

June 29, 2020

The Honorable Brian Montgomery
Deputy Secretary
U.S. Department of Housing and Urban Development
Washington, DC 20410

Re: Implementation of the Fair Housing Act's Disparate Impact Standard

Dear Mr. Montgomery,

Bank of America appreciates the commitment that the Secretary, you and the Department of Housing and Urban Development (“HUD”) have demonstrated to administering the Fair Housing Act. We commend HUD’s recognition that discrimination—both intentional and unintentional—continues to exist in the United States, and its affirmation that the disparate impact theory under the Fair Housing Act is an important tool in the continuing fight against unlawful discrimination.

Over the last several weeks, our nation has experienced a series of tragic events that have led to a collective heightened awareness of systemic racism. We have all witnessed the expressions of anguish and anger about what has happened and have developed greater understanding of and sensitivity to the historical roots of those feelings. Numerous conversations with employees inside our own company have only served to reinforce our shared belief that the emotion and legitimacy of these concerns is deep seated and justifiably real. Given the importance of this moment in history and the very real prospect of progress, we respectfully urge that this is not a time for actions, however well intentioned, that some will interpret as diminishing hard fought protections. Rather, it is a time for thoughtful reflection so that we can drive meaningful progress on equity and inclusion.

Given the recent protests and events, and the recognition of where we are as a country, we would respectfully offer that the time is not right to issue a new rule on disparate impact. We have all heard the legitimate concerns that have been raised that the proposed rule could make it more difficult to ensure that the Fair Housing Act’s protections and avenues of redress against unlawful discrimination are available to all Americans. The proposed rule could have significant impact and come in the context of what we as a country are currently experiencing. We believe more deliberation is required.

We respectfully urge that HUD refrain from issuing the proposed new disparate impact rule at this time.

Sincerely,



Anne Finucane
Vice Chairman