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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

October 15, 2023

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, D.C. 20219

Dear Director Thompson:

We write to express our concerns regarding the Federal Housing Finance Agency's (FHFA) ongoing transition to and implementation of updated credit score models and credit report requirements for loans acquired by Fannie Mae and Freddie Mac (the Enterprises).

The bipartisan Credit Score Competition Act was signed into law over five years ago as part of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 ([Pub. L. 115-174](#), Section 310). Section 310 established requirements for use of third-party credit scoring models by the Enterprises, updating their decades-old model and allowing for the inclusion of alternative data sources like rent, utility, and telecom bill payments. Including this alternative data into scoring models will expand homeownership opportunities for creditworthy borrowers and make scores more predictive. Implementing Section 310 provides an opportunity to make the credit scoring models our housing market relies on more fair and accurate, without lowering standards needed to qualify for a mortgage. Thus, it is critical that FHFA adhere to the current timeline for implementation of this law and take efforts to prepare stakeholders for this transition without delay.

While FHFA's announcement of implementation represented a positive step toward bringing more predictive data into the system, the Agency simultaneously announced that the Enterprises would be transitioning from the current requirement that lenders provide credit reports from all three (tri-merge) national consumer reporting agencies (CRAs) to only two (bi-merge). FHFA's decision to implement the bi-merge would inherently result in incomplete data being reported to the Enterprises. This decision is seemingly at odds with the implicit goal of Section 310, which is to allow for consideration of more data to increase predictiveness of credit models. Reducing the information that lenders are required to provide through the bi-merge credit report requirement may harm prospective borrowers and increase risk within our housing market.

Though FHFA asserts that the bi-merge “is expected to reduce costs and encourage innovation, without introducing additional risk to the Enterprises,”¹ FHFA has failed to produce any evidence to back up these claims. FHFA previously sought input on the use of credit reports in a 2017 Credit Score Request for Input,² but FHFA has neither solicited feedback since that initial effort nor initiated a formal rulemaking process under the Administrative Procedure Act.³ Indeed, when FHFA last considered this change, it admitted that “FHFA and the Enterprises would need to fully understand the costs and benefits before making any change to the tri-merge requirement.”⁴ But no cost-benefit analysis or any other information has been shared with Congress or the public regarding this decision.

Recently, numerous housing organizations and lawmakers on both sides of the aisle criticized the rollout and implementation of these changes,⁵ so we were encouraged to see FHFA’s announcement that it would conduct additional public engagement and is expected to delay transition to a bi-merge credit report.⁶ However, listening sessions alone are no substitute for formal rulemaking, and pairing the delay of the bi-merge implementation with that of Section 310 risks slowing implementation of the latter, an unacceptable outcome since it became law over five years ago.

We encourage you to abandon plans to transition from a tri-merge to the bi-merge credit report which run counter to the spirit of Section 310 and afool of the traditional process for notice-and-comment rulemaking. We cannot afford a reduction in the accuracy and predictive power of data provided to the taxpayer-backed Enterprises with no meaningful benefits for consumers. Rather than increasing risk, FHFA should maintain the current timeline⁷ for implementation of the new credit scoring models five years since Section 310 was enacted. To assist in swift implementation, we urge immediate action to ensure better coordination and data sharing with private sector participants in this transition to new credit scoring models.

¹ Fed. Hous. Fin. Agency, Fact Sheet: FHFA Announcement On Credit Score Models (Oct. 24, 2022), available at <https://www.fhfa.gov/Media/PublicAffairs/Documents/CS-Fact-Sheet-2022.pdf>.

² Fed. Hous. Fin. Agency, Credit Score Request For Input (Dec. 20, 2017) https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/CreditScore_RFI-2017.pdf.

³ 5 U.S.C. § 551 *et seq.*

⁴ Validation and Approval of Credit Score Models, 84 Fed. Reg. 41,886, 41,898 (Aug. 16, 2019).

⁵ See Letter from Housing Policy Council et. al to the Hon. Sandra Thompson, Dir., Fed. Hous. Fin. Agency (June 23, 2023), https://www.housingpolicycouncil.org/files/ugd/d315af_c48044047d804e8fb0b4b8859defcf29.pdf; FHFA Oversight: Protecting Homeowners and Taxpayers: Hearing Before the H. Comm. On Fin. Serv., 118th Cong. (2023), available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408797>.

⁶ Press Release, Fed. Hous. Fin. Agency, FHFA Announces Next Phase of Public Engagement Process for Updated Credit Score Requirements (Sept. 11, 2023), <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Next-Phase-of-Public-Engagement-Process-for-Updated-Credit-Score-Requirements.aspx>.

⁷ Press Release, Fed. Hous. Fin. Agency, FHFA Announces Public Engagement Process for Implementation of Updated Credit Score Requirements (Mar. 23, 2023), <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Public-Engagement-Process-for-Implementation-of-Updated-Credit-Score-Requirements.aspx>.

The Hon. Sandra Thompson
Oct. 15, 2023

Thank you for your attention to this matter.

Sincerely,



Tim Scott
Ranking Member



Mike Crapo
United States Senator



M. Michael Rounds
United States Senator



Thom Tillis
United States Senator



John Kennedy
United States Senator



Bill Hagerty
United States Senator



Kevin Cramer
United States Senator



Steve Daines
United States Senator