

Banking and Finance Law Daily Wrap Up, EQUAL CREDIT OPPORTUNITY—HUD proposes to remove its discriminatory effects regulations, (Jan. 13, 2026)

Banking and Finance Law Daily Wrap Up

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By Nora Macaluso

The agency said the move is consistent with President Trump's executive orders aimed at easing regulatory burdens.

The Department of Housing and Urban Development (HUD) is [proposing](#) to remove rules for determining whether a practice has an unjustified discriminatory effect under the Fair Housing Act, in a notice scheduled for publication in the January 14 *Federal Register*.

"These rules formalized legal tests that were not explicit in statute and imposed a presumption of unlawful discrimination when any variance in outcomes exists among protected classes, even without a showing of a facially discriminatory policy or discriminatory intent," HUD said.

Withdrawing the rules would result in "leaving to courts questions related to interpretations of disparate impact liability," the notice said.

HUD said its decision to remove the rules is based on "several factors," including executive orders issued by President Donald Trump.

An [executive order](#) issued last April "established that 'it is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals,'" HUD said. In addition, a January 2025 order directed agencies to review regulations and remove unnecessary ones.

The agency said its previous assertion that the regulations provided clarity and predictability "is diminished by the facts that case law continues to develop and HUD's regulation does not provide an up-to-date picture of the legal landscape."

Comments are due on February 13. HUD set a 30-day window from the time of *Federal Register* publication for public comments on the proposal. The agency said the comment period is shorter than its typical 60-day timeframe because it reviewed public comments several times during the course of related rulemakings from 2011 to 2021. "Interested members of the public are familiar with these regulations and should be able to respond effectively within the 30-day period," HUD said.

Under President Joe Biden, HUD put forward rules reinstating regulations aimed at furthering fair housing and providing a framework for establishing legal liability for discriminatory effects. The rules had been amended in 2020 (see [Banking and Finance Law Daily](#), Apr. 14, 2021).

HUD in 2013 published a final rule, "Implementation of the Fair Housing Act's Discriminatory Effects Standard," establishing regulations interpreting discriminatory effect or disparate impact liability. A 2020 rule would have amended disparate impact regulations (see [Banking and Finance Law Daily](#), Sept. 9, 2020), but was stayed by a court. In 2021, HUD reinstated the 2013 rule, which was finalized in 2023 (see [Banking and Finance Law Daily](#), Mar. 21, 2023).

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