

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on August 11, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective Sep 14, 1995*

Iowa City, IA, Iowa City Muni, RNAV or GPS RWY 24, Amdt 1 CANCELLED

Iowa City, IA, Iowa City Muni, RNAV RWY 24, Amdt 1

Iowa City, IA, Iowa City Muni, NDB or GPS RWY 30, Amdt 1 CANCELLED

Iowa City, IA, Iowa City Muni, NDB RWY 30, Amdt 1

Kingman, KS, Kingman Muni, VOR/DME or GPS RWY 18, Amdt 1 CANCELLED

Kingman, KS, Kingman Muni, VOR/DME RWY 18, Amdt 1

Baton Rouge, LA, Baton Rouge Metropolitan, Ryan Field, NDB or GPS RWY 31, Amdt 1A CANCELLED

Baton Rouge, LA, Baton Rouge Metropolitan, Ryan Field, NDB RWY 31, Amdt 1A

West Jefferson, NC, Ashe County, NDB or GPS RWY 27, Orig CANCELLED

West Jefferson, NC, Ashe County, NDB RWY 28, Orig

Wahpeton, ND, Harry Stern, NDB or GPS RWY 33, Amdt 4 CANCELLED

Wahpeton, ND, Harry Stern, NDB RWY 33, Amdt 4

Kearney, NE, Kearney Muni, NDB or GPS RWY 36, Amdt 4A CANCELLED
Kearney, NE, Kearney Muni, NDB RWY 36, Amdt 4A

McCook, NE, McCook Muni, VOR or GPS RWY 12, Amdt 11 CANCELLED
McCook, NE, McCook Muni, VOR RWY 12, Amdt 11

Sand Springs, OK, William R. Pogue Muni, NDB or GPS RWY 35, Amdt 2 CANCELLED

Sand Springs, OK, William R. Pogue Muni, NDB RWY 35, Amdt 2

Kosrae Island, FM, Kosrae, NDB/DME or GPS-A, Orig

Pohnpei Island, FM, Pohnpei Intl, NDB/DME or GPS RWY 9, Amdt 4

Pohnpei Island, FM, Pohnpei Intl, NDB/DME or GPS-A, Amdt 1

Pohnpei Island, FM, Pohnpei Intl, NDB or GPS-B, Amdt 3

Pohnpei Island, FM, Pohnpei Intl, NDB or GPS-C, Amdt 3

Weno Island, FM, Weno Island/Chuuk Intl, NDB/DME or GPS RWY 4, Orig-A

Weno Island, FM, Weno Island/Chuuk Intl, NDB or GPS-A, Orig-A

Weno Island, FM, Weno Island/Chuuk Intl, NDB or GPS-B, Amdt 4A

Yap Island, FM, Yap Intl, NDB/DME or GPS RWY 7, Amdt 1

[FR Doc. 95-20381 Filed 8-16-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8614]

RIN 1545-AS54

Real Estate Mortgage Investment Conduits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to variable rate interest payments and specified portion interest payments on regular interests in real estate mortgage investment conduits (or REMICs). This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1986 and by the Technical and Miscellaneous Revenue Act of 1988. These regulations provide guidance to REMIC sponsors and investors.

DATES: These regulations are effective August 17, 1995.

For dates of applicability of these regulations, see § 1.860A-1.

FOR FURTHER INFORMATION CONTACT: William P. Cejudo, (202) 622-3920 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

On April 20, 1994, temporary regulations (TD 8534) relating to variable rate interest payments on REMIC regular interests were published in the **Federal Register** (59 FR 18746). A notice of proposed rulemaking (FI-10-94), published in the **Federal Register** for the same day (59 FR 18772), cross-references the temporary regulations. That notice also proposes guidance on whether interest payments on a regular interest in a REMIC consist of a specified portion of the interest payments on the qualified mortgages held by the REMIC.

No public hearing was requested or held, but written comments responding to the notice were received. After consideration of the comments, the regulations proposed by FI-10-94 are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

Explanation of Provisions

Sections 860A through 860G of the Internal Revenue Code set forth rules for the treatment of REMICs and for the treatment of persons who hold interests in REMICs. For an entity to qualify as a REMIC, every interest in the entity must be either a residual interest or a regular interest.

A. Variable Rates

Section 860G(a)(1)(B)(i) requires that any interest payments on a regular interest be payable based on a fixed rate, or on a variable rate to the extent provided in regulations. Regulations providing guidance under section 860G(a)(1)(B)(i) are included in a comprehensive set of final regulations relating to REMICs (the *1992 REMIC regulations*), which was published in the **Federal Register** for December 24, 1992 (57 FR 61293).

The 1992 REMIC regulations use a building-block approach to describe the permitted variable rates under section 860G(a)(1)(B)(i). A taxpayer must start with one permitted variable rate as a base and, if desired, may subject the rate to additions, subtractions, multiplications, caps, and floors. Under § 1.860G-1(a)(3)(i) of the 1992 REMIC regulations, a permitted variable rate includes a rate that is a qualifying variable rate for purposes of sections 1271 through 1275 and the related regulations.

Notice 93-11, 1993-1 C.B. 298, addresses the application of the term *qualifying variable rate*. The notice provides that a *qualified floating rate* set at a *current value* (as defined in proposed regulations under section 1275 (FI-189-84)) is a qualifying variable rate for purposes of § 1.860G-1(a)(3)(i) of the 1992 REMIC regulations. Notice 93-11 also states that the 1992 REMIC regulations will be amended to conform to the language of the final section 1275 regulations when those regulations become effective. After the section 1275 regulations were revised and published in final form in the **Federal Register** for February 2, 1994 (59 FR 4799, 4827), the temporary regulations (TD 8534) and the proposed regulations (FI-10-94) were issued to conform § 1.860G-1(a)(3)(i) of the 1992 REMIC regulations to the final section 1275 regulations.

The final section 1275 regulations define two types of variable rates. Section 1.1275-5(b) defines a *qualified floating rate*, and § 1.1275-5(c) defines an *objective rate*. Under proposed § 1.860G-1(a)(3)(i) and § 1.860G-1T(a), permitted variable rates for regular interests in REMICs include a qualified floating rate. Objective rates, however, are not permitted.

One commentator proposes that the final version of § 1.860G-1(a)(3)(i) be expanded to include as a permitted variable rate any objective rate that relates to one or more debt instruments (excluding any debt instrument that provides for payments measured in substantial part by reference to the value of property other than debt instruments). This would allow, for example, a rate equal to the total rate of return on a bond, or group of bonds.

Many objective rates reflect the returns on equities and commodities. The IRS and Treasury believe that proposed § 1.860G-1(a)(3)(i) draws a sensible and necessary line between rates tied to interest rates (that is, qualified floating rates), and rates tied to commodities and equities. Moreover, the building-block approach adopted by the 1992 REMIC regulations affords taxpayers considerable flexibility to devise permitted variable rates, and the building-block approach would continue to apply after adoption of the proposed regulations. The rule in the temporary and proposed regulations, therefore, is retained in the final regulations under § 1.860G-1(a)(3)(i).

Retaining § 1.860G-1(a)(3)(i) as proposed affects a cross reference contained in § 1.860G-1(a)(3)(ii)(A). Commentators suggest revising § 1.860G-1(a)(3)(ii)(A) to modify the restrictions imposed by the cross

reference in that section to § 1.860G-1(a)(3), which reference incorporates proposed § 1.860G-1(a)(3)(i). Section 1.860G-1(a)(3)(ii)(A) permits a REMIC regular interest to have an interest rate based on a weighted average of the interest rates on some or all of the mortgages held by the REMIC (a *passthrough rate*). A mortgage taken into account in determining a *passthrough rate* (an *underlying mortgage*) must itself have a fixed rate or a permitted variable rate.

Accordingly, a mortgage based on a qualified floating rate may be used to determine a *passthrough rate* but the underlying mortgage must conform to proposed § 1.860G-1(a)(3)(i). This means the qualified floating rate must be set at a current value. A qualified floating rate is not set at a current value if it is set more than 3 months before the start of the related accrual period on the underlying mortgage. The commentators suggest loan servicers may need more than 3 months to compute revised interest and payment amounts and to tell borrowers of those revised amounts. Thus, according to the commentators, the 3-month period should be extended.

As noted above, the IRS and Treasury believe proposed § 1.860G-1(a)(3)(i) sensibly distinguishes interest rate returns from other types of returns. For regular interests having a *passthrough rate* to reflect this distinction, any underlying mortgage based on a qualified floating rate that is used to determine the *passthrough rate* must also reflect this distinction. Thus, any underlying mortgage bearing interest at a qualified floating rate must have the rate set at a current value. Otherwise, proposed § 1.860G-1(a)(3)(i) could be circumvented merely by creating a *passthrough rate* based on underlying mortgages bearing qualified floating rates not set at current values. Moreover, the ability of servicers to take more time to calculate revised rates and to notify borrowers of those rates appears to be limited by the Truth in Lending Act and Regulation Z (12 CFR Ch. 11 § 226.20(c) (1995)), which require notice, within prescribed time periods, to a consumer of changes in a rate. Thus, this comment is not adopted here.

B. Specified Portions

Under section 860G(a)(1)(B)(ii), interest payments on a regular interest in a REMIC may also consist of a specified portion of the interest payments on the qualified mortgages held by the REMIC, provided the specified portion does not vary while the regular interest is outstanding. A specified portion regular interest is sometimes called an *Interest Only*

regular interest or *IO*. The 1992 REMIC regulations identify the specified portions permitted under section 860G(a)(1)(B)(ii).

Requests for further guidance prompted the publication of the proposed regulations addressing specified portions. Taxpayers requested the IRS clarify that a REMIC may issue an IO that is expressed as a percentage of the interest payable on an IO acquired from another REMIC (a collateral IO). In response, the notice of proposed rulemaking (FI-10-94) would add § 1.860G-1(a)(2)(i)(D), under which the cash flows from a collateral IO issued by one REMIC can be proportionately divided through another REMIC. The proposed provision would negate the need for any other arrangement such as a grantor trust and would apply whether the collateral IO is acquired on formation by a related upper-tier REMIC or after formation by an unrelated REMIC (a re-REMIC transaction).

According to one commentator, the addition of § 1.860G-1(a)(2)(i)(D) implies that more complex re-REMIC transactions are not allowed. According to another commentator, the language of the proposed rule implies that all qualified mortgages held by the REMIC must be IO regular interests. To remove both of those implications, the proposed rule is adopted in revised form, which appears as § 1.860G-1(a)(2)(v).

C. Other Comments

Commentators also addressed other REMIC regulations not affected by this Treasury decision. Those comments may be considered in future guidance projects.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information. The principal authors of these regulations are Marshall Feiring, Office of Assistant Chief Counsel (Financial Institutions and Products), and Carol A. Schwartz, formerly of that office. However, other personnel from the IRS and

Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "Section 1.860G-1T" to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.860A-0 is amended by:

1. Adding entries for § 1.860A-1(b)(4).
2. Revising the entry for § 1.860G-1(a)(2)(v).
3. Adding an entry for § 1.860G-1(a)(2)(vi).
4. Revising the entry for § 1.860G-1(a)(3)(i).

The additions and revisions read as follows:

§ 1.860A-0 *Outline of REMIC provisions.*
* * * * *

§ 1.860A-1 *Effective dates and transition rules.*
* * * * *

- (b) * * *
- (4) Rate based on current interest rate.
 - (i) In general.
 - (ii) Rate based on index.
 - (iii) Transition obligations.

§ 1.860G-1 *Definition of regular and residual interests.*
(a) * * *

- (2) * * *
- (v) Specified portion includes portion of interest payable on regular interest.
- (vi) Examples.
- (3) * * *
- (i) Rate based on current interest rate.
* * * * *

Par. 3. In § 1.860A-1, paragraph (b)(4) is added to read as follows:

§ 1.860A-1 Effective dates and transition rules.
* * * * *

(b) * * *

(4) *Rate based on current interest rate—(i) In general.* Section 1.860G-1(a)(3)(i) applies to obligations (other than transition obligations described in paragraph (b)(4)(iii) of this section) intended to qualify as regular interests that are issued on or after April 4, 1994.

(ii) *Rate based on index.* Section 1.860G-1(a)(3)(i) (as contained in 26 CFR part 1 revised as of April 1, 1994) applies to obligations intended to qualify as regular interests that—

(A) Are issued by a qualified entity (as defined in § 1.860D-1(c)(3)) whose startup date (as defined in section 860G(a)(9) and § 1.860G-2(k)) is on or after November 12, 1991; and

(B) Are either—

(1) Issued before April 4, 1994; or

(2) Transition obligations described in paragraph (b)(4)(iii) of this section.

(iii) *Transition obligations.* Obligations are described in this paragraph (b)(4)(iii) if—

(A) The terms of the obligations and the prices at which the obligations are offered are fixed before April 4, 1994; and

(B) On or before June 1, 1994, a substantial portion of the obligations are transferred, with the terms and at the prices that are fixed before April 4, 1994, to investors who are unrelated to the REMIC's sponsor at the time of the transfer.

Par. 4. Section 1.860G-1 is amended by:

1. Redesignating paragraph (a)(2)(v) as paragraph (a)(2)(vi).
2. Adding a new paragraph (a)(2)(v).
3. Revising paragraph (a)(3)(i).

The addition and revisions read as follows:

§ 1.860G-1 Definition of regular and residual interests.

- (a) * * *
- (2) * * *

(v) *Specified portion includes portion of interest payable on regular interest.*

(A) The specified portions that meet the requirements of paragraph (a)(2)(i) of this section include a specified portion that can be expressed as a fixed percentage of the interest that is payable on some or all of the qualified mortgages where—

(1) Each of those qualified mortgages is a regular interest issued by another REMIC; and

(2) With respect to that REMIC in which it is a regular interest, each of those regular interests bears interest that can be expressed as a specified portion as described in paragraph (a)(2)(i)(A), (B), or (C) of this section.

(B) See § 1.860A-1(a) for the effective date of this paragraph (a)(2)(v).
* * * * *

- (3) * * *

(i) *Rate based on current interest rate.*

A qualified floating rate as defined in § 1.1275-5(b)(1) (but without the application of paragraph (b)(2) or (3) of that section) set at a current value, as defined in § 1.1275-5(a)(4), is a variable rate. In addition, a rate equal to the highest, lowest, or average of two or more qualified floating rates is a variable rate. For example, a rate based on the average cost of funds of one or

more financial institutions is a variable rate.

* * * * *

§ 1.860G-1T [Removed]

Par. 5. Section 1.860G-1T is removed.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: July 31, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 95-20319 Filed 8-16-95; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-95-096]

RIN 2115-AA97

Safety Zone: East Passage, Narragansett Bay, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Narragansett Bay around the group of swimmers participating in the 19th annual "Swim The Bay" event sponsored by Save The Bay on August 19, 1995. This safety zone is needed to protect the participants from the hazards caused by vessel traffic in Narragansett Bay. The safety zone will encompass a 300 yard radius around each swimmer as they proceed across the East Passage, Narragansett Bay. The safety zone shall be from Coaster's Harbor Island Beach, Newport, RI, to Jamestown, RI, in the vicinity of Potter's Cove. Entry into this zone is prohibited unless authorized by the Captain of the Port, Providence.

EFFECTIVE DATE: This regulation is effective on August 19, 1995, from 8 a.m. to 11 a.m., unless extended or terminated sooner by the Captain of the Port, Providence. In the event of inclement weather, an alternate rain date of August 20, 1995 is established with these same times.

FOR FURTHER INFORMATION CONTACT: LTJG Bruce L. Davies of Marine Safety Office Providence at (401) 435-2300.

SUPPLEMENTARY INFORMATION:

Drafting Information. The drafters of this regulation are LTJG Bruce L. Davies, Project Manager for the Coast Guard Captain of the Port Providence, and LT S.A. Tyler, Project Counsel for the First Coast Guard District Legal Office.