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Attention: Comments/RIN 2590-AA98
Federal Housing Finance Agency
400 Seventh Street, SW
Washington, DC 20219

In Re: Validation and Approval of Credit Score Models Proposed Rule

The Consumer Data Industry Association submits these comments in response to the Federal Housing Finance Agency's proposed rule on the process for validation and approval of credit score models by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), the "Enterprises."

The Consumer Data Industry Association (CDIA) is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals and to help businesses, governments, and volunteer organizations avoid fraud and manage risk.

Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition, and expanding consumers' access to financial and other products suited to their unique needs. They help people meet their credit needs. They ease the mortgage and employment processes; they help prevent fraud; they get people into homes, jobs, and cars with quiet efficiency. CDIA members' data and analytics are used to locate crime victims and fugitives, reunite consumers with lost financial assets, and keep workplaces and tenants safe. CDIA member products are used in more than nine billion transactions each year.

Along with providing consumer reports, fraud detection products, information verification services, and data analytics services, CDIA members also develop a wide variety of data analysis tools, including credit scores, that synthesize a variety of risks for a variety of types of transactions. In doing so, CDIA members ensure safe and sound credit markets and protect consumers, creditors, insurers, and the government.

Background

One of FHFA's strategic goals is to maintain credit availability to new and refinanced mortgages to foster liquid, efficient, competitive, and resilient national housing markets. In its *2015 Conservatorship Scorecard*, FHFA called for the Enterprises to increase access to mortgage credit for creditworthy borrowers. To do so, FHFA began to consider the feasibility of updating credit score practices. FHFA acknowledged the potential benefits of adopting the use of new credit scoring models in addition to the single current, outdated score model currently employed.

FHFA and the Enterprises evaluated three credit models for potential adoption by the Enterprises, including considering a new version of the model it currently allows as well as a model by a competitor score model developer. After Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, FHFA shifted its focus from evaluating the three models to a notice and comment approach for a rule that would establish a formal score model validation and approval process by the Enterprises. FHFA proposed such a process through this proposed rule.

While FHFA and the Enterprises had been considering credit score models from multiple score developers, FHFA's proposed rule would prohibit credit score model developers from submitting an application if the developer is related through any degree of common ownership or control to an "owner of consumer data necessary to construct the credit model." Proposed 12 C.F.R. § 1254.6(a)(4).

Additionally, in considering an application, the proposed rule would also require that the Enterprises evaluate whether using the credit score model would have an impact on competition in the industry. Proposed § 1254.8(b)(4).

In proposing this prohibition and the related competition evaluation requirement, FHFA expressed a concern about competition and consolidation in the credit score marketplace. Particularly, the proposed rule noted that consumer data providers, which are CDIA-member consumer reporting agencies, own the data used for scoring and, according to the proposed rule, set score prices (subject to score developer license fees). The NPRM expressed the concern that consumer data providers could therefore provide scores more cheaply than competitors, which might drive competitors from the score marketplace and permit such data providers to increase prices on scores without competitive consequences.

As set forth more fully below, however, the prohibition proposed by the FHFA would have the opposite effect on competition by limiting the number of potential participants.

CDIA Comments

CDIA supports the development of a competitive process for the validation and approval of multiple new credit scoring models to increase access to mortgage credit for creditworthy borrowers but strongly cautions FHFA against adopting a prohibition on the approval of credit score models submitted by a company related to a consumer data provider through any common ownership or control, of any type or amount. For purposes of our below comments, we refer to such companies as “consumer data provider affiliates.”

Below, we first explain that the prohibition against consumer data providers affiliates is counter to Congressional intent and that consumer data providers should not be specifically barred from participating in this market.

The prohibition against consumer data provider affiliates is counter to Congressional intent

When Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, it intended specifically to allow existing credit scoring models to compete against the current incumbent credit scoring company. The Credit Score Competition Act, stand-alone legislation that was incorporated into the law, was sponsored by Members of Congress who specifically sought to allow for existing and future companies to compete for business, and make credit more available to worthy consumers. Nowhere in the Congressional sponsors’ discussion of this issue does Congress express concern about ownership of models. Instead, Congress was encouraging those with viable models, regardless of ownership, to attempt to have their models validated. FHFA’s rule, in effectively barring the only current viable empirically derived, statistically sound in widespread use stands against Congress’ clear intent.

Consumer data providers should not be specifically barred from participating in this market

Prohibiting consumer data provider affiliates from providing scores to the Enterprises would restrict the number of companies developing new scoring models. With fewer players in the credit scoring market, there would be less competitive pressure to innovate. Less innovation would slow the mortgage credit market’s ability to recover from disruptions and adapt to changes in the U.S. consumer profile, as it would likely take longer for score developers to detect changes in the predictive value of certain data types and incorporate those changes into new scores.

In addition to slowing the ability of the U.S. credit market to adjust to changes in the consumer marketplace, barring consumer data providers from the mortgage scoring market would disadvantage consumers. As we described above, consumer data providers are in the best position to understand consumers and consumer data, including changes in the predictive value of consumer data. If there are limited players in the credit scoring market—none of

which understand consumer data as well as the consumer data providers—consumers might be subject to higher costs of credit, or even less available credit, than they otherwise would, as creditors would have fewer tools at their disposal to predict and account for risk.

Conclusion

For the reasons stated above, CDIA strongly urges FHFA to reconsider its proposed prohibition on consumer data provider affiliates submitting scoring models for validation and approval by the Enterprises. CDIA encourages FHFA to consider the potential benefits of a score model developed by a consumer data provider affiliate and balance any remaining competition concerns against those benefits. Finally, CDIA urges FHFA to consider the range of alternatives to a blanket prohibition for any competition concerns. In particular, CDIA urges FHFA to take the approach that the FTC took when it considered limiting costs for credit score disclosures by monitoring the market for credit scores and acting to protect competition if the need arises.

CDIA thanks the FHFA for the opportunity to share its views on the Validation and Approval of Credit Score Models proposed rule. Please contact us if you have any questions concerning the above comments or need additional information.

Sincerely,



Eric J. Ellman
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