(b) A request for prior approval of a new product must provide the following items of information with appropriate supporting documentation. The corresponding paragraph number should be listed with the relevant information provided:

(1) Provide the information required for a notice of new activity as identified in paragraph (a) of this section.

(2) Describe the business requirements for the new product including technology requirements. Describe the Enterprise business units involved in conducting the new product, including any affiliation or subsidiary relationships, any third-party relationships, and the roles of each. Describe the reporting lines and planned oversight of the new product.

(3) Provide a legal analysis as to whether the new product is—

(i) In the case of Fannie Mae, authorized under 12 U.S.C. 1717(b)(2), (3), (4), or (5) or 12 U.S.C. 1719; or

(ii) In the case of Freddie Mac, authorized under 12 U.S.C. 1454(a)(1), (4), or (5).

(4) Provide copies of all notice and application documents, including any application for patents or trademarks, the Enterprise has submitted to other Federal, State or local government regulators relating to the new product.

(5) Describe the impact of the new product on the public interest and provide information to address the factors listed in § 1253.4(b).

(6) Describe how the new product is consistent with the safety and soundness of the Enterprise or the mortgage finance system.

(7) Explain any accounting treatment proposed for the new product.

(c) FHFA may require an Enterprise to submit such further information as the Director deems necessary to make a determination on a notice of new activity or a request for prior approval of a new product, at the time of the original submission or any time thereafter.

(d) An Enterprise shall certify, through an executive officer, that a notice of new activity or a request for prior approval of a new product and any supporting material submitted to FHFA pursuant to this part contain no material misrepresentations or omissions. FHFA may review and verify any information filed in connection with a notice of new activity or request for prior approval of a new product.

§ 1253.10 Public disclosure.

In addition to information disclosed in the public notice on a new product, FHFA will make public information related to the Director's determinations on new activity and new product submissions within a reasonable time period after the end of the calendar year during which either Enterprise filed such a submission. Any disclosure under this paragraph will omit any confidential and proprietary information not previously disclosed as part of a public notice on a new product.

§ 1253.11 Preservation of authority.

The Director's exercise of the Director's authority pursuant to the prior approval authority for products under 12 U.S.C. 4541, and this regulation, in no way restricts:

(a) The safety and soundness authority of the Director over all new and existing products or activities; or

(b) The authority of the Director to review all new and existing products or activities to determine that such products or activities are consistent with the authorizing statute of an Enterprise.

PART 1254—VALIDATION AND APPROVAL OF CREDIT SCORE MODELS

§ 1254.1 Purpose and scope.

(a) The purpose of this part is to set forth standards and criteria for the process an Enterprise must establish to validate and approve any credit score model that produces any credit score that the Enterprise requires in its mortgage purchase procedures and systems.

(b) The validation and approval process for a credit score model includes the following phases: Solicitation of Applications, Submission of Applications and Initial Review, Credit Score Assessment, and Enterprise Business Assessment.

§ 1254.2 Definitions.

For purposes of this part, the following definitions apply. Definitions of other terms may be found in 12 CFR part 1201, General Definitions Applying to All Federal Housing Finance Agency Regulations.

Credit score means a numerical value or a categorization created by a third party derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default.

Credit score model means a statistical tool or algorithm created by a third party used to produce a numerical value or categorization to predict the likelihood of certain credit behaviors.

Credit score model developer means any person with ownership rights in the intellectual property of a credit score model.

Days means calendar days.

Mortgage means a residential mortgage as that term is defined at 12 U.S.C. 1451(h).

Person means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, organization, or other legal entity.

§ 1254.3 Computation of time.

For purposes of this part, each time period begins on the day after the relevant event occurs (*e.g.*, the day after a submission is made) and continues through the last day of the relevant period. When the last day is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next business day.

§ 1254.4 Requirements for use of a credit score.

(a) *Enterprise use of a credit score.* An Enterprise is not required to use a credit score for any business purpose. However, if an Enterprise conditions its purchase of a mortgage on the provision of a credit score for the borrower:

(1) The credit score must be derived from a credit score model that has been approved by the Enterprise in accordance with this part; and

(2) The Enterprise must provide for the use of the credit score by any automated underwriting system that uses a credit score and any other procedures and systems used by the Enterprise that use a credit score for mortgage purchases.

(b) *Replacement of credit score model.* An Enterprise may replace any credit score model then in use after a new credit score model has been approved in accordance with this part.

(c) *No right to continuing use.* Enterprise use of a particular credit score model does not create any right to or expectation of continuing, future, or permanent use of that credit score model by an Enterprise.

§ 1254.5 Solicitation of applications.

(a) *Required solicitations.* FHFA periodically will require the Enterprises to solicit applications from credit score model developers. FHFA will determine whether a solicitation should be initiated. FHFA will establish the solicitation requirement by notice to the Enterprises, which will include:

(1) The requirement to submit a Credit Score Solicitation to FHFA for review;

(2) A deadline for submission of the Credit Score Solicitation; and

(3) A timeframe for the solicitation period.

(b) *Credit Score Solicitation.* In connection with each required solicitation, an Enterprise must submit to FHFA a Credit Score Solicitation including:

(1) The opening and closing dates of the solicitation time period during

which the Enterprise will accept applications from credit score model developers;

(2) A description of the information that must be submitted with an application;

(3) A description of the process by which the Enterprise will obtain data for the assessment of the credit score model;

(4) A description of the process for the Credit Score Assessment and the Enterprise Business Assessment; and

(5) Any other requirements as determined by the Enterprise.

(c) *Review by FHFA.* Within 45 days of an Enterprise submission of its Credit Score Solicitation to FHFA, FHFA will either approve or disapprove the Enterprise's Credit Score Solicitation. FHFA may extend the time period for its review as needed. FHFA may impose such terms, conditions, or limitations on the approval of a Credit Score Solicitation as FHFA determines to be appropriate.

(d) *Publication.* Upon approval by FHFA, the Enterprise must publish the Credit Score Solicitation on its website for at least 90 days prior to the start of the solicitation time period.

(e) *Initial solicitation.* Each Enterprise must submit its initial Credit Score Solicitation to FHFA within 60 days of the effective date of this regulation. The initial solicitation time period will begin on a date determined by FHFA and will extend for 120 days.

§ 1254.6 Submission and initial review of applications.

(a) *Application requirements.* Each application submitted in response to a Credit Score Solicitation must meet the requirements set forth in the Credit Score Solicitation to which it responds. Each application must include the following elements, and any additional requirements that may be set forth in the Credit Score Solicitation:

(1) *Application fee.* Each application must include an application fee established by the Enterprise. An Enterprise may address conditions for refunding a portion of a fee in the Credit Score Solicitation. The application fee is intended to cover the direct costs to the Enterprise of conducting the Credit Score Assessment.

(2) *Fair lending certification and compliance.* Each application must address compliance of the credit score model and credit scores produced by it with federal fair lending requirements, including information on any fair lending testing and evaluation of the model conducted. Each application must include a certification that no characteristic that is based directly on or is highly correlated solely with a classification prohibited under the Equal Credit Opportunity Act (15 U.S.C. 1691(a)(1)), the Fair Housing Act (42 U.S.C. 3605(a)), or the Safety and Soundness Act (12 U.S.C. 4545(1)) was used in the development of the credit score model or is used as a factor in the credit score model to produce credit scores.

(3) *Use of model by industry.* Each application must demonstrate use of the credit score by creditors to make a decision whether to extend credit to a prospective borrower. An Enterprise may address criteria for such demonstration in the Credit Score Solicitation. An Enterprise may permit such demonstration of use to include submission of testimonials by creditors (mortgage or non-mortgage) who use the applicant's credit score when making a determination to approve the extension of credit.

(4) *Qualification of credit score model developer.* Each application must include any information that an Enterprise may require to evaluate the credit score model developer (*i.e.*, relevant experience and financial capacity). Such information must include a detailed description of the credit score model developer's:

(i) Corporate structure, including any business relationship to any other person through any degree of common ownership or control;

(ii) Governance structure; and

(iii) Past financial performance.

(5) *Other requirements.* Each application must include any other information an Enterprise may require.

(b) *Historical consumer credit data.* An Enterprise may obtain any historical consumer credit data necessary for the Enterprise to test a credit score model's historical record of measuring and predicting default rates and other credit behaviors. An Enterprise may assess

the applicant for any costs associated with obtaining or receiving such data unless such costs were included in the up-front application fee.

(c) *Acceptance of applications.* Each application submitted in response to a Credit Score Solicitation within the solicitation time period must be reviewed for acceptance by the Enterprise.

(1) *Notice of status.* Within 60 days of an applicant's submission, the Enterprise must provide the applicant with an Application Status Notice, which will indicate whether the application requires additional information to be provided by the applicant. An applicant may submit additional information through the end of the solicitation period.

(2) *Complete application.* Completeness of an application will be determined by the Enterprise. An application is complete when an Enterprise determines that required information has been received by the Enterprise from the applicant and from any third party. Information from a third party for a specific application may be received by the Enterprise after the solicitation period closes. The Enterprise must notify the applicant upon determining that the application is complete with a Complete Application Notice.

§ 1254.7 Credit Score Assessment.

(a) *Requirement for Credit Score Assessment.* An Enterprise will undertake a Credit Score Assessment of each application that the Enterprise determines to be complete. An Enterprise must determine whether an application passes the Credit Score Assessment.

(b) *Testing for Credit Score Assessment.* An Enterprise must conduct statistical tests for accuracy and reliability that use one or more industry standard statistical tests for demonstrating divergence among borrowers' propensity to repay using the industry standard definition of default, applied to mortgages purchased by an Enterprise (including subgroups), as identified by the Enterprise.

(c) *Criteria for Credit Score Assessment.* The Credit Score Assessment is based on the following criteria:

(1) *Testing for accuracy.* A credit score model is accurate if it produces a cred-

it score that appropriately reflects a borrower's propensity to repay a mortgage loan in accordance with its terms, permitting a credit score user to rank order the risk that the borrower will not repay the obligation in accordance with its terms relative to other borrowers.

(i) *Initial Credit Score Assessment.* For the Credit Score Assessment of applications submitted in response to the initial solicitation under §1254.5(e), a credit score model meets the test for accuracy if it produces credit scores that meet a benchmark established by the Enterprise in the initial Credit Score Solicitation, as demonstrated by appropriate testing.

(ii) *Subsequent Credit Score Assessments.* For the Credit Score Assessment of applications submitted in response to any later solicitation under this part, a credit score model meets the test for accuracy if it produces credit scores that are more accurate than the credit scores produced by any credit score model that is required by the Enterprise at the time the test is conducted, as demonstrated by appropriate testing.

(2) *Testing for reliability.* A credit score model is reliable if it produces credit scores that maintain accuracy through the economic cycle. The Credit Score Assessment must evaluate whether a new credit score model produces credit scores that are at least as reliable as the credit scores produced by any credit score model that is required by the Enterprise at the time the test is conducted, as demonstrated by appropriate testing. Testing for reliability must demonstrate accuracy at a minimum of two points in the economic cycle when applied to mortgages purchased by an Enterprise (including subgroups), as identified by the Enterprise.

(3) *Testing for integrity.* A credit score model has integrity if, when producing a credit score, it uses relevant data that reasonably encompasses the borrower's credit history and financial performance. The Credit Score Assessment must evaluate whether a credit score model applicant has demonstrated that the model has integrity, based on appropriate testing or requirements identified by the Enterprise

(which may address, for example, the level of aggregation of data or whether observable data has been omitted or discounted when producing a credit score).

(4) *Other requirements.* An Enterprise may establish requirements for the Credit Score Assessment in addition to the criteria established by FHFA.

(c) *Third-party testing.* Testing required for the Credit Score Assessment may be conducted by:

(1) An Enterprise; or

(2) An independent third party selected or approved by an Enterprise.

(d) *Timing of Credit Score Assessment.* (1) An Enterprise must notify the applicant when the Enterprise begins the Credit Score Assessment. The Credit Score Assessment will begin no earlier than the close of the solicitation time period, unless FHFA has determined that an Enterprise should begin a Credit Score Assessment sooner. The Credit Score Assessment will extend for 180 days. FHFA may authorize not more than two extensions of time for the Credit Score Assessment, which shall not exceed 30 days each, upon a written request and showing of good cause by the Enterprise.

(2) An Enterprise must provide notice to the applicant within 30 days of a determination that the application has passed the Credit Score Assessment.

§ 1254.8 Enterprise Business Assessment.

(a) *Requirement for Enterprise Business Assessment.* An Enterprise will undertake an Enterprise Business Assessment of each application that the Enterprise determines to have passed the Credit Score Assessment. An Enterprise must determine whether an application passes the Enterprise Business Assessment.

(b) *Criteria for Enterprise Business Assessment.* The Enterprise Business Assessment is based on the following criteria:

(1) *Accuracy; reliability.* The Enterprise Business Assessment must evaluate whether a new credit score model produces credit scores that are more accurate than and at least as reliable as credit scores produced by any credit score model currently in use by the Enterprise. This evaluation must consider

credit scores as used by the Enterprise within its systems or processes that use a credit score for mortgage purchases.

(2) *Fair lending assessment.* The Enterprise Business Assessment must evaluate the fair lending risk and fair lending impact of the credit score model in accordance with standards and requirements related to the Equal Credit Opportunity Act (15 U.S.C. 1691(a)(1)), the Fair Housing Act (42 U.S.C. 3605(a)), and the Safety and Soundness Act (12 U.S.C. 4545(1)) (including identification of potential impact, comparison of the new credit score model with any credit score model currently in use, and consideration of potential methods of using the new credit score model). This evaluation must consider credit scores as used by the Enterprise within its systems or processes that use a credit score for mortgage purchases. The fair lending assessment must also consider any impact on access to credit related to the use of a particular credit score model.

(3) *Impact on Enterprise operations and risk management, and impact on industry.* The Enterprise Business Assessment must evaluate the impact using the credit score model would have on Enterprise operations (including any impact on purchase eligibility criteria and loan pricing) and risk management (including counterparty risk management) in accordance with standards and requirements related to prudential management and operations and governance set forth at parts 1236 and 1239 of this chapter. This evaluation must consider whether the benefits of using credit scores produced by that model can reasonably be expected to exceed the adoption and ongoing costs of using such credit scores, considering projected benefits and costs to the Enterprises. The Enterprise Business Assessment must evaluate the impact of using the credit score model on industry operations and mortgage market liquidity, including costs associated with implementation of a newly approved credit score. This evaluation must consider whether the benefits of using credit scores produced by that model can reasonably be expected to exceed the adoption and ongoing costs of using such credit scores, considering

projected benefits and costs to the Enterprises and borrowers, including market liquidity and cost and availability of credit.

(4) *Competitive effects.* The Enterprise Business Assessment must evaluate whether using the credit score model could have an impact on competition in the industry. This evaluation must consider whether use of a credit score model could have an impact on competition due to any ownership or other business relationship between the credit score model developer and any other institution.

(5) *Third-Party Provider Review.* The Enterprise Business Assessment must evaluate the credit score model developer under the Enterprise standards for approval of third-party providers.

(6) *Other requirements.* An Enterprise may establish requirements for the Enterprise Business Assessment in addition to the criteria established by FHFA.

(c) *Timing of Enterprise Business Assessment.* The Enterprise Business Assessment must be completed within 240 days.

(d) *FHFA Evaluation.* FHFA will conduct an independent analysis of the potential impacts of any change to an Enterprise's credit score model. FHFA will initiate its analysis no later than the beginning of the Enterprise Business Assessment. Based on its analysis, FHFA may:

(1) Require an Enterprise to undertake additional analysis, monitoring, or reporting to further the purposes of this part;

(2) Require an Enterprise to permit the use of a single credit score model or multiple credit score models; or

(3) Require any other change to an Enterprise program, policy, or practice related to the Enterprise's use of credit scores.

§ 1254.9 Determinations on applications.

(a) *Enterprise determinations subject to prior review and approval by FHFA.* An Enterprise must submit to FHFA a proposed determination of approval or disapproval for each application. Within 45 days of an Enterprise submission, FHFA must approve or disapprove the Enterprise's proposed determination.

FHFA may extend the time period for its review as needed. FHFA may impose such terms, conditions, or limitations on the approval or disapproval of the Enterprise's proposed determination as FHFA determines to be appropriate.

(b) *Approval of a credit score model.* If an Enterprise approves an application for a credit score model following FHFA review of its proposed determination, the Enterprise must implement the credit score model in its mortgage purchase systems that use a credit score for mortgage purchases. The Enterprise must provide written notice to the applicant and the public within 30 days after the FHFA decision on the proposed determination.

(c) *Disapproval of a credit score model.* If an Enterprise disapproves an application for a credit score model following FHFA review of its proposed determination, the Enterprise must provide written notice to the applicant within 30 days after the FHFA decision on the proposed determination. An application may be disapproved under this section at any time during the validation and approval process based on any of the criteria identified in the Credit Score Solicitation. The notice to the applicant must provide a description of the reasons for disapproval.

§ 1254.10 Withdrawal of application.

At any time during the validation and approval process, an applicant may withdraw its application by notifying an Enterprise. The Enterprise may, in its sole discretion, determine whether to return any portion of the application fee paid by the applicant.

§ 1254.11 Pilot programs.

(a) *Pilots permitted; duration of pilots.* An Enterprise may undertake pilot programs to evaluate credit score models. If a pilot program involves a credit score model not in current use by an Enterprise, the credit score model is not required to be approved under this part.

(b) *Prior notice to FHFA.* Before commencing a pilot program, an Enterprise must submit the proposed pilot program to FHFA for review and approval. The Enterprise's submission to FHFA must include a complete and specific

description of the pilot program, including its purpose, duration, and scope. FHFA may impose such terms, conditions, or limitations on the pilot program as FHFA determines to be appropriate.