National Consumer Law Center

May 12, 2023

Via www.fhfa.gov/open-for-comment-or-input and RegComments@fhfa.gov
Clinton Jones
General Counsel
Federal Housing Finance Agency
400 Seventh Street SW, 8th Fl.
Washington, DC 20219

Re: Comments/RIN 2590-AB27, Enterprise Regulatory Capital Framework Amendments

The National Consumer Law Center (on behalf of its low-income clients) is pleased to submit the following comments in response to two provisions of the Federal Housing Finance Agency (FHFA)'s proposed rule that would amend the Enterprise Regulatory Capital Framework (ERCF) for Fannie Mae and Freddie Mac (collectively, the "Enterprises").

1. We support the proposal to use an average of borrowers' two credit scores as the representative credit score for single-family mortgages.

The proposed rule would modify the current procedure for selecting a representative credit score in response to FHFA's announcement in October 2022 that Fannie Mae and Freddie Mac will require two, rather than three, credit reports from the nationwide consumer report agencies (CRAs) (a bi-merge credit report). Currently, credit reports are required from all three nationwide CRAs (a tri-merge credit report) and the Enterprises must use the middle of the three credit scores as the representative score. If there are only two scores, the current rule requires use of the lower score.

There appear to be concerns that the move to a bi-merge report where the lower of the two credit scores is used would result in a significant downward shift in representative credit scores for many borrowers. In response, the proposal would require instead that the Enterprises use the average of the two scores. We support this proposal and believe it will benefit consumers.

The move from a tri-merge to a bi-merge credit report was made as part of the October 2022 decision to move Fannie Mae and Freddie Mac from "Classic" FICO to FICO 10T and Vantage Score 4.0. We supported both of these changes. We supported the move from a tri-merge to a bi-merge credit report because it provides a measure of much-needed competition between the three nationwide CRAs. We similarly support the proposal to require the Enterprises use the average of the two credit scores in a bi-merge credit report as the representative credit score.

Finally, FHFA asks whether the Agency should consider requiring the Enterprises to calculate a representative credit score for multiple borrows by averaging credit scores across multiple borrowers in step two rather than by taking the lowest score across those borrowers. We would support such a measure.

2. We support the proposal to assign a representative credit score of 680 instead of 600 for borrowers who have no credit score.

Currently, the Enterprises are required to assign a credit score of 600 for borrowers who do not have a credit score from the nationwide CRAs. These unscored borrowers are often described as credit invisible or thin-file consumers. The proposed rule would revise this requirement so that the Enterprises would instead assign a credit score of 680 to unscored borrowers. We support this proposed revision.

According to FHFA, this proposal is based on an analysis of the two-year default performance of single-family mortgages associated with unscored borrowers relative to similar mortgages associated with scored borrowers. The analysis determined that mortgages with unscored borrowers performed most similarly to mortgages with borrower credit scores in the range of 680 to 699. Furthermore, the proposed revision reflects improvements in regulatory, underwriting, and lending standards since the Foreclosure Crisis of the late 2000s, as well as the recent inclusion of positive rental payment histories in the Enterprises' automated underwriting systems.

We appreciate that FHFA conducted the research finding that unscored borrowers actually perform well, similar to prime consumers as opposed to subprime consumers. We also appreciate that the inclusion of positive rental payments – without the need to include negative rental information on credit reports – has allowed this improvement.

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Thank you for the opportunity to submit these comments. If you have questions about these comments, please contact Chi Chi Wu at cwu@nclc.org or 617-542-8010.

Respectfully submitted,

National Consumers Law Center

(on behalf of its low-income clients)