AMERICAN BANKERS ASSOCIATION WEIGHS IN WITH A COMMENT ON HUD'S DISPARATE IMPACT RULE

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U.S. Consumer Financial Services Alert

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On behalf of the American Bankers Association and state bankers associations across the country, 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" or "Department") on August 20, 2018, in support of reopening rulemaking regarding the Department's implementation of the Fair Housing Act's disparate impact standard. On June 20, 2018, HUD issued an advance notice of proposed rulemaking that sought public comment on possible amendments to the Department's 2013 final disparate impact rule in light of the U.S. Supreme Court's decision in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507 (2015). In that decision, the Supreme Court articulated the standards for, and the constitutional limitations on, disparate impact claims under the Fair Housing Act. The comment explains that the rule should be amended because it adopts standards that are inconsistent with Supreme Court precedent, fails to provide much needed guidance to entities seeking to comply with the law, and is therefore outdated and ineffective. A copy of the comment is available here.

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