

Congress of the United States
Washington, DC 20515

March 29, 2019

The Honorable Joseph M. Otting
Acting Director
Federal Housing Finance Agency
400 7th Street, S.W.
Washington, D.C. 20219

Re: Validation and Approval of Credit Score Models (RIN 2590-AA98)

Dear Acting Director Otting:

We write regarding the implementation of Sec. 310 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (P.L. 115-174), titled, "Credit Score Competition."

As you know, Sec. 310 outlines the validation and approval process to integrate new credit scoring models into the Federal Housing Finance Agency's policies. It defined the FHFA's jurisdiction to replace, extend, and reject potential applicants, and established a clear set of eligibility criteria that includes reliability and integrity standards, safety guidelines, and a proven record of default rate prediction. It was Congress' clear intent to foster competition and allow lenders to choose the best of multiple FHFA-approved options. This would incentivize credit score developers to continuously improve their models, break the current credit scoring monopoly in the mortgage sector, and lead to better outcomes for potential homeowners.

Unfortunately, FHFA's recent notice of proposed rulemaking (NPRM) flies in the face of these objectives. We are deeply concerned that if left unchanged, the rule would limit market access and set a troublesome precedent that permits the FHFA to ignore congressional intent.

The NPRM would prohibit the adoption of, "any credit score model developed by a company that is related to a consumer data provider through any common ownership or control, of any type or amount." It claims that these models "could have an impact on competition in the industry," and mandates that the ownership be an integral part of that assessment. We believe that this is inconsistent with the language of Sec. 310. By imposing this prohibition, the FHFA is erecting barriers to entry that were never contemplated by Congress nor codified. This broad proposal expands the agency's regulatory authority to an unparalleled degree and ignores protections and relief available under other statutes, such as the Sherman Antitrust Act, the Federal Trade Commission Act and portions of the Clayton Act.

The NPRM also establishes a framework for the FHFA to require a solicitation only once every seven years. To facilitate a vibrant and competitive market, the FHFA should provide ongoing opportunities for credit score model validation and approval through an open-ended solicitation. A seven-year time frame only intensifies existing obstacles and could lead to a continued de-facto government-sanctioned monopoly.

The FHFA's stated goal is to maintain a strong, affordable, and trustworthy mortgage system. Rather than stifling legitimate credit scoring model options, FHFA should encourage broad participation and fairly consider allowing lenders the option of multiple scoring models that meet FHFA's standards and criteria. Such an option will reduce prices, foster innovation and help borrowers for years to come.

With these goals in mind, we ask that you or your successor thoroughly review the NPRM to ensure that the final rule complies with the underlying intent of Section 310. We also ask that you adhere to the reasonable statutory timeline that directs these objectives be met by June 18th of this year, or by August 17th if two "for cause" extensions are granted.

We will continue to closely monitor the FHFA to assure that FHFA properly adheres to the clear intent of this statute. Thank you for your time and consideration.

Sincerely,



JIM HIMES
Member of Congress



BARRY LOUDERMILK
Member of Congress



GREGORY W. MEEKS
Member of Congress



BLAINE LUETKEMEYER
Member of Congress