



## What Regulators Can Do—Right Now\*

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While passing big bills may be difficult in the upcoming election year, there are many changes that should be made by regulators that would not require the participation of Congress and would be beneficial to consumers and the economy. Here are a few.

1. HUD should state that Severity Tier Four loans in the FHA Default Taxonomy will be acceptable to it notwithstanding any minor errors in the loans. That should be accompanied by a policy statement from DOJ that errors acceptable to an agency with primary regulatory authority in a matter will be considered immaterial errors by DOJ in considering whether to bring a False Claims Act suit or joining in a qui tam suit.

In addition, HUD should establish a procedure by which errors in Tier Three loans can be cured to move them to the Tier Four category.

2. HUD should outsource the IT operation of FHA to other federal agencies with the capacity and expertise to undertake the task. FHA should reclaim that responsibility only after it has upgraded its equipment and personnel to provide an environment which GAO has found to be consistent with best practices of similar operations in the public and private sectors.
3. CFPB should outsource the collection of HMDA and other industry data to the Board of Governors of the Federal Reserve System until the CFPB data security and data operations receive a clean audit from the Inspector General of the Federal Reserve and GAO.

Publication of any data collected should be under the joint control of the Federal Reserve and CFPB and be limited to government agencies. It should not be made available to third parties or the public generally except as specifically approved by the CFPB and the Federal Reserve acting jointly.

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\*The information contained in this newsletter does not constitute legal advice. This newsletter is intended for educational and informational purposes only.

4. CFPB and the prudential regulators as well as the DOJ should reconsider the memoranda for collaborative operations to provide greater emphasis on the need for each agency to work in tandem with other agencies on matters that cross agency lines of authority, and that any action taken on such matters must be unanimous.
5. CFPB should disavow the decision of the Director in the PHH case and promulgate clear policy statements on matters such as those in that decision with which current agency leadership disagrees.
6. All federal financial services agencies should state clearly that policy guidance that is expected to be followed by parties and on which enforcement actions or litigation in the courts may be brought will be rules that are covered by the Congressional Review Act.
7. All federal financial services agencies should ensure that employee hires will not be based, formally or informally, on the partisan political orientation of the applicant and should disband any internal groups or terminate any existing internal process that would interfere with that policy. It should also hire a consultant to review the activities of its employees to ensure that each is engaged in meaningful nonpartisan activity designed to further the goals of the administration of the agency.
8. CFPB should publish the amounts of funds it has collected from third parties as fines, penalties, settlements or in any other form, and should publish the uses to which it has put such funds including the names of the recipients and the reasons for each distribution to each recipient. It should publish that information on a quarterly basis and should show the procedures it has in place to ensure that recipients are using the distributed funds properly and the results of any audits it has made of those recipients and their use of funds.

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