

# DETERMINING THE APPROPRIATE INTEREST RATE IN MORTGAGE LOAN CRAM-DOWNS

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*This article is based on an earlier examination of bankruptcy rate determinations in an article co-authored by Rocky Tarantello and Jess R. Bressi titled "Determining the Appropriate Discount Rate for Calculating the Present Value of Deferred Payment Plans: Historical Experience and Theoretical Underpinnings," California Bankruptcy Journal, Volume 17, Summer 1989, Number 2.*

**B**ecause of the commercial real estate building boom of the 1980s, a mountain of outstanding mortgage credit has been extended to the nation's commercial real estate lenders. At year end 1991, a total of \$1,056.8 billion of total commercial mortgage debt was outstanding. Commercial banks accounted for \$274.8 billion, while life insurance companies held \$243.7 billion. By the end of the second quarter of 1992, 6.75% of all life company loans were delinquent, in foreclosure or foreclosed, while U.S. commercial banks struggled with an 8.20% commercial real estate loan delinquency rate. By simple calculation, and without any consideration of the infamous savings and loan industry collapse, nearly \$40 billion of commercial real estate held by those lender groups was delinquent or in foreclosure. Billions of dollars in additional debt are maturing each year, while the availability of new mortgage capital is virtually nonexistent. Commercial real estate lenders are forced to either work-out (restructure) existing loans or commence foreclosure proceedings against the collateral properties.<sup>1</sup>

In many of these cases, the borrower's inability to meet his repayment obligation is not simply the result of reduced or declining real estate values, but also the result of regulations discouraging or prohibiting lenders from refinancing existing loans and the near total absence of new institutions willing to extend credit to "take out" existing lenders. If the mortgage borrower is confronted with foreclosure and regardless of whether substantial equity remains in the property, his only possible recourse may be to file a bankruptcy petition to forestall the foreclosure and effect a reorganization plan destined to be a "cram-down." This is particularly likely in the real estate industry since most large properties are structured as single asset ventures allowing restructuring of individual properties without disturbing other properties or assets which may be held by the owner.

Unless a mortgage lender agrees to lesser or inferior treatment, provisions of Chapters 11, 12 and 13<sup>2</sup> of the Bankruptcy Code provide that a creditor is entitled to receive, as of the effective date of the plan, the value of the lender's allowed secured claim.<sup>3</sup> If the plan of reorganization provides for periodic payments to the secured creditor over the life of the plan, these periodic payments must be subjected to a net present value calculation or "discounting" to calculate their present worth.<sup>4</sup>

This article examines the basis for the determination of cram-down interest rates, including

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factors influencing interest rates, and also surveys some of the case law on the interest rate issue. The article further examines how current loan market conditions cause the near absence of similar loans at market rates thus requiring the courts to expand and modify their approach to the determination of a rate appropriate for a coerced loan where no real market exists.

### **Economic Theory And Interest Rates**

If a secured lender is to receive the present value of its claim at the time of plan confirmation, then micro-economic theory dictates that the interest rate paid by the debtor on the deferred payments should correspond to a rate of interest that could be obtained by a lender making a loan to a third party upon similar terms, for the same duration, secured by collateral of equal value and with a comparable risk of default (the "third party loan" test). As a practical matter, this is a test which is impossible to meet under current market conditions. Before we discuss how the rate may be determined by cross reference to alternative debt markets, the theoretical foundation of the appropriate rate is first presented. In order to satisfy the requirement of the "third party loan" test stated above, which is comparable to the legal requirement that the secured lender receive the "indubitable equivalent" of its claim, one must be able to compare the wide range of interest rates observed in the marketplace, understand their relationship to the risks born by the lenders in question and select the appropriate interest rate as required under law.

### **Term Structure, Liquidity And The Influence Of Inflation**

All interest rate determinations begin with considering the maturity of the debt and the frequency of any installment payments. This notion relates the level of interest rates to the period of time the capital obligation is outstanding. It further assumes that the risk class of a particular group of obligations is homogeneous, since mixing high-risk subordinated corporate bond yields (junk bonds) with low-risk U.S. Treasury obligations would significantly skew a rate/term relationship.

Comparing alternative rates and maturities not only demonstrates the gross difference in short and longer term interest rates (the ordinal difference), but makes it possible to calibrate and determine rate differentials within specific maturities. This provides a direct basis upon which specific maturities of secured obligations may be "priced."

Lenders will significantly alter their interest rate requirements in terms of their past experience with inflationary impact and to the extent that these experiences influence their future inflationary expectations. Simply put, lenders systematically require higher interest rates to compensate for inflation. Hence, market interest rates of all maturities are continuously adjusting to inflationary expectations which extend over the term of the obligation.

Therefore, it is impossible to properly apply an interest rate to an obligation without taking inflation into account.

Since the yields for a given class of obligations change from day to day as economic information is internalized by the marketplace, a few tendencies can be observed. First, lenders are much more willing to lend short than long. This is known as the "liquidity preference" and refers directly to the concept of default risk. In other words, the shorter the term of obligation, the less likely the borrower is to default. Hence, the lender has a liquidity preference and will accept lower rates (yields) in the short-term. This would justify the use of lower interest rates in the valuation of short-term secured obligations.

Secondly, much more is known about the present and immediate economic future than events several years hence. Consequently, borrowers and lenders formulate expectations on the basis of increasing uncertainty about the future. The marketplace is essentially confessing its inability to anticipate future economic events. Therefore, interest rates of all maturities beyond a certain point in time fall within a very narrow range of interest rates. A comparison of 15, 20 or even 30 year U.S. Treasury securities is unlikely to illustrate much rate difference. Of course, the same is true for other risk classed obligations. Consequently, secured claims of approximately ten years or more would all tend to be valued at roughly the same rate of interest within a given risk class.

Finally, the marketplace in the United States never seems to expect inflation to last for very long. This is not to suggest that inflation is not a problem or cannot get out of control. It simply means that borrowers and lenders in the marketplace price their obligations in a manner which seems to always assume that inflation can and will be brought under control at some point. Moreover, they are so uncertain about economic events at that point in the future, they have no basis for differential rate pricing.

### **Assessing Risk**

The concept of interest rates is entirely a function of expectations about the future. However, three possibilities exist when looking into the future: certainty, uncertainty and risk. Each refers to a different level of expectation (and comfort level) and would be rate-priced accordingly. An individual is certain about the future when the precise outcome of an event is known. The very nature of a bankruptcy proceeding completely precludes such an assumption. The individual is uncertain when he knows all the possible outcomes, but does not know which will be the final result. This is still an unlikely scenario within the context of a bankruptcy proceeding. Finally, the individual is at risk when even the possible outcomes are not known for sure, much less which outcome will be the final result and, as a matter of practicality, this is inevitably the situation in which a secured creditor finds himself. Since interest rates, economic events and expectations about the future

are constantly changing, lenders are at risk even when holding U.S. Treasury obligations, the value of which will fluctuate in reaction to changes in market interest rates. In a nutshell, nothing is without risk.

Lenders generally perceive two broad classes of risk exposure—default risk and rate risk. Default risk not only refers to whether or not the borrower pays the obligation back, but also considers the adherence to the timing and interest rate of the original obligation. Any departure from the original loan agreement causes the lender to suffer economic loss in present value terms. Lenders attempt to mitigate this form of risk exposure through strict underwriting guidelines and borrower analysis. Of course, the greater the perception of default risk, the higher the interest rate (risk premium) for a given maturity of obligation. This is the basis for all bond rating systems, and explains why obligations of equal maturities provide different yields.

Rate risk is the other form of exposure lenders must bear. It is the risk that market interest rates rise above the rate currently being earned on a loan previously made. The present value of the future principal and interest payments of the existing obligation will be reduced in relation to the spread between a rising current market rate and the contract rate of the obligation. The lender can do nothing<sup>5</sup> to mitigate this risk other than try to anticipate these future changes and price the loan rate accordingly. Hence, even U.S. Treasury obligations, while nearly free from default risk, still suffer from rate risk exposure and possible loss in value to the lender.

### Case Law Analysis Of Appropriate Interest Rates

Along with the valuation of collateral to determine the amount of an allowed secured claim,<sup>6</sup> litigation over determining an appropriate interest rate in a plan of reorganization has been one of the more hotly contested issues under the Bankruptcy Code. Despite the best efforts of the courts, rate determination has become more a matter of mechanical convenience than a serious probe of the capital market and economic theory so critical to a defensible rate selection. As one bankruptcy judge opined, the determination of appropriate interest rates has “produced so many opinions with such varied results”<sup>7</sup> that a survey of all published opinions is not very instructive.

Generally, one of four approaches has been selected by the courts to determine appropriate interest rates: (1) market rate for similar loans (i.e., the third party loan test),<sup>8</sup> (2) contract rate,<sup>9</sup> (3) statutory rates such as the *legal rate* or § 6621 of the Internal Revenue Code for rates on delinquent taxes,<sup>10</sup> and (4) the coupon yield rate of 52-week Treasury Bills auctioned by the Treasury Department every four weeks.<sup>11</sup> Each of these dominant approaches should reveal the current lack of economic logic in the selection of the appropriate rate. In addition to these four approaches, various courts have created hybrids, which start with the base

rates such as the Treasury Bill rate or other market rates and then add various risk premiums to reflect the increased risk of loaning to a Chapter 11 debtor. A theoretically sound approach to this process has been described as follows:

The determination of an appropriate interest rate is not conceptually difficult. The rate compensates a creditor for both the time value of his money and the risk of lending to the debtor on the terms proposed in the plan. Risk will be influenced by the postconfirmation capital structure of the debtor, the debtor's need to borrow additional funds, together with planned covenants restricting future debt, and the timing of both future cash flow and payments under the plan.<sup>12</sup>

However, the determination of the appropriate risk premium is difficult in the absence of observable market information upon which to base a comparison to the case at hand. One must *derive* a risk premium based on economic principles and cross-correlation with observable alternative debt market instruments. One way or another, the appropriate interest rate becomes a function of the risk premium and the other theoretical economic factors (liquidity, term, inflation) described earlier. Moreover, in determining market rate, various courts have looked to such things as statutory rates, prime rates, treasury bill rates, and the contract rate to determine an appropriate market rate. In general, it appears that the convenience in determining the rate has overshadowed the requirement to select a rate which satisfies the indubitable equivalence standard.

All four of the circuit courts, which have considered the interest rate question, have applied a so-called market rate to determining the appropriate interest rate.<sup>13</sup> Though many courts give lip service to a market rate approach, no consistent explication appears in the case law of how to apply the market rate approach. Moreover, no consistent definition of the term appears to have emerged. The predominant factors discussed by the market rate cases are the length of the deferred pay-out period under the plan, the quality of the collateral for the obligation (i.e., appreciating versus depreciating), and the risk of subsequent default.<sup>14</sup> It would at least appear that recognition of economic principles, as the foundation of rate determination, has already been accomplished. However, the case law fails to specify what economic principles underlie the guidelines. Other market rate cases have found *market conditions* to be the predominant factor in determining an appropriate interest rate considering inflation expectations, prime rate, and comparable third-party rates (when and if they may be observed).<sup>15</sup> We presume that the reference to *market conditions* was in fact further acceptance of economic theory as the basis for rate determination. Market conditions and information would be of little value in the absence of a theoretical framework to interpret the information and formulate decisions about current and future rates.

A serious conceptual problem with the market rate approach is that it presupposes there is a real market for loans to debtors under Title II for guidance. Yet any bankruptcy practitioner who has attempted to obtain financing for debtors, whether secured by a senior lien or otherwise, knows that the market for debtor financing is at best "thin," and under current conditions, nonexistent. Hopefully this is changing and a competitive market is developing. In any event, debtors pay substantial premiums for financing either in Chapter 11 or in connection with a confirmed plan. The term *market approach* is a misnomer because no true "market," with market forces at work, exists for borrowers in bankruptcy cases. *Risk premium* approach more aptly describes the case law and the methodology used in arriving at a market rate. As proposed below, a cross-correlated or composite loan rate approach presents a more theoretically defensible and legally consistent approach to interest rate determination.

### Alternative Approaches To Rate Determination

Once commercial loan markets have virtually dried up and the false premise upon which most interest rate approaches are based is exposed (namely, that there is not a true market for loans to Title 11 debtors), an approach which fairly allocates the risks and rewards of a forced loan may be made. Consistent both with the foundations of economic theory and the case law, the authors suggest that a real world approach to this problem would use either a blended rate to weigh risk-adjusted, economically determined, third party loan rates to the situations encountered under Title II, or depend upon observable interest rates earned on alternative debt instruments (securities) properly adjusted to their mortgage loan equivalent.

The more defensible approach to the interest rate question, using a blended third party loan rate, is found in the real property case of *In re Landmark at Plaza Park Ltd.*<sup>16</sup> In *Landmark*, the "forced loan proposed by the debtor includes terms less favorable to [the secured party] than would typically be found in the market. . . ."<sup>17</sup> The court recognized the economic environment and the unavailability of 100% financing and calculated a composite loan rate using primary long-term market rate financing at a 75% loan to value ratio and secondary short-term market rate financing at a higher rate for the remaining 25%. The court, after hearing economic testimony at the confirmation hearing, "indicated that interest on such [secondary] mortgages is generally five points over prime. With the prime rate approximately 14% at the time of confirmation, the Court believes that 19% is the minimum interest rate on this portion of the loan."<sup>18</sup>

The plan proposed by the debtor in *Landmark* included a loan in the amount of \$2.26 million, a 100% loan to value ratio repayable in three years, with the first 15 months of interest deferred and with no amortization of principal over the life of the

loan.<sup>19</sup> Testimony presented at the confirmation hearing revealed that institutions such as thrifts, life insurance companies and pension funds would make mortgage loans on properties of the type present in *Landmark* with an interest rate ranging from 12.5% to 14%.<sup>20</sup> The typical first mortgage loan would have a term of 3-10 years, with amortization calculated on a 25-year basis and a 75% maximum loan to value ratio.<sup>21</sup> Secondary mortgage financing would be available for additional borrowing requirements at a premium of five points over prime.<sup>22</sup> The court treated the secured creditor "as . . . [a] holder of two mortgages: a first mortgage to the extent of 75% of the loan and a second mortgage to the extent of 25% of the loan."<sup>23</sup> The court reached a composite or blended loan rate of 15% by multiplying the highest first mortgage loan rate to third parties of 14% times a loan to value ratio of 75% and adding it to the product of the secondary mortgage rate of 19% times the balance of the loan ratio of 25%.<sup>24</sup> Because the rate proposed by the debtor in *Landmark* was below the blended 15% minimum rate established by the court, confirmation of the plan was denied on the basis that the plan did not comply with § 1129(b)(2)(A)(i)(II).<sup>25</sup>

Another thoughtful approach to the interest rate question, using an adjusted third-party loan approach, is found in the case of *In re McCombs Properties VIII, Ltd.*<sup>26</sup> In *McCombs*, the debtor proposed to cram-down various secured creditors and force the creditors "to accept an accrual market rate of interest at 10.5% with a base rate for current payments of 9%."<sup>27</sup> The debtor in *McCombs* suggested that "interest rates for seller financed loans on comparable properties" were the appropriate "market" to look to for an appropriate interest rate or rate under the loan.<sup>28</sup> In rejecting both the debtor's contention that inexpensive seller financing was a relevant market and the creditor's contention that substantial additional interest premiums were required, the court analyzed the loan-to-value ratios and coverage ratios for each of four creditors. The third party loan rate utilized by the court was the Federal National Mortgage Association (FNMA) interest rate on fixed-rate loans secured by multi-family properties of the kind present in the *McCombs* case and adjusted upward for any deficiency in loan-to-value ratio.<sup>29</sup> Thus, in *McCombs*, the bankruptcy judge increased each interest rate upward from the debtor's proposal of 10.5% to reflect a third party or market rate of interest for the forced loans.<sup>30</sup>

In both *Landmark* and *McCombs* the blended rate approach depended on observable mortgage market rates, whether primary or subordinate. In either case, it should be obvious that the court was able to depend upon and reference specific loan terms and lenders who were actually in the market. Notwithstanding the separate issue of whether a Chapter 11 petitioner could even find financing at market rates at any loan-to-value ratio, at least third party loans to qualified borrowers were observable to the court.

Possible recognition that a market for reorganizing bankruptcy debtors does not exist is found in *Farm Credit Bank of Spokane v. John Fowler (In re Fowler)*, 903 F.2d 694 (9th Cir. 1990). In *Fowler*, the Ninth Circuit Court of Appeals approved the use of a formula to determine the appropriate market rate. The court described the formula approach as follows: "[u]nder this approach, the Court starts with a base rate, either the prime rate or the rate on treasury obligations, and adds a factor based on the risk of default and the nature of the security (the 'Risk Factor')." The debtor in *Fowler* owed a senior lender \$159,000 on two 35-year variable promissory notes and a junior lender approximately \$22,000 on a one-year note. After filing his bankruptcy petition, the debtor proposed a plan for reorganization. After hearing testimony regarding the appropriate rates, the court approved a rate for both the senior and junior lenders of 9.5% over 25 years. The court based the 9.5% interest rate on the prime rate at plan confirmation (8.75%), plus a .75% risk factor. The district court, sitting as an intermediate court of appeal, reversed the bankruptcy court's interest rate determination in an unpublished order and set the rate at 10.5%. All parties appealed because of the district court's determination of the 10.5% rate.

The Ninth Circuit Court of Appeals reversed the district court's decision and ordered the case remanded to the bankruptcy court "to make explicit findings regarding how the [Bankruptcy Court] assesses the risk of default and the nature of the security and explain its reasons for applying a specific risk factor." The court stated that "[e]vidence of market rates for similar loans is relevant for arriving at the appropriate risk factor." Presumably, the court acknowledged that comparing rates for similar loans is not always possible, and even when it is, such comparison is merely a factor to consider. The court also directed the bankruptcy court to engage in additional fact-finding, if necessary, on how it assesses the risk of default and the nature of the security, and to explain its reasons for applying a specific risk factor. This direction and the requirement of explicit findings seem to indicate that the court requires an economic analysis when determining the risk factor.

What we are now suggesting is that since current market conditions provide little if any evidence of third party commercial loans to anyone, qualified or not, the court should rely on alternative debt instrument interest rates and yields by comparing the debt of a secured lender to the class of alternative debt instrument which most closely resembles the risk characteristics and maturities of the restructured loan. In *Fowler*, the court seemingly identified the prime rate and treasury obligation rate as the only alternatives.

We have found that several classes of alternative debt instruments provide the best basis for comparison of rate determinations. High yield bonds, U.S. Treasury securities, investment grade corporate bonds, mortgage backed bonds and collateralized mortgage obligations (CMOs) are all freely traded on a daily basis. Interest rate and yield data are

reported daily and every major financial institution makes a market in some if not all classes. Consequently, yield and price data obtained through observation of these various debt markets represent actual transactions of borrowers and lenders and also provide clear and irrefutable evidence of market yield (rate) requirements. Interest rates derived from actual market transactions are surely preferable to rates derived from hypothetical lenders, hypothetical loan terms and non-existent transactions.

The only concern of the court should be whether the most comparable alternative debt information has been utilized in the calculation of the new blended rate.

In a recent case pending before the United States Bankruptcy Court for the Central District of California, the following analysis was provided to the court in the form of an affidavit of expert witness testimony:

#### **Analysis:**

An initial step in the procedure of deriving appropriate interest rates for a petitioner is a search for comparable transactions. Due to the state of the economy, the federal regulatory environment and the real estate loan markets, debt capital is virtually unavailable for projects of this type at this time.

In fashioning an interest rate, a risk premium is added to a specified base rate. The perceived degree of risk would determine the interest rate and other terms of the loan.

#### **Rate Recommendation:**

The appropriate rate for a five-year loan on the subject apartment project would be the current yield on secured liquid mortgage backed securities, plus a risk premium for credit worthiness/default risk, value and liquidity of the underlying property, and the liquidity/salability of the loan. The petitioner seeks a five-year extension of an existing loan, currently due and in default. The five-year Treasury rate as per the May 25, 1993, *Wall Street Journal*, was approximately 5.36%. In the absence of numerous current apartment loan transactions, it is reasonable to assume that an appropriate rate risk premium should not be less than the bond yield premium earned by lower credit rated bonds over equivalent term Treasury obligations. The May 25, 1993, *Wall Street Journal*, page C23, cites high yield bonds. The average of all high yield bond quotes was 9.69%, or 4.33% above the five-year Treasury yield. Since both classes are highly liquid, the rate premium is due entirely to the inherent risks of default and to loss associated with risky corporate obligations versus U.S. bonds and notes.

The May 25, 1993, *Wall Street Journal* also provides current yield information regarding conventional single-family residential mortgage loans and mortgage backed securities. Page C17 provides a money rate summary which reports

that posted yields on 30-year mortgage commitments for standard conventional fixed-rate mortgages were 7.32% to 7.42% at the Federal National Mortgage Association and 7.39% to 7.49% at the Federal Home Loan Mortgage Corporation. These loans are highly liquid and suffer far less mortgage default risk since these are loans on owner-occupied, single-family homes.

Page C20 of the May 25, 1993, *Wall Street Journal* cites current mortgage backed security yields. These securities are secured, liquid and issued or guaranteed by federal or federally related agencies. Despite the overwhelmingly low degree of illiquidity and risk associated with these mortgage derivative investments, obligations with 5.7 to 5.9 year weighted-average life yielded 6.54% to 7.01%.

Taking a somewhat longer view of a five-year loan request, a comparison was performed of the average interest rates on a cross-section of investment instruments from January 1977 through December 1992. The table below summarizes some of these comparisons:

	Average Interest Rate			
	Prime Rate	30-Year Treasury	Corporate Bonds	Conventional Mortgages
1/77-12/92 (16 years)	10.77	9.73	10.37	11.53
1/87-12/92 (6 years)	8.85	8.40	9.10	9.77
1/90-12/92 (3 years)	8.23	8.14	8.24	9.26

As shown in the above table displaying both short- and longer-term average interest rates, a 10% to 11% range is not a significant departure from past market conditions. This range is supportable either on current market yield/risk premium information or in terms of longer-term average market rates.

In conclusion, since high risk bonds command a 4.3% risk premium over U.S. Treasury obligations, it is reasonable to expect high risk mortgages to yield a similar risk premium over guaranteed liquid mortgage backed securities. As previously stated, government backed mortgage securities are currently yielding from 6.5% to 7.0%. When a 4.3% default/liquidity risk premium is added to the range above, an appropriate rate for the subject property would be between 10.8% and 11.3%."

The purpose of the above testimony was to provide the court with a preponderance of evidence which would lead to the same conclusion. Once a base rate and risk premium are determined, provide concurring evidence to illustrate the reasonableness of the forced rate.

## Conclusion

Vastly reduced mortgage lending activity has led to the virtual absence of third-party loan transactions to serve as a benchmark in determining appropriate mortgage cram-down rates. Yet in each plan of reorganization, the court must find a rate which provides the secured lender with the same present value as the original loan. Alternative debt instruments, such as bonds and mortgage derivatives, give the court a basis for rational risk premium and rate comparisons. In doing so, sheer speculation on vague hypothetical rates is avoided and a more accurate, empirically based determination is more likely for equal treatment of debtors and creditors alike.

## NOTES

1. Brueggeman, William B. "A Progress Report on Conditions in the Commercial Mortgage Market" (Goldman Sacks), Jan. 1993.
2. Due to the similarity of the statutory language, courts have accorded precedential weight to discount (interest) rate cases decided under chapters of the Bankruptcy Code *other* than the chapter then before the court (i.e., Chapter 13 in Chapter 11, Chapter 13 in Chapter 12). See, e.g., *in re Edwardson*, 74 Bankr. 831, 836 (Bankr. D.N.D. 1987); *In re Doud*, 74 Bankr. 865, 867 (Bankr. S.D. Iowa 1987).
3. See, e.g. 11 U.S.C. §§ 1129(b)(2)(A), 1225(a)(5)(B) & 1325(a)(5).
4. *Collier On Bankruptcy* defines present value as follows: "Present value" is a term of art for an almost self-evident proposition: a dollar in hand today is worth more than a dollar to be received a day, a month or a year hence. Part of the "present value" concept may be expressed by a corollary proposition: a dollar in hand today is worth exactly the same as (1) a dollar to be received a day, a month, or a year hence, plus (2) the rate of interest which the dollar would earn if invested at an appropriate interest rate.
5. In a nonbankruptcy context, the lender can hedge the rate risk by making a variable rate loan. Such a loan transfers all rate risks to the borrower, making it extremely difficult to meet the reorganization plan confirmation requirement that the plan of reorganization be shown to be feasible. See, e.g. Bankruptcy Code Section 1129(a)11 and *United States v. Neal Pharmacal Co.*, 789 F.2d 1283 (8th Cir. 1986).
6. 11 U.S.C. § 506(a).
7. *In re Jones*, 32 Bankr. 951, 958, n.12 (Bankr. D. Utah 1983).
8. See *United States v. Southern States Motor Inns, Inc.* 709 F.2d 647, 651-53 (11th Cir. 1983) [use market rate without reduction for "rehabilitative aspects"]; *Memphis Bank and Trust Co. v. Whitman*, 692 F.2d 427, 431 (6th Cir. 1982) [current market rate for similar loans in the same geographic region—Chapter 13 case]; *In re Camino Real Landscape Maint. Contractors (United States v. Camino Real Maint. Contracts, Inc.)*, 818 F.2d 1503-1506 (9th Cir. 1987) [". . . the rate of interest on deferred taxes should be the rate of interest that the debtor would pay to borrow a similar amount on similar terms in the commercial loan market."]; and *In re Patterson*, 86 Bankr. 226 (Bankr. 9th Cir. 1988).
9. See, *In re Einspahr*, 30 Bankr. 356 (Bankr. E.D. Pa. 1983) [". . . the parties agreed [that the contract rate] was a fair return to the secured creditor over an extended period of time."]; *In re Frey*, 34 Bankr. 607, 611 (Bankr. M.D. Pa. 1983); *In re Smith*, 4 Bankr. 12-13 (Bankr. E.D.N.Y. 1980) [presumption that contract rate and discount (interest) rate are the same—Chapter 13 case]; *Prudential Ins. Co. v. Monnier (In re Monnier)*, 755 F.2d 1336, 1339 (8th Cir. 1985) [contract rate reflective of the market rate and therefore an appropriate discount (interest) rate].
10. See, *In re Johnston*, 44 Bankr. 667, 670 (Bankr. W.D. Mo. 1984) [Chapter 13 case]; *In re Marx*, 11 Bankr. 819, 822 (Bankr. S.D. Ohio 1981) [8% legal rate provided for under Ohio state law—Chapter 13 cases]; and *In re C & P Gray Farms, Inc.*, 70 Bankr. 704, 707 (Bankr. W.D. Mo. 1987) [market rate presumed to be legal rate].

