November 17, 2017

Mr. Eamon Rock, Esq.
New York State Department of Financial Services
One Commerce Plaza
Albany, NY 12257
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RE: I.D. No. DFS-40-17-00003-P

Dear Mr. Rock,

The New York Mortgage Bankers Association (NYMBA)[1] and the Mortgage Bankers Association (MBA)[2] appreciate the opportunity to comment on the proposed rulemaking on Registration Requirements and Prohibited Practices for Credit Reporting Agencies, published by the New York Department of Financial Services (NYDFS) in the New York State Register on October 4, 2017.

NYMBA and MBA member companies rely on consumer reports to provide real estate-secured loans to New York consumers. Our members are generally required to obtain consumer reports

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[1] The New York Mortgage Bankers Association, Inc. (NYMBA), founded in 2014, is a statewide organization, devoted exclusively to the field of real estate finance. NYMBA's membership is comprised of both bank and non- bank mortgage lenders and servicers, as well as a wide variety of mortgage industry-related firms. The NYMBA was formed to encourage its members to engage only in sound and ethical business practices, and to inform its members of changes in the laws and regulations affecting the mortgage business. The Association helps those engaged in or affected by the mortgage business to be better informed and more knowledgeable. It is dedicated to the maintenance of a strong real estate finance system. This involves support for a strong economy, a public-private partnership for the production and maintenance of single and multi-family homeownership opportunities, and a strong secondary mortgage market. For additional information on the New York Mortgage Bankers Association, visit NYMBA's website: www.nymba.org.

[2] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the Association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information on the Mortgage Bankers Association, visit MBA's website: www.mba.org.

from the three, and only, nationwide consumer reporting agencies (nationwide CRAs)—Equifax, Experian and TransUnion—and from resellers that compile "tri-merge" reports using consumer reports they obtain from each of the three nationwide CRAs.

While we share the Department's concern for the security of consumer information, we must point out the potential and unintended damage that this proposed regulation could do to consumers and the lenders that serve them. The majority of the loans made in New York, as well as the country, are sold into the secondary mortgage market, either through Ginnie Mae securitization after insurance is obtained from the Federal Housing Administration (FHA), Veterans Administration (VA) or U.S. Department of Agriculture (USDA); or through securitization by Fannie Mae or Freddie Mac. The underwriting guidelines for each of these channels require that mortgage lenders attempt to obtain a tri-merge report on consumers.

While there do exist mechanisms by which loans can be sold and securitized on an exception basis through these channels if some, but not all, of the nationwide CRAs maintain information on a consumer. However, these limited exceptions were not designed to accommodate situations in which one or more nationwide CRAs cease to operate in a given jurisdiction. It is therefore not clear that lenders could rely upon the ability to sell loans originated in New York into the secondary market. If the Department chooses to deny renewal, revoke or suspend the registration of one or more of these nationwide CRAs, New York's residential real estate market could suffer greatly from such a lack of clarity. This in turn could reduce the availability of affordable mortgage products of FHA, VA, USDA, Fannie Mae and Freddie Mac for New York residents.

A lack of affordable mortgage credit in New York will mean that home sellers will find it more difficult to sell, home buyers will find it more difficult to buy, and if the situation were to persist for an extended period, the state's property values could decline. If unaddressed, this could lead to a serious housing crisis within New York, further adding to the state's vacant and abandoned property problem.

Non-bank mortgage lenders rely almost exclusively on loan products that are sold into the secondary market. It is hard to imagine how these companies, many of which are small and community-based, will be able to do business without broad availability of these products. And in such a scenario, a market slowdown would spread to other areas of real estate finance, for example by forcing many real estate agents to also go out of business.

Additionally, members of NYMBA and MBA are very concerned that the proposed rule will have far-reaching and adverse impacts on mortgage lending beyond New York. Specifically, the proposed rule would give the Superintendent very broad and poorly defined discretion to revoke, suspend or refuse to renew the registration of a nationwide CRA for seemingly minor infractions. Such a decision would prohibit that CRA from assembling, evaluating or maintaining consumer credit files on consumers located in New York and effectively put that CRA out of the national credit reporting business. Such a development would reverberate well beyond New York's borders. We also believe that the effects of a decision to deny renewal, revoke or suspend the registration of nationwide CRA would impact consumers when they move out of New York with no credit history, or gaps in their credit history, at one CRA. Mortgage lenders in other states likewise would have difficulty qualifying former New York residents for mortgage loans.

Given the critical importance of the three nationwide CRAs to the mortgage lending market, NYMBA and MBA respectfully request that the NYDFS revise the proposed rule to eliminate or, at the very least, significantly narrow the Superintendent’s discretion to revoke, suspend or refuse to renew the registration of a nationwide CRA. Instead, NYMBA and MBA urge the NYDFS to adopt remedies that would avoid disrupting mortgage lending or adversely impacting the New York housing market.

Thank you again for this opportunity to comment on NYDFS’ proposed rules.

Sincerely,

Marianne Collins Executive Director and Chief Operating Officer New York Mortgage Bankers Association	Pete Mills Senior Vice President, Residential Policy and Member Engagement Mortgage Bankers Association