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March 21, 2019

Alfred M. Pollard, Esq.
General Counsel
Attention: Comments/RIN 2590–AA98
Federal Housing Finance Agency
Eighth Floor
400 Seventh Street, S.W.
Washington, DC 20219

Re: Validation and Approval of Credit Score Models

Dear Mr. Pollard:

Thank you for the opportunity to comment on FHFA's proposed rule to allow competition among credit score model developers and lender choice regarding the credit scoring models to be used when originating mortgages intended to be sold to Fannie Mae or Freddie Mac.

As you undoubtedly are aware, this is the culmination of an extensive amount of discussion, research and policy making. We appreciate, as do you, the complexity and far-reaching implications of a change in the use of a credit scoring model. After such judicious consideration, it's imperative for the industry and for the American people that FHFA gets this right.

The following comments are organized around five themes:

- *First,* we address the competitive statements made by FHFA and the false threat of vertical integration.
- *Second,* we share a number of recommendations related to the timing and scope of the process.
- *Third*, we state the need for transparency to support competitive markets during and beyond the transition.
- *Fourth,* we address the "Race-to-the-Bottom" issue and explain how Sec. 310 of Public Law 115-174 definitively disposes of that issue.

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- *Fifth,* we establish why lender choice is the right way to encourage innovation and, as such, has widespread support among lenders and trade groups, consumer groups, and consumers themselves.

We also encourage FHFA to review last year's Request for Input ("RFI") responses submitted by VantageScore and by our outside counsel, Berens & Miller.[1]

About VantageScore Solutions, LLC

Formed in March 2006, when the original VantageScore model was introduced, VantageScore Solutions is an independently managed company equally owned by Experian, Equifax and TransUnion (collectively referred to as "the bureaus"). VantageScore Solutions develops and owns the VantageScore credit scoring models. To date, VantageScore Solutions has introduced and supported four distinct models into the marketplace. VantageScore Solutions is also responsible for the continued maintenance and revalidation of the complex mathematics that underpin the VantageScore models.

VantageScore Solutions does not market the VantageScore models, does not sell credit scores, and does not own credit report data. The VantageScore models and VantageScore credit scores are marketed and sold independently by the three bureaus through licensing agreements with VantageScore Solutions.

The bureaus are responsible for collecting and managing credit report data. The bureaus also sell some of their own proprietary models and products, and all also sell FICO's credit scoring models.

The mission of VantageScore Solutions is to:

- Ensure the VantageScore models' consistency and performance over time through frequent revalidations
- Enhance the VantageScore model as needed to reflect changing economic conditions and consumer behaviors
- Provide educational material and analyses
- Educate regulators and rating agencies
- Monitor how credit reporting changes and practices impact the VantageScore models

Usage of VantageScore credit scores is deep and mainstream. They are used in all credit categories except the mortgage market. According to research from the global management consulting firm Oliver

[1] *See* VantageScore's and Berens & Miller's RFI responses here and here. We ask that the FHFA incorporate those two RFI responses into the record regarding FHFA's proposed rule.

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Wyman, more than 2,800 organizations (of which 2,500 were financial institutions) used almost 10.5 billion VantageScore credit scores in the time period between July 1, 2017 and June 30, 2018.

Background on Section 310 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018

As you know, the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Public Law 115-174) included Section 310 to address the fact that a single brand of credit score has enjoyed a monopoly in the mortgage industry. The text of Section 310, in fact, was adapted from a standalone bill entitled, more directly, the "Credit Score Competition Act" (S. 1685 / H.R. 898). There is no question about what Congress intended in passing Section 310. The message is clear and unambiguous: create a competitive market between credit score model developers in order to drive innovation, benefit future consumers and provide lenders with the opportunity to choose from among validated and approved credit scoring models.

We believe that FHFA's rule as proposed runs counter to the intention of Congress and the principles of competitive markets. Rather than introduce competition, if the rule were to be adopted as proposed, it would perpetuate the current monopoly. Through the current rulemaking process, FHFA has a unique opportunity to introduce transparency and encourage new model developers to enter the market. However, the rule as proposed would instead create an unnecessarily burdensome, time-consuming, bureaucratic, and anticompetitive process, to the detriment of the industry and the American consumer.

Much has changed in the nearly two decades since the "Legacy FICO"[2] models were built, introduced in the marketplace, and exclusively mandated by Fannie Mae and Freddie Mac.

Over the intervening years, advances in computing power, coupled with refinements in the analytical sciences, have enabled new entrants in the credit scoring marketplace to develop more predictive and inclusive models than Legacy FICO. Improvements in data collection have also created a more robust and accurate view of consumer behaviors, which has further fueled the development of stronger credit scoring models.

[2] Please note that the term "Classic FICO" is not specific to the three different models currently required by the Enterprises. FICO uses the "classic" designation to describe several different generations of models which date back to the 1990s. The current group of models required by the Enterprises, which we refer to throughout this letter as "Legacy FICO," were built prior to the 2008 recession using data from July 1995-97, July 1998-2000, and October 1998-2000.

VantageScore

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At the same time, as the macroeconomic environment has evolved and consumer attitudes and lending strategies have changed, newer models have been able to incorporate this information into their predictions, allowing a higher level of representativeness and accuracy.

Each of these factors will continue to evolve, and the pace of change stands poised to quicken significantly with changing demographics. FHFA has a unique opportunity to create a meaningful incentive for model developers to innovate and adapt – just as the GSEs have been doing with their own internal decisioning processes, and just as the new law demands.

As the Policy & Economic Research Council, which has conducted extensive research on the credit reporting and scoring ecosystem, wrote:

> *It is important that the FHFA and the GSEs do not simply update a credit score and leave the process as inflexible as it has been. It is far more important to update their systems, guidelines, and procedures to be more flexible so they can more easily make future updates and incorporate other scores and new data.*[3]

1. Competition benefits borrowers and lenders and VantageScore does not pose a threat

Legacy FICO has the highly unusual distinction of enjoying a de facto, government-sanctioned monopoly in the mortgage market, which relegates this sector to the unique status of being the only consumer lending asset class that does not allow competing credit scoring models to be used in its processes. This arbitrary and inflexible requirement (first made by Fannie Mae and Freddie Mac but subsequently sanctioned by FHFA as regulator and conservator) mandating the use of credit scoring models developed approximately 20 years ago has, in turn, caused the entire supply chain to “build in” and come to rely upon a single provider.

The anti-competitive nature of this requirement was confirmed on one occasion when FICO CEO Will Lansing was asked whether investors should be worried about FICO being displaced at the GSEs. His brief reply spoke volumes: “… we’re kind of designed in, in a lot of places … Fannie and Freddie have mandated that FICO Scores have to be part of a mortgage origination. So that puts you in a very low risk territory.”[4]

[3] Patrick Walker, Policy & Economic Research Council, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 6 (Mar. 30, 2018).
[4] Remarks at Morgan Stanley Technology, Media, and Telecom Conference in California on February 27, 2013.

VantageScore

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The rule FHFA has proposed to implement Sec. 310, while nominally intended to allow competition, would actually perpetuate the existing monopoly that motivated the authors of Sec. 310. More specifically, as FHFA writes, "The proposed rule would prohibit…any credit score model developed by a company that is related to a consumer data provider through any common ownership or control."[5] This prohibition would eliminate FICO's only current potential competitor[6] and disincentivize any other new entrants, stifling innovation and potentially leading to higher prices for credit scores.

FHFA notes, "the proposed rule seeks to avoid a possible negative impact on competition among credit score models."[7] FHFA notes separately, "[v]ertical integration with a credit score model developer could, in theory or practice, permit the CRA to sell credit scores constructed from data…that the CRA owns more cheaply."[8] FHFA concludes by requesting comment on "other safeguards that could address or avoid such concerns."[9]

Objectively, it is difficult to imagine a situation that has a greater negative impact upon competition than the current monopoly. The proposed prohibition seeks to prevent a hypothetical situation in which the three owners of VantageScore could conspire to price FICO out of the market, eventually replacing one monopoly with another. However, any such activity is expressly prohibited by the Sherman Act, the Clayton Act, and several decades of antitrust case law. The antitrust statutes are very clearly designed to prevent exactly the type of anticompetitive behavior the FHFA is concerned about and if necessary, those statutes may be readily invoked to provide relief.

More practically speaking, concerns about anticompetitive behavior or vertical integration are not relevant to this process for the following reasons:

1. VantageScore doesn't sell anything;
2. VantageScore's owners (the three credit reporting companies) are strong competitors and freely compete with each other when promoting VantageScore;
3. VantageScore's owners have their own proprietary models that compete with VantageScore;
4. Two of VantageScore's three owners (Equifax and Experian) have joint models with FICO; and

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[5] *See* Validation and Approval of Credit Score Models, 83 Fed. Reg. 65575, 65579 (proposed Dec. 21, 2018)(to be codified at 12 C.F.R. § 1254).
[6] VantageScore is the only model developer that offers a generic credit scoring model that can be used across Equifax, Experian, and TransUnion. This supports the current tri-merge requirement.
[7] 83 Fed. Reg. at 65579.
[8] *Id.*
[9] *Id.*

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5. VantageScore's three owners sell FICO credit scoring products.

While we believe the information provided above is sufficient to allay any concerns regarding vertical integration, we also note that under no circumstances should preserving the long-standing FICO monopoly (with its inherent monopolist pricing power) be viewed as the best public policy. Clearly the public and industry's interest would best be served by the establishment of the competitive market envisioned by Congress when it crafted the language of Sec. 310. Moreover, continuing the existing monopoly, in the hopes of avoiding possible future anticompetitive behavior, only ensures an ongoing anticompetitive situation while permitting choice in the mortgage marketplace would foster true competition.

When companies compete in a marketplace, that competition generally accrues to the benefit of consumers. This is particularly true in the technology space, where prices and costs generally decline as technology ages. Yet even though FICO has continued to offer the same model based on the same underlying technology for a number of years, public statements made by FICO and equity analysts indicate that FICO has been able to increase its pricing.

For example, in 2018, FICO introduced a "special assessment" to increase the price paid by mortgage lenders (but not other consumer lenders) for FICO Scores. This increase was substantial: when asked last year about FICO's surging revenues, FICO CEO Will Lansing explained, "…the majority of that growth rate of course came from the mortgage repricing…"[10]

Industry analysts have also noted recently the substantial growth in FICO's earnings. In a report dated March 11, 2019, a Barclay's analysts noted that, "On the Scores side, we think +LDD[11] growth for the next several years is reasonable (similar to our +13% in FY19; & upside to our +7% 2020-2022); given ***a) B2B pricing power, which remains a matter of 'when' & not 'if' for re-pricing (maybe not the triple-digit increases seen in mortgages last year, but significant)*** and inflation+ from there on (with the ability to flex more in periods of volume slowdown)." (emphasis added).

These pricing increases and business practices exemplify the unfair advantage FICO enjoys due to its monopolist status. And in the end, it is the consumer who always pays.

We echo the opinion expressed by VantageScore's outside antitrust counsel, Barbara Berens, in comments she submitted in response to FHFA's December 2017 Credit Score Request for Information: "the notion that FICO will somehow be driven from the mortgage market if it were to be faced with

[10] FICO Earnings Call, 11/1/2018, Will Lansing.
[11] "+LLD growth" refers to positive low double-digit growth.

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legitimate competition for the first time is nothing more than a scare tactic." This was the exact premise of an unsuccessful lawsuit FICO brought against VantageScore and its owners in 2006 in an effort to drive VantageScore out of business. In ruling against FICO, U.S. District Judge Ann Montgomery wrote:

> *Fair Isaac's antitrust claims suffer from a fundamental, indeed fatal, flaw. The alleged conspiracy does not employ tactics that seek to destroy or cut off competition before it even has a chance to take hold; rather, the alleged conspiracy is dependent on convincing the market…that greater value can be realized by switching from FICO scores to VantageScore credit scores. This is the very essence of competition….*[12]

FICO, VantageScore, and other model developers compete openly in other sectors of consumer lending. That competition has driven new generations of models that are more accurate and more inclusive. It has pushed developers to look for new sources of data and new analytical techniques. And, critically, it has resulted in great strides in transparency.

We are also proud to be the first credit score widely used by lenders to be delivered for free to consumers, and we are equally proud that FICO subsequently followed suit. Today, as the result of competition, tens of millions of consumers with credit scores may view those scores for free to help them manage their credit health.

The bottom line is that the proposed rule would insulate the current monopoly from legitimate competition to the detriment of lenders and consumers alike, without any corresponding benefit. We strongly urge FHFA to eliminate from the final rule implementing Sec. 310 any language that could be construed as limiting true credit score competition and lender choice.

2. The assessment process is unnecessarily burdensome and violates the timing prescribed by law

While the proscription against models developed by data owners would have a chilling and continued impact on competition, the proposed scope and timeline of the assessment would further discourage new entrants.

The intention of Congress in establishing a statutory timeline was to signal to developers a willingness to consider new models. That is the mechanism for driving competition. Yet the proposed rule provides that FHFA may require a solicitation every seven years (at its discretion, the period of time could be

[12] *Fair Isaac Corp. v. Experian Info. Solutions, Inc.*, 645 F. Supp. 2d 734, 752 (D. Minn. 2009).

VantageScore
Barrett Burns President & CEO barrettburns@vantagescore.com

longer)[13] and would prevent either Enterprise from considering applications received outside of an FHFA mandated solicitation.[14] The proposed rule also gives each Enterprise six months to design and conduct a solicitation and another 16 months to complete its assessment, fully double the 240 days established by statute. That in turn begins the process of implementation which, at the Enterprise's discretion, could be another 18-24 months or longer.[15] The total process as proposed could run more than a decade without any guarantee of occurring at all. This long, drawn out process does not encourage the competition contemplated by Sec. 310.

In addition to far exceeding the statutory timeline, which calls for full implementation of the credit score competition requirements of Sec. 310 by June 18th of this year (or at the latest, by August 17th of this year if two "for cause" extensions were to be granted), the proposed rule would establish an Enterprise Business Assessment that is not required by Sec. 310 and is not only excessively burdensome but wholly unnecessary.

The Enterprise Business Assessment further requires what amounts to a vendor review of the model developer. The model developer, however, is not necessarily a vendor. The entities that calculate and sell or receive a royalty from the sale of credit scores (the bureaus and their re-seller partners) are vendors – but not pure model developers like VantageScore Solutions. Model developers are responsible for developing and auditing the installation of the model and product support, but these functions differ from those of a vendor. Therefore, FHFA's assertion that "the Enterprise[s] must be reasonably assured that the type of credit score it specifies will be available within the market" does not justify the very burdensome assessment that FHFA proposes.[16]

The notice of proposed rulemaking further states that:

> *To understand the credit score model developer as a potential counterparty, the proposed rule would require each application to address the applicant-developer's corporate structure, governance structure, and financial performance, including audited financial statements for the three full years preceding the year of application.*[17]

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[13] "…the proposed rule would provide that FHFA require a solicitation every seven years…except as otherwise determined by FHFA." 83 Fed. Reg. at 65580.

[14] "An Enterprise would not be permitted to solicit applications except in response to a notice from FHFA." *Id.* at 65579.

[15] "Based on feedback from the Credit Score RFI, which indicated that it will take the industry approximately 18-24 months to adopt a new credit score model, the proposed rule would require an Enterprise to provide notice to the industry about expected timing…. " *Id.* at 65588.

[16] *Id.* at 65582.

[17] *Id.*

VantageScore
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Such a requirement would do little, if anything, to guarantee the continued availability of a scoring model. Such requirements could, however, require a substantial amount of time and resources while ruling out or discouraging potential new entrants. We believe that since credit score model developers are not counterparties, there is no need to require an assessment of developers at the rigorous level proposed.

3. FHFA can, and should, require transparency and cooperation from model developers as a condition of application

The industry and public discourse are rife with misinformation regarding the calculation and use of credit scores, in large part because they are typically viewed as being derived from impenetrable "black boxes." There are reasons for this: a scoring algorithm is itself the intellectual property of the model developer and, as such, each developer has a proprietary interest in ensuring that its competitors do not gain access to the company's intellectual property. That intellectual property, however, is limited to the underlying algorithm.

On the other hand, the results of statistical analyses of credit scores, Gini, KS, performance charts, etc., are not intellectual property. Since our inception, VantageScore has made such information publicly available on our website for anyone – lenders, consumers, academics, competitors – to review.[18] To date, certain other model developers have been unwilling to release the requisite data to make possible head-to-head comparisons between them and VantageScore's credit scoring models.

To enable viable comparisons of performance between scoring models, we propose that FHFA require as a condition of application in the final rule that the model developer allow the Enterprises to, in a timely manner, conduct attribute-level fair lending reviews and publish validation reports. This would support market confidence in new models and improve transparency without compromising any model developers' intellectual property.

We also recommend that the final rule contain language that would require model developers that work with the Enterprises to append their credit scores to historical, loan-level databases so that investors and ratings agencies can assess the relationships between: (a) different types of credit scores; and (b) credit scores and other factors that impact risk.

[18] To view the "VantageScore 4.0 2015-2017 Validation Study: Inaugural VantageScore 4.0 Trended Credit Data Model Validation" go to https://www.vantagescore.com/images/resources/20180905_Predictive%20VS%204%20Validation-ONLINE%20FNL.pdf.

VantageScore
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Several secondary market participants supported such recommendations when submitting comments through the RFI process:

> *Structured Finance Industry Group:* "We believe that significant historical data, excepting out personally identifiable information, that compares any proposed new product against Classic FICO is absolutely necessary in order for market participants to understand how a specified credit profile would 'score' using different modeling techniques and/or different scoring systems."[19]
>
> *Andrew Davison & Company:* "A data utility is needed that contains loan-level historical mortgage performance and includes both old and new credit scores. This would enable businesses, consumers, and investors to revise models and maintain a consistent understanding of scores and risk."[20]
>
> *Mortgage Bankers Association:* "The Enterprises' MBS/CRT disclosures, including historical disclosures, would likely need to be amended to provide greater information regarding the distribution of FICO 9 and VantageScore 3.0 scores."[21]

Since the 2008 housing crisis, the mortgage industry has made great strides in increasing transparency in the secondary market. We urge FHFA to extend this progress by requiring transparency as a precondition of market access for credit score model developers.

4. Congress has definitively disposed of the "Race-to-the-Bottom" issue

Although FHFA did not raise concerns about a possible "race to the bottom" in the current Notice of Proposed Rulemaking to implement Sec. 310, VantageScore would like to preemptively address that issue. It was raised before, when FHFA published its "Credit Score Request for Input" (RFI) in December 2017, and at least one comment letter submitted in response to the current rulemaking to implement Sec. 310 also raised the issue. We suspect others comment letters might raise it as well.

On page 19 of the RFI, FHFA wrote:

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[19] Richard Johns, Structured Finance Industry Group, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 2 (Mar. 30, 2018).
[20] Andrew Davison & Company, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA (Mar. 13, 2018).
[21] David H. Stevens, Mortgage Bankers Assoc., Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 8 (Mar. 30, 2018).

VantageScore
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> **Race to the Bottom Concerns**: A second aspect of competition that FHFA is considering is whether multiple credit scores in the mortgage underwriting process could result in model providers engaging in a "race to the bottom" that would lead to the deterioration of credit score accuracy in the long term and whether there are measures to adequately control this risk.[22]

On page 25 of the RFI FHFA asked:

> Question A3.5: Could competing credit scores in the mortgage underwriting process lead to a race to the bottom with different vendors competing for more and more customers? What steps could FHFA take to mitigate any race to the bottom?[23]

In a comment submitted in response to the RFI process, FICO EVP for Scores, Jim Wehmann, claimed (with no documentation to support his claim) that "'Lender choice' will not drive innovation in credit scoring; it will lead to competition based on the number of consumers scored, encouraging a potential 'race to the bottom' among credit score providers."[24]

That sentiment was echoed by a number of FICO's paid consultants in comment letters they also filed.

Actual marketplace experience in other sectors demonstrates that competition between credit score model developers has never triggered a "race to the bottom," but has instead consistently led model developers to refine their models to make them more predictive and more inclusive. In fact, it could be said that competition has had just the opposite effect – it triggers a "race to the top."

Extensive testing has shown that the VantageScore model outperforms and is more predictive in forecasting the occurrence of delinquencies than other models commercially available in the marketplace today. For mainstream lenders, the VantageScore model can score more consumers more effectively at all levels of the credit spectrum without compromising standards. In other words, VantageScore widens the window without lowering the threshold.

The VantageScore model also represents a market-based solution to a broader economic challenge: making the mortgage lending market more accessible to creditworthy consumers who are otherwise unscoreable using traditional measurements while creating a corresponding opportunity for lenders.

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[22] FHFA Credit Score Request for Input issued Dec. 20, 2017, at p. 19.
[23] *Id.* at 25.
[24] James Wehmann, FICO, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 4 (Mar. 30, 2018).

VantageScore

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The "race the bottom argument" ignores the simple truth that lenders must meet the requirements of their own prudential regulators and don't choose a credit score model without doing their own due diligence, testing and validation.

But most, significantly, in a post-Sec. 310 era, Congress has addressed this issue. As stated in the law, ***the only credit scoring models lenders will be allowed to use following implementation of Sec. 310 are those that meet the statutory "standards and criteria" of FHFA and are "validated and approved" by Fannie Mae and/or Freddie Mac.***[25]

5. Lender choice is the only way to drive competitive innovation, and it has widespread support

In contrast to previous rounds of FHFA analysis, the proposed rule largely sidesteps the question of *how* a new model, if approved, would be brought to market. It does, however, express a bias towards maintaining a single credit scoring model in the marketplace.

For example, FHFA wrote, "A central theme from RFI respondents was that the operational challenges of implementing a multi-credit score approach would outweigh any benefits."[26] While some respondents noted the difficulty of requiring multiple scores simultaneously, dozens of respondents wrote to support a choice between validated models ("Option 3").

Navy Federal, the largest credit union in the country, wrote "Navy Federal believes FHFA should allow lenders to choose either FICO 9 or VantageScore 3.0."[27]

Navy Federal was joined by Union Home Mortgage, which wrote, "I join with many of my colleagues in echoing that every single one of those options will impose costs on the industry. Likewise, I join with many of them in acknowledging that the time has come to take the bitter medicine. If we are to pay the price of change, let's get it right. I urge you to move forward with Option 3."[28]

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[25] *See* Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, Pub. L. No. 115-174, 132 Stat. 1296 § 310(a), (b) (2018).
[26] 83 Fed. Reg. at 65577.
[27] John Peden, Navy Federal Credit Union, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 2 (Mar. 30, 2018).
[28] Bill Cosgrove, Union Home Mortgage, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 2 (Mar. 26, 2018).

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In its NPRM, FHFA also took a selective and incomplete reading of the potential costs to the industry: "In response to the RFI, many market participants indicated that updating to the newest version of FICO would be less operationally complex than updating systems to handle multiple models."[29]

The National Association of Federal Credit Unions ("NAFCU"), by contrast, wrote:

> *The potential constraints for Option 3, as outlined in the RFI, would make it no more difficult to implement than the single score option (Option 1). Both options would require changes to infrastructure, operating policies and procedures, and an initial transition and implementation cost. No additional, ongoing costs would be associated with Option 3 that are not already present in Option 1 because both contemplate the use of one of two possible credit score models.*[30]

NAFCU was joined by Pulte Mortgage LLC, which offered:

> *While each of the four options presented carries a slightly different profile, many of the costs and risks are inherent to a change of any kind. The FHFA's goals for implementation should be to maximize competition between model developers, minimize costs to industry participants, mitigate all known risks, and definitively prevent market disruptions. Adequate lead time, a transparent process, and a copious supply of historical data will form the baseline for a smooth transition toward the use of additional models. Implementations should also include publication of validation results for any models to be used, so that the credit providers and other use[r]s of credit scores have confidence in the predictive power of new tools.*[31]

In total, more than twenty respondents wrote to specifically support lender choice. Many more wrote to express their outright support for competition between model developers.

Demographics continue to change, as do consumers' attitudes towards credit and their behaviors. At the same time, the disciplines of statistical analysis and data collection continue to improve. Rather than cementing a single standard, we encourage FHFA to take the long view and support innovation. As so many respondents agreed, competition is the right way to incentivize model developers to improve and adapt over time.

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[29] 83 Fed. Reg. at 65587.

[30] Ann Kossachev, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 3 (Mar. 29, 2018).

[31] Debra W. Still, Pulte Group, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 2 (Mar. 29, 2018).

VantageScore

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In response to the RFI, VantageScore submitted 19 pages on this topic last Spring, followed by another 9 pages from Berens & Miller, our outside counsel. We have provided links to those responses for context, *see supra* n.1, for your full consideration and incorporation into the record.

We also ask that you please consider the following excerpts from other organizations' RFI submissions.

> *Urban Institute:* "We support FHFA's efforts to upgrade the GSEs' credit score requirements, as the current model is outdated. But updating to a newer model, while a step forward, does not go far enough because it does not encourage greater use of additional data, such as rent and utility payment data. We believe the mortgage market and consumers will benefit from competition between credit score modeling firms, and as such recommend option 3, lender choice with constraints. The crux of our RFI response is that the FHFA should take a broader view of competition with the credit scoring space–one that includes credit score modeling firms and providers of additional data."[32]
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> *Consumer Federation of America:* "There also is a significant public interest in making sure that the models used to assess consumers that will drive pricing decisions are as accurate and inclusive of relevant factors as possible. We believe competition will help drive continuing improvement in these models and benefit consumers as a result."[33]
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> *National Association of Hispanic Real Estate Professionals:* "A single, monopolistic provider of credit scores is not properly incentivized to respond to demographic changes in the marketplace or address characteristics that fall outside of what is typically described as "average" or typical of the majority population. As the characteristics of household formation change over the next decade, NAHREP advocates for the use of all public policy levers that would allow the market to adjust rapidly to serve the creditworthy population that is emerging."[34]

And finally, to ensure our efforts to create credit score competition in the mortgage industry are aligned with the needs and desires of American consumers, VantageScore recently commissioned its own consumer survey to measure consumer sentiment.

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[32] Laurie Goodman and Karen Kaul, Urban Institute, Comment Article on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 1 (Mar. 13, 2018).
[33] Barry Zigas, Consumer Federation of America, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at p. 2 (Mar. 30, 2018).
[34] Gary Acosta, Nat'l Assoc. of Hispanic Real Estate Professionals, Comment Letter on Credit Score Request for Input issued Dec. 20, 2017 by FHFA, at pp. 1-2 (Mar. 27, 2018).

VantageScore
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We commissioned APCO Insight—the global research group at APCO Worldwide, to conduct a national survey (conducted February 18th – 26th, 2019) of over 1,500 adult consumers, weighted to be demographically representative of a national survey audience. Findings include:

- A majority of Americans mistakenly believe there already exists competition in the credit score market when mortgage lenders make choices about what credit scores to use for home loans (57%), and they are unaware that only one type of credit score can be used for home loans (63%).
- After neutrally being told that only one type of credit score can be used by lenders when applying for a mortgage, a near majority of Americans think this is an unfair system (49%).
- After being exposed to the rationale in favor of credit scoring competition in the mortgage industry, as well as competitive messages advocating in favor of the status quo, a clear majority of Americans call only using one credit score for home loans an unfair system (54%).

Conclusion

When Congress included "**Sec. 310, Credit Score Competition**" in the *Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018,* the letter and spirit of the law demonstrated the value it sees in providing mortgage lenders with the opportunity to choose from among multiple validated and approved credit score models.

Congress was not merely setting forth aspirational goals when it included a timeline for implementation of credit score competition in the mortgage market that called for Fannie Mae and Freddie Mac to solicit applications from credit score model developers for validation and approval by December 20, 2018 with credit score competition fully in place by August 17, 2019.

Rather than opening the door for credit score competition, FHFA's proposed rule would preserve the status quo and enable the current monopoly to continue by excluding from consideration the one credit score model developer that does, in fact, currently compete with the legacy score in other consumer markets. It further creates unnecessary and exclusionary roadblocks for potential new entrants.

Since its inception more than thirteen years ago, VantageScore has fully supported competition in the credit scoring market place. The time has come to allow lenders and consumers to leverage the benefit of more inclusive and more predictive credit scores in the last holdout, the mortgage market. Mortgage lenders deserve and need the opportunity to choose from multiple validated and approved credit scoring models so that they may determine what model would be most suitable for them and their business model.

VantageScore does not seek a solution from Congress or FHFA that mandates that the legacy monopoly score be replaced by VantageScore. Nor do we seek a market that requires mortgage lenders to use

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either VantageScore or the legacy score to the exclusion of all others, provided there are other validated and approved score models, now or in the future.

Dr. Mark A. Calabria testified on February 14, 2019, before the Senate Banking Committee on Banking, Housing and Urban Affairs at the hearing to consider his nomination for Director of the Federal Housing Finance Agency. In response to a question asked by Senator Pat Toomey (R-PA) regarding the fact the Congress has "done nothing" to restructure the GSEs he expressed his views on monopolies and duopolies in general when he responded:

> *… foremost, I believe we need an open, competitive market. There's certainly part of me that I will say has a suspicion of monopolies and duopolies … I don't like to see exclusive privileges handed out … we know that monopolies and duopolies tend not to pass on all their benefits to consumers but tend to capture a large amount of those benefits for themselves….*

VantageScore believes that the principles expressed by Dr. Calabria would serve as an appropriate and useful guide in crafting the final rules to implement **Sec. 310. Credit Score Competition.**

Thank you once again for your time and consideration.

Best Regards,

Barrett Burns