



## Office of Thrift Supervision

Department of the Treasury

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July 7, 2011

**MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS**

**FROM:**

Thomas A. Barnes, Deputy Director  
Examinations, Supervision, and Consumer Protection

**SUBJECT:**

Notice of Termination of Monthly Median Cost of Funds Reporting and Publication of Cost of Funds Indices Effective January 31, 2012

On July 6, 2011, the OTS published a final notice in the Federal Register<sup>1</sup> to notify OTS-regulated savings institutions of the termination of the data collection used to calculate the Monthly Median Cost of Funds Index (MMCOF). Publication of the MMCOF, as well as the Quarterly Cost of Funds Index (QCOF), the Semiannual Cost of Funds Index (SCOF), and other related cost of funds ratios currently published monthly in the OTS's Cost of Funds (COF) Report, will cease.<sup>2</sup> The last indices published will be as of December 31, 2011.

Thrifts were notified of the proposed termination of the OTS cost of funds indices in [CEO Letter #378](#) on February 3, 2011,<sup>3</sup> and in a notice of intent and request for comments published in the Federal Register on February 8, 2011.<sup>4</sup>

### **Index Substitution**

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73 (FIRREA), was enacted into law on August 9, 1989. Section 402(e)(4) of FIRREA requires the OTS to designate acceptable substitute indices should it discontinue publication of indices used for ARM rate adjustments. The Director of OTS must determine, after notice and opportunity for comment, that (A) the new indices are based upon data substantially similar to that of the original indices; and (B) the substitution of the new indices will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable. Any such substitute index may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

<sup>1</sup> Link to 76 FR 39474: <http://www.ots.treas.gov/files/4830134.pdf>

<sup>2</sup> Link to published COF reports: <http://www.ots.treas.gov/?p=StatisticalReleases>

<sup>3</sup> Link to CEO Letter #378: <http://www.ots.treas.gov/files/25378.pdf>

<sup>4</sup> Link to 76 FR 7089: <http://www.ots.treas.gov/files/4830090.pdf>

Given its close correlation with the terminated indices and pursuant to the requirements of FIRREA, the OTS is designating the Federal Cost of Funds index<sup>5</sup> as an acceptable substitute index effective with the termination date of the discontinued indices. Further, the calculation of the Federal COF does not depend on a separate data collection from a limited amount of participants and is easily calculated.

### **Notice to Borrowers**

Holders of adjustable rate mortgage loans with interest rates adjusted based on OTS-published cost of funds indices shall provide notice as soon as possible to affected borrowers of the change in ARM indices.

Holders of MMCOF adjustable rate mortgage loans shall begin using the Federal COF index for the index rate at adjustment determination dates beginning after December 31, 2011. Holders of QCOF adjustable rate mortgage loans shall begin using an index rate calculated as the average of the three monthly Federal COF index values that were published immediately previous to adjustment determination dates beginning after December 31, 2011. Holders of SCOF adjustable rate mortgage loans shall begin using an index rate calculated as the average of the six monthly Federal COF index values that were published immediately previous to adjustment determination dates beginning after December 31, 2011.

If you have any questions or comments, please send them by e-mail to Jim Caton at [james.caton@ots.treas.gov](mailto:james.caton@ots.treas.gov) or mail them to:

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<sup>5</sup> Link to Federal COF index data: [http://www.freddiemac.com/news/finance/cof\\_index.htm](http://www.freddiemac.com/news/finance/cof_index.htm)