VANTAGESCORE.

Barrett Burns, President & CEO

January 3, 2011

Via e-mail to: ***comments@fdic.gov***

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Assessments: RIN 3064-AD66

Dear Mr. Feldman:

VantageScore Solutions LLC ("VantageScore") would like to thank the Federal Deposit Insurance Corporation ("FDIC") for the opportunity to comment in response to proposed rules relating to amending the assessment base for insured depository institutions. Although we applaud the FDIC's efforts to better detect risks in depository institutions' portfolios, we urge the FDIC to reconsider its proposed definition of "subprime consumer loan," which is a key component in calculating risk.

Specifically, for the reasons set forth in detail below, we recommend that in the forthcoming regulation the FDIC avoid use of any specific credit score brand by eliminating that prong of the subprime definition that relates to credit scores and replacing the credit score language in the definition of subprime consumer loan with language that states a maximum probability of default.

I. VantageScore Business Model

VantageScore is an innovative consumer credit risk score developed in 2005 by the nation's three largest credit reporting companies ("CRCs")[1] to meet market demand for a more predictive credit scoring model. Unlike other credit scores, the VantageScore model applies the same algorithm to each of the three CRC's data. As a result, credit score variances for an individual consumer, which can be a source of confusion for lenders and consumers, are significantly minimized. VantageScore's approach to scoring ultimately enhances lenders' abilities to make more insightful credit-granting decisions. The model also provides highly predictive credit scoring of

[1]The three major CRCs are Equifax, Experian and TransUnion.

VantageScore Solutions, LLC. Two Stamford Plaza, 281 Tresser Blvd., Suite 1002, Stamford, CT 06901 T: 203.363.2161 F: 203.569.0010 barrettburns@vantagescore.com www.vantagescore.com

"new entrants" and "infrequent credit users." These consumers are individuals whose insufficiently documented credit histories have rendered them largely unscorable under other commercial credit scoring models, which sometimes can result in their receiving subprime loans or falling prey to predatory lenders. This sizeable economic subgroup often faces tremendous difficulty obtaining credit at reasonable terms or prices despite the fact that a great many of them are creditworthy.

II. Proposed Definition of Subprime Loans

The FDIC is proposing to define a "subprime consumer loan" as:

> Subprime loans include loans made to borrowers that display one or more of the following credit risk characteristics (excluding subprime loans that are previously included as nontraditional mortgage loans):
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> - Two or more 30-day delinquencies in the last 12 months, or one or more 60-day delinquencies in the last 24 months;
> - Judgment, foreclosure, repossession, or charge-off in the prior 24 months;
> - Bankruptcy in the last 5 years;
> - *Credit bureau risk score (FICO) of 660 or below (depending on the product/collateral), or other bureau or proprietary scores with an equivalent default probability likelihood*; and/or
> - Debt service-to-income ratio of 50 percent or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.
>
> For purposes of the concentration measure, subprime loans include loans that were not considered subprime at origination, but meet the characteristics of subprime subsequent to origination. Subprime loans also include securitizations where more than 50 percent of assets backing the securitization meet one or more of the preceding criteria for subprime loans, excluding those securities classified as trading book.[2]

The FDIC also is proposing to define a "nontraditional mortgage loan" to include all residential mortgage loans that:

> [A]llow the borrower to defer repayment of principal or interest and includes all interest-only products, teaser rate mortgages, and negative amortizing mortgages, with the exception of home equity lines of credit (HELOCs) or reverse mortgages.[3]

We understand that the FDIC adopted the definitions for "subprime consumer loans" and "nontraditional mortgage loans" from its *Expanded Guidance for Subprime Lending Programs* (the "Guidance").[4] FDIC published the Guidance in 2001.

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[2] 75 Fed. Reg. 72,608 and 72,649 (November 24, 2010) (emphasis added).

[3] 75 Fed. Reg. 72,608 and 72,649 (November 24, 2010).

[4] http://www.fdic.gov/news/news/press/2001/pr0901a.html.

III. FDIC Should Revise the Definition of Subprime Consumer Loan

We strongly urge the FDIC to adopt the proposed regulation *without* referencing *any* particular credit score brand or credit score value. We believe this would materially improve the final regulation for two reasons. First, it avoids unnecessary brand endorsement by the FDIC, which endorsement provides an unfair advantage to one credit score brand. Second, it eliminates the use of a proxy value that does not reflect the total risk in a loan portfolio over time. We believe the FDIC can achieve this result by either eliminating the reference to credit scores altogether and by adopting a definition that incorporates a reference to a probability of default rather than a credit score.

A. *Avoid Brand Endorsement*

Over the past three years, we have been working closely with the federal banking regulators to eliminate references to specific credit score brands in published regulations, with significantly positive results. Below we provide you with instances where the Federal Reserve Board (the "Board") and the Federal Housing Finance Agency ("FHFA") agree that brand endorsements are not appropriate in the context of federal rulemakings:

- **Federal Reserve Board/HOEPA Rulemaking/July 2008.** 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.*[5]

- **FHFA/2009 Enterprise Transition Affordable Housing Goals/August 2009.** The proposed rule provided a market analysis to support the proposed adjustment of the housing goals levels for 2009, and discussed the effect of tighter underwriting standards of private mortgage insurers and the reduction in mortgage insurance availability for borrowers with low credit scores. A credit reporting corporation and a credit scoring corporation commented that FHFA's analysis should not specifically reference 'FICO' credit scores, stating that the reference implies endorsement of the Fair Isaac Corporation product and creates an unfair advantage. *FHFA did not intend to endorse a specific product. Accordingly the market analysis in the final rule refers generally to credit scores rather than to a specific product.*[6]

[5] 73 Fed. Reg. 44,532 – 44,533 (July 30, 2008) (emphasis added)

[6] 74 Fed. Reg. 39,888 (Aug. 10, 2009) (emphasis added).

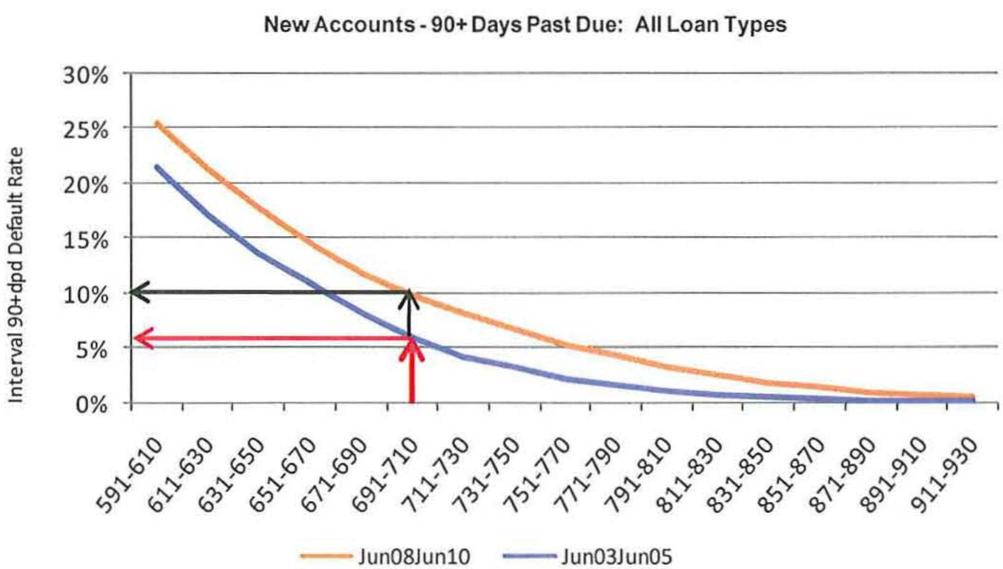
We believe that these pronouncements reflect the agencies' intention to avoid endorsement of one credit score brand by avoiding codifying a brand name as part of a federal regulation. And, we believe that FDIC shares this view given the language in the proposed regulation making clear that the proposal was not intended to require the use of any one credit score brand. Rather, depository institutions may substitute other "bureau or proprietary scores with an equivalent default probability likelihood" for the FICO 660 threshold. While we applaud the flexibility in the FDIC's language, we urge you to avoid use of a credit score brand in the final regulation by eliminating the reference to FICO in the threshold.

B. *Credit Scores Values Are Not Static*

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 borrower or his potential risk of default. These factors include: (i) the version of the algorithm used; and (ii) the date of the credit score.

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 the FDIC cannot 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.

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



The graph above measures risk levels for consumer loans across two distinct two-year time periods for the most common VantageScore credit tiers: 591-930.[7] The two timeframes were June 2003-June 2005 (blue/bottom line) and June 2008-June 2010 (gold/top line).

The graph above illustrates the default rates (90+ days past due rate) on new loans for each score band for each of the two-year time periods. The higher gold line demonstrates increased risk is present for every same score band in the June 2008 - June 2010 window over the June 2003 - June 2005 period.

The default probability for a VantageScore credit score of 691-710 in the June 2003-June 2005 timeframe was 6 percent (red/bottom 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/top arrows). This represents a 66% increase in the 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 scores. Using a credit score value from any credit score developer does not result in a default or risk probability that remains constant, but will fluctuate with changing consumer behavior.

The FDIC is using a credit score value that it adopted in 2001 for purposes of the Guidance. Even if the 660 value was an appropriate measure of risk for loans originated in 2001, it likely is not the appropriate value for measuring risk in today's portfolios. We believe this is especially true given the economic turbulence depositories weathered between 2001 and now.

Accordingly, we urge the FDIC to eliminate that prong of the subprime definition that relates to credit scores or substitute in its place a reference to default propensity. Typically, credit scores are three-digit numerical values that are aligned with a particular "default propensity" rate. "Default propensity" is the risk of becoming 90 days or more delinquent on a debt. 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 remain current. Mathematically, the default propensity formula is: one divided by .24 percent or (1/.0024 = 417). By using this substitute standard of probability of default, the FDIC will not incur the issues we raised above relating to brand endorsements and the shifting of credit score values over time.

III. Conclusion

For all of the reasons set forth above, we strongly urge the FDIC to adopt the proposed regulation *without* referencing *any* particular credit score brand or credit score value. We believe this would materially improve the final regulation for two reasons. First, this substitution avoids unnecessary brand endorsement by the FDIC, which endorsement provides an unfair advantage to one credit score brand. Second, it eliminates the use of a proxy value that does not reflect the total risk in a loan portfolio over time, cannot shift to correspond to economic changes and,

[7] The full VantageScore range is from 501-990, where a higher number indicates lower risk.

therefore, does not meet the overarching goal of this rulemaking. We believe the FDIC can achieve this result by eliminating the reference to credit scores altogether and adopting a substitute threshold test that incorporates a reference to a probability of default.

Respectfully,

Barrett Burns