GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE

March 30, 2018

Federal Housing Finance Agency
Office of Housing and Regulatory Policy
400 7th Street SW, 9th Floor
Washington, D.C., 20219

Re: Credit Score Request for Input

Dear Director Watt:

As the chief legal officer for the District of Columbia, I represent the District in matters of public interest, and I enforce the District's laws, including laws that protect consumers, prohibit discrimination, and prohibit anticompetitive practices. One of my Office's primary focuses has been ensuring access to affordable and safe housing for District residents. Thank you for the opportunity to respond and comment on FHFA's Request for Input on Fannie Mae and Freddie Mac's (the Enterprises) credit score requirement.

It is encouraging that the FHFA is considering changing the credit score requirement for the Enterprises. The current Classic FICO standard is problematic for many reasons. As the Urban Institute noted last summer, Classic FICO does not distinguish between first and second mortgages, and includes paid collections. Urban Institute, *In Need of Update: Credit Scoring in the Mortgage Market*, July 2017, https://www.urban.org/research/publication/need-update-credit-scoring-mortgage-market. As such, Classic FICO credit scores may not fairly reflect the creditworthiness of potential borrowers.

In addition, credit scoring in general, but Classic FICO in particular, perpetuates historic discrimination in mortgage lending to the detriment of communities that are protected by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.* (FHA). Study after study has found that African American and Latino communities have lower credit scores as a group than whites. *See* National Consumer Law Center, *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination*, May 2016, https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf;

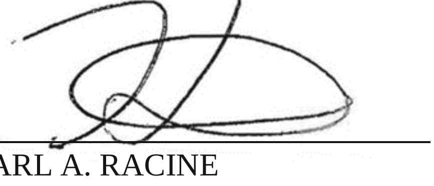
Lisa Rice & Deidre Swesnik, *Discriminatory Effects of Credit Scoring in Communities of Color*, 46 Suffolk U.L. Rev. 935 (2013). This is due to a variety of factors, including past redlining and reverse redlining. Unfair limitations on access to credit in the past result in lower credit scores, which make it harder for communities of color to access new credit. Moreover, African American and Hispanic consumers are more likely to not have a credit score at all because their histories were too limited or old to generate a credit score. *See* Consumer Financial Protection Bureau, *Data Point: Credit Invisibles*, May 2015, http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf.

The outdated scoring model currently used by the Enterprises effectively disqualifies many potential borrowers, including borrowers protected by fair housing and fair lending laws. It also punishes other borrowers, who would have a more favorable credit score under an updated model, who end up paying more for their mortgages due to their credit scores under Classic FICO. The required use of Classic FICO by the Enterprises thus makes it harder to protect consumers and fight discrimination in mortgage lending.

I support your effort to update the Enterprises' credit score requirement from the current Classic FICO standard. It is important for the FHFA to explore newer scoring models that take into account additional means for building credit history, and discount poor predictors of risk. Other credit providers have explored and used more current credit scoring models. The credit score models that the FHFA is currently considering, FICO 9 and VantageScore 3.0, both better predict credit worthiness for consumers with paid collections, unpaid medical debts, and limited credit histories. *See* Urban Institute, *supra*. Updated credit models give more consumers a better chance of owning a home by more fairly assessing their creditworthiness.

To answer Question A1.6 directly, and Questions A2.8 and A3.1 indirectly, I believe Options 2 (Require Both) and 4 (Waterfall) would make it easier to assess risk and creditworthiness of potential borrowers, potentially make credit more available to qualified borrowers, and prevent one company from having a monopoly in the mortgage lending market. It is not necessary to the stability of the Enterprises to effectively provide one credit scoring company a monopoly. Competition in the credit scoring models can lead to adaptation and innovation in the calculation of credit scores that can lead to a more inclusive housing and lending market without introducing unnecessary risk.

Sincerely,



KARL A. RACINE
Attorney General for the District of Columbia