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VIA ELECTRONIC SUBMISSION

Department of the Treasury
Office of the Comptroller of the Currency
Docket ID OCC-2013-0010
regs.comments@occ.treas.gov

Federal Reserve System
Docket No. R-1411
regs.comments@federalreserve.gov

Federal Deposit Insurance Corporation
RIN 3064-AD74
comments@FDIC.gov

Federal Housing Finance Agency
RIN Number 2590-AA43
RegComments@fhfa.gov

Securities and Exchange Commission
File Number S7-14-11
rule-comments@sec.gov

Department of Housing and Urban Development
www.regulations.gov

Re: Comments on the Credit Risk Retention Proposed Rule ("QRM Revised Proposed Rule")

Experian welcomes this opportunity to provide comments on the revised proposed interagency rule on Credit Risk Retention ("QRM Revised Proposed Rule"), and in particular on the proposed definition of "qualified residential mortgages" ("QRM"), which incorporates references to a single provider of credit scores.[1] Experian is a leading consumer reporting agency ("CRA") regulated under the Fair Credit Reporting Act and a provider of credit scores. Credit scores are numerical scores based on individuals' credit histories that are used by lenders to help them assess a consumer's probability of default (typically defined as going 90 days or more late on a credit payment obligation). Experian creates both generic credit scores for use by many different lenders and custom credit scores for use by a specific lender. VantageScore is one such generic credit score that Experian has developed along with the other national CRAs, Equifax and TransUnion. Additionally, Experian provides access to FICO scores based on Experian data.

As envisioned, the QRM Revised Proposed Rule would exempt securitizations of QRMs from risk retention requirements. The latest iteration of the proposed rule would equate the definition of QRM with the definition of "qualified mortgages" ("QM"), as that term has been defined recently by the Consumer Financial Protection Bureau ("CFPB") in that agency's final

[1] Office of the Comptroller of the Currency, Treasury (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), U.S. Securities and Exchange Commission (Commission), Federal Housing Finance Agency (FHFA), and Department of Housing and Urban Development (HUD), Proposed Rule, Credit Risk Retention, 78 Fed. Reg. 57928 (September 20, 2013).

rule on "Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z)" ("QM Rule").[2]

While Experian appreciates the attempt by the agencies to simplify compliance measures for entities operating in the consumer credit marketplace, as a provider of credit scores we are concerned that the proposal unintentionally undercuts the agencies' stated position that creditors should be permitted to choose from among different credit score providers.[3] We encourage the agencies to remedy this oversight by allowing for diversity among credit score providers in the forthcoming final rule.

Throughout the QRM Revised Proposed Rule, the agencies take concerted steps to avoid endorsing any one provider of credit scores. For instance, the agencies state that they "do not believe it is appropriate to establish regulatory requirements that use a specific credit scoring product from a private company."[4] Likewise, the agencies note that they "are not persuaded that it would be appropriate for the underwriting-based exemptions under the rule to incorporate a credit score metric."[5]

Experian agrees with the agencies that allowing for choice among providers of credit scores is a matter of good public policy that benefits both the credit markets and consumers. No marketplace as important as that of consumer credit (or the securitization of qualified residential mortgages) should be restricted to depending on one company to provide required credit scores. If the company or outside events were to prevent access to credit scores from that one provider, the credit marketplace would be unnecessarily destabilized. With the federal government shutdown we have seen only too recently how access to important forms of consumer credit can be denied when a key piece of the supply chain is cutoff. Any reference to a single provider of credit scores in regulations therefore should be eschewed.

Yet, while the QRM Revised Proposed Rule purports to allow for choice among providers of empirically validated credit scores, by virtue of cross-referencing the QRM definition to the QM definition of the CFPB, the agencies have inadvertently endorsed one company to provide necessary credit scores to the exclusion of all others. The CFPB has determined that mortgages will qualify for the CFPB's QM safe harbor if they are eligible to be purchased, guaranteed, or insured by the GSEs, Fannie Mae and Freddie Mac.[6] Although the CFPB's rule makes no mention of a single provider of credit scores, by stating that such mortgages must be eligible for purchase by the GSEs, the regulation effectively limits the use of

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[2] Bureau of Consumer Financial Protection, Ability to Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z), 78 Fed. Reg. 6408 (Jan. 30, 2013) (hereinafter "QM Rule").

[3] QRM Revised Proposed Rule at 57985; Office of the Comptroller of the Currency, Treasury (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), U.S. Securities and Exchange Commission (Commission), Federal Housing Finance Agency (FHFA), and Department of Housing and Urban Development (HUD), Proposed Rule, Credit Risk Retention, 76 Fed. Reg. 24090, 24121 (Apr. 29, 2011) ("[T]he Agencies do not propose to use a credit score threshold as part of the QRM definition ... in order to ensure that creditors could 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] QRM Revised Proposed Rule at 57985.

[5] QRM Revised Proposed Rule at 57979.

[6] QM Rule at 6533-6534.

credit scores from one provider, namely FICO. The Single Family Selling/Servicer Guides of the GSEs both require mortgages to be underwritten using a FICO score.[7]

To address this unintended situation, the agencies should focus on ensuring that the QRM definition does not unintentionally endorse a specific provider of credit scores to the exclusion of others. At the same time, Experian would welcome efforts by the agencies, and in particular the FHFA as the conservator of the GSEs, to encourage and require the GSEs to redraft their seller-servicer guidelines to allow for mortgages underwritten using empirically validated credit scores from a variety of providers.

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Experian thanks you for the opportunity to comment on this important matter. Should you have any questions, please contact me at 714/830-5502.

Sincerely,

Jason Engel

Jason Engel
Vice President &
Chief Regulatory Counsel

[7] Fannie Mae, Single Family Selling Guide, at 459-460, 464, 1232, and 1239 (Sept. 24, 2013); Freddie Mac, Single-Family Seller/Servicer Guide, Vol.1, Sec. 37.5(a)-(b), Sec. 37.6, Sec. 37.7(a), and Sec. 37.10(g) (Sept. 24, 2013).