

United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, D.C. 20515

December 4, 2020

Dear President-elect Joseph Biden,

On behalf of the Democratic members of the Committee on Financial Services, I would like to extend my congratulations to you, Vice President-elect Kamala Harris, and the team you are assembling. As you begin to carry out the mandate given to you by the American people to restore trust in the federal government, I would like to highlight several areas where you and your team should immediately reverse the actions of your predecessors. For the past two years, the Committee on Financial Services, under my leadership, has conducted extensive oversight of the Trump Administration, shining a spotlight on the many harms inflicted, in addition to passing legislation to reverse those actions. Unfortunately, President Trump has generally abandoned any attempt to lead this country through the Coronavirus 2019 (COVID-19) pandemic, even though more than a thousand Americans are being killed every day. There are several actions that your incoming administration can immediately take to coordinate the federal response, keep people safely housed, protect consumers and small businesses, support the broader economy and ensure a global recovery.

In addition, Trump appointees have attacked diversity and inclusion, undermined consumer safeguards, decreased oversight of the largest banks and systemic threats to the economy, and rejected international development and cooperation at the Department of the Treasury (Treasury) and the independent financial services regulators. The Department of Housing and Urban Development (HUD) and the other agencies with the responsibility to oversee our housing markets have also taken actions to weaken our mortgage markets, reduce access to housing and homeownership opportunities, and hamstring fair housing protections. I will summarize the many actions taken by Trump's appointed team below that warrant your attention, as well as actions your incoming administration should take, and I am attaching a full list of regulatory and administrative actions by the Trump Administration that your team should prioritize the elimination of on day one of your presidency.

**Coronavirus (COVID-19) Pandemic Response**

The pandemic remains the most immediate challenge to people and businesses, not only here in the United States, but around the world, and I am thankful that you are prioritizing your incoming Administration's efforts to finally provide the leadership that is needed. My Committee has been singularly focused on developing legislation to ensure our government has every resource and tool available to support the health and economy of this country.

*Fully Use the Defense Production Act of 1950 (DPA)*

With new records for infections and hospitalizations occurring nearly daily, the need for critical medical supplies and equipment will continue for some time and key parts of the national stockpile will need to be replenished. In order to address these shortfalls, your Administration must ensure that the Departments of Defense and Health and Human Services use the DPA to boost production of key supplies such as N95 masks and other personal protective equipment.

- The Department of Defense should immediately stop the inappropriate use of the Coronavirus, Aid, Relief and Economic Security (CARES) Act DPA funds for support of the defense

industrial base and instead use those resources to support the production of COVID-related medical supplies and equipment. In addition, your Administration should develop, after consulting with key stakeholders like representatives for essential workers, a publicly available assessment of the nation's COVID supplies and equipment needs and your plan for how the government will meet those needs.

- Given the skyrocketing needs, the Biden Administration should immediately establish a mechanism for ensuring that Federal purchases do not interfere with state, territorial, tribal or local procurement except where absolutely necessary, and help make them whole when it is.
- Your Administration should appoint a coordinator to reach out to businesses to help foster opportunities for expanding the production of key supplies and equipment to harness the creativity and pent up willingness of the private sector to mobilize its tremendous capacity to combat the pandemic.
- The Biden Administration should also consider establishing a national commission to study the vulnerability of the United States created by the globalization of health and other critical supply chains and make recommendations to the U.S. Government on steps to address these vulnerabilities.
- Importantly, the Biden Administration should issue guidance that the DPA will not be used to force workers to return to unsafe work sites and should vigorously pursue any company that is charging exorbitant prices for key medical supplies and equipment.
- Finally, your Administration should review the use of the DPA since the beginning of the pandemic and determine whether additional enhancements are warranted, such as amending the DPA to allow its use for health emergency preparedness, which could have been used prior to the onset of the pandemic, and providing greater discretion to cabinet agencies to proceed expeditiously in the case of a future pandemic.

#### *Issue an Executive Order to Prevent Evictions*

More than a month after the CARES Act eviction moratorium expired, the Trump Administration issued a Centers for Disease Control (CDC) public health order intended to prevent most evictions from proceeding. However, this order expires at the end of the year. In addition, the order imposed needless hurdles on renters, including exposing them to potential criminal liability. I urge your Administration to work with Congress to implement a durable eviction moratorium, as included in the Heroes Act passed in October, but in the interim, to issue an executive order directing the CDC to extend and improve the CDC public health order so that people can remain in their homes until emergency rental assistance can be made available. I commit to working with your team to ensure that resources are available for the most vulnerable renters so that we prevent a future wave of evictions, while simultaneously stabilizing the rental market.

#### *Promote Stable Housing During the Pandemic*

During the pandemic, HUD and FHFA have both enacted new policies that impose restrictions and increased costs for certain loans that go into forbearance prior to endorsement by the Federal Housing Administration (FHA) or purchase by Fannie Mae or Freddie Mac (collectively, the Enterprises). These policies unfairly penalize lenders for loans that were fully underwritten according to FHA or Enterprise requirements. These policies have also contributed to significant credit overlays that may be disproportionately affecting access to credit for minority and other underserved borrowers, and may also be preventing borrowers from accessing forbearance and other protections available to them through the CARES Act. Your housing team should amend these policies to ensure the loans that go into forbearance are still eligible for FHA insurance and purchase by the Enterprises.

Additionally, although HUD has provided program waivers to public housing agencies (PHAs) and owners of HUD-assisted multifamily properties to use at their discretion, HUD can do more—using its broad waiver authority provided by the CARES Act—to keep people safely housed during the pandemic. While it is important to provide PHAs and owners with flexibility to make decisions to respond to local conditions, there are a few key policies that are necessary to protect tenants’ health and safety, regardless of where they might live, and that should be mandatory. Specifically, HUD should set the minimum rent at \$0 and implement a uniform, interim recertification rule that requires PHAs and owners to presume that a tenant’s inability to pay rent has been caused by a loss of income, and as a result would be required to conduct an income recertification. To help people find housing where they can shelter in place during the pandemic, HUD should also require that PHAs and owners lift their tenant screening requirements when adding family members to a household and automatically extend the search period for vouchers to give families more time to find a landlord willing to rent an apartment to them.

#### *Fully Use CARES Act Lending Authorities*

The CARES Act also authorized the Board of Governors of the Federal Reserve System (“Federal Reserve” or “Fed”) and Treasury to dedicate up to \$500 billion toward emergency lending facilities to support businesses, non-profit organizations, and state, local, territorial, and tribal governments. Since the Fed and Treasury began establishing these facilities in March, I, along with several of my colleagues, have urged Chair Powell and Secretary Mnuchin to improve the program requirements to better support the economy. This has included imposing appropriate workforce maintenance requirements and other conditions, so that participating entities are not using public money to lay off workers and increase unemployment.<sup>1</sup> I have also emphasized that the terms of the Main Street Lending Program (MSLP) and Municipal Liquidity Facility (MLF) should be adjusted to ensure greater access and assistance to small businesses, non-profit organizations, colleges and universities, as well as state, local, territorial, and tribal governments.<sup>2</sup> The Fed has made some of these changes, albeit slowly after nearly eight months of pressing by me and my colleagues. This includes expanding access to the MLF to mid-sized cities, making the MSLP available to non-profits, and reducing the MSLP’s minimum loan size threshold. The Fed has not adopted all of my recommendations, and the programs have been underutilized.<sup>3</sup>

Unfortunately, Secretary Mnuchin and Chair Powell recently decided to close down the CARES Act’s emergency lending facilities at the end of this year.<sup>4</sup> There are even reports Secretary Mnuchin may unlawfully try to transfer unused funds to the general fund in violation of the CARES Act. This would be a huge mistake, since these programs have been a crucial component of stabilizing financial markets since March, and the pandemic is clearly not over. Small businesses continue to struggle, especially minority owned businesses. One recent survey estimated 46% of Black small businesses

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<sup>1</sup> “Waters Urges Fed to Address Concerns Regarding COVID-19 Programs Needed to Support Small Businesses and the Economy,” *House Financial Services Committee*, (April 16, 2020), <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=406504>.

<sup>2</sup> *Ibid.*

<sup>3</sup> The Congressional Oversight Commission has examined the underutilization of the MSLP and MLF, and several Commission members have noted that the terms of the facilities could be made much more generous, especially in contrast with the Fed’s corporate credit facilities. Congressional Oversight Commission, [\*The Fourth Report of the Congressional Oversight Commission\*](#) (Aug. 21, 2020), and [\*The Fifth Report of the Congressional Oversight Commission\*](#) (Oct. 15, 2020).

<sup>4</sup> Yahoo! Finance, [\*Fed will return unused funds after Treasury orders central bank to wind down emergency loan programs\*](#) (Nov. 20, 2020)

either already closed or are planning to close by April 2021 without additional federal aid.<sup>5</sup> Meanwhile, state and local governments are in a very weak financial position, facing estimated budget shortfalls of nearly \$1 trillion next year.<sup>6</sup>

Against this backdrop, closing these emergency lending facilities is deeply irresponsible and foolish. If Treasury tries to make unused funds unavailable to your administration and the Fed going forward,<sup>7</sup> it is vital that your administration quickly reverse any unlawful action by the Trump Administration while utilizing and deploying whatever funds remain available to minimize job losses and stimulate the economy.

### *Protect Consumers*

On top of the physical and mental tolls of this crisis, it is neither fair nor accurate for millions of people to be subject to years of diminished credit and employment opportunities due to negative information being reported on their consumer credit reports. Likewise, consumers with growing amounts of medical and other debt are unfairly facing the additional stress of harassing calls from debt collectors and are seeing their future credit prospects evaporating. There are several actions that should be taken to help consumers struggling during this pandemic:

- Fire Director Kathy Kraninger.
- Under new leadership, direct the CFPB to aggressively protect consumers by enforcing the law, including protections provided under the CARES Act, as well as other consumer financial protection laws, such as the prohibition on unfair, deceptive, or abusive acts or practices (UDAAP).
- In conjunction with the prudential regulators, the CFPB should issue strong guidance to the financial institutions to ensure they are doing all they can to provide appropriate forbearance and loan modifications for affected borrowers. CFPB should also rescind prior actions to relax enforcement of time limits for consumer reporting agencies or furnishers to investigate consumer report disputes.
- The CFPB should immediately begin work to replace the “Payday, Vehicle Title, and Certain High-Cost Installment Loans” rule with a rule that protects consumers from predatory lenders.
- The new director should restore the roles and responsibilities of the Office of Fair Lending and Equal Opportunity.
- The CFPB should rescind a recent rule that would allow debt collectors to harass consumers over email or text, and instead bolster consumer protections against abusive debt collection practices.
- Issue a Presidential executive order directing the Treasury and other agencies to immediately suspend the collection of debts owed by consumers to the federal government until after the pandemic ends.

The pandemic has compounded what was already a crippling student debt crisis for millions of borrowers. President Biden should issue an executive order to promptly forgive up to \$50,000 of debt

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<sup>5</sup> Main Street Alliance, [\*NEW Poll: Nearly Half of Black-Owned Small Businesses Closed Permanently Or Will Soon Shutter Due to Insufficient Federal COVID Relief\*](#) (Oct. 16, 2020)

<sup>6</sup> Upjohn Institute for Employment Research, [\*An updated proposal for timely, responsive federal aid to state and local governments during the pandemic recession\*](#) (May 8, 2020).

<sup>7</sup> For example, see Bloomberg, [\*Mnuchin plans to put \\$455 billion out of Yellen’s easy reach\*](#), (November 24, 2020)

for each federal student loan borrower and pause all student loan payments and interest accrual until the economy can recover. As Chairwoman of the House Committee on Financial Services, I will work with your Administration to secure similar relief for private student loan borrowers as well.<sup>8</sup>

### *Restore America's Leadership Role in International Development*

As the global scale of the health and economic impact of the COVID-19 pandemic became apparent, our Committee took concrete steps to demonstrate support for global economic cooperation by providing early and expedited approval of substantial new contributions to the international financial institutions. We included in the CARES Act authorizations for the U.S. to participate in, and contribute to, the 19th replenishment of the World Bank's International Development Association and the fifteenth replenishment of the African Development Fund. We authorized U.S. support for general capital increases for the African Development Bank and the International Finance Corporation (IFC)—the latter authorization was linked to an agreement with the World Bank to implement a critical package of reforms in the areas of human rights, transparency, public subsidies, and for-profit education.<sup>9</sup> We also authorized a doubling of the U.S. commitment to the IMF's emergency backstop facility, the New Arrangements to Borrow, an action that was praised by the IMF Managing Director as a powerful message of U.S. leadership just as the World Bank and IMF were announcing efforts to provide massive emergency assistance to help developing countries respond to the COVID-19 pandemic.

I believe your Administration must renew the urgency around the ambitious commitments made by the World Bank, while also balancing concerns that have been raised about the transparency and effectiveness of the Bank's COVID response. Also, given the debt distress many developing countries were facing before the COVID crisis, there is now an even greater need for additional resources on a global scale.

- Your Administration should, within its first 100 days, support a \$650 billion issuance of Special Drawing Rights at the International Monetary Fund, with no need for congressional authorization, which would provide a liquidity boost to developing and emerging economies that are facing a sudden depletion of foreign exchange reserves as they cope with the health and economic impacts of the coronavirus.
- You should encourage advanced economies to lend their new SDRs to a special purpose vehicle at the Fund to help developing countries. Moreover, your administration should work with IMF members to encourage them to agree now to a second \$650 billion allocation of SDRs at the start of the next five-year "basic period," in IMF terminology—again without congressional authorization—which begins on January 1, 2022. Such action would also signal a rejuvenation of U.S. support for internationalism, and that America is prepared and willing to lead the world in building an effective, multilateral approach to some of the world's most difficult problems.

### **Diversity and Inclusion**

Your and Vice President-elect Harris' election to the highest offices in our country comes at a time of crisis that is disproportionately hurting the communities of color. At the same time cities across America have witnessed the largest protests in a generation against systemic racism. People of color

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<sup>8</sup> Section 432(a) of the Higher Education Act of 1965 (20 U.S.C. 1082(a)) provides the Department of Education with legal authority to broadly cancel student debt, stating that the Secretary of Education has the authority to modify a loan, and "... compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption."

<sup>9</sup> Letter from World Bank President Malpass to Treasury Secretary Mnuchin, dated March 20, 2020 at [https://financialservices.house.gov/uploadedfiles/malpass\\_ltr\\_mnuchin\\_3202020.pdf](https://financialservices.house.gov/uploadedfiles/malpass_ltr_mnuchin_3202020.pdf)

overwhelmingly voted for you to bring about long overdue change to the levers of power, and that includes efforts to ensure that the financial services industry and its regulators resemble the rich diversity of America.

- Immediately rescind Trump's executive order that prohibited the use of federal funds for diversity training.<sup>10</sup>
- Direct your Treasury team to put diversity and inclusion on the Financial Stability Oversight Council's next agenda to ensure that the Council's members, which include regulators for the entire financial system, are doing everything in their authority to accomplish our shared goal.
- Regarding the focus on diversity and inclusion, include incorporating diversity into your Administration's planning and breaking down diversity goals into measurable objectives.
- To the greatest extent possible consider the nomination of individuals who are reflective of gender, racial, and ethnic diversity for agencies' highest posts and their advisory positions. This Congress, we demonstrated that diversity and inclusion can be a bipartisan issue when the House passed legislation on a bipartisan basis to require diverse slates when considering filling certain federal vacancies, such as Fed bank presidents.
- Require disclosure of public companies and regulated entities of their boards' diversity, including by approving proposals by national exchanges to change their listing standards to require such disclosure, as well as setting minimum board diversity levels.

In addition, I encourage you and your team to make full use of Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which created Offices of Minority and Women Inclusion (OMWI), at the Treasury Department and each of the independent financial regulators. Your administration, for example, should require mandatory compliance with the Joint Standards for Assessing the Diversity Policies and Practices of Regulated Entities by the Agencies, including annual reporting of diversity data by regulated entities. Further, given the exacerbated decline of Black businesses, in particular, as a result of the COVID-19 pandemic, your administration should ensure that OMWIs are monitoring and advising on any unintended consequences and harm that may be caused by agency policies to minority owned businesses and communities of color. If empowered, these offices can support our shared goal of bringing about change in the financial services industry.

### **Financial Stability and Consumer Protection**

Since 2017, the Treasury Department has issued a series of reports focused on rolling back enhanced prudential standards -- including capital, liquidity, leverage, stress testing, and living wills -- that apply to the largest banks in the country, many of which regulators have implemented.<sup>11</sup> Treasury has also recommended that regulators roll back the Volcker Rule, a critical safeguard to ensure banks don't gamble with their customers' deposits, as well as critical consumer safeguards, like those the CFPB finalized under former Director Richard Cordray to curb some of the harmful practices of payday lending. Trump's Treasury has encouraged, and regulators have advanced, so-called "sandboxes" that, instead of promoting responsible innovation, create enforcement-free zones for bad actors to take advantage of.

#### *Oversight of Wall Street and Financial Stability*

I urge your leadership at the Department of the Treasury and your regulatory appointees to immediately take action to restore and enhance regulatory safeguards that put consumers, investors and

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<sup>10</sup> See <https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.

<sup>11</sup> See U.S. Department of The Treasury, [Regulatory Reform](#) (last accessed Nov. 17, 2020)



taxpayers first, and ensures the financial system is better prepared for unexpected events. For example, your appointees should immediately reverse harmful rules that have eased prudential requirements for the largest banks, including the stress capital buffer, swap margin, and leverage rules.<sup>12</sup> Based on the considerable research showing banks should maintain even higher levels of capital to appropriately reduce the risk of a future financial crisis,<sup>13</sup> your appointees should further issue new rules to strengthen the capital regulatory framework especially for megabanks.

Your appointees should also take prompt action to strengthen the stress testing process to ensure it is a robust, periodic test that cannot be gamed by institutions, and that has meaningful consequences, including prohibiting bank capital distributions for failing to meet safety and soundness requirements or otherwise demonstrating an inability to comply with federal laws and regulations. Your Treasury Secretary must convene and coordinate with the regulators, as is provided for under Section 619 of the Dodd-Frank Act, to immediately rescind changes made under the current Administration that weakened the Volcker Rule, and initiate a new rulemaking that strengthens its implementation in a manner that will ensure transparency and compliance through extensive public reporting of bank trading activities.<sup>14</sup> Regulators must also finalize long overdue rules, including strong rules on incentive-based compensation and small business lending data collection that are Dodd-Frank mandates but remain unimplemented more than a decade later. Prudential regulators must also exercise the broad powers Congress bestowed them with to hold recidivist megabanks, as well as their senior executives and board members, accountable for repeatedly breaking the law and harming consumers.<sup>15</sup>

Furthermore, there are several steps the Administration can immediately take to address concerns with the fact that megabanks continue to grow larger.<sup>16</sup> Your Administration and your appointees must be aggressive and use the tools at your disposal to strengthen the merger and acquisition and anti-trust review process to end the era of the government blindly rubber stamping those applications.<sup>17</sup> To begin with, the Department of Justice and relevant regulators should provide a very strict review of the proposed merger of PNC Financial Services and BBVA USA to create the fifth largest U.S. bank. The Treasury Secretary, as chair of the Financial Stability Oversight Council (FSOC), should also engage with relevant regulators given the potential systemic risk issues related to such mergers.

Treasury, SEC, and the prudential regulators should take into account potential risks posed by large nonbank financial companies as well as the opaque leveraged lending market. In addition to eliminating heightened oversight of all of the nonbank financial companies previously designated by the

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<sup>12</sup> Gregg Gelzinis, Andy Green, and Marc Jarsulic, [Resisting Financial Deregulation](#) (Dec. 4, 2017), Center for American Progress.

<sup>13</sup> For example, see Remarks of Former Federal Reserve Governor Daniel K. Tarullo, [Departing Thoughts](#) (April 4, 2017); Simon Firestone, Amy Lorenc and Ben Ranish, [An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the U.S.](#) (2017), Federal Reserve Board; International Monetary Fund, [Benefits and costs of bank capital](#) (2016); Federal Reserve Bank of Minneapolis, [The Minneapolis Plan to End Too Big to Fail](#) (Dec. 2017); and James Barth and Stephen Matteo Miller, [Benefits and Costs of a Higher Bank Leverage Ratio](#) (2017), Mercatus Working Paper, George Mason University.

<sup>14</sup> Gregg Gelzinis, [Hollowing Out the Volcker Rule](#) (Oct. 3, 2018), Center for American Progress

<sup>15</sup> See House Committee on Financial Services, [In Advance of Wells Fargo Hearings, Waters and Green Release Investigative Report Exposing Failures of Megabank's Management, Board, and Regulators](#) (Mar. 4, 2020).

<sup>16</sup> Jeremy Kress, [Big banks are growing due to coronavirus — that's an ominous sign](#) (May 1, 2020), The Hill

<sup>17</sup> For example see, House Committee on Financial Services hearing entitled, [The Next Megabank? Examining the Proposed Merger of SunTrust and BB&T](#) (Jul. 24, 2019); Graham Steele, Amanda Fischer, and Sandeep Vaheesan, [Letter to the Department of Justice re: Antitrust Division Banking Guidelines Review](#) (Oct. 16, 2020); and FTC Commissioner Rohit Chopra and Professor Jeremy Kress, [Comment Letter on the U.S. Department of Justice's Bank Merger Competitive Review Guidelines](#) (Oct. 16, 2020)

FSOC under the Obama Administration, Trump’s FSOC recently adopted procedures that, in the words of two former Treasury Secretaries and Fed Chairs, would “make it impossible to prevent the build-up of risk in financial institutions whose failure would threaten the stability of the system as a whole.”<sup>18</sup> Additionally, the last public progress report of the FSOC’s Hedge Fund Working Group outlined key data limitations that need to be addressed to better understand the risks posed by hedge funds.<sup>19</sup> This work takes on new urgency considering the recent turmoil witnessed in the U.S. Treasury market and agency residential mortgage-backed securities in March 2020 as the COVID-19 pandemic initially intensified. Recent reports by the Financial Stability Board and the Federal Reserve highlighted vulnerabilities with a variety of non-bank financial institutions, including hedge funds, that contributed to market volatility.<sup>20</sup> While the circumstances were different, there remain concerns about a Treasury market disruption that took place on October 15, 2014, with more to be done to strengthen transparency, monitoring, and risk management in this critical market.<sup>21</sup> However, FSOC’s work on the risks posed by hedge funds and other nonbank entities appears to have halted in 2017 under Secretary Mnuchin’s leadership. Under new leadership, FSOC should immediately prioritize this work, along with eliminating the aforementioned procedures that prevent FSOC from fulfilling its purpose to promote financial stability.

Your predecessor’s hands-off approach to reining in financial stability by convening fewer FSOC meetings compared to the Obama Administration and dramatically reducing FSOC staff and Office of Financial Research (OFR) staff has undermined the ability of Treasury to adequately examine and respond to emerging threats to the economy. If given sufficient attention and resources, both FSOC and OFR can play a vital role in studying and identifying potential sources of systemic risk and mitigating those risks. For example, the OFR should be preparing economic forecasts and analyses for the FSOC to consider the risks of climate change. At a minimum, FSOC should be meeting more frequently as the pandemic imposes economic damage more significant than experienced during the Great Recession, and FSOC should discuss how to immediately reverse the litany of deregulatory actions that have left the financial system more vulnerable to a financial crisis.

### *Climate Change*

Promoting financial stability is a crucial goal but the Trump Administration has ignored one of the most pressing systemic risks—climate change. Several U.S. financial regulators have stressed the importance of climate change as a financial stability threat, and earlier this year, the Commodities Futures Trading Commission (CFTC) concluded that “climate change poses a major risk to the U.S. financial system and its ability to sustain the American economy.” I urge you to immediately end Treasury’s silence on this critical issue and issue an executive order to address climate change at financial regulatory agencies to prioritize climate change as part of their oversight regulation of our nation’s financial institutions.<sup>22</sup> The Treasury can also further support these efforts to engage

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<sup>18</sup> See [Letter](#) from Timothy F. Geithner, Jacob J. Lew, Ben S. Bernanke, and Janet L. Yellen to Steven L. Mnuchin and Jerome H. Powell, (May 13, 2019).

<sup>19</sup> [Remarks](#) by former Treasury Deputy Assistant Secretary Jonah Crane at a Meeting of the Financial Stability Oversight Council (Nov. 16, 2016). Also see FSOC, [Financial Stability Oversight Council Releases Statement on Review of Asset Management Products and Activities](#) (Apr. 18, 2016).

<sup>20</sup> FSB, [Holistic Review of the March Market Turmoil](#) (Nov 17, 2020); and Federal Reserve, [Financial Stability Report](#) (Nov. 9, 2020)

<sup>21</sup> U.S. Department of the Treasury, Federal Reserve Board, Federal Reserve Bank of New York, SEC, and CFTC, [Joint Staff Report: The U.S. Treasury Market on October 15, 2014](#) (Jul. 13, 2015).

<sup>22</sup> For example, see Graham Steele, [A Regulatory Green Light: How Dodd-Frank Can Address Wall Street’s Role in the Climate Crisis](#) (Jan 2020), Select Committee on the Climate Crisis Majority Staff Report, [Solving the Climate Crisis – The Congressional Action Plan for a Clean Energy Economy and a Healthy, Resilient, and Just America](#) (June 2020)



internationally, by creating a new deputy assistant secretary position focused on international climate finance within the Office of International Affairs. Additionally, the Administration should not give preferential treatment to the oil and gas sector through the exercise of emergency lending authorities as the outgoing Energy Secretary encouraged.<sup>23</sup> New leadership at the OCC should also promptly rescind a proposed rule to try to force banks to serve oil and gas companies even if doing so would enhance risks to the bank and to the financial system.<sup>24</sup>

One sector in the financial services industry that is particularly exposed to climate risk is insurance. As climate disasters grow more frequent and intense, the insurance industry's losses from hurricanes, wildfires, and other climate events are also growing. Treasury must dedicate resources toward evaluating this threat, including properly funding and staffing the Federal Insurance Office (FIO). I expect that the FIO under your leadership will not only prioritize climate change, but long ignored concerns like auto insurance discrimination and more recent concerns like pandemic risk. My Committee has examined auto insurance discrimination and thinks the federal government can play a prominent role by providing national level insurance data. In addition, when the COVID-19 pandemic hit businesses across the country, it became painfully clear how little national level data is available on basic information like the number of small businesses that have business interruption coverage, and how much is being paid out in pandemic-related claims for business interruption, event cancellation, workers compensation, and liability policies. Furthermore, FIO should again play a vital role in promoting financial stability by informing the decisions of the Treasury, the FSOC, and Congress.

#### *Consumer Protection*

Furthermore, returning the CFPB to its intended role as the premier Federal watchdog for all consumers must commence on day one, beginning with the removal of the current Director and installing a leader who will fulfill the CFPB's statutory mission to protect consumers. We need new leadership at the CFPB who will reverse the harmful administrative changes made by President Trump's appointees, as detailed in my legislation, H.R. 1500, the Consumers First Act. We need a CFPB that will enforce the law and rescind enforcement-free zones that have been established by the current Administration. We need CFPB leadership that will quickly reverse harmful rules and replace them with a much stronger set of consumer safeguards relating to fair lending, payday lending, installment lending, credit reporting, debt collection, student lending, forced arbitration clauses, overdraft protection, among other consumer issues detailed in the appendix. Financial regulators should also curb predatory deposit advance and similar products that are often analogous to harmful payday loan products.<sup>25</sup>

Deregulation under the guise of innovation is a bad policy that hurts consumers and must be rejected. In addition to rolling back rulemakings on the so-called "true lender" and "valid-when-made" doctrines, your prudential regulators should impose a moratorium on approving any deposit insurance application for an Industrial Loan Company (ILC) until the loophole that allows for a lending institution to be exempt from consolidated supervision and other requirements of the Bank Holding Company Act is addressed. Your appointed officials at the Office of the Comptroller of the Currency (OCC) must also not assume, as their predecessors have, that a law Congress passed over 150 years ago somehow gives

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<sup>23</sup> Committee Press Release, [Waters Sends Letter to Energy Secretary Condemning Redlining Comments, Pushing Back Against Preferential Treatment for Oil and Gas Sector](#) (Jun. 23, 2020)

<sup>24</sup> OCC, [Proposed Rule Would Ensure Fair Access to Bank Services, Capital, and Credit](#) (Nov. 20, 2020)

<sup>25</sup> NCLC, [Civil Rights and Consumer Groups Condemn "Emergency" Regulatory Guidance that Allows Banks to Make Payday Loans](#) (Mar. 26, 2020)

them authority to provide a national bank charter to non-bank fintech or payment companies.<sup>26</sup> I look forward to working with your Administration to advance responsible innovations that actually help people, such as FedAccounts and similar proposals that will help bank the unbanked.

Unfortunately, discriminatory lending has been and continues to be pervasive in our financial system, robbing millions of Americans of an equal chance at pursuing their dreams of owning a home or starting a small business. As such, I urge your team at the Department of Justice, CFPB, and prudential regulators to prioritize fair lending enforcement. The Department of the Treasury should also play a role to encourage and help coordinate these efforts. In addition, the CFPB needs to implement strong data collection requirements to better identify and shut down discriminatory practices, including by collecting small business data as required by Section 1071 of the Dodd-Frank Act, and by expanding the types mortgage data required by the Home Mortgage Disclosure Act (HMDA).

The OCC under this Administration's leadership has also badly damaged the implementation of the Community Reinvestment Act (CRA), a critical civil rights law. Specifically, OCC finalized a harmful rule that undermines the purpose of CRA and will allow modern-day redlining to continue unchecked. In addition to rescinding this harmful rule, your prudential regulator appointees should work on a new plan to strengthen CRA's implementation to ensure we can finally put an end to modern-day redlining.<sup>27</sup>

#### *Investor Protection*

Trump's Securities and Exchange Commission (SEC or Commission) has taken several actions that have eroded shareholder rights, established regulatory barriers to shareholder engagement, increased issuer involvement in the proxy voting advice process and stripped away fundamental investor protections, including safeguards around private markets, where investors have few protections. Additionally, for the first time in years, SEC enforcement actions decreased during the Commission's 2020 fiscal year. While the pandemic may be partially to blame for the decrease, the SEC's relaxed approach to enforcement resulted in the Commission issuing no-action relief that temporarily exempts financial firms from enforcement action for non-compliance with the Customer Protection Rule, putting retail customers' funds and securities at risk. It is Wall Street, not main street, who benefits from this decreased oversight and lax enforcement. I know that your team will again put investors first and prioritize holding all bad actors accountable by rescinding these SEC actions and strengthening enforcement.

The Administration should also take steps to rein in private equity, hedge funds, and other investment funds that engage in predatory investment practices. As American companies and workers find themselves dealing with increasing debt, and as the rate of unemployment rises, some investment funds are swooping in to take advantage of, and exacerbate, this misfortune. More specifically, certain private equity firms are siphoning profits and assets from their portfolio companies and, then, charging exorbitant management fees and forcing debt-financed dividend payments. This leaves the company saddled with so much debt that it collapses, leaving American workers jobless. Your appointed officials should immediately work to:

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<sup>26</sup> See House Committee on Financial Services virtual hearing entitled, [\*License to Bank: Examining the Legal Framework Governing Who Can Lend and Process Payments in the Fintech Age\*](#) (Sep. 29, 2020).

<sup>27</sup> See Aaron Glantz and Emmanuel Martinez, [\*Kept Out: For people of color, banks are shutting the door to homeownership\*](#) (Feb. 15, 2018).

- Establish maximum debt limits and initial and ongoing debt-to-equity ratio requirements for acquired portfolio companies;
- Prohibit dividend recapitalizations or other investment payback methods for, at least, the first two years;
- Create standardized investment performance metrics; and,
- Ensure that private equity firms are forced to take responsibility for the targeted company's worker pensions.

The Administration should also roll back efforts to provide retail customers with more access to private equity, including the SEC's final rule expanding the definition of accredited investors. Additionally, over the past few years, hedge funds have even preyed upon Puerto Rico's debt crisis by purchasing low-priced Puerto Rico debt in hopes of forcing the territory to have to pay back the debt at face value. Your Administration should explore options to protect the people of Puerto Rico from the predatory actions of hedge funds looking to exploit the island's debt situation. Relatedly, your agencies should prioritize overdue reforms leveraged hedge funds have opposed, and that FSOC was pursuing last in 2016, to better identify and mitigate systemic risks they pose.<sup>28</sup>

Although these practices have been happening long before COVID-19, efforts by your appointed officials at the SEC to put an end to them will be vital to the nation's post pandemic recovery.

### **Promoting Affordable Housing**

Considering the ongoing COVID-19 pandemic, the primary goal of Treasury, HUD, and FHFA regarding the housing finance system should be focused on the pandemic response, not longer-term housing finance reform efforts. Housing finance reform is needed but I do not believe that during a pandemic and national recession is an appropriate time to rush such fundamental changes to our housing finance system, and I am very concerned that FHFA Director Calabria is taking steps to release the Enterprises from conservatorship before the end of his tenure. It is critical that you take whatever steps necessary to halt Director Calabria's plans to fast track an end to conservatorship as soon as possible, including firing Director Calabria, and rolling back the capital rule for the GSEs. Our top priorities when it comes to housing finance should be to support housing market stability and ensure that homeowners and renters are getting the support that they need during this crisis, as well as to promote affordable housing in the recovery.

It is also critical that you take steps to preserve the "GSE Patch" for the duration of the pandemic and re-propose a replacement for the GSE Patch when the housing market has stabilized. Following the aftermath of the 2008 financial crisis and the wave of foreclosures that harmed the country, but in particular communities of color, Congress passed the Dodd-Frank Act to, among other things, reform the housing finance system. Since then, mortgages have been characterized by stronger underwriting requirements without the kind of predatory features that led to so many post-2008 foreclosures. Those reforms, including the ability-to-repay (ATR) and qualified mortgage (QM) requirements, have helped to ensure consumers are better protected in the mortgage market. Yet, the CFPB has moved forward with rulemakings that would make major changes to these critical mortgage protections. Apart from ensuring that the current "GSE Patch" is extended under the CFPB's ATR/QM rule, your incoming

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<sup>28</sup> [Remarks](#) by former Treasury Deputy Assistant Secretary Jonah Crane at a Meeting of the Financial Stability Oversight Council (Nov. 16, 2016). Also see FSOC, [Financial Stability Oversight Council Releases Statement on Review of Asset Management Products and Activities](#) (Apr. 18, 2016).

CFPB team should immediately halt further consideration of the current proposal until the agency has identified a metric to replace or supplement debt-to-income that satisfactorily measures an individual borrower's ability to repay a mortgage.

### *Homelessness*

Even before the coronavirus pandemic hit, over half a million people in the U.S. were estimated to be experiencing homelessness, including more than 50,000 families with children. However, despite these troubling statistics, HUD and the U.S. Interagency on Homelessness (USICH) under the Trump administration have moved to enact rules and policies that reject evidence-based practices, such as Housing First, that would lead to more people experiencing homelessness and discrimination when seeking emergency shelter. In a country as wealthy as the United States, it is simply unconscionable that so many of our neighbors—who are disproportionately people of color and LGBTQ+ individuals—are forced to sleep on the streets, in cars, or in other places not fit for human habitation. Too often, instead of being connected to the services they need, people experiencing homelessness are criminalized by some communities merely for the hardship they're experiencing, leading many to interact with the justice system and cycle in and out of incarceration. The leadership of HUD and USICH is integral to the nationwide effort to end homelessness in America but has been greatly undermined by the actions of the Trump administration. I urge your incoming housing team to restore the credibility of HUD and USICH, and the United States, by removing the current USICH Director, Robert Marbut, rescinding harmful policies and returning to evidence-based practices that have been proven effective in reducing homelessness.

In addition, I urge your team to work with me and my committee to address chronic homelessness and the issues this population confronts. We have seen in the past that when we put significant housing resources together with social services, including health services, we have been able to greatly reduce homelessness among people experiencing chronic homelessness. For example, the HUD-VASH program has proven the power of pairing housing with social service leading to a 50 percent decrease among veterans experiencing chronic homelessness. Your administration needs to be bold in its approach and think outside the box to finally end homelessness. For example, your team could immediately expand how Medicaid services can be partnered with housing supports to better serve people experiencing chronic homelessness. We will never resolve our growing homelessness crisis with policing and prison cells rather than homes that provide community supports.

Your Administration should also look to significantly expand the use of Title V to convert unused federal lands and properties into affordable housing for people experiencing homelessness. However, such an approach must be met with thought and care, with an eye toward historic mistakes that have greatly contributed to the very problem we are trying to solve. The conversion of unused federal lands and properties for the creation of housing must be integrated into community fabrics, must not be concentrated in low-income communities and communities of color, and must ensure people can access supportive services.

### *Housing Affordability*

Our country continues to face an affordable housing crisis that has caused millions of families to be at risk of or experience homelessness. Prior to the coronavirus pandemic, nearly 11 million renters in the U.S. were severely cost burdened, meaning they were spending over 50 percent of their income on rent. While unable to serve all households in need due to insufficient funding, HUD and USDA rental housing programs are an essential part of our country's affordable housing infrastructure that ensures millions of families have a safe, decent, and affordable place to call home. Rather than bolstering these

programs, the Trump administration repeatedly sought to cut or eliminate their funding and to impose harmful policies that would undermine the housing stability of HUD- and USDA-assisted families, such as dramatically increasing rents or making families of mixed-immigration status ineligible to live in federally-assisted housing. HUD should immediately reject and rescind these proposed policies, and work towards bolstering our nation's affordable housing infrastructure. To that end the House passed H.R. 5187 as part of the larger infrastructure package this year, which would provide more than \$100 billion to support affordable housing throughout the country. While President Trump issued an executive order to reduce barriers to create more affordable housing, the order fails to acknowledge the effect of residential segregation and housing discrimination on the affordable housing market, while also disparaging important policy tools, such as environmental protections, labor requirements, and rent control. I urge you to revoke this executive order and replace with it with one that recognizes the need to preserve and increase the supply of affordable housing, while also acknowledging the need to address historic patterns of racial segregation of affordable housing in communities. Any new affordable housing must be integrated into the fabric of every communities across the country. Your incoming housing team should work closely with Congress so that we can make these investments, preserve and expand the supply of rental housing for low-income families and implement policies that promote housing stability for everyone.

### *Fair Housing*

At a time when the nation faces a racial reckoning on historic injustices, Trump's HUD has continued to take steps to administratively weaken federal fair housing protections. Fair housing complaints reached an all-time high of more than 31,000 in 2018 according to longitudinal data from the National Fair Housing Alliance, with housing-related hate crimes increasing 15 percent. Bolstering the Fair Housing Act and uplifting fair housing principles throughout the country is central to the goal of racial equity and should be a top priority in your administration. Today, HUD's Office of Fair Housing and Equal Opportunity (FHEO) is staffed at its lowest levels since 1981. On day one, your administration should fully staff FHEO to bolster Fair Housing Act enforcement, improve fair housing complaint response times to meet statutory requirements, reverse the Trump administration's harmful regulations such as Affirmatively Furthering Fair Housing, Disparate Impact, and the Equal Access Rule, and work with advocates to strengthen pre-existing fair housing regulations and guidance. It is equally imperative that your team ensures that all HUD staff receive fair housing training to understand the nation's deeply and historically exclusionary housing system, HUD's role in that history, as well as their duty to uphold the Fair Housing Act and principles of equity as HUD employees.

### **International Development**

I know you are a committed internationalist who understands that multilateral cooperation is essential to every major issue the world now faces—from climate change to the fight against terrorism to China's increasingly confrontational foreign policy. Still, I do want to stress the importance of a strong U.S. leadership position at the international financial institutions, especially the International Monetary Fund (IMF) and the World Bank, both of which have underpinned global cooperation and played a critical role in the international financial architecture for over 75 years now. U.S. leadership at these institutions is not only central to their legitimacy, but they also help advance our own foreign policy and national security interests, as well as our values, including respect for human rights and democratic institutions. I urge you and your incoming team at Treasury to revive U.S. support for the World Bank's climate finance and food security agendas in particular, which are both leading pillars of multilateral cooperation today.

With respect to international economic policy, I would urge you to support a new approach to U.S. trade agreements, one that doesn't elevate special and corporate interests over the broader interests of the middle class, one that doesn't prioritize, for example, the extension of pharmaceutical patents beyond our own domestic standards, and one that doesn't insist upon the complete and total mobility of cross-border capital flows that prohibit a country's ability to manage such flows—especially rapid, destabilizing short-term flows—in order to protect the stability of their financial systems, and the global financial system as well.

Your inauguration to the highest office in the land could not come soon enough. I look forward to working with your team to ensure that we build an economy that is fair, equitable and prosperous for all.

Sincerely,

  
MAXINE WATERS  
Chairwoman

cc: The Honorable Patrick McHenry, Ranking Member



## Attachment

Below is a list of regulations and other executive actions taken by the Trump Administration over the past four years within the jurisdiction of the House Committee on Financial Services that your Administration should reverse. Also included are recommendations to strengthen certain regulations after the damage the Trump Administration has caused is reversed.

### Housing and Insurance

#### **Fair Housing**

- [Preserving Community and Neighborhood Choice](#) (AFFH Rule)
  - Agency: HUD
  - Date Issued: 08/20/2020
  - Effective Date: 09/8/2020
  - Type: Final Rule
  - Notes: The AFFH Rule shifts the focus of fair housing compliance and enforcement almost entirely to increasing housing supply, which cannot be expected to address fair housing concerns without consideration to the cost, location, availability, and accessibility of the housing supply that is created. The rule also weakens enforcement and accountability by reducing the requirements for jurisdictions to analyze and report barriers to fair housing and by exempting public housing authorities (PHAs) from all responsibilities under AFFH as long as they self-certify their compliance.
  - **Recommendation: Rescind and reinstate 2015 AFFH Rule**
- [HUD's Implementation of the Fair Housing Act's Disparate Impact Standard](#) (Disparate Impact Rule)
  - Agency: HUD
  - Date Issued: 09/24/2020
  - Effective Date: 10/26/2020
  - Type: Final Rule
  - Notes: This final rule weakens the disparate impact standard under the Fair Housing Act by shifting the burden of proof from the perpetrators of discrimination onto the victim, making it significantly more difficult for victims of housing discrimination to prevail in court. It also provides broad defenses for defendants, ultimately making it easier for discriminatory policies and practices to plague our housing markets, including through algorithms and automation.
  - **Recommendation: Rescind and reinstate 2013 Disparate Impact Rule**
- [Executive Order 13878: Establishing a White House Council on Eliminating Regulatory Barriers to Affordable Housing](#)
  - Date Issued: 06/25/2019
  - Type: Executive Order

- Notes: Fails to acknowledge the effect of residential segregation and housing discrimination on the affordable housing market, while also disparaging important policy tools, such as environmental protections, labor requirements, and rent control.
- **Recommendation: Revoke and replace with an executive order that recognizes the need to preserve and increase the supply of affordable housing, while also acknowledging the need to address historic patterns of racial segregation of affordable housing in communities**
- [Executive Order 13950 on Combatting Race and Sex Stereotyping](#)
  - Date Issued: 9/22/20
  - Type: Executive Order
  - Notes: Prohibits federal contractors and grantees from using funds for trainings and workshops related to “divisive concepts” such as race and sex “stereotyping” and “scapegoating.” This bars the use of federal funds for implicit bias trainings and other important work being done to understand the impact of racism on issues in housing and financial services, and their potential solutions.
  - **Recommendation: Revoke and replace with executive order that recognizes the importance of dismantling race and sex inequality through educational workshops and trainings of individuals who are responsible for equitably administering federal funds**

### **Discrimination Based on Gender Identity**

- [Making Admission or Placement Determinations Based on Sex in facilities Under Community Planning and Development Housing Programs](#) (Equal Access Rule)
  - Agency: HUD
  - Date Issued: 07/24/2020
  - Type: Proposed Rule
  - Legislation: H.R. 3018, introduced by Rep. Wexton, voted out of Committee by a vote of 33-26 on 06/11/2019
  - Notes: Would allow homeless service providers to discriminate against trans individuals who are experiencing homelessness and seeking emergency shelter.
  - **Recommendation: Rescind and reinstate [guidance](#) issued by the Obama administration**

### **Religious Exemptions and Discrimination**

- [Equal Participation of Faith-Based Organizations in HUD Programs and Activities: Implementation of Executive Order 13831](#)
  - Agency: HUD
  - Date Issued: 02/13/2020
  - Type: Proposed Rule
  - Notes: Removes the requirement that faith-based service providers receiving federal funds to notify the people they serve of their religious freedom and rights

and to provide referrals to alternative providers upon request. Also allows for discrimination in employment.

- **Recommendation: Rescind**

## Immigration

- [Housing and Community Development Act of 1980: Verification of Eligible Status](#) (HUD Mixed-Status Family Rule)
  - Agency: HUD
  - Date Issued: 05/10/2019
  - Type: Proposed Rule
  - Legislation: H.R. 2763, introduced by Rep. García (TX), voted out of Committee by a vote of 32-26 on 06/11/2019
  - Notes: Would require every member of a household in which any member of the household receives public housing, Section 8 project-based rental assistance or Section 8 Housing Choice Vouchers to be a U.S. citizen or eligible noncitizen. HUD's own Regulatory Impact Analysis acknowledges that implementation of the proposed rule would result in evictions, homelessness, and family separation primarily for U.S. citizens and eligible noncitizens, including approximately 55,000 eligible children.
  - **Recommendation: Rescind**
- [Implementation of the Multi-Family Housing U.S. Citizenship Requirements](#) (USDA Mixed-Status Family Rule)
  - Agency: USDA
  - Date Issued: Spring 2020 Regulatory Agenda
  - Type: Proposed Rule
  - Notes: Similar to HUD's Section 214 proposed rule, USDA's proposal would require every member of a household in which any member of the household receives assistance through the Rural Development (RD) Voucher program and rental assistance for the Section 515 and Section 514/516 programs to be a U.S. citizen or eligible noncitizen. The chilling effect of such a regulation is expected to result in evictions, homelessness, and family separation primarily for U.S. citizens and eligible noncitizens.
  - **Recommendation: Rescind**
- DREAMers and FHA Lending Eligibility
  - Agency: HUD
  - Date Issued: 11/2018
  - Type: Administrative Policy Change
  - Legislation: H.R. 3154, introduced by Rep. Vargas, voted out of Committee by a vote of 33-25 on 06/11/2019
  - Notes: Despite being approved for FHA mortgages under the Obama Administration, the Trump Administration began denying Deferred Action for

Childhood Arrivals (DACA) recipients lending due to HUD's reinterpretation of the "lawful status" of DACA recipients. There remain questions about whether the implementation of the policy was done [lawfully](#).

- **Recommendation: Rescind and revise FHA [Single Family Housing handbook](#) to clarify that DACA recipients with active Employment Authorization Documentation are eligible for FHA lending**
- [Inadmissibility on Public Charge Grounds](#) (Public Charge Rule)
  - Agency: DHS
  - Date Issued: 8/14/2019
  - Delayed Effective Date: 2/24/2020
  - Type: Final Rule
  - Notes: Expands the terms of inadmissibility under public charge, which is used to determine whether an immigrant can receive a green card, visa, or admission to the U.S. Under the final rule, public charge would discourage struggling families, based solely on immigration status, from accessing housing opportunities, healthcare, food assistance, among other critical resources.
  - **Recommendation: Rescind**

## Homelessness

- [Expanding the Toolbox: The Whole-of-Government Response to Homelessness](#) (federal strategic plan for preventing and ending homelessness)
  - Agency: U.S. Interagency Council on Homelessness (USICH)
  - Date Issued: 10/19/2020
  - Effective Date: 10/19/2020
  - Type: Federal strategic plan
  - Notes: Misrepresents Housing First strategies and their effectiveness and presents homelessness data inaccurately for political purposes.
  - **Recommendations: Rescind plan and ask for the resignation of the current USICH Director, Robert Marbut**

## Public Housing

- [Operations Notice for the Expansion of the Moving to Work Demonstration Program](#)
  - Agency: HUD
  - Date Issued: 08/28/2020
  - Effective Date: 08/28/2020
  - Type: Final Notice
  - Notes: Allows participating PHAs to impose work requirements, time limits, and steep rent increases on tenants, even if they are not part of the cohort where those specific policies are being tested.
  - **Recommendation: Revise to ensure that MTW policies are only applied for the purpose of ensuring they can be evaluated to determine their effect on tenants through rigorous research**

- [Notice PIH 2018-04: Demolition and/or disposition of public housing property, eligibility for tenant-protection vouchers and associated requirements.](#)
  - Agency: HUD
  - Date Issued: 03/22/2018
  - Effective Date: 03/22/2018
  - Type: Notice
  - Notes: Updated notice significantly undercuts the role of resident consultation, the PHA plan, and other resident-oriented protections in the process of demolishing or disposing of public housing properties. Earlier in 2018, HUD withdrew a [proposed rule](#) from 2014 that would have implemented resident-oriented protections.
  - **Recommendation: Rescind and reinstate 2014 proposed rule**
- [Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses](#)
  - Agency: HUD
  - Date Issued: 09/29/2020
  - Effective Date: 11/30/2020
  - Type: Final Rule
  - Notes: Includes harmful provisions advocates find problematic, including the elimination of a complaint process, removing monitoring and enforcement from HUD's Office of Fair Housing and Equal Opportunity, and the establishment of insufficient benchmarks.
  - **Recommendation: Revise to address advocate concerns**

## Housing Finance

### FHA:

- Termination of Federal Housing Administration-Federal Financing Bank Partnership Program
  - Agency: HUD
  - Type: Program termination
  - Notes: [HUD's Budget Request for FY 2019](#) indicated without any explanation that HUD would be winding down FHA's partnership with the Federal Financing Bank (FHA-FFB Partnership) by honoring existing commitments but refusing to take on new commitments in 2019. The FHA-FFB Partnership had been in place since June 26, 2014 and supported affordable housing preservation and construction by providing low-cost financing for multifamily risk-share loans that are originated by state and local housing finance agencies.
  - **Recommendation: Renew FHA-FFB Partnership Program**

- [Refinance and Home Purchase Eligibility for Borrowers in Forbearance](#)
  - Agency: HUD
  - Issue Date: 9/10/2020
  - Type: Administrative Policy Change
  - Notes: Requires that borrowers make at least three consecutive monthly payments post-forbearance in order to purchase a home or refinance their mortgage. Such a policy threatens to cut out many people who are returning to work and who need to take advantage of lower interest rates.
  - **Recommendation: Rescind**
- [60-Day Notice of Proposed Information Collection: FHA Single Family Model Mortgage Documents](#)
  - Agency: HUD
  - Issue Date: 11/29/2016
  - Type: Notice
  - Notes: Currently, FHA's mortgage contract language excludes long-standing text that, for 25 years, enabled homeowners facing foreclosure to raise a mortgage company's noncompliance with HUD rules as a defense to foreclosure. Near the end of 2016, the Obama Administration proposed changes to restore the contract language, allowing FHA borrowers who qualify for loss mitigation to contest their foreclosure and potentially receive the relief for which they qualify. However, the comment period closed after the 2016 inauguration and the current administration has since failed to finalize this rulemaking that would help prevent avoidable foreclosures.
  - **Recommendation: Complete the rulemaking that was initiated in 2016**

#### **FHFA:**

- [Adverse Market Refinance Fee](#)
  - Agency: FHFA
  - Date Issued: 9/22/20
  - Effective Date: 12/1/2020 (delayed from 9/1/2020)
  - Type: Administrative Policy Change
  - Legislation: H.R. 6794, introduced by Rep. Vargas, included as Section 204 of Division O, Title II of the [updated version](#) of the Heroes Act.
  - Notes: Imposes significant fees and increased costs for loans that go into early forbearance prior to endorsement by the Federal Housing Administration (FHA) or purchase by Fannie Mae or Freddie Mac (collectively, the Enterprises). These policies unfairly penalize lenders for loans that were fully underwritten according to FHA or Enterprise requirements, have contributed to significant credit overlays that may be disproportionately impacting access to credit for borrowers of color and other underserved borrowers, and may also be preventing borrowers from accessing forbearance and other protections available for federally backed loans during the COVID-19 pandemic.



- **Recommendation: Rescind**
- [Purchasing of Qualified Loans in Forbearance](#)
  - Agency: FHFA
  - Date Issued: 4/22/2020
  - Type: Administrative Policy Change
  - Notes: Imposes a 500-700 bps fee on loans that are sold to the Enterprises while in forbearance. This policy has resulted in lenders imposing higher costs or limiting the loans made to borrowers posing a higher credit risk, thus limiting access to credit at a time when borrowers and the economy needed it most
  - **Recommendation: Rescind**
- [Refinance and Home Purchase Eligibility for Borrowers in Forbearance](#)
  - Agency: FHFA
  - Date Issued: 5/19/2020
  - Type: Administrative Policy Change
  - Notes: Similar to FHA, requires that borrowers make at least three consecutive monthly payments post-forbearance in order to purchase a home or refinance their mortgage.
  - **Recommendation: Rescind**
- [Enterprise Regulatory Capital Framework](#) (Capital Standards Rule)
  - Agency: FHFA
  - Date Issued: 6/30/2020
  - Type: Proposed Rule
  - Notes: This proposal seeks to align Enterprise capital requirements and the capital back-stop leverage ratio with bank capital requirements and require the Enterprises to hold more capital than is needed to account for the Enterprises' current risk, as shown by recent stress-testing, or what would have been needed withstand the 2008 downturn.
  - **Recommendation: Rescind**
- [Redesigned URLA and Extended Implementation Timeline](#)
  - Agency: FHFA
  - Date Issued: 6/12/2019
  - Effective Date: 3/1/2021
  - Type: Administrative Policy Change
  - Notes: Delayed implementation of the Uniform Residential Loan Application (URLA) form, removed a language preference question and housing counseling information from the form, as well as relocated a military service question after the borrower's signature line on the form, which makes it difficult for borrowers to see this important information.

- **Recommendation: Reverse URLA changes by adding the language preference and housing counseling as required fields, as well as placing the military service question in a location where borrowers can see it before signing the form**

## **Flood Insurance**

- [Executive Order 13807: Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects](#)
  - Date Issued: 08/15/2017
  - Type: Executive Order
  - Notes: Revoked Obama Executive Order 13690 that established a Federal Flood Risk Management Standard.
  - **Recommendation: Reinstate Executive Order 13690**

## **Consumer Protection and Financial Institutions**

### **CFPB Structural Reforms and Enforcement**

- Reverse Mulvaney/Kraninger Structural CFPB Reforms
  - CFPB
  - Date Issued: November 2017 to Current
  - Type: Administrative actions
  - Notes: After former Director Richard Cordray resigned from the CFPB, the Trump Administration's appointees to run the agency -- Mick Mulvaney and Kathy Kraninger -- have made a series of administrative and structural reforms that undermine the CFPB's ability to fulfill its statutory purpose and mission to protect consumers in the financial marketplace. This includes, but is not limited to, weakening fair lending enforcement and undermining the CFPB's Office of Fair Lending and Equal Opportunity (OFLEO), cutting staff, creating a cost-benefit office intended to curb the implementation of strong regulations, ceasing to supervise financial institutions for compliance of the Military Lending Act (MLA), and eliminating coordination on student lending oversight with the Department of Education.
  - **Recommendation: Reverse these and other administrative decisions, including those addressed in [H.R. 1500, the Consumers First Act](#).**
- [Executive Order 13891 on Promoting the Rule of Law Through Improved Agency Guidance Documents](#)
  - Date Issued: 10/19/2019
  - Type: Executive Order
  - Notes: EO limiting the use of guidance in enforcement, curbing efforts to clarify how laws and regulations are being implemented, and making it harder to hold bad actors accountable.
  - **Recommendation: Rescind**

- [Policy Regarding Prohibition on Abusive Acts or Practices](#)
  - Agency: CFPB
  - Date Issued: 1/24/20
  - Type: Statement of Policy
  - Notes: CFPB issued a statement of policy that makes it harder for CFPB to hold bad actors accountable for violating the Dodd-Frank Act’s prohibition on unfair, deceptive, or abusive acts or practices (UDAAP) that harm consumers in the financial marketplace.
  - **Recommendation: Rescind**

## Small Dollar Protections

- [Payday, Vehicle Title, and Certain High-Cost Installment Loans—Revocation Final Rule](#)
  - Agency: CFPB
  - Date Issued: 7/7/2020 (Federal Register 7/22/20)
  - Type: Final Rule
  - Notes: Final rule “concerning small dollar lending in order to maintain consumer access to credit and competition in the marketplace”: 1) Rescinds 2017 rule’s mandatory ability to repay underwriting provisions; 2) Leaves in place 2017 rule’s payment provisions.
  - **Recommendation: Rescind and reinstate the 2017 Payday rule with improvements to strengthen consumer protections. Congress should also pass H.R. 5050, the Veterans and Consumers Fair Credit Act.**
- [Permissible Interest on Transferred Loans reversing \*Madden\*](#) (OCC)
- [Permissible Interest on Transferred Loans reversing \*Madden\*](#) (FDIC)
  - Agency: OCC, FDIC
  - Date Issued: OCC 5/29/20; FDIC 6/25/2020
  - Type: Final Rule
  - Notes: OCC and FDIC issued two similar but separate rules that would effectively overturn the *Madden v. Midland* court decision and provide that whether an interest rate on a loan is permissible under the Federal Deposit Insurance Act would be determined at the time the loan is made, and the interest rate would not be affected by a change in State law, a change in the relevant commercial paper rate after the loan was made, or the sale, assignment, or other transfer of the loan, in whole or in part. These rulemakings will encourage rent-a-bank schemes, allowing non-bank lenders to evade state usury caps that protect consumers from predatory lending. Consumer groups and several state AGs strongly oppose.
    - [Dissent from FDIC Board Member Marty Gruenberg](#)
  - **Recommendation: Rescind**
- [National Banks and Federal Savings Associations as Lenders \(“True Lender”\)](#)
  - Agency: OCC
  - Date Issued: 7/20/20
  - Type: Proposed Rule

- Notes: Rule proposal would apply the true lender doctrine to banks in non-bank partnerships if at origination, the bank is listed in the loan agreement and if the bank is the entity funding the loan. Consumer law advocates, State Attorneys General, and other experts have expressed deep concerns about the proposed rules and corresponding guidance. They have highlighted that allowing rent-a-bank partnerships could lead to a return of triple-digit interest loan products in the states and territories that passed laws prohibiting them.
- **Recommendation: Withdraw**

## Fair Lending and Community Reinvestment

- [OCC's Community Reinvestment Act Final Rule](#)
  - Agency: OCC
  - Date Issued: 5/20/20
  - Type: Final Rule
  - Notes: Otting rushed to finalize this harmful rule in the middle of a pandemic in his last few days on the job. Most banking rules are done jointly with the FDIC and Federal Reserve, but those agencies did not support the OCC's rule. If unchecked, Otting's rule will create regulatory arbitrage and harm minority communities that are disproportionately suffering during this crisis.
  - **Recommendation: Rescind rule and work with Federal Reserve and FDIC to develop a new, consensus proposal that incorporates the feedback of civil rights and community organizations, and addresses modern day redlining**
- [Home Mortgage Disclosure Act \(HMDA; Regulation C\)](#)
  - Agency: CFPB
  - Date Issued: 4/16/2020
  - Type: Final Rule
  - Notes: Increases the closed-end HMDA threshold for collecting and reporting from 25 to 100 loans effective July 1, 2020. Increases the open-end HMDA threshold from 100 to 200, effective January 1, 2022, when the current temporary threshold of 500 of open-end lines of credit expires. Beginning in 2021, this rule would exempt 40 percent of financial institutions from reporting data that is critical to fair lending oversight.
  - **Recommendation: Rescind and utilize existing authority to gather as most data to better monitor fair lending trends**
- [Redesigned HMDA research and data website page](#)
  - Agency: CFPB
  - Date Issued: 5/2/2019
  - Type: Administrative Change
  - Notes: Removed the Home Mortgage Disclosure Act (HMDA) Explorer tool for new data from the CFPB's website as well as its Public Data Platform API that powered it. The HMDA Explorer tool and its API have allowed for the public, including consumers, journalists, academics, public officials, and consumer advocates, to easily access and analyze millions of documents on mortgage

lending. These tools allowed for the measurement of trends and disparities in mortgage credit access.

- **Recommendation: Rescind and strengthen public disclosure of HMDA data, including providing a variety of tools to ensure accessibility for the public as well as researchers**
- [Outline of Proposals Under Consideration and Alternatives Considered for Small Business, Minority-Owned and Women-Owned Business Lending Data Collection \(Section 1071 of the Dodd-Frank Act\)](#)
  - Agency: CFPB
  - Date Issued: 09/15/2020
  - Type: Outline of proposals, preceding a rulemaking
  - Notes: This outlines several options CFPB is considering to implement Section 1071 of the Dodd-Frank Act as part of its SBREFA panel it will be conducting.
  - **Recommendation: Strengthen and Promptly Implement**

#### Ability to Repay / Qualified Mortgage

- [Qualified Mortgage Definition Under the Truth in Lending Act \(Regulation Z\): General QM Loan Definition](#) (General QM Rule)
  - Agency: CFPB
  - Date Issued: 7/10/2020
  - Type: Proposed Rule
  - Notes: Amends Regulation Z to remove the General QM loan definition's 43 percent debt-to-income (DTI) limit and replace it with a price-based threshold.
  - **Recommendation: Pause rulemaking until various options can be thoroughly analyzed examining the potential impact for access to credit and consumer protections, especially with respect to communities of color, and the results of such data and analysis is published for further public comment.**
- [Qualified Mortgage Definition Under the Truth in Lending Act \(Regulation Z\): Extension of Sunset Date](#) (GSE Patch Rule)
  - Agency: CFPB
  - Date Issued: 10/20/2020
  - Type: Final Rule
  - Notes: Amends Regulation Z to extend the GSE Patch to expire upon the effective date of a final rule regarding the proposed amendments to the General QM loan definition in Regulation Z.
  - **Recommendation: Modify to extend further to provide a reasonable transition period, especially for community banks and credit unions**
- [Qualified Mortgage Definition Under the Truth in Lending Act \(Regulation Z\): Seasoned QM Loan Definition](#) (Seasoned QM Rule)
  - Agency: CFPB

- Date Issued: 8/28/2020
- Type: Proposed Rule
- Notes: This proposal create a new category of qualified mortgages (QMs), referred to as Seasoned QMs, which would require lenders to hold loans on portfolio for 36 months while meeting a number of performance requirements such as underwriting standards and product features.
- **Recommendation: Withdraw**

## Debt Collection

- [Debt Collection Practices \(Regulation F\)](#)
  - Agency: CFPB
  - Date Issued: 5/7/19, published in Federal Register 5/21/19, Rule finalized 10/30/20
  - Type: Final Rule
  - Notes: The rule, among other things, would allow debt collectors to call a borrower 7 times a week per debt and send an unlimited number of emails and texts. See NCLC [statement](#).
  - **Recommendation: Rescind and reissue with meaningful consumer protections, along with new time-barred debt rule proposal**
- [Debt Collection Practices \(Regulation F\) Supplemental Proposal on Time-Barred Debt](#)
  - Agency: CFPB
  - Date Issued: 2/21/2020, published in Federal Register 3/3/20
  - Type: Proposed Rule
  - Notes: The CFPB proposes four model disclosures for out-of-court collection of time-barred debt. However, aggressive debt collectors who comply with the letter of the disclosure requirements will continue to use high pressure collection tactics to limit the likelihood that consumers will be protected by such disclosures. Rule does not protect consumers from legally dead debt and consumer groups say disclosures of time barred debt do not go far enough.
  - **Recommendation: Rescind and reissue with new debt collection rule that has meaningful consumer protections**

## Additional Consumer Protections

- [Remittance Transfers under the Electronic Fund Transfer Act \(Regulation E\)](#)
  - Agency: CFPB
  - Date Issued: 5/21/2020
  - Type: Final Rule
  - Notes: The CFPB proposes to gut consumer protections in potentially disastrous ways. For example, by entirely exempting providers that make fewer than 500 remittance transfers a year from EFTA requirements. The rule also permits financial institutions that make fewer than 1,000 remittance transfers a year to a particular country to estimate the exchange rate, and thus the exact amount to be received by the recipient, in certain circumstances.



- **Recommendation: Rescind**
- [CFPB's No-Action Letter \(NAL\) Policy](#) - 12 CFR Chapter X [Docket No. CFPB-2018-0042]
  - Agency: CFPB
  - Date Issued: 09/10/2019
  - Type: Policy Guidance
  - Notes: Streamlines the review process for risky products and services, building upon a murky regulatory environment that does not help consumers
  - **Recommendation: Rescind**
- [CFPB Takes Action to Help Struggling Homeowners Seeking Mitigation Efforts; Consumers Seeking Small-Dollar Loans template issuance](#)
  - Agency: CFPB
  - Date Issued: 5/22/2020
  - Type: CFPB Template Issuance
  - Notes: The CFPB announces two No-Action Letter (NAL) Templates: 1) Electronic loss mitigation portal and; 2) Small dollar lending program for insured depository institutions. NCLC notes that the templates have no immediate, practical impact).
  - **Recommendation: Rescind**
- [CFPB's Trial Disclosure Program \(TDP\)](#) - Policy to Encourage Trial Disclosure Programs [Docket No. CFPB-2018-0023]
  - Agency: CFPB
  - Date Issued: 09/10/2019
  - Type: Policy guidance and procedural rule
  - Notes: Permits entities seeking to improve consumer disclosures may conduct in-market testing of alternative disclosures for a limited time upon permission by the Bureau.
  - **Recommendation: Rescind**
- [CFPB's Compliance Assistance Sandbox \(CAS\)](#) 12 CFR Chapter X [Docket No. CFPB-2018-0042]
  - Agency: CFPB
  - Date Issued: 09/10/2019
  - Type: Policy guidance and procedural rule
  - Notes: Enables the testing of a financial product or service where there is regulatory uncertainty.
  - **Recommendation: Rescind**
- [Request for Information to Assist Taskforce on Federal Consumer Financial Protection Law](#)
  - Agency: CFPB
  - Date Issued: 3/27/2020
  - Type: Request for Information

- Notes: CFPB seeks information on: 1) Expanding access to consumer financial products and services; 2) the protection and use of consumer data; 3) regulations the Bureau writes and enforces; 4) Federal and State coordination; and 5) improving the market for consumer financial products and services. Given the task force's radically pro-business and anti-consumer lean, this task force should be dissolved.
- **Recommendation: Dissolve the Taskforce on Federal Consumer Financial Protection Law or restructure to focus on strengthening consumer protections**

## COVID Related Actions

- [CFPB Policy Statement Suspending HMDA and PACE Reporting Requirements](#)
  - Agency: CFPB
  - Date Issued: 3/26/2020
  - Type: Policy Statement
  - Notes: This policy update suspends 1) Quarterly Home Mortgage Disclosure Act reporting requirement and 2) reporting requirements for credit and prepaid card issuers. Additionally, it indefinitely postpones surveys of 1) financial institutions in connection with Dodd-Frank Act Section 1071 and 2) Property Assessed Clean Energy (PACE) lenders "for the purposes of implementing Section 307 of the Economic Growth, Regulatory Relief, and Consumer Protection Act." Also, it announced "good faith efforts" standards in enforcement and supervision during the pandemic.
  - **Recommendation: Rescind**
- [Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19](#)
  - Agencies: CFPB, Fed, FDIC, OCC, NCUA
  - Date Issued: 3/26/2020
  - Type: Policy Statement
  - Notes: CFPB issues a joint statement "to specifically encourage financial institutions to offer responsible small-dollar loans to both consumers and small businesses." The statement adds that "the agencies are working on future guidance and lending principles for responsible small-dollar loans."
  - **Recommendation: Modify to emphasize compliance with consumer protection laws, guard against rent-a-bank schemes, etc. Congress should also pass H.R. 5050, the Veterans and Consumers Fair Credit Act.**
- [Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V](#)
  - Agency: CFPB
  - Date Issued: 4/1/2020
  - Type: Policy Statement
  - Notes: CFPB issues guidance which 1) suspends enforcement of time limits for consumer reporting agencies (CRAs) or furnishers to investigate disputes; 2)

Reminds furnishers and CRAs that need not investigate disputes they deem frivolous and; 3) Expects furnishers to comply with CARES Act reporting requirements.

- **Recommendation: Rescind and strengthen to ensure consumer protection laws are abided by**
- [Joint Policy Statement Suspending Enforcement of Mortgage Rules](#)
  - Agency: CFPB, Federal Reserve, FDIC, OCC, NCUA, Conference of State Bank Supervisors
  - Date Issued: 4/3/2020
  - Type: Policy Statement
  - Notes: Interagency policy statement suspending indefinitely enforcement and supervision of most loss mitigation rules mortgage servicers are supposed to comply with, particularly notice requirements for borrowers seeking assistance. CFPB issues own Mortgage Servicing Rules FAQs. These policies, in part, allow lenders to ignore customer complaints and continue unfair practices
  - **Recommendation: Revise to ensure strong enforcement to protect consumers**
- [Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus](#)
  - Agency: CFPB, Federal Reserve, FDIC, OCC, NCUA
  - Date Issued: 4/7/20
  - Type: Policy Statement
  - Notes: Revises the March 22 interagency statement to clarify the previous statement's "interaction with Section 4013 of the CARES Act" and addresses consumer protection approach. "Good faith efforts" approach to supervision and enforcement, with no public enforcement actions for violations, so long as circumstances related to the pandemic.
  - **Recommendation: Revise to ensure strong enforcement of laws and regulations to protect consumers when it comes to loan modifications and forbearance**
- [Statement on Supervisory and Enforcement Practices Regarding the Remittance Rule in Light of the COVID-19 Pandemic](#)
  - Agency: CFPB
  - Date Issued: 4/10/2020
  - Type: Policy Statement
  - Notes: For international remittance transfers that occur on or after July 21, 2020 and before Jan. 1, 2021, the policy statement states that the Bureau will neither cite supervisory violations nor initiate enforcement actions against insured institutions for continuing to provide estimates to consumers under the temporary exception, instead of actual amounts.
  - **Recommendation: Expires 1/1/21, should not extend**
- [Interpretive Rule on Treatment of Pandemic Relief Payments under Regulation E and Application of the Compulsory Use Prohibition](#)

- Agency: CFPB
  - Date Issued: 4/13/2020
  - Type: Interpretive Rule
  - Notes: Relaxes restrictions on placing government benefits on prepaid cards to allow CARES Act economic impact payments to be distributed via prepaid card instead of check. However, there are concerns with implementation, including limited free ATMs, fees for replacing cards, and binding mandatory arbitration clauses.
  - **Recommendation: Revise to ensure strong consumer protections**
- [Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions affected by the Coronavirus](#)
  - Agency: CFPB, Fed, FDIC, OCC, NCUA
  - Date Issued: 4/14/2020
  - Type: Interagency statement
  - Notes: CFPB issues joint interim final rule “to temporarily defer real estate-related appraisals and evaluations under the agencies’ interagency appraisal regulations.”
  - **Recommendation: Modify to ensure a robust appraisal and evaluation process that protects homebuyers**
- [CFPB/FHFA Borrower Protection Program](#)
  - Agency: CFPB, FHFA
  - Date Issued: 4/15/2020
  - Type: New Program
  - Notes: Joint CFPB and FHFA program to share servicing and consumer complaint data between agencies to “protect borrowers during the coronavirus national emergency.”
  - **Recommendation: Monitor, share data and reports publicly, and ensure the program helps enhance fair lending oversight**
- [Bulletin 2020-02 - Compliance Bulletin and Policy Guidance: Handling of Information and Documents During Mortgage Servicing Transfers](#)
  - Agency: CFPB
  - Date Issued: 04/24/2020
  - Type: Policy Statement
  - Notes: Compliance bulletin covers “(A) transfer related policies and procedures, and (B) loan information and documents for ensuring accuracy.” The Bureau notes that it began developing this guidance before the pandemic but plans to consider challenges entities may face as a result of the pandemic.
  - **Recommendation: Modify to emphasize compliance with all consumer protection laws and regulations given consumers are at greater risk during pandemic**
- [Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic](#)

- Agency: CFPB
- Date Issued: 6/3/2020
- Type: Policy Statement
- Notes: The statement provides guidance on credit card issuer compliance with Regulation Z, which requires that creditors provide written disclosures to consumers for account-opening and temporary rate or fee reduction.
- **Recommendation: Modify with an emphasis on consumer protections and appropriate consumer notice with respect to credit card disclosures**
- [CFPB Pilot Advisory Opinion \(AO\) Program](#)
  - Agency: CFPB
  - Date Issued: 6/18/2020
  - Type: Pilot Advisory Opinion (AO) Program
  - Notes: Launches a pilot advisory opinion program announced March 6, allowing regulated entities to submit requests for advisory opinions, to provide clear guidance to help companies understand their legal and regulatory obligations.
  - **Recommendation: Modify the program to ensure consumer protections are the priority of this AO process**
- [Interim Rule on Regulation X](#)
  - Agency: CFPB
  - Date Issued: 06/23/2020
  - Type: CFPB Interim Final Rule
  - Notes: Issued two interim final rules: 1) Making clear that “servicers do not violate Regulation X by offering certain COVID-19-related loss mitigation options based on an evaluation of limited application information collected from the borrower” and; 2) Providing servicers “relief from certain requirements under Regulation X that normally would apply after a borrower submits an incomplete loss mitigation application.” Consumer advocates have noted that blessing the deferral option is helpful, but failure to provide rigorous foreclosure protections for people for whom the deferral option doesn’t work is not helpful.
  - **Recommendation: Monitor, consider improving to ensure robust consumer protections**
- [Policy Statement on Early Termination of Consent Orders](#)
  - Date Issued: 10/08/2020
  - Type: CFPB Policy Statement
  - Notes: The policy statement outlines the early termination application process for entities subject to a Consent Order and the standards that the Bureau intends to use when evaluating applications.
  - **Recommendation: Rescind**
- [Executive Order 13924 on Regulations](#)
  - Agency: President
  - Date Issued: 05/19/2020
  - Type: Executive Order

- Notes: Agencies should address the economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery, consistent with applicable law and with protection of the public health and safety...They should also give businesses...guidance on what the law requires; by recognizing the efforts of businesses to comply with often-complex regulations in complicated and swiftly changing circumstances; and by committing to fairness in administrative enforcement and adjudication
- **Recommendation: Rescind**
- [Policy Statement on Billing Errors](#)
  - Agency: CFPB
  - Date Issued: 05/13/2020
  - Type: Policy Statement
  - Notes: CFPB instituted a flexible supervisory and enforcement approach regarding the timeframe within which creditors complete their investigations of consumers' billing error notices.
  - **Recommendation: Rescind**

## **Financial Stability and Prudential Regulation**

### **Financial Stability Oversight Council (FSOC) and Office of Financial Research (OFR)**

- [Authority To Require Supervision and Regulation of Certain Nonbank Financial Companies](#)
  - Agency: FSOC
  - Date Issued: 12/04/2019
  - Type: Final Interpretive Guidance
  - Notes: FSOC adopted harmful guidance regarding the process in which it designates a nonbank financial company as a systemically important financial institution (SIFI) under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Key elements of this rule include a greatly increased use of cost-benefit analysis in designation and a requirement that designation take into account the “likelihood of distress” as a factor in designation. These changes create unjustified and insurmountable hurdles to designating any company that threatens U.S. financial stability. In the [words](#) of former Fed Chairs Janet Yellen and Ben Bernanke, as well as former Treasury Secretaries Jack Lew and Timothy Geithner, “Though framed as procedural changes, these amendments amount to a substantial weakening of the post-crisis reforms... These changes would make it impossible to prevent the buildup of risk in financial institutions whose failure would threaten the stability of the system as a whole.”
  - **Recommendation: Rescind and return to previous version of the designation process, reassess the financial landscape, and designate any entity that poses a threat to financial stability**
- Staffing and Operations of FSOC and OFR



- Agency: FSOC and OFR
- Date Issued: 2017-2020
- Type: Staffing and Administrative Work
- Notes: As identified by the Committee in [several hearings](#) and documented by [experts](#), FSOC and OFR under the Trump Administration has been undermined through steep reductions of staff, with a reduction of important research work and meetings to better identify a wide variety of risks to the financial system and economy, including risks that arise from climate change, leveraged lending, hedge funds, private equity, asset management, etc.
- **Recommendations:**
  - **Return FSOC and OFR staffing to at least 2016 levels, convene a meeting of principals no less than every two months**
  - **Revive FSOC's Hedge Fund Working Group**
  - **Publish analysis of developments and the existing regulatory framework by the Digital Asset and Distributed Ledger Technology Working Group**
  - **Establish a Climate Change Working Group**
  - **Consider designating cloud computing companies as Systemically Important Financial Market Utilities (SIFMUs)**

## Prudential Regulation

- [“Tailoring Rules” with Respect to Large U.S. and Foreign Banks](#) (Fed), [Title I Resolution Plans](#) (Fed/FDIC), and [Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements](#) (Fed/FDIC/OCC)
  - Agency: Fed, FDIC, OCC
  - Date Issued: 10/10/2019
  - Type: Final Rules
  - Notes: The Fed, FDIC, and OCC approved a new rule to reduce the liquidity coverage ratio by 15% for banks with between \$250 billion and \$700 billion in assets, and eliminated the Liquidity Coverage Ratio (LCR) entirely for banks between \$100 billion and \$250 billion. The Fed and FDIC also finalized a rule that severely weakened resolution planning requirements by greatly reducing the frequency of resolution plans so that full resolution plans would only have to be submitted every 4 to 6 years. The weakening of the process was especially evident for foreign banking organizations. These were so-called “tailoring” rules that were mandated to some extent by S. 2155, although the agencies went beyond what S. 2155 required.
    - Dissents from [Fed Governor Lael Brainard](#), and FDIC Board Member Marty Gruenberg on [Capital/Liquidity Thresholds](#) and [Living Wills](#)
  - **Recommendation: Rescind and strengthen the capital/liquidity/living will regulatory framework for larger U.S. and foreign banks. The living will changes in frequency should be reversed to at least the S. 2155 requirement that resolution plans be fully updated every other year, if not be reconsidered more broadly. Congress should make any necessary corresponding statutory modifications.**

- [Amendments to the Regulatory Capital, Capital Plan, and Stress Test Rules \(Regulations Q, Y, and YY; Docket No. R-1603 and RIN 7100-AF 02\)](#)
  - Agency: Federal Reserve
  - Date Issued: 3/4/2020
  - Type: Final Rule
  - Notes: The Fed weakened the stress testing and capital (CCAR) framework in multiple ways, building on a 2019 [announcement](#) they were curtailing qualitative objections to bank capital distribution, as well as another [change](#) making the stress testing regime more “transparent” in a manner that could be gamed, while changing a range of stress tests assumptions to require less capital. The overall stress testing framework requires a more in-depth reconsideration, given the failure of stress testing to induce counter-cyclical capital provisioning prior to these changes.
    - Brainard [Dissent](#)
  - **Recommendation: Rescind and modify the stress testing process to make it more robust**
- [Inter-Affiliate Swap Margin Rule](#)
  - Agency: Fed, OCC, FDIC
  - Date Issued: June 25, 2020
  - Type: Final Rule
  - Notes: The banking agencies modified initial margin rules to exempt swaps between bank affiliates from initial margin. This means that risk can be transported from less regulated foreign affiliates over to U.S affiliates, or from speculative capital markets affiliates to insured depository affiliates, without reserving any money against the possibility that the riskier affiliate fails to perform. This reduced the amount of large bank margin resources reserved against derivatives losses by tens of billions of dollars.
    - Brainard [Dissent](#); Gruenberg [Dissent](#)
  - **Recommendation: Rescind**
- [“Tailor” Enhanced Supplementary Leverage Ratio \(eSLR\)](#)
  - Agency: Fed, OCC
  - Date Issued: 4/11/18
  - Type: Proposed Rule
  - Notes: The Fed and OCC proposed a rule that would reduce the enhanced supplementary leverage ratio (eSLR) capital requirements applicable to the 8 U.S. G-SIBs for their holding companies and insured depository institution (IDI) subsidiaries. The proposal would reduce capital by approximately \$121 billion for the G-SIBs.
    - [Statement by FDIC Board Member Marty Gruenberg](#)
  - **Recommendation: Rescind**
- [Temporary Exemptions from Supplementary Leverage Ratio \(SLR\)](#)
  - Agency: Fed, FDIC, OCC
  - Date Issued: 4/1/20
  - Type: Interim final rule

- Notes: The Fed, FDIC, and OCC issued a temporary rule exempting Treasuries and Federal Reserve deposits that effectively lowered the SLR at the eight globally systemically important banks (G-SIBs) by 9 percent, and also required the G-SIBs to obtain approval before pursuing capital distributions. In August, the agencies also issued a rule that determined that capital distributions that were scheduled were “eligible retained income” and would not be suspended.
  - Gruenberg [dissent](#)
- **Recommendation: Rescind and suspend all buybacks and dividend payments until the pandemic and economic fallout has subsided**
- [Net Stable Funding Ratio \(NSFR\): Liquidity Risk Measurement Standards and Disclosure Requirements](#)
  - Agency: Fed, FDIC, OCC
  - Date Issued: 8/20/20
  - Type: Final rule
  - Notes: The net stable funding ratio (NSFR) rule weakens liquidity requirements for megabanks and other large banks compared to the original 2016 proposed rule, part of which is in contradiction to our international agreements through the Basel Committee. It also was narrowed to exempt 15 banks with more than \$100 billion that individually and collectively can pose systemic risks, and it delays/reduces reporting requirements, which is problematic when market conditions can rapidly and unexpectedly change, as we’ve seen in the pandemic.
    - Gruenberg [dissent](#); Brainard [dissent](#)
  - **Recommendation: Rescind**
- [Total-Loss Absorbing Capacity \(TLAC\) Requirements](#)
  - Agency: Fed, FDIC, OCC
  - Date Issued: 10/20/20
  - Type: Interim final rule
  - Notes: The Fed, FDIC, and OCC issued a final rule implementing total-loss absorbing capacity (TLAC) requirements, but narrowed the application of the final rule, exempting 11 super regional banks and foreign banks with large U.S. operations compared to the original proposal. FDIC Board Member Marty Gruenberg argues that these large banks can individually and collectively pose systemic risks, and exempting them from the final rule is inappropriate.
    - Gruenberg [dissent](#)
  - **Recommendation: Rescind and modify to apply to large banks that individually and collectively pose systemic risks**
- Volcker Rule - [Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds](#) (10/8/2019) and [Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds](#) (6/25/20)
  - Agencies: Fed, FDIC, OCC, SEC, CFTC
  - Date Issued: 10/8/2019, 6/25/2020
  - Type: Final Rules

- Notes: Financial regulators finalized two rules substantially rolling back the Volcker Rule, first by eliminating the “short-term intent” test in the agencies’ definition of proprietary trading, then by narrowing the definition of “covered fund” to allow commercial banks to make more investments in private equity, hedge funds, and venture capital funds.
  - Prop trading (Brainard [Dissent](#); Gruenberg [Dissent](#))
  - Covered funds (Brainard [Dissent](#); Gruenberg [Dissent](#))
- **Recommendation: Since the Volcker Rule was flawed even before it was gutted, the agencies should reverse these changes and seek to strengthen the implementation of the rule, including by collecting data on trading practices and making the data public. Agencies should collect data on trading practices in the past year and conduct analysis comparing it with data on trading practices between 2014 and 2019 when the more robust version of the Volcker Rule was in place. Furthermore, Congress should consider legislation strengthening the wall between investment banking (and other financial activities) and commercial banking.**
- [“Controlling Influence” Rule](#)
  - Date Issued: 04/01/2020
  - Type: Final Rule
  - Notes: The Fed lowered the definition of “control” under the Bank Holding Company Act to allow private firms to control up to 24.9 percent of a bank’s voting equity
  - **Recommendation: Rescind**
- [Leveraged Lending Guidance](#)
  - Date Issued: March 21, 2013
  - Type: Interagency Guidance
  - Notes: The Fed, OCC, and FDIC adopted guidance in 2013 that stated that leverage above six percent “raises concerns,” but various regulators made comments emphasizing the guidance was non-binding.
  - **Recommendation: Publicly reaffirm the 2013 guidance and consider enhancements to mitigate risks associated with leveraged lending (some which may take corresponding action by Congress), such as requiring arrangers of corporate loan securitizations to retain a share of the risk of those securitizations by clarifying that managers of collateralized debt obligations are subject to the Dodd-Frank Act’s risk retention requirements established.**
- [Industrial Loan Company \(ILC\) Loophole](#)
  - Agency: FDIC
  - Date Issued: 3/31/2020
  - Type: Proposed Rule
  - Notes: The FDIC issued a proposed rule guiding their approval process for new ILC , and granted the first new ILC charters since before the 2008 financial crisis to Square and NelNet.
  - **Recommendation: Monitor. Congress should eliminate the “ILC loophole” to subject ILCs to the Bank Holding Company Act, as most other banks are.**

- [Fair Access to Financial Services](#)
  - Agency: OCC
  - Date Issued:
  - Type: Proposed Rule
  - Notes: Using highly questionable statutory authority, the OCC proposed this rule to compel large banks to serve energy and gas companies, even if doing so would increase risks to the bank and the financial system, in addition to contributing to climate change
  - **Recommendation: Rescind. Instead, banking regulators like the OCC should be using their authority to ensure minority consumers who have been routinely discriminated against by banks receive fair access to financial services.**

## Digital Banking

- [OCC Chief Counsel's Interpretation on NBFSa's Authority to Hold Stablecoin Reserves](#)
  - Agency: OCC
  - Date Issued: 09/21/2020
  - Type: Policy Statement/Interpretation
  - Notes: This policy states that a national bank may hold stable coin reserves as a service to bank customers.
  - **Recommendation: Rescind**
- [Federally Chartered Banks & Thrifts May Provide Custody Services for Crypto Assets](#)
  - Agency: OCC
  - Date Issued: 07/22/2020
  - Type: Policy Statement
  - Notes: Statement clarifying national banks' and federal savings associations' authority to provide cryptocurrency custody services for customers
  - **Recommendation: Rescind**
- [NBFSa Digital Activities: Advanced Notice of Proposed Rulemaking](#)
  - Agency: OCC
  - Date Issued: 06/04/2020
  - Type: Notice of Proposed Rulemaking
  - Notes: The OCC is seeking comment on 12 CFR 7, subpart E and 12 CFR 155 on national bank and federal savings association digital activities.
  - **Recommendation: Monitor**
- [OCC Requests Comment on Proposal to Update Activities and Operations Rules and its Rules on Digital Activities](#)
  - Agency: OCC
  - Date Issued: 06/04/2020
  - Type: Request for Comment

- Notes: The OCC published a Notice of Proposed Rulemaking (NPR) for public comment to update its rules for national bank and federal savings association activities and operations. The agency also released an Advance Notice of Proposed Rulemaking (ANPR) seeking comment on rules on national banks' and federal savings associations' (banks) digital activities.
- **Recommendation: Monitor**

## **International**

- [Treasury Guidance for U.S. Positions on Multilateral Development Banks Engaging on Energy Projects and Policies](#)
  - Date Issued: July 2017
  - Type: Guidance
  - Notes: Instructs U.S. executive directors at the multilateral development banks (MDBs) to vote to “help countries access and use fossil fuels more cleanly and efficiently,” which, in effect, means voting “yes” to most coal projects that come up for approval. This supersedes [guidance issued by President Obama in 2013](#) that established a U.S. position at the MDBs against the financing of new coal plant projects except in rare circumstances.
  - **Recommendation: Rescind and reverse**
- [Executive Order 13928 on Blocking Property of Certain Persons Associated with the International Criminal Court](#)
  - Date Issued: June 11, 2020
  - Type: Executive Order
  - Notes: In response to an ongoing investigation of U.S. military actions in Afghanistan by the International Criminal Court (ICC), President Trump declared a national emergency and authorized the imposition of asset freezes and family entry bans that could be imposed against certain ICC officials, personnel, and non-US persons who assist in ICC investigations to which the U.S. objects. On September 2<sup>nd</sup>, the Trump Administration announced the imposition of sanctions against the ICC chief prosecutor and another senior ICC official.
  - **Recommendation: Rescind and reverse**

## **Cuba**

- [National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba](#)
  - Type: Presidential Policy Memorandum
  - Date: June 16, 2017
  - Notes: Outlines the Trump Administration's policy toward Cuba and policy implementation actions to be taken by heads of departments and agencies, including restricting certain financial transactions and travel. Supersedes and replaces Obama-era Presidential Policy Directive on U.S.

Policy toward Cuba (June 28, 2007) and Presidential Policy Directive on United States-Cuba Normalization (October 14, 2016).

- **Recommendation: Rescind**
- [November 2017 Amendments to the Cuban Assets Control Regulations](#)
  - Agency: Office of Foreign Assets Control (OFAC)
  - Date: Effective November 9, 2017
  - Type: Final Rule
  - Notes: Amends the Cuban Assets Control Regulations to limit authorizations for travel to Cuba and related transactions, educational activities, and restrict direct financial transactions with entities and sub-entities listed on the State Department's Cuba Restricted List.
  - **Recommendation: Rescind**
- [June 2019 Amendments to the Cuban Assets Control Regulations](#)
  - Agency: Office of Foreign Assets Control (OFAC)
  - Date: June 5, 2019
  - Type: Final Rule
  - Notes: Eliminates the authorization for group people-to-people educational travel.
  - **Recommendation: Rescind**
- [September 2019 Amendments to the Cuban Assets Control Regulations](#)
  - Agency: Office of Foreign Assets Control (OFAC)
  - Date: September 9, 2019
  - Type: Final Rule
  - Notes: Capped family remittances (not previously limited) to \$1,000 per quarter per Cuban national and eliminated the category of donative remittances. Also ended the use of *U-turn transactions*, which allowed banking institutions to process certain funds transfers originating and terminating outside the United States.
  - **Recommendation: Rescind**
- [September 2020 Amendments to the Cuban Assets Control Regulations](#)
  - Agency: Office of Foreign Assets Control (OFAC)
  - Date: September 23, 2020
  - Type: Final Rule
  - Notes: Prohibits any person subject to U.S. jurisdiction from lodging, paying for lodging, or making any reservation for or on behalf of a third party to lodge at any property owned by a prohibited Cuban government official or Communist Party member, or close relative.
  - **Recommendation: Rescind**



- [October 2020 Amendments to the Cuban Assets Control Regulations](#)
  - Agency: OFAC
  - Date: October 26, 2020
  - Type: Final Rule
  - Notes: Amended the scope of certain remittance-related general authorizations to prohibit any transactions relating to the collection, forwarding, or receipt of remittances involving any entities or sub-entities under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel with which direct financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.
  - **Recommendation: Rescind**

### **Investor Protection and Capital Markets**

- [Exemptive Order Permitting Finders to Function as Unregulated Broker-Dealers in Promoting the Sale of Private Offerings](#)
  - Date Issued: 10/7/20
  - Type: Exemptive Order
  - Notes: Allows finders to solicit accredited investors (see below regarding expanding definition of accredited investor) and receive transaction-based compensation without being registered as a broker or a dealer under the Securities Exchange Act of 1934.
  - **Recommendations: Reverse**
- [Proposed Rule Amendments and Guidance Addressing Cross-Border Application of Certain Security-Based Swap Requirements \(File Number S7-07-19\)](#)
  - Date Issued: December 18, 2019
  - Type: Proposed Rule
  - Notes: Rulemaking package, consisting of amendments, interpretive guidance and an order. The package revises regulations governing cross-border application of certain security-based swap requirements, by rolling back applicable protections and requirements. This packages undermines the SEC's oversight ability.
  - **Recommendations: Reverse**
- [Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds](#)
  - Date Issued: July 31, 2020
  - Type: Final Rule
  - Notes: Rulemaking and guidance issued by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission and the Commodity Futures Trading Commission to provide new exclusions and ease

reliance on existing exclusions. This may open avenues for banking entities to avoid restrictions and prohibitions on investments in Covered Funds and indirect proprietary trading.

- **Recommendations: Rescind**
- [Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8 \(Release No. 34-87458; File No. S7-23-19\)](#)
  - Date Issued: October 1, 2020
  - Type: Final Rule
  - Notes: Rulemaking rendering it more difficult for shareholders to resubmit shareholder proposals, which will have a disproportionately adverse impact ESG-related proposals.
  - **Recommendations: Reverse**
- [Whistleblower Program Rules \(Release No. 34-83557; File No. S7-16-18\)](#)
  - Date Issued: June 28, 2018
  - Type: Proposed Rule
  - Notes: Rulemaking giving the SEC discretion to reduce awards to whistleblowers and includes problematic interpretive guidance regarding what would constitute “original information.”
  - **Recommendations: Reverse**
- [Amendments to the “Accredited Investor” Definition \(Release Nos. 33-10734; 34-87784; File No. S7-25-19\)](#)
  - Date Issued: August 26, 2020
  - Type: Final Rule
  - Notes: Rulemaking expanding the definition of accredited investor to include other natural persons who will now qualify as accredited investors and will have access to investments with less stringent investor protections.
  - **Recommendations: Rescind**
- [Amendments to the Accelerated Filer and Large Accelerated Filer Definitions \(Release No. 34-85814; File No. S7-06-19\)](#)
  - Date Issued: May 9, 2019
  - Type: Proposed Rule
  - Notes: Rulemaking amending the accelerated filer and large accelerated filer definitions.
  - **Recommendations: Reverse**
- [Regulation Best Interest: The Broker-Dealer Standard of Conduct](#)
  - Date Issued: June 5, 2019
  - Type: Final Rule

- Notes: Establishes a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when they make a recommendation to a retail customer of any securities transaction or investment strategy involving securities.
  - **Recommendations: Rescind**
- [Retail Disclosures \(Form CRS, Variable Annuity Summary Prospectus, Mutual Fund Shareholder Reports\)](#)
  - Date Issued: June 5, 2019
  - Type: Final Rule
  - Notes: Rule establishing a disclosure form providing retail investors a brief relationship summary informing retail investor of potential conflicts of interest.
  - **Recommendations: Rescind**
- [Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8 \(Release No. 34-87458; File No. S7-23-19\)](#)
  - Date Issued: September 25, 2020
  - Type: Final Rule
  - Notes: Rulemaking rendering it more difficult for shareholders to resubmit shareholder proposals, which will disparately impact proposals on issues such as climate change, diversity and other environmental, social and corporate governance (ESG) issues.
  - **Recommendations: Rescind**
- [Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice \(Release No. 34-87457; File No. S7-22-19\)](#)
  - Date Issued: September 3, 2020
  - Type: Final Rule
  - Notes: Rulemaking providing increased issuer involvement in the proxy voting advice process. This increased issuer involvement means that proxy voting advice will not be as independent.
  - **Recommendations: Rescind**
- [Oil and Gas Reporting Modernization](#)
  - Date Issued: February 2017
  - Type: Rule reversal
  - Notes: Rule rescinded a pending SEC rule that would have required oil companies to disclose details of their payments to international governments in connection with oil and gas production
  - **Recommendations: Reverse and reinstate pending rule**
- [Customer Protection Rule](#)
  - Date Issued: October 22, 2020

- Type: No-action letter
  - Notes: The SEC issued a no-action letter permitting non-compliance with certain aspects of the Customer Protection Rule for a six-month period
  - **Recommendations: Rescind**
- [Public Statement on the Effect of the Court of Appeals Decision on the Conflict Minerals Rule](#)
    - Agency: SEC, Division of Corporation Finance
    - Date: April 7, 2017
    - Type: Public Statement/Guidance
    - Note: In an update to its 2014 guidance, the Division of Corporation Finance announced that it will not recommend enforcement action to the Commission if a company does not include disclosure in Form SD relating to due diligence on the source and chain of custody of conflict minerals or a Conflict Minerals Report and associated Independent Private Sector Audit
    - **Recommendation: Rescind**

## Derivatives Regulation

- [Cross Border Derivatives](#)
  - Agency: CFTC
  - Date Issued: 9/14/2020
  - Type: Final Rule
  - Notes: The derivatives market is fully globalized and the largest Wall Street banks have tremendous discretion to book derivatives in foreign subsidiaries around the world. Thus, it is critical that U.S. rules be properly applied to derivatives even when they are booked in foreign subsidiaries. Unfortunately, from the beginning of the implementation of U.S. derivatives rules, cross-border regulatory coverage has been flawed and contained significant loopholes. The Trump CFTC completed this process by passing a rule that effectively eliminated the ability of U.S. regulators to apply most Dodd-Frank requirements to the bulk of derivatives activity conducted by large U.S. global banks. The rule can be seen as making Dodd-Frank derivatives compliance effectively optional for these banks
  - **Recommendation: The key elements of this rule weakening coverage should be reversed, but this should be done in the context of a general reconsideration and strengthening of cross-border derivatives coverage. This process should include reconsideration of various exemptions granted to foreign entities including clearing houses and trading platforms.**
- [Commodity Speculation](#)
  - Agency: CFTC
  - Date Issued: 10/15/2020
  - Type: Proposed Rule
  - Notes: The Dodd-Frank Act required the limitation of commodity speculation in order to restrict wild price swings in critical commodities created by excessive

- speculation. A number of rules were proposed to implement this requirement, but the intensity of industry opposition prevented them from being finalized. In early 2020 the CFTC proposed a new rule that would effectively gut the capacity of the agency to implement strong position limits.
- **Recommendation: Key elements of this rule must be reversed and a stronger position limits regime designed and put in place, based on an improved version of previous proposals.**
  - [Capital Requirements of Swap Dealers and Major Swap Participants](#)
    - Date Issued: 7/22/20
    - Type: Final Rule
    - Notes: The CFTC has jurisdiction over capital requirements for non-bank derivatives dealers. In 2020, the agency finalized rules that would significantly reduce such requirements as compared to previous agency proposals and to likely derivatives risks.
    - **Recommendation: These rules have not yet been implemented, but need to be reversed and reconsidered as new data on derivatives exposures at non-bank dealers is reported.**
  - [Automated Trading](#)
    - Agency: CFTC
    - Date Issued: 6/25/2020
    - Type: Proposed Rule.
    - Notes: Derivatives trading markets are now effectively dominated by high-speed automated trading. Yet there is no specialized set of rules or mechanisms to register automated traders, keep records on their trading techniques, and require a minimum level of risk control. During the Obama Administration the CFTC proposed a rule, Reg AT, that would have started the process of providing effective oversight. However, the Trump Administration withdrew Reg AT and instead proposed a set of automated trading principles that effectively outsources any regulation of automated trading to private exchanges who have deep conflicts of interest.
    - **Recommendation: Reg AT should be re-proposed and the agency should make clear that regulation will not be outsourced through a purely principles-based approach.**

## **Diversity and Inclusion**

- [Executive Order 13950 on Combating Race and Sex Stereotyping](#)
  - Date Issued: 09/22/2020
  - Type: Executive Order
  - Notes: Bans certain types of anti-bias and discrimination training by agencies and contractors. The administration threatens to suspend or cancel federal contracts with companies that violate the order.
  - **Recommendation: Rescind and reverse**

- [Presidential Executive Order 13672 on the Revocation of Federal Contracting Executive Orders](#)
  - Date Issued: 03/27/2017
  - Type: Executive Order
  - Notes: Revokes key components of the Obama administration's previous executive order banning federal contractors from discriminating against employees on the basis of sexual orientation or identity
  - **Recommendation: Rescind and reverse**
  
- [Notice of Information Collection—Request for new Control Number for a Currently Approved Collection: Employer Information Report \(EEO-1\) Component 1; Revision of Existing Approval for EEO-1 Component 2.](#)
  - Date Issued: 04/23//2019
  - Type: Agency Notice
  - Notes: Provides guidance to regulated entities regarding the 2015 Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies, noting that regulated entities are expected to submit diversity self-assessments no more than every two years.
  - **Recommendation: Rescind and reverse**
  
- [Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Securities and Exchange Commission](#)
  - Date Issued: 09/2017
  - Type: Agency Guidance
  - Notes: Provides guidance to regulated entities regarding the 2015 Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies, noting that regulated entities are expected to submit diversity self-assessments no more than every two years.
  - **Recommendation: Remove 2-year guidance and require collection of data every year**