March 14, 2019

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 Seventh Street, S.W.
Washington, DC 20219

Re: FHFA's Proposed Rule for Validation and Approval of Credit Score Models
RIN 2590-AA98

Dear Mr. Pollard:

The America's Homeowner Alliance (AHA) is a non-profit, membership-based organization with a simple mission: *"*To protect and promote sustainable homeownership for all segments of America."[1] The last four words of that mission statement - *all segments of America* - are the primary reason we're responding to your proposed rule.

From all the research we have gathered, we believe that millions of creditworthy consumers are being underserved because they are either "boxed out" of opportunity for consideration of a mortgage, or potentially "priced out" because of continued restrictions on competition in credit scoring models used to determine eligibility for mortgages sold to Fannie Mae or Freddie Mac (commonly referred to as the "Government Sponsored Enterprises" or "GSEs").

Current GSE policy and this proposed rule conflicts with our mission statement; frustrate opportunity for millions of consumers; contradict the intent of Section 310 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub.L. 115-174 ("EGRRCPA"); and perpetuates the existing credit scoring monopoly in the mortgage sector that potentially excludes millions of creditworthy borrowers from realizing the dream of homeownership.

Specifically, AHA contends (in order of the appearance in the proposed rule):

(1) Regarding the timing of the "Credit Score Solicitation": The "open season" period for credit

[1] America's Homeowner Alliance is a 501(c)(4) organized under the non-profit laws of Missouri. www.myaha.com

score model application should occur more often than every seven years. Demographic shifts warrant frequent review of credit scoring models and the innovation in data use and credit score model advancements demand that new models should be frequently presented for validation, approval, and authorization for use in the marketplace. A significant oversight in the proposed rule is the lack of period review of the existing required credit scoring model.

The changes in demographics are coming so fast, as are changes in payment habits, credit usage, economic cycles and sources of alternative data that suggesting 7 years or longer between applications for alternative credit scoring models appears to be another road block to the spirit of competition spelled out in EGRRCPA. The Harvard Joint Center for Housing Studies forecasts that more than 75% of the new household formation in America over the next 20 years will be people of color. Small percentages of those people were represented in the attributes used to construct the FICO Classic credit scoring model mandated by the GSEs today (which we understand is based on data collected from 1995 to 2000). In fact, many of the new households forecasted by the Harvard Joint Center weren't even born when that FICO Classic model was created. New scoring models will foster innovation and likely spur outreach by model developers to assimilate better sources of data – such as rent payments – cell phone payments – and consumer permissioned data. Competition should result in more predictive and precise assessment of consumer creditworthiness and accelerate credit decisions, leading to reduced time and cost for consumers

AHA recommends an annual (or more frequent) authorization for submission of new credit scoring models and periodic (maybe every five years) re-review of existing approved models.

(2) Regarding the "Credit Score Assessment" and "Enterprise Business Assessment": The required cost benefit analysis in the proposed rule is fatally flawed because (a) it lacks specificity on burden and cost to the applicant; (b) does not adequately accommodate consumer concerns, as required under the GSEs' charters.

> (a) In the proposed rule, when a cost-benefit analysis is referenced, considerations are weighed entirely in the interests of the Enterprises and their customers (lenders). There is no consideration of the impact upon consumer access to credit or qualification. The preamble to the rule wrongly asserts that any change to credit score model would result in a aggregated neutrality with some borrowers included and some excluded with any change, "While a newer credit score model would likely be more accurate than an existing credit score model, a borrower's credit score is not the only factor used by an Enterprise AUS to make a purchase decision, reducing the significance of any improvement in accuracy." The concept that a third-party credit score is used at all in a credit decision makes it a vital part of the analysis of consumer access to credit. To disregard or offset its impact without demonstrable empirical data, nor the ability for the public to challenge the assertion that credit access is not improved is troubling in a public rulemaking of such significance to aspiring homeowners.
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> We are aware that the cost to produce a mortgage by a lender has material impact on consumer access to credit. We sympathize with the argument that system upgrades to accommodate newly approved score models will impose additional costs to produce a loan, we do not agree that the threat of costs outweigh the consumers right to a loan

financed (in part) by an Enterprise and regulated by the FHFA. The proposed rule must include a requirement for a specific and robust analysis of the credit score model developers' application that takes into account the potential loss of consumer access and the downstream effects on the economy of delayed homeownership opportunity against the ability of lenders and the Enterprises to provide a reasonable return to shareholders. In contrast, we believe that more accurate credit score models will actually bring down the cost of credit to consumers. Not only would credit risk be better analyzed, the innovation of the market could significantly reduce the cost to produce a mortgage. The cost to produce a single-family mortgage loan by Lenders (passed on to consumers) recently reached $9,000 per loan – nearly twice the cost of a few years ago. A contributing factor includes the difficulty in verifying debts and income, which is something a potentially innovative credit score model developer could assist, based on its access to data.

(b) Embedded within the proposal are subjective and undefined requirements for expansive cost-benefit analysis to be conducted at the expense of the applicant credit score model developer. The "cost benefit analysis" could include an "Enterprise business assessment" and "impact on market liquidity" When taken together, these requirements result in an onerous process seemingly designed to discourage application. It seems impossible to imagine that any private enterprise would allow themselves to be subject to such studies that have unlimited time duration, unlimited scope and unlimited cost. This seems particularly unfair since the existing credit model required to be used by the GSEs has never been similarly exposed to these onerous, undefined and unlimited cost burden requirements.

Our research leads us to question whether any such condition was required by the GSEs for historical activities with as much or more impact on the organization, consumers, lenders and market liquidity. If the pattern of practice at the GSEs for 20 years or more was to **not** require such analysis – why now? [2] The pattern of practice at the GSEs has NOT been these rigorous cost-benefit analysis requirements. It seems the FHFA allowing such a unique cost benefit analysis (with all the unknown criteria and unlimited costs) in this proposed rule would have a chilling effect on competition in credit scoring models for mortgages in America. It seems to be put in for the sole reason of creating a barrier to entry, knowing

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[2] Some of those materially impactful changes at the GSEs that were introduced to the market without a public cost-benefit analysis include:
- The open auction process conversion from an "Every Friday" open auction process to an open every day "cash window" process for purchasing loans;
- The development and roll-out of the tacit required use of GSE owned and controlled Automated Underwriting Systems
- The formation and facilitation of a TBA market structure for GSE mortgage backed securities;
- The decision to create and mandate Loan Level Price Adjustments on certain mortgage loans;
- The construction and implementation of the Private Mortgage Insurance Eligibility Requirements;
- The development, construction and roll-out of the Common Security Platform;
- The decision to create and implement Enterprise Paid Mortgage Insurance;
- The decision on the single-family rental support program (Invitation Homes); and
- The decision to create, develop and implement a direct to consumer mobile app known as "HOME."

full well that private enterprise would not prudently authorize such an expensive fishing expedition. History has shown no reason or purpose for the GSEs to perform such a unique and ambiguous analysis- its inclusion here needs explanation. Fixed duration and cost limitations are essential in order to support a meaningful, competitive process by which credit score models can be evaluated.

Instead, because there is no such mention of such an unlimited cost-benefit analysis in the spirit or intent of authorizing legislation (EGRRCPA), AHA requests that ANY cost-benefit analysis allowed or required be completed in 60 days or less, with a maximum cost to the credit scoring model developer of $50,000 and include impact upon consumer credit qualification.

(3) Regarding "Credit Score Model Developer Independence": Inclusion of ownership structure as eligibility criteria seems unnecessarily specific considering the generality of the rest of the rule and should be struck and prohibitions on further GSE intrusion upon this primary market should be included.

(a) Ownership Structure: Upon closer examination, it appears the anti-trust concerns about credit score model competition is already a matter of settled law as a result of an unsuccessful antitrust action brought against VantageScore by FICO between 2006 and 2009. We question the FHFA's decision to insert itself in the settled case and second guess the ruling therein. Any hypothetical concern about constricting access to data or unfair cost that might negatively impact FICO or any other competitor to VantageScore have already been settled in the free market.

We believe there are many laws that protect companies from Anti-Competitive behavior. It seems the Sherman Act, parts of the Clayton Act, and the Federal Trade Commission Act protect against the very hypothetical thing FHFA may be worried about. But on the contrary, who is protecting the rights of the individual consumer boxed out of opportunity because of the current monopoly practice?

FICO and VantageScore (and others) have competed for 12 years without any apparent concern about data access or cost raised by any competing credit score model developer. It appears there has been head-to-head competition between FICO and other credit scoring models in the marketplace for more than 10 years in every other major credit sector of America (credit cards, auto, student loans, personal lines and loans, etc.) and to our knowledge, there has not been a single complaint about a constriction of access to data directed at the three major credit bureaus or any examples of anti-competitive pricing that would have impinged opportunity for FICO or others.

In fact, the contrary is true. Because the GSEs mandate the use of the outdated FICO Classic credit scoring model in their Seller-Servicer guides, FICO has a sanctioned monopoly and can raise prices to lenders (subsequently passed on to homeowners)…because there is no competition. Some of the latest quarterly earnings statements by FICO validate their random increases in their prices to the mortgage lenders.

(b) GSE vertical integration: Furthermore, the proposed rule states that concern about

vertical integration governs (in part) the decision to disallow companies who have a fractional ownership interest by a "consumer data provider."[3] We also have a material concern about the vertical and horizontal integration of the GSEs developing their own credit score modeling capability. Because the government provided statutory advantages and privileges to the GSEs for more than 25 years, no private sector company could possibly compete with them today, under current law. Because of their duopoly status, we recommend the GSEs be prohibited from producing their own credit scoring model(s), or from disintermediating the private sector credit scoring industry by simply eliminating the requirement for a third-party credit score entirely. The benefits and opportunities afforded the GSEs for 25 years or more simply cannot be allowed to manifest themselves in the take-over of another primary market function built to serve consumers in America. The private sector must be allowed to innovate and compete in the credit score model development space without continued monopoly control by the GSEs. The GSEs should not be allowed to compete in this arena. The FHFA must prohibit further encroachment by the GSEs into this primary market function.

The GSEs should be required to validate and approve third-party credit score models that meet reasonable standards and criteria established by FHFA and strike any eligibility criteria that considers the fractional ownership interest by a "consumer data provider".

(4) Pilot Initiatives: The proposed rule asks for input related to potential pilot initiatives that may be undertaken to expand opportunity for certain segments of the market. It specifically mentions "no score" consumers – which as we understand it would mean manually underwritten mortgage loans. The AHA strongly supports the approval of pilot initiatives – especially with credit scoring models not currently authorized by the GSEs. We've heard from numerous Lenders that they would like to participate in a pilot phase initiative with other competing credit score models currently not authorized by the GSEs that might allow Lenders to expand outreach and deliver more consumers to the threshold of underwriting in a fair and responsible manner. It is our understanding that some of those Lender pilot initiatives are either in process or being considered today. AHA would recommend examination and approval of those pilot initiatives with other competing credit scoring models immediately, not just for manually underwritten loans – but for affordable housing and other loans as well.

(5) Proposed Solutions: The final rule should encourage competition by having FHFA produce reasonable standards and criteria for credit score model developers to comply with the spirit and intent of the law; setting a reasonable timeframe for the GSEs to examine and validate credit scoring models as specified in the statute; and then allow lenders to select the approved model of their choosing.[4] We would encourage lenders to select their preferred credit scoring model to meet their credit risk and fair lending requirements and stay with that particular model for a reasonable duration of time to mitigate the potential for "credit score shopping" of consumers.

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[3] We assume the phrase "consumer data provider" is equivalent to a consumer credit bureau.
[4] The process of establishing minimum standards that allows for multiple market participants to compete for lenders' business is similar to those in place for private mortgage insurance and certain types of loan sub-servicers. A similar process should be adopted for credit score model developers.

During these past 12 years or so while FICO was the credit scoring model exclusively required for mortgages sold to the GSEs, this is what happened to the homeowners and aspiring homeowners of America:

- From 2006-2011, single family homeowners lost approximately $7 trillion of aggregate value in their homes.
- Millions of homeowners lost their homes or had to sell at a loss.
- The rate of homeownership in America recently dropped to its lowest level in 50 years.

These facts are undoubtedly some of the reasons why EGRRCPA passed into law mandating new credit scoring competition – because competition in credit scoring would bring about more predictive and precise models – more innovation – and may bring down the cost and expand fair and responsible opportunity for the consumer. And yet the proposed rule frustrates these opportunities in so many ways.

Conclusion

EGRRCPA's credit score competition provision seems to be easy to read and interpret. It appears Congress intended FHFA to write the standards and criteria for which the GSEs would use to validate and approve competitive credit scoring models. Nowhere in the bill did we find a suggestion from Congress that FHFA should eliminate good, solid credit scoring models because of a question of fractional ownership interests of "consumer data providers" (which we assume means – Credit Bureaus). To highlight this issue, how would mortgages be produced in America if the Credit Bureaus were to buy one share of stock in FICO thereby eliminating FICO as an approved credit scoring model as well?

FHFA should set the standards and criteria – reasonably. The GSEs should validate the models and approve them in a timely fashion. Lenders should select the credit score model that they trust will give them the best risk management tool and fair and responsible expanded opportunity for their customers. Once they select an approved model, they should be required to stick with it for a reasonable period of time (maybe a year). Then they should be free to re-evaluate.

Congress demanded competition. Consumers demand it as well. America's Homeowner Alliance will not stop advocating for credit score competition that helps achieve sustainable homeownership for all segments of America – fairly and responsibly. We certainly are not suggesting that underwriting standards be relaxed to allow for substandard mortgages to be produced. But we have seen industry reports that as many as 40 million more people would be able to obtain a credit score using VantageScore 4.0. By providing a score, maybe some of those people will be able to get into the mainstream of financial services and stop having to live in the credit "underworld" of pay-day lending and the like. And maybe some of those 40 million would be mortgage eligible now or sometime soon.

With the tsunami of changing demographics and persistent need for homeownership in America,

we must open more doors of opportunity – in a fair and responsible way. That includes allowing competition in Credit Scoring model development and eliminating the government sanctioned monopoly in the mortgage sector. This proposed rule fails to achieve that objective.

On behalf of existing and aspiring homeowners we ask you to change the rule to meet the intent of the law and comply with the timeline spelled out in the law. Time is not on our side. Homeownership demands are expanding. Congress recognized this and passed a law to help facilitate competition and opportunity. We ask that you recognize these forces and allow competition in credit scoring model development in a fair and responsible way as the law demands.

Thank you for your consideration.

Respectfully,

Tino Diaz
Managing Director
America's Homeowner Alliance