



Regulatory Alert

Financial Services Regulatory Insight Center



April 2019

Renewed focus on Fair Housing

KPMG is issuing this Regulatory Alert given the renewed public policy and multiple agency attention to Fair Housing and fair housing-related consumer protections.

Key points

- The Chair of the House Financial Services Committee prioritized “renewed attention” to housing laws and “robust oversight” of HUD.
- The Committee’s first hearing on fair housing highlighted: expanding the list of “protected classes;” inadvertently perpetuating discrimination through new technologies; and applying the disparate impact rule.
- Multiple federal regulators have recently taken actions enforcing the Fair Housing Act.

The following items individually and collectively highlight heightened interest in issues related to fair housing:

- In outlining priorities for the 116th Congress, the Chair of the [House](#) Financial Services Committee specifically called out housing, including fair housing laws, housing finance reform, and homelessness, stating she would bring “renewed attention” to these issues and elevate them to a national discussion. With regard to fair housing, her concerns included: Department of Housing and Urban Development (HUD) use of the Secretary-Initiated Complaints power to proactively address systemic discrimination, and implementation of the Affirmatively Furthering Fair Housing (AFFR) rule that was “halted” in January 2018.
- Testimony provided in the House Financial Services Committee’s first [hearing](#) on the Fair Housing Act included discussion of:
 - Proposals to revise and strengthen the AFFR, including through access to Community Development Block Grant funding.
 - Expansion of “protected classes” under the Fair Housing Act to reference “sexual orientation” and “gender identity.”
 - Consumers’ increasing use of online platforms to search for housing options and the potential for big data and technological advances, including algorithms and machine learning, to create discriminatory outcomes.
 - HUD’s advanced notice of proposed rulemaking (ANPR) seeking input on revisions to its disparate impact rule.



- Potential bias in credit-reporting data and credit-scoring models.
- Recent regulatory actions by HUD and the OCC to enforce the Fair Housing Act have alleged findings adversely affecting protected classes in advertising and in benefit pricing to all eligible borrowers.

Other current developments that will heighten awareness of housing-related issues include:

- A focus on housing finance reform by the Administration and Congress, including:
 - An Administration [memorandum](#) directing Treasury and HUD to propose the end of the Fannie Mae and Freddie Mac conservatorship.
 - An [outline](#) of housing finance reforms by the Senate Banking Committee Chair, as well as priority status on the agendas of the Senate Banking Committee and the House Financial Services Committee.
- The reporting and publication of new and expanded data sets under the Home Mortgage Disclosure Act (HMDA).
- Banking agency attention to Community Reinvestment Act (CRA) reform, which, though not a fair lending regulation, will relate to fair lending and fair housing (for

example, through analyses of substantially minority areas and diverse borrowers).

KPMG Perspectives

Fair housing remains a key foundation to financial service consumer protection regulations and public policy. The issues being considered around fair housing will likely influence or be influenced by other fair lending and fair housing related regulations, including the Equal Credit Opportunity Act (ECOA), the unfair and deceptive acts or practices authorities of the CFPB and the FTC (UDAAP/UDAP), the HMDA, and CRA. The renewed Fair Housing Act focus is both within financial services through the prudential regulators but beyond banking as well to those organizations that market, originate, service, or sell rental and housing products and services.

This focus will remain through the presidential election cycle (and potentially beyond). Firms should be sure to conduct and enhance their controls and governance in fair housing and fair lending overall, and should conduct appropriate opportunity, penetration and market performance analysis to demonstrate adherence to fair housing principles.

For more information, please contact [Amy Matsuo](#), [Todd Semanco](#), or [Mike Lamberth](#).

Amy Matsuo
Principal and National Lead
Regulatory Insights
T: 919-664-7302
E: amatsuo@kpmg.com

Contributing authors:
Amy Matsuo, Principal and National Lead, Regulatory Insights

Karen Staines, Director, Financial Services Regulatory Insight Center

kpmg.com/socialmedia



All information provided here is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the facts of the particular situation.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 592774