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National Association of Federally-Insured Credit Unions

March 20, 2019

Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 7th St., SW, 8th Floor
Washington, D.C. 20219

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

Dear Mr. Pollard:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), I am writing in response to the Federal Housing Finance Agency's (FHFA) proposed rule to establish a validation and approval process for credit score models. NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 116 million consumers with personal and small business financial service products. NAFCU and its member credit unions support the use of alternative credit score models to foster competition, reduce costs and burdens on credit unions, and enhance access to affordable credit for creditworthy borrowers who have historically been marginalized. NAFCU is pleased that the FHFA acted to implement Section 310 of the *Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018* (S. 2155) and is supportive of the proposed structure for the validation and approval of credit score models. Nonetheless, NAFCU is disappointed that the proposed rule effectively precludes VantageScore Solutions, LLC and other developers from submitting credit score models for consideration by the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac. NAFCU urges the FHFA to re-propose this rule as soon as possible to provide a more inclusive, fair process that has the potential to enhance the operations of the GSEs and encourage the providers of credit score models to innovate, cut costs, and help more creditworthy consumers access the financing they need.

General Comments

The FHFA's *2015 and 2016 Scorecards for Fannie Mae, Freddie Mac, and Common Securitization Solutions* required the GSEs to evaluate the potential impact of updating the GSE credit score requirement from Classic FICO to another score or scores. The GSEs analyzed credit scores produced by three models – Classic FICO, FICO 9, and VantageScore 3.0. The FHFA also considered the following four credit score model options: (1) requiring a single score; (2) requiring both scores; (3) allowing lenders to choose which score to deliver, with certain constraints; and (4) waterfall, i.e., the delivery of multiple scores that would establish a primary credit score and secondary credit score. In December 2017, the FHFA released a Request for Information (RFI) to gather feedback regarding these options. NAFCU's comments regarding the RFI were generally

supportive of the FHFA's initiative to evaluate alternative credit score models, highlighting the potential benefits of competition among credit score model developers, which could be transferred to credit unions in the form of lower prices and a more streamlined credit score process. NAFCU urged the agency to minimize implementation and ongoing costs associated with the adoption of new models. Ultimately, NAFCU supported option 3 (allowing lenders to choose which score to deliver, with certain constraints) because it would allow credit unions the flexibility to express a preference on a credit score model to expand their lending in a safe and sound manner and benefit their members.

In its 2017 RFI, the FHFA asked whether to maintain the current requirement for lenders to use a borrower's credit report and credit score from each of the three national credit reporting agencies (CRAs) (commonly referred to as a "tri-merger credit report") or instead require lenders to obtain only one or two reports and scores from the CRAs for each mortgage application. NAFCU strongly supports the removal of the outdated, and inefficient tri-merger credit report requirement in favor of a single or two credit report and score requirement. NAFCU's credit union members view the tri-merger credit report requirement as ineffective because the reports often produce the same results. The tri-merger credit report only serves to impose an unnecessary cost on credit unions and cause confusion for borrowers who do not understand why three separate reports are necessary for the mortgage origination process. Borrowers also face increased costs in the form of pass through closing costs. Nothing in Section 310 of S. 2155 precludes the FHFA from again considering the removal of the tri-merger credit report, so NAFCU requests the FHFA re-propose this rule and do just that.

On May 24, 2018, S. 2155 became law, and Section 310, also known as the *Credit Score Competition Act*, required the FHFA to establish requirements for the validation and approval of third party credit score models by the GSEs. On December 21, 2018, the FHFA released this proposed rule to implement Section 310, detailing a four-step process for the validation and approval of credit score models. November 20, 2018 was the effective date listed in Section 310, but Congress permitted an additional thirty days (until December 20, 2018) for the GSEs to solicit applications from credit score model developers. Considering the FHFA released this proposed rule the day after the statutory effective date, NAFCU would like to stress that time is of the essence and urge the FHFA to re-propose this rulemaking as soon as possible.

Notwithstanding the above concerns, NAFCU supports the overall proposed structure for the validation and approval process. The proposed methods for solicitation of applications and initial review of submitted applications provide a reasonable opportunity for submission of credit score models and potential modification of incomplete applications. Additionally, the Credit Score Assessment and Enterprise Business Assessment timeframes of 240 days, including extensions, are in line with Congress's mandate and should be adequate for the GSEs to test credit score models for accuracy and reliability as well as compatibility with the GSEs' systems and procedures. NAFCU's member credit unions support a joint Credit Score Assessment to promote efficiency by minimizing costs and potential delays. As for the Enterprise Business Assessment, the FHFA should direct the GSEs to align their assessment processes and decisions on approved credit score models to further promote efficiency, create parity between the GSEs, and promote fungibility in the secondary market through credit risk transfer programs and the Uniform

Mortgage-Backed Security (UMBS). Such alignment would promote liquidity in the sale of the UMBS and provide for a stronger secondary market.

The proposed rule would also prohibit the GSEs from approving any credit score model developed by a company that has an ownership interest in a consumer data provider to alleviate concerns of unfair competition and potential vertical integration. This precludes the owners of the three CRAs (Equifax, Experian, and TransUnion) from participating in the validation and approval process, to the detriment of the credit score model market. For this reason, among others, NAFCU opposes this proposed rule and encourages the FHFA to reevaluate and re-propose the rulemaking as soon as possible.

The FHFA Should Support Competition and Innovation

NAFCU has long supported the use of alternative credit score models that do not penalize borrowers for a lack of traditional credit history and include other data sources that verify the creditworthiness of a borrower. This proposed rule would exclude not only VantageScore, the leading competitor to FICO, but also other models developed by the CRAs from consideration in the validation and approval process. The FHFA's decision to prohibit "common ownership or control of the credit score model developer" is short-sighted both in terms of its vision for the future of the credit score market and its rationale. VantageScore and the other CRA-developed models are FICO's only viable competitors, so prohibiting their participation based on poorly reasoned concerns about price fixing contravenes Congress's intent in passing Section 310 of S. 2155 and is likely to only amplify the effects of FICO's government-sponsored monopoly.

A prudent government regulator should not favor one private market participant over another as such behavior essentially provides a government-sponsored subsidy and supports a monopoly in a government-backed product. This proposed rule also clearly contravenes the intent of Congress in passing an act titled the *Credit Score Competition Act* (emphasis added). Not only is the title of the Act revealing, but the bill was the result of bipartisan efforts to change the operations of the GSEs in an attempt to reverse the results of a monopoly that has been detrimental to minority populations. Senators Tim Scott (R-SC) and Mark Warner (D-VA) championed the bill to help the "credit invisible" access vital sources of funding to pay for everything from necessities to their first home. In a joint statement released after introducing the bill, Senators Scott and Warner said the bill would help improve the availability of credit for "some of the 26 million 'credit invisible' individuals in the housing market." Without alternative credit score models that exclude problematic and often inaccurate data on civil judgments and tax liens, the "credit invisible" face substantial obstacles to obtaining credit. The FHFA's proposed rule would prohibit participation by the only other viable credit score model competitors in the market, which would reduce incentives to innovate and produce better models that omit inaccurate and harmful data and, in turn, make it harder for creditworthy borrowers to access credit. This result would be at odds with the stated intent behind the legislation.

Credit unions work hard to provide products and services for their members, particularly those in underserved communities, including rural areas. Alternative credit score models would help credit unions to do more of what they do best and provide access to credit for those individuals who have

been shunned by big banks and other financial institutions. NAFCU's members want to move away from Classic FICO to an updated model that distinguishes between good and bad data points; however, that does not mean utilizing just FICO models is the answer. NAFCU and its member credit unions support diverse credit score options that, as a result of competitive forces, are likely to increase efficiencies in the market. Considering this proposed rule would limit such options, NAFCU must oppose it.

Credit Unions Deserve Options

Although NAFCU is optimistic about the use of a new FICO credit score model, such as FICO 9, its member credit unions support flexibility to choose the credit score model that best accounts for the unique characteristics of their fields of membership. The *Federal Credit Union Act* (FCU Act) limits a credit union's field of membership by permitting credit unions to operate under one of the following three charter types: single common bond, multiple common bond, or community. A credit union's charter type determines the groups or geographic areas it may serve. Considering these membership restrictions, any opportunities for credit unions to expand their ability to serve individuals within their fields of membership would substantially help credit unions to grow while providing access to credit for underserved members of their communities.

As explained in a letter sent to Acting Director Joseph Otting, dated January 9, 2019, NAFCU's top priority is to advocate for rulemakings that facilitate growth among credit unions. Accordingly, credit unions deserve to have the flexibility to decide which model would best serve their members' needs and help them to grow. Additionally, credit unions should be able to decide which credit score model would be least burdensome and disruptive in terms of transitioning from the Classic FICO model. The FHFA should re-propose this rulemaking to permit competition among credit score models so that institutions like credit unions have enhanced flexibility to choose what works best for their geographic location and will help them to grow their lending while helping hardworking Americans in their communities attain access to credit.

Conclusion

NAFCU appreciates the opportunity to provide its comments regarding the FHFA's proposed rule on the validation and approval of credit score models. The FHFA should re-propose this rulemaking to support competition and innovation in the credit score model market. If you have any questions or concerns, please do not hesitate to contact me at (703) 842-2212 or akossachev@nafcu.org.

Sincerely,



Ann Kossachev
Director of Regulatory Affairs