initial interest rate. Future adjustments in the interest rate must be based upon changes in the interest rate index, subject to the following conditions and limitations:

(i) For adjustable rate mortgage loans, no single annual adjustment to the interest rate will result in a change in either direction of more than 1 percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index rate changes in excess of 1 percentage point will not be carried over for inclusion in an adjustment in a subsequent year.

Adjustments to the interest rate over the entire term of the loan is limited to a maximum increase of 5 percentage points from the initial interest rate.

(ii) For hybrid adjustable rate mortgage loans that have an initial interest rate fixed for less than 5 years, no single annual adjustment to the interest rate will result in a change in either direction of more than 1 percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index rate changes in excess of 1 percentage point will not be carried over for inclusion in an adjustment in a subsequent year.

<sup>33</sup> U.S. BLS, *Occupational Employment and Wage Statistics, May 2023 National Occupational Employment and Wage Estimates United States*, available at [https://www.bls.gov/oes/current/oes\\_nat.htm#13-0000](https://www.bls.gov/oes/current/oes_nat.htm#13-0000).

<sup>34</sup> U.S. BLS, *Occupational Employment and Wage Statistics, Occupational Employment and Wages, May 2023*, available at <https://www.bls.gov/oes/current/oes132072.htm>.



Adjustments to the interest rate over the entire term of the loan is limited to a maximum increase of 5 percentage points from the initial interest rate.

(iii) For hybrid adjustable rate mortgage loans that have an initial interest rate fixed for 5 or more years, no single annual adjustment to the interest rate will result in a change in either direction of more than 2 percentage points from the interest rate in effect for the period immediately preceding that adjustment. Index rate changes in excess of 2 percentage points will not be carried over for inclusion in an adjustment in a subsequent year. Adjustments to the interest rate over the entire term of the loan is limited to a maximum increase of 6 percentage points from the initial interest rate.

(iv) At each interest rate adjustment date, changes in the interest rate index, whether increases or decreases, must be translated into the adjusted mortgage interest rate, rounded to the nearest one-eighth of one percent, up or down. For example, if the margin is 2 percent and the new index figure is 6.06 percent, the adjusted mortgage interest rate will be 8 percent. If the margin is 2 percent and the new index figure is 6.07 percent, the adjusted mortgage interest rate will be 8 $\frac{1}{8}$  percent.

(5) *Interest rate for underwriting purposes.* In cases where a lender must evaluate a veteran's loan application pursuant to the underwriting standards at § 36.4340, for adjustable rate mortgage loans, lenders must use an interest rate not lower than 1 percentage point above the initial interest rate. For hybrid adjustable rate mortgage loans, lenders must use an interest rate not lower than the initial interest rate. When underwriting adjustable rate mortgage loans and hybrid adjustable rate mortgage loans, lenders may adjust the initial interest rate higher for other applicable credit and risk factors.

(6) *Pre-loan disclosure.* The lender must provide the veteran with disclosures in accordance with the timing, content, and format required by the regulations implementing the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.37(b)(6)(ii) and (j). The lender must make a copy of this disclosure, signed by the veteran acknowledging the receipt of the disclosure, a part of the lender's permanent record on the loan.

(7) *Post-closing disclosures.* The lender must provide the veteran with disclosures in accordance with the timing, content, and format required by the regulations implementing the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) at 12 CFR 1026.20(c) and (d). The lender must make a copy of these disclosures

a part of the lender's permanent record on the loan.

(e) *Temporary buydowns.* Temporary buydown agreements that comply with the requirements of this paragraph (e) may be established to temporarily reduce loan payments for up to the first 36 monthly payments of the loan.

(1) *General terms and conditions.* (A) Lenders are prohibited from using temporary buydown agreements as a cash-advance on principal, such as through subsidizing payments through an above market interest rate, discount points, or a combination of discount points and above market interest rate.

(B) Any temporary buydown funds provided by the veteran must not be included in the loan amount.

(2) *Documenting the agreement.* Lenders must provide veterans with a clear, written explanation of the temporary buydown agreement, including a description of the number of monthly payments for which the assistance will run, the total payment assistance amount, and the monthly payment schedule reflecting the amount of each monthly buydown payment and the veteran's monthly payment. The lender must make a copy of the buydown agreement, signed by the veteran, a part of the lender's permanent record on the loan.

(3) *Acceptable loan types.* Temporary buydown agreements are only permitted for fixed rate mortgage loans.

(4) *Interest rate for underwriting purposes.* Lenders must underwrite the loan at the interest rate stated on the mortgage note. Temporary buydown agreements may be treated as a compensating factor when underwriting a loan pursuant to § 36.4340, if there are indications that the veteran's income used to support the loan application will increase to cover the yearly increases in loan payments or that the buydown plan may be used to offset a short-term debt.

(5) *Escrow account.* Holders must secure temporary buydown funds in a separate escrow account. Such funds must be used only to pay the monthly buydown payments in accordance with the temporary buydown agreement. If the loan is terminated during the agreement period, for example due to a foreclosure or prepayment, the funds must be credited against any outstanding indebtedness. If the loan is assumed during the agreement period, the holder must continue to pay out the monthly buydown payments on behalf of the new borrower in accordance with the temporary buydown agreement.

(6) *Frequency and magnitude of buydown payment changes.* Any reduction in the amount of the monthly

buydown payment must be reflected in the temporary buydown agreement and will occur only on an annual basis following the date of the first monthly mortgage payment due date. No reduction will result in an increase of the veteran's monthly payment that corresponds to an increase of more than 1 percentage point in the interest rate of the loan.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0515 and XXXX-XXXX)

(Authority: 38 U.S.C. 3703(c), 3707, 3707A, 3710(g), and 3720)

#### § 36.4340 [Amended]

■ 6. Amend § 36.4340(b)(2)(iv) by adding “or hybrid adjustable rate” after “adjustable rate”.

[FR Doc. 2024-13389 Filed 6-20-24; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 40

[Docket DOT-OST-2021-0093]

RIN 2105-AE94

#### Procedures for Transportation Workplace Drug and Alcohol Testing Programs

**AGENCY:** Office of the Secretary, Department of Transportation (DOT).

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Department of Transportation (DOT) is proposing to revise its drug and alcohol testing procedures final rule published on May 2, 2023, to provide temporary qualification requirements for mock oral fluid monitors, provide for consistent privacy requirements by identifying which individuals may be present during an oral fluid collection, and clarify how collectors are to specify that a sufficient volume of oral fluid was collected. In the “Rules and Regulations” section of this issue of the **Federal Register**, DOT is simultaneously publishing the revision of DOT's drug testing regulation as a direct final rule without a prior proposed rule. If DOT receives no adverse comment, it will not take further action on this proposed rule.

**DATES:** Comments must be received on or before July 22, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. DOT-OST-2021-0093, at <https://www.regulations.gov/>. Follow the online