

AMERICAN BANKERS ASSOCIATION, CONSUMER BANKERS ASSOCIATION, AND HOUSING POLICY COUNCIL JOINT COMMENTS ON HUD'S PROPOSED RULE ON THE FAIR HOUSING ACT'S STANDARD OF DISPARATE IMPACT

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U.S. Financial Institutions and Services Litigation Alert

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On behalf of the American Bankers Association, Consumer Bankers Association, and Housing Policy Council, K&L Gates Partner Paul F. Hancock and Associate Olivia Kelman crafted a comment that was submitted to the U.S. Department of Housing and Urban Development ("HUD") on October 18, 2019, addressing the proposed amendments to HUD's interpretation of the Fair Housing Act's disparate impact standard. The preamble to the proposed rule states that HUD "proposes to amend" its disparate impact regulation "to better reflect the U.S. Supreme Court's 2015 ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507 (2015)." [1] In that decision, the Supreme Court articulated the standards for, and limitations on, disparate impact claims under the Fair Housing Act. The comment explains that the proposed amendments properly reflect binding precedent and provide necessary guidance regarding the application of the law, and supports the amendments in HUD's Proposed Rule, with some suggested modifications. A copy of the comment is available here.

NOTE

[1] 84 Fed. Reg. 42,854 (Aug. 19, 2019).

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