

Federal Housing Finance Agency
Office of Inspector General



FHFA Followed Federal Requirements in Supporting Its Decision for the Enterprises' Use of Bi-Merge Credit Reporting

Audit Report • AUD-2025-008 • September 29, 2025

..... EXECUTIVE SUMMARY

PURPOSE

On October 26, 2022, the Federal Housing Finance Agency (FHFA or Agency) issued a conservatorship directive changing the tri-merge credit report requirement to a bi-merge requirement. Tri-merge uses credit reports from all three nationwide consumer reporting agencies (CRAs) whereas bi-merge uses two of the three. In September 2023, FHFA clarified that lenders must use at least two of the three nationwide CRAs with the option to still use all three.

We conducted this audit to determine whether FHFA (a) identified, analyzed, and responded to risks related to its decision to replace the tri-merge credit report requirement with a bi-merge credit report and (b) complied with applicable laws, regulations, and internal policies and procedures when making its decision.

RESULTS

We found that FHFA supported its decision to require that Enterprises replace the tri-merge credit report requirement. FHFA identified, analyzed, and responded to risks impacting its decision. In December 2017, FHFA published a Request for Input (RFI) seeking, in part, public input on proposed changes to the credit report requirement. In April 2022, FHFA requested that Fannie Mae and Freddie Mac (together, the Enterprises) refresh their 2017 analyses comparing the impacts of a change in the credit report requirement. Based on the Enterprises' analyses and consideration of RFI comments, FHFA concluded that the transition to a bi-merge credit report requirement would not change the accuracy of the Enterprises' credit risk assessment or jeopardize the Enterprises' safety and soundness. FHFA also concluded that if only two credit reports are required, competition among the CRAs could increase, and the cost of the credit report package could be reduced.

Furthermore, we found that FHFA complied with applicable federal requirements and its own policies and procedures when making its decision to replace the tri-merge credit report requirement. Specifically, FHFA documented its analysis to support the conservatorship directive and obtained required approvals from the then-Deputy Director of the Division of Housing Mission and Goals (DHMG), General Counsel, and then-FHFA Director.

We have no findings and make no recommendations in this report.

This report was prepared by Andrea Smith, Audit Director; and Michael Schumann, Auditor; with assistance from Abdil Salah, Assistant Inspector General for Audits. We appreciate the cooperation of FHFA staff, as well as the assistance of all those who contributed to the preparation of this report. This report has been distributed to Congress, the Office of Management and Budget, and others and will be posted on our website, www.fhfaoig.gov, and www.oversight.gov.

James Hodge /s/
Deputy Inspector General for Audits

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ABBREVIATIONS

Act	Congressional Review Act
APA	Administrative Procedures Act
AUS	automated underwriting systems
CRAs	Consumer Reporting Agencies
DHMG	Division of Housing Mission and Goals
Enterprises	Fannie Mae and Freddie Mac
FHFA or Agency	Federal Housing Finance Agency
GAO	Government Accountability Office
OGC	FHFA Office of General Counsel
OIG	Office of Inspector General
RFI	Request for Input
Safety and Soundness Act	Federal Housing Enterprises Financial Safety and Soundness Act of 1992

BACKGROUND.....

As conservator, FHFA has broad authority to make day-to-day and long-term business, managerial, governance, and strategic decisions for the Enterprises. Further, FHFA may take action that may be appropriate to carry on the business of the Enterprises and preserve and conserve the Enterprises' assets and property. FHFA exercises its decision-making authority over the Enterprises, in part, through issuing conservatorship directives that set forth significant policy determinations and provide specific direction to the Enterprises to undertake individual or joint actions.¹

The Enterprises issue “selling guides” that set forth requirements with which lenders selling loans to them must comply; these requirements include providing credit reports for each loan borrower. Credit reports include details about a borrower's credit history, including the number of credit accounts open; the number of closed credit accounts; history of on-time and delinquent payments; accounts that are in collections; and the number of times a borrower applied for credit. According to FHFA, lenders have historically provided a tri-merge credit report, which includes credit reports and scores from all three nationwide CRAs when selling a loan to the Enterprises.

The Enterprises' automated underwriting systems (AUS) use the information contained in credit reports to complete credit risk assessments and determine whether a home loan is eligible for sale and delivery. The Enterprises also use credit report data to estimate the probability of delinquency or default. Finally, the Enterprises use credit scores, which are calculated based on credit report data, to determine loan eligibility and loan pricing.²

On October 26, 2022, FHFA issued a conservatorship directive to the Enterprises to replace their tri-merge credit report requirement with a bi-merge credit report requirement. A bi-merge credit report requires reports from only two of the three CRAs. FHFA has been reviewing the tri-merge requirement since 2017 and has taken the following steps to obtain analyses and feedback:

- In its Conservatorship Strategic Plan 2017 Scorecard Guidance, FHFA set an objective for the Enterprises to increase access to single-family mortgage credit for eligible borrowers.³ As part of this effort, FHFA directed the Enterprises to assess and evaluate the

¹ The Safety and Soundness Act of 1992 (Safety and Soundness Act), as amended by the Housing and Economic Recovery Act of 2008, includes the authority to place the Enterprises into conservatorship. See 12 U.S.C. § 4617(a).

² When the Enterprises purchase a loan, they guarantee the payment of principal and interest and charge a fee for providing that guarantee. The Enterprises adjust these fees based on certain risk attributes of the borrower, including by credit score. The Enterprises generally charge higher fees for lower credit scores.

³ Each year, FHFA releases an annual Scorecard to communicate and provide public awareness of its priorities and expectations for the Enterprises.

requirements for a tri-merge credit report. In response, the Enterprises conducted preliminary analyses in May 2017 comparing the outcomes of their AUS credit risk assessments using a tri-merge and bi-merge credit report.

- In December 2017, FHFA published a Request for Input (RFI) seeking public input on proposed changes to the tri-merge credit report requirement.⁴ FHFA requested comment as to whether changes to the existing requirement would (a) impact consumer credit accuracy, (b) impact the ability of lenders to negotiate the price of the credit report set by the CRAs, and (c) reduce costs to the consumer.
- In April 2022, FHFA requested that the Enterprises (a) refresh their 2017 analyses regarding the accuracy of their AUS under a tri-merge or bi-merge credit report requirement, (b) review how a bi-merge credit report could change the pricing power of the CRAs, and (c) review the potential changes in costs for credit reports that are eventually borne by the borrower.
- On October 26, 2022, based in part on the results of the Enterprises' April 2022 analyses, FHFA issued a conservatorship directive to the Enterprises to replace their tri-merge credit report requirement with a bi-merge credit report requirement. This decision requires lenders to use any two of the three CRAs. However, in a September 2023 press release, FHFA clarified that lenders must use at least two of the three CRAs in satisfying the bi-merge credit report requirement. This also clarified that lenders could still use all three CRAs; as such, a tri-merge credit report was still an option. FHFA also directed the Enterprises to work collectively and with the Agency on the implementation of the change to the tri-merge requirement, including timing, rollout, and communications. FHFA further directed the Enterprises to submit implementation plans to the Agency for review and approval.
- As of the end of our fieldwork for this audit, the bi-merge credit report requirement has not been implemented.

FHFA's Conservatorship Decision Policy and Conservatorship Decision Procedures provide an overview of the Agency's conservatorship authority, categories of conservatorship decisions, and defined Agency division and office roles within the conservatorship decision processes.⁵

⁴ Specifically, on December 20, 2017, FHFA issued the Credit Score RFI available at: https://www.fhfa.gov/sites/default/files/2023-05/CreditScore_RFI-2017.pdf (accessed July 3, 2025). The RFI also included questions seeking public input on potential changes to the credit score model requirements. FHFA defines "credit score model" to mean 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.

⁵ FHFA's Conservatorship Decision Policy and Conservatorship Decision Procedures were in effect at the time of the conservatorship directive on October 26, 2022. On March 6, 2024, these two documents were consolidated into one Conservatorship Decision Policy.

FHFA’s DHMG is the office responsible for recommending the use of the bi-merge credit report requirement. FHFA’s Conservatorship Decision Procedures require (a) documentation to support the proposed directive and (b) approval by the General Counsel or Deputy Director, and (c) final approval by the FHFA Director. Furthermore, FHFA’s Official Documents Policy requires that official documents should demonstrate objective and rigorous analysis to support a recommended policy or position, including discussion of alternative or contrary views on significant issues where appropriate. The office responsible for recommending a conservatorship decision must submit a clearance package that includes a staff analysis memorandum to support the decision.

OBJECTIVES AND SCOPE

We conducted this audit to determine whether FHFA (a) identified, analyzed, and responded to risks for its decision to replace the tri-merge credit report requirement with a bi-merge credit report requirement and (b) complied with applicable laws, regulations, and internal policies and procedures when making its decision. The scope of our audit was comprised of FHFA’s actions taken from January 1, 2017, through October 26, 2022.⁶

For details on methodology see Appendix I.

⁶ We focused on FHFA’s actions leading up to the Agency’s conservatorship decision on October 26, 2022. The scope did not cover FHFA’s ongoing implementation efforts after October 26, 2022.

RESULTS

We found that FHFA supported its decision to require that Enterprises replace the tri-merge credit report requirement. Specifically, FHFA identified, analyzed, and responded to risks effecting its decision. FHFA complied with applicable statutory and internal policy requirements in making its decision, including the Safety and Soundness Act of 1992, as amended (setting forth requirements for the exercise of conservatorship authority);⁷ and the FHFA’s internal Conservatorship Decision Policy, Conservatorship Decision Procedures, and Official Documents Policy.

FHFA Identified, Analyzed, and Responded to Risks and Potential Benefits to Replacing the Tri-Merge Credit Report Requirement

In December 2017, FHFA released an RFI seeking public input on proposed changes to the Enterprises’ tri-merge credit report requirement in an effort to identify potential risks and benefits. Prior to issuing its conservatorship directive on October 26, 2022, FHFA documented a clearance package that included a staff analysis memorandum and other information supporting its decision for the Enterprises to replace the tri-merge credit report requirement with a bi-merge credit report requirement. We refer to this documentation throughout the remainder of this report as FHFA’s staff analysis. We found that FHFA (1) identified, analyzed, and responded to the primary risk identified by respondents to the December 2017 RFI as to whether a change to the tri-merge credit report requirement would impact the Enterprises’ credit risk assessments and (2) identified the potential benefits of using a bi-merge credit report requirement. Through discussions with FHFA officials, we further determined that the Agency considered comments raised by the respondents.

FHFA Analyzed and Responded to the Impact on the Accuracy of Credit Risk Assessments When Changing the Tri-Merge Credit Report Requirement

Consistent with the concerns raised by respondents to the December 2017 RFI, an FHFA official noted that the main risk of moving from a tri-merge to a bi-merge credit report requirement is whether the Enterprises’ AUS will perform as accurate a credit risk assessment (i.e., using two versus three credit reports). Some RFI respondents reported that two credit reports (i.e., a bi-merge report) provided enough information to perform an accurate credit risk assessment of the borrower’s ability to repay a loan and could offer potential savings for lenders and consumers. Other RFI respondents indicated a risk that a bi-merge credit report did not provide sufficient information on the borrower’s capacity to repay debts and found that the tri-merge credit report requirement was necessary for an accurate credit risk assessment. Additionally, some RFI

⁷ Amended by the Housing and Economic Recovery Act of 2008 that gave FHFA the authority to place the Enterprises into conservatorship, among other things.

respondents noted that inaccurate credit risk assessments could impact the credit risk pricing of home loans and a borrower's eligibility to obtain a home loan.⁸

We found that FHFA analyzed and responded to these risks, as documented in its staff analysis. Specifically, on April 14, 2022, FHFA directed the Enterprises to separately assess the impact to the accuracy of their AUS credit risk assessments using a tri-merge and bi-merge credit report.⁹ In response, the Enterprises used statistical analyses to compare the impact on their credit risk assessments using various combinations of bi-merge credit reports to the tri-merge credit reports. The Enterprises found that the tri-merge and bi-merge credit reports performed similarly.¹⁰ Based on the Enterprises' analyses, FHFA concluded that the transition to a bi-merge credit report requirement would not change the accuracy of the Enterprises' AUS credit risk assessments or jeopardize the Enterprises' safety and soundness. An FHFA official further explained that the adoption of bi-merge reports does not alter credit risk pricing and eligibility of borrowers because bi-merge reports maintain the accuracy of the credit risk assessment. In other words, an accurate credit risk assessment will (a) enable lenders to set appropriate interest rates and fees on a given loan and (b) accurately determine whether the borrower is eligible for the loan, based on the likelihood that the borrower will default on the loan.

FHFA Identified Potential Benefits to the Bi-Merge Credit Report Requirement

We found that FHFA also identified and documented the potential benefits of replacing the tri-merge credit report requirement with a bi-merge credit report requirement similar to those reported by respondents to the December 2017 RFI. According to FHFA's staff analysis, the tri-merge requirement affords the CRAs a significant amount of pricing power when credit reports are ordered in the mortgage origination process. Since all three CRA reports are used in every tri-merge credit report obtained by a lender, the CRAs have no incentive to compete on price and quality. FHFA concluded that the bi-merge credit report requirement removes a barrier to competition among the CRAs because they would have to compete on price and quality as the lender would no longer automatically use all three CRAs.

⁸ Risk-based pricing is when a lender offers you less favorable loan terms, such as a higher interest rate, based on information in a borrower's credit report or application. Lenders often charge higher interest rates to people they consider to be higher risk borrowers, which could be due to negative information on a borrower's credit report.

⁹ FHFA requested the Enterprises to conduct similar analysis in February 2017, which yielded similar results to the 2022 analysis.

¹⁰ Fannie Mae based its analysis on 2018 loan acquisitions that contained credit reports from all three CRAs with a population of approximately 1.6 million loans. Freddie Mac used data from 2003 through 2012. We did not review the Enterprises' underlying data, reperform their statistical analyses, or validate the Enterprises' results.

FHFA's staff analysis also concluded that if only two credit reports are required, it is possible that the cost of the credit report package would be less than if the current tri-merge credit report requirement were maintained. FHFA supported this assertion with citation to research conducted at Freddie Mac that showed average prices quoted by a subset of large resellers were lower for bi-merge reports compared to tri-merge reports.

FHFA Considered Comments to the December 2017 RFI

FHFA's Conservatorship Decision Procedures and Official Documents Policy require the Agency to support conservatorship decisions and consider contrary views, as appropriate, but do not require the Agency to respond to each RFI comment. We discussed the respondents' comments to the December 2017 tri-merge RFI with FHFA officials. Through these discussions, FHFA demonstrated that they considered the comments. Consistent with policies and procedures, FHFA did not document its response to each comment as part of its staff analysis. An FHFA official stated it was a judgment call regarding what to include in the staff analysis. Additionally, the same official stated that not all RFI comments were contrary views that would impact FHFA's decision, and certain risks would be addressed during implementation. FHFA only recorded in the staff analysis the key risks and benefits it determined impacted its decision of replacing a tri-merge requirement with a bi-merge report requirement.

FHFA Complied with Federal Requirements and Internal Policies and Procedures When Making Its Change to Credit Report Requirements

We found that FHFA issued its conservatorship directive in accordance with the Safety and Soundness Act and its internal guidance. In coordination with the OIG Office of Counsel, we reviewed FHFA's legal views regarding whether FHFA's conservatorship directive to replace the tri-merge credit report requirement with a bi-merge credit report requirement was issued within its authority under the Safety and Soundness Act, as amended. FHFA's documented legal view is that the Enterprises' credit report requirements are business decisions; FHFA is authorized, as conservator, to issue an entirely prospective directive on credit reporting requirements; and the directive was a valid exercise of the powers and function of FHFA as conservator.

In addition, we requested that FHFA's Office of General Counsel (OGC) share its views as to whether FHFA's issuance of the conservatorship directives are subject to the requirements of the Administrative Procedures Act of 1946, as amended¹¹ (APA) or the Congressional Review Act

¹¹ The APA governs the process that federal agencies follow when developing and issuing rules and regulations.

(enacted in 1996)¹² (the Act). The OGC concluded that (1) conservatorship directives do not meet the APA definition of a “rule” because FHFA is not considered an “agency” when it acts as conservator and (2) directives are not covered by the Act. In October 2024, GAO reviewed the applicability of the Act to FHFA’s issuance of the bi-merge conservatorship directive. GAO concluded that the directive was not subject to the Act’s submission requirements.¹³

After reviewing the FHFA OGC and GAO analyses of the APA and the Act, the OIG Office of Counsel concluded that FHFA’s determinations as to the non-applicability of those statutes was legally sufficient.

Finally, we determined that FHFA complied with its internal policies and procedures to support issuance of its conservatorship directive to change the tri-merge credit report requirement on October 26, 2022. Specifically, FHFA documented its analysis to support its conservatorship directive through its staff analysis, the Enterprises’ analyses, and a presentation to the FHFA Director. FHFA also obtained management review and required approvals from DHMG’s then-Deputy Director, the Agency’s General Counsel, and then-FHFA Director.

Based on our audit results, we made no recommendations in this report.

FHFA COMMENTS AND OIG EVALUATION.....

We provided FHFA an opportunity to comment on a draft of this audit report. FHFA management provided technical comments, which we considered in finalizing this report. Because our report did not include recommendations, FHFA management chose not to provide a written management response.

¹² The Congressional Review Act requires federal agencies to submit a report on each new rule to both houses of Congress and GAO for review before the rules can take effect.

¹³ See GAO, [*Federal Housing Finance Agency—Applicability of the Congressional Review Act to FHFA Bi-Merge Requirement and Determination on Two New Credit Score Models*](#) (October 1, 2024) (B-336260).

APPENDIX: METHODOLOGY

To accomplish our objective, we performed the following procedures:

- Reviewed GAO’s *Standards for Internal Control in the Federal Government* (GAO-14-704G; September 2014) and determined that the risk assessment and control activities components of internal control were significant to this objective and focused on the underlying principles that management should: (1) identify, analyze, and respond to risks related to achieving the defined objectives and (2) design and implement control activities through policies.
- Reviewed the following laws and regulations to determine the requirements applicable for FHFA’s conservatorship decision to replace the tri-merge credit report requirement with the bi-merge credit report requirement:
 - The Administrative Procedure Act of 1946, 5 U.S.C. §§ 551-559
 - The Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq.
 - The Congressional Review Act, 5 U.S.C. §§ 801-808
 - The Housing and Economic Recovery Act of 2008, 12 U.S.C. § 4617
- Reviewed the following FHFA guidance to identify requirements for issuing conservatorship decisions:
 - FHFA, Policy No. 801, Official Documents Policy (June 8, 2018)
 - FHFA, Policy No. 1101, Conservatorship Decision Policy (October 8, 2020)
 - FHFA, Policy No. 1101, Conservatorship Decision Procedures (October 8, 2020)
- Reviewed prior OIG reports to identify findings and recommendations related to credit report conservatorship decisions to determine their impact, if any, on our audit:
 - OIG, [*FHFA’s Analysis of Credit Score Models Was Consistent with Applicable Requirements but the Agency Could Improve Its Process and Enhance the Level of Detail in Its Decision Record*](#) (March 28, 2024) (EVL-2024-002)
 - OIG, [*FHFA Followed Its Guidance When Making Conservatorship Decisions But Needs to Improve Retention of Decision Documentation and Update the Conservatorship Decision Policy and Procedures*](#) (March 29, 2023) (AUD-2023-003)

- Reviewed the following GAO report to determine its decision and rationale of whether FHFA’s conservatorship decision was applicable to the Congressional Review Act of 1996:
 - GAO, [*Federal Housing Finance Agency—Applicability of the Congressional Review Act to FHFA Bi-Merge Requirement and Determination on Two New Credit Score Models*](#) (October 1, 2024) (B-336260)
- Interviewed FHFA officials to gain an understanding of the actions they took to support the Agency’s conservatorship decision to replace the tri-merge credit report requirement with the bi-merge credit report requirement. FHFA personnel included Associate Directors, an Associate General Counsel, a Senior Policy Analyst, Senior Advisor (Capital Markets), and a Principal Economist.
- Analyzed public comments received from FHFA’s December 2017 Credit Score RFI and other public stakeholder comments to gain an understanding of the risks, concerns, and benefits that respondents identified.
- Reviewed RFI comments, an FHFA listening session, and Enterprise and FHFA analyses from January 1, 2017, through October 26, 2022, to determine whether FHFA identified, addressed, and responded to risks related to its conservator directive to require the Enterprises to replace the tri-merge requirement.
- Evaluated FHFA’s legal views regarding the applicability of the APA and Congressional Review Act to its conservatorship directive to replace the tri-merge credit report requirement with a bi-merge credit report requirement. Consulted with the OIG Office of Counsel to assess the legal sufficiency of FHFA’s views.
- Reviewed FHFA’s conservatorship committee meeting materials, conservatorship decision approval documentation including the Agency’s analysis, and the communication of the conservatorship directive to the Enterprises to determine whether (a) the Agency identified, analyzed, and responded to risks and (b) issued its conservatorship directive in accordance with controls identified in its Conservatorship Decision Policy, Conservatorship Decision Procedures, and Official Documents Policy.

We conducted this performance audit from September 2024 to September 2025, at our headquarters in Washington, D.C., in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Federal Housing Finance Agency Office of Inspector General

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