VANTAGESCORE®

Barrett Burns, President & CEO

Thursday, July 21, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Dear Ms. Johnson:

ATTN: Comment on Regulation Z; Truth in Lending Docket No. R-1417 and RIN No. 7100-AD75

Dear Ms. Johnson:

VantageScore Solutions LLC would like to thank the Board of Governors of the Federal Reserve System ("the Board") for the opportunity to comment in response to proposed rules to implement amendments to the *Truth in Lending Act* ("TILA") made by the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Public Law 111-203). Among other things, the proposed rule would implement statutory changes made by the *Dodd-Frank Act* that expand the scope of the ability-to-repay requirement to cover (with limited exceptions) any consumer credit transaction secured by a dwelling and would also establish standards for complying with the ability-to-repay requirement, including by establishing a ''qualified mortgage.'

Formed in 2006 to offer choice and competition in the credit score marketplace by providing a highly predictive credit score based on the latest analytic methodologies, VantageScore Solutions is a joint venture of the three credit bureaus, Equifax, Experian and TransUnion. Each of the bureaus devoted their top scientists and analytic leaders to the development of our model. Armed with a deep understanding of consumer risk modeling, team members built a new consumer credit score model. Fifteen million anonymous consumer files served as the basis for development and testing of the new model. Innovative approaches in the model's development include advanced segmentation techniques that provide more scorecards than many traditional models, including separate segmentation scorecards for full file and thin file consumers.

The VantageScore model rank orders consumers on the likelihood of becoming 90 days or more past due on a credit obligation based on many consumer behaviors and factors, including payment history, utilization, current balances, depth of credit, recent credit and available credit. The VantageScore scale ranges from 501-990. The higher a consumer's score, the less probable the likelihood of becoming 90 days or more past due. The score range approximates the academic grading scale familiar to most consumers. So, in addition to receiving their numerical score, with VantageScore, consumers also get the letter grade that corresponds to their 3-digit score. For example, a score between 900 and 990 is an "A"; between 800 and 899 a "B"; etc.

VantageScore's model is unique. The same model is used across the three bureaus and employs a new modeling approach that looks differently and more deeply into consumer behaviors, allowing many individuals to receive a score who otherwise would not be able to obtain a score.

In the Notice of Proposed Rulemaking, the Board notes that "The Act's underwriting requirements are substantially similar but not identical to the ability-to-repay requirements adopted by the Board for higher-priced mortgage loans in July 2008 under the Home Ownership and Equity Protection Act."[1] The 2008 HOEPA Final Rule also provides a statement regarding the Board's position on the use of credit scores within regulations:

> *The Board also continues to believe— and few, if any, commenters disagreed— that the best way to identify the subprime market is by loan price rather than by borrower characteristics. Identifying a class of protected borrowers would present operational difficulties and other problems. For example, it is common to distinguish borrowers by credit score, with lower-scoring borrowers generally considered to be at higher risk of injury in the mortgage market. Defining the protected field as lower-scoring consumers would fail to protect higher-scoring consumers ''steered'' to loans meant for lower-scoring consumers. Moreover, the market uses different commercial scores, and choosing a particular score as the benchmark for a regulation could give unfair advantage to the company that provides that score.*[2]

Similar statements regarding credit scores have been made by other regulators as part of other rulemaking proceedings. The most recent example is found in the interagency notice of proposed rulemaking ("NPR") implementing the Credit Risk Retention provisions of the *Dodd-Frank Act*. In crafting that NPR the Federal Reserve along with five other financial regulatory agencies[3] expressed their desire that the final rule not stifle marketplace choice with credit scores but rather ensure that lenders continue choosing among the multiple options available:

> *In developing the proposal, the Agencies carefully considered how to incorporate a borrower's credit history into the standards for a QRM. The Agencies do not propose to use a credit score threshold as part of the QRM definition because such a standard would require reliance on credit scoring models developed and maintained by privately owned entities and such models may change materially at the discretion of such entities. There also may be inconsistencies across the various credit scoring models used by consumer reporting agencies, as well as among different scoring models used by a single provider. Consequently, in order to ensure that creditors continue to choose among different credit score providers, the Agencies would have to determine a cutoff score under multiple scoring models and periodically revise the regulation in response to new scoring models that might arise.*[4]

The proposed rule that is the subject of this rulemaking proceeding does not contain any language or reference to a minimum credit score as part of the four options for complying with the ability-to-repay requirement. Rather, the Board's proposed rule "requires creditors to consider and verify credit history."[5]

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[1] 76 Federal Register 91 at 27390 (May 11, 2011) at 27,390.
[2] 73 Federal Register 147 at 44,532 – 44,533 (July 30, 2008) (emphasis added).
[3] Office of the Comptroller of the Currency, Treasury ("OCC"); Federal Deposit Insurance Corporation ("FDIC"); Federal Housing Finance Agency ("FHFA"); U.S. Securities and Exchange Commission ("Commission"); and, Department of Housing and Urban Development ("HUD").
[4] 76 Federal Register 83 at 24,121 (April 29, 2011) [emphasis added].
[5] 76 Federal Register 91 at 27,425 (May 11, 2011)

The Board provides further guidance in its proposed rule by clarifying what actions creditors may take to satisfy this requirement:

> "Proposed comment 43(c)(2)(viii)–1 clarifies that creditors may look to widely accepted governmental and nongovernmental underwriting standards to define and verify ''credit history.'' For example, a creditor may consider factors such as the number and age of credit lines, payment history, and any judgments, collections, or bankruptcies. To verify credit history as required by § 226.43(c)(3), a creditor may, for instance, look to credit reports from credit bureaus, or other nontraditional credit references contained in third party documents, such as rental payment history or public utility payments. The Board solicits comment on this approach."[6]

Based on the Board's direction above, and because credit scores are widely used by lenders in underwriting processes and have also been mentioned considerably in prior governmental regulations, it is conceivable that a creditor may choose to look at a credit score in order to fulfill the "consider and verify credit history" component of the proposed rule.

To bring full clarity, we believe that it is important that the Board echo the original intent in HOEPA in this new rule as well and not leave open to interpretation the favoring of any brand name of credit score. Therefore, we urge the Board to adopt language in the final rule that is similar to the language in the 2008 HOEPA Final Rule regarding credit score choice in the market.

We applaud the Board for not requiring a minimum credit score value as part of the requirement for either the "General Ability-to-Repay" or the "Qualified Mortgage" standards. As the Board no doubt realizes, a compelling argument to support why a minimum credit score threshold should not be used as an additional standard in any regulation, including Regulation Z, is that *the risk associated with credit scores can change over time*, eliminating the intended ceiling for risk exposure.

A. Credit Score Values Are Not Static

Typically, credit scores are three-digit numerical values aligned to a particular level of risk, also known as the "default propensity" rate. "Default propensity" is commonly defined as the risk of a consumer becoming 90 days or more delinquent on a debt, expressed as a percentage. For example, in the case of VantageScore, between June 2008 and June 2010, a consumer with a score from 691-710 had a default propensity of 10%.

Credit score developers provide performance charts to lenders so that the relationship between the three-digit score value and the propensity for default is understood by the lender. Each lender then uses the performance charts to set cut-off considerations as a component of their loan underwriting process based on their own business strategy for lending risk. This concept is best understood by way of example. Consider a default propensity of .24 percent. What this means from a practical perspective is that for every one consumer whom the lender can expect to go 90 or more days in default, the lender can expect 416 consumers to not go 90 days or more in default. Mathematically, the default propensity formula is: one divided by .24 percent or (1/.0024 = 417).

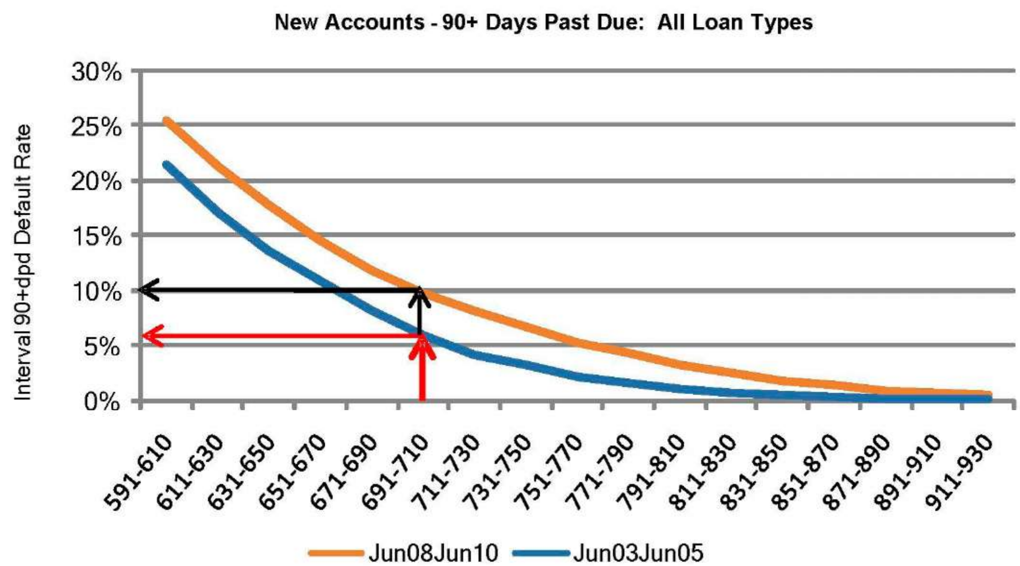
However, credit score values are not static numbers that always represent the same probability of default. In fact, the meaning behind a credit score depends on a number of factors unrelated to the

[6] Ibid.

borrower or his/her potential risk of default. These factors include: (i) the version of the algorithm used; and (ii) the date that a credit score was pulled for the consumer.

With respect to the version of the algorithm used, consider that there are over 20 versions of FICO – including FICO Classic 95, FICO Classic AU 95, FICO Classic 98, FICO Classic AU 98, FICO NextGen 03 and FICO 08. Given this, we anticipate that no federal regulator can know with any degree of certainty what the true risk is for a loan with a FICO Classic credit score value of "660" versus a loan with a FICO 08 credit score value of "660." This is true because those loans utilize two different credit scoring algorithms, and the 660 value could represent two different levels of risk.

Also, with respect to the date that the credit score was pulled, it is important to bear in mind that risk associated with a score changes over time. Consider the following example.



The graph above illustrates risk levels for consumer loans across two distinct two-year time periods for the most common VantageScore credit tiers from 591-930. The two timeframes were June 2003-June 2005 (blue/bottom line) and June 2008-June 2010 (gold/top line).

The default probability for a VantageScore credit score of 691-710 in the June 2003-June 2005 timeframe was 6 percent (red arrows). The consumer behavioral response seen from the economic volatility in recent years caused the default probability for this score band to rise to 10 percent in the June 2008-June 2010 timeframe (black arrows). This represents a 66% increase in default rate between the June 2003-June 2005 timeframe and the June 2008-June 2010 timeframe.

This shift in risk levels for credit score values is inherent in all credit score models. Using a credit score value from all credit score developers will result in a default or risk probability that is not constant, but will fluctuate with changing consumer behavior.

As a result, should a minimum credit score value become a part of this Regulation, then that value is based only on the corresponding risk level present at the time the regulation is drafted. To remain accurate, the risk level would have to be revalidated every year. The results of the revalidation would likely reveal a shift in risk and thereby require that the regulation be rewritten each year to inform the market about the new credit score minimum.

B. The Solution is to Name a Maximum Propensity for Default

Should the Board decide that it is necessary to include a specific level of risk as part of the requirement for "General Ability-to-Repay" or for the "Qualified Mortgage" standard, a solution is to avoid naming a credit score value, and rather, name a maximum propensity for default. While lenders' appetites for risk often fluctuate with market conditions, this maximum propensity for default can be written into the regulation today and remain constant over time.

Under that scenario, lenders can use their credit score model of choice provided that the credit scoring methodology meets already established federal requirements to qualify as a sound credit score model based upon propensity for default. This solution avoids the need to revisit the regulation every year because of shifting levels of risk associated with those values.

Conclusion

For the reasons set forth above VantageScore Solutions, LLC strongly urges that in promulgating a final rule the Board incorporate underwriting requirements substantially similar to the ability-to-repay requirements included in the HOEPA rule. Specifically, we urge the Board to include in the final rule language similar to that found in the HOEPA Rule regarding credit score choice and we strongly recommend that the final rule avoid any use of a minimum credit score value in establishing either the "General Ability-to-Repay" or the "Qualified Mortgage" standards.

Thank you for considering our thoughts. If you have any questions or would like additional information please don't hesitate to contact me at (203) 363-2161 or BarrettBurns@vantagescore.com.

Sincerely,

Barrett Burns

President & CEO