

PUBLICATION

Analysis of the Executive Order on Mortgage Access

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On Friday afternoon, the White House issued two executive orders aimed at lowering housing costs: (1) *Removing Regulatory Barriers to Affordable Home Construction* and (2) *Promoting Access to Mortgage Credit* (EO numbers pending).

These Executive Orders (EO) arrive as Congress struggles to reconcile competing bipartisan housing packages, largely focused on supply-side reforms. Reading into the politics, the Administration appears to be pursuing a parallel regulatory track: moving agency-led construction and supply initiatives forward without new statutory authority, while also advancing demand-side mortgage finance reforms that Congress has not taken up (yet).

This alert focuses on the mortgage access EO.

Analysis of "*Promoting Access to Mortgage Credit*"

The EO is notable for its breadth. It engages mortgage market participants that may have been standing by during the supply-side legislative debates by outlining potential reforms across origination, disclosures, appraisals, servicing, supervision, and capital and liquidity. Notably, although this is framed as addressing declining bank participation in mortgage lending, the EO explicitly states an intent to promote competition among mortgage lenders "of all charter types."

Below are summaries of the EO's 11 focus areas:

1. Origination and ATR/QM / TILA-RESPA-TRID

The order directs the Consumer Financial Protection Bureau (CFPB) to "consider" proposing amendments to Regulation Z that tailor ATR/QM requirements and related TILA/RESPA/TRID obligations.

- For "smaller banks" (potentially defined as \$30B and smaller), create a broader QM safe harbor for portfolio loans.
- For potentially all creditors, replace TRID timing rules with a materiality-based standard.
- For potentially all creditors, adjust the QM points-and-fees caps for small mortgage loans (either exempting small mortgage loans from the caps or modifying the caps).
- For potentially all creditors, updating "reasonable compliance" expectations for ATR/QM.

What we are watching: Resetting regulatory expectations around "materiality" is a familiar concept, but challenging in execution. Expect changes focused on technical timing and signature requirements. Key definitions for "small bank" and "small mortgage" are left to regulators.

2. Rescission modernization and refinancing streamlining

The EO directs the CFPB to consider:

- Modernizing the right to rescission by enabling "increased secure electronic and digital forms and processes;"
- Streamlining Regulation X requirements for rate-and-term refinances; and
- Potentially exempting rate-and-term (and possibly cash-out) refinances from rescission.

What we are watching: The inclusion of this provision signals a strong push toward digital mortgage process improvement. It also tackles rescission risk specifically because technical defects can create outsized remedies and the "fix" could be addressed well with digitization.

3. Supervisory posture: underwriting focus and "correction-first"

The CFPB, Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) are directed to consider supervisory guidance that:

- Emphasizes policy effectiveness and prudent underwriting over technical process errors; and
- Applies correction-first treatment to good-faith technical violations, reserving enforcement for borrower harm or repeat misconduct.

What we are watching: These provisions align with workstreams that have already started across each of the federal financial regulators in shifting emphasis from "paper perfection" toward substantive compliance. The nuance that will be noteworthy is in how forward leaning the agencies will be in describing or defining "good-faith," "technical," and "borrower harm." The Federal Housing Administration (FHA) default servicing waterfall experience may be a decent parallel to the effort that is required.

4. Home Mortgage Disclosure Act (HMDA) modernization for small banks

The order directs the CFPB to consider amending Regulation C to raise asset thresholds for HMDA exemptions for smaller banks.

What we are watching: Building on recent OCC changes for very small bank mortgage lenders, this signals a clear tilt toward burden reduction in the longstanding data-versus-fair lending compliance and data processing debate.

5. Capital and liquidity alignment; Federal Home Loan Bank (FHLB) initiatives; housing-finance "plumbing"

The order calls on the federal financial regulators and the Federal Housing Finance Agency (FHFA) to consider the following for "banks":

- Tailoring risk weights for portfolio mortgages, mortgage servicing rights, and warehouse lines of credit to the "material credit risk" of the exposure for "all banks, including community banks and other smaller banks."
- Modernizing the Federal Reserve and FHLB collateral valuation and transfer systems.
- Expanding longer-dated FHLB advances tied to residential mortgage assets.
- Creating targeted FHLB liquidity programs (e.g., entry-level housing, owner-occupied purchases, small builders).
- Accelerating collateral boarding through standardized data and digital documentation.
- Refocusing the FHLB Affordable Housing Program on speed and leverage.

- Assessing potential FHLB access to the Federal Reserve discount window under standardized protocols.
- Requiring the FHFA to submit a report within 120 days on the efficiency of national housing finance markets and recommendations for regulatory or legislative changes to address gaps.

What we are watching: This section signals deep interest in the mortgage implications of Basel III as well as a renewed examination of the FHLB's role in providing liquidity to the entire banking and insurance ecosystem.

6. Construction lending supervision

The EO directs supervisors to consider excluding one-to-four family residential development and construction lending from commercial real estate concentration guidance and ensuring supervisory expectations support construction lending by community banks.

What we are watching: This provision mirrors, but is more specific than, Congressional proposals because it focuses specifically on single-family construction.

7. Appraisal modernization and alignment across federal programs

The EO directs regulators and FHFA to consider modernization that:

- [Expands alternative valuation models, desktop/hybrid appraisals, and AI tools.](#)
- Simplifies appraiser qualification requirements.
- Reduces appraisal requirements for low-risk transactions such as rate and term refinancings; and
- Aligns FHA and Veterans Administration (VA) appraisal standards.

What we are watching: The industry is broadly aligned on appraisal modernization with meaningful potential cost reductions that have the potential to be pulled through to the consumer.

8. Digital mortgage modernization: e-signatures, e-notes, Remote Online Notarization (RON)

The order directs U.S. Department of Agriculture (USDA), U.S. Department of Housing and Urban Development (HUD), VA, and FHFA to consider eliminating wet-signature requirements, standardizing acceptance of electronic signatures, e-notes, and RON, and promoting digital mortgage standards.

What we are watching: Mortgage digitization standardization turns on cross-agency and secondary market alignment. The current misalignment is a significant federally created friction in the market. Alas, we will miss updating our Remote Online Notarization 50-state survey if all goes to plan here.

9. Servicing "certainty" and simplifying obligations for smaller banks

HUD and financial regulators are directed to consider:

- Supporting portfolio servicing as a core community banking function.
- Extending cure-first standards to good-faith servicing errors.
- Simplifying loss mitigation requirements.
- Exempting smaller banks from complex servicing regimes.

What we are watching: This provision reflects concerns that post–Dodd-Frank servicing rules pushed community banks out of mortgage lending, including findings that Mortgage Servicing Right (MSR) treatment contributed to bank failures.

10. Enforcement posture

The EO encourages enforcement policies that:

- Limit civil money penalties to willful, knowing, or reckless violations.
- Credit good corporate conduct and remediation.
- Allow self-identification and correction.

What we are watching: This reflects a deliberate recalibration that is consistent with recent actions at the federal financial regulators to use penalties as a last resort, not a default tool for compliance and supervision.

11. Mortgage Loan Originator (MLO) licensing

Agencies are directed to eliminate duplicative licensing and registration requirements for MLOs employed by smaller banks.

What we are watching: Long a bank-industry priority, this advances a regulatory solution previously pursued through legislation.

Takeaway: Engage Early and Across Charter Types

The EO states an intent to promote competition among lenders "of all charter types," yet many provisions are framed as primarily benefiting banks or small banks. That framing is not inevitable.

Nonbank lenders and the broader mortgage ecosystem should engage early, while the agencies are scoping the rulemakings, to ensure reforms such as TRID materiality, appraisal modernization, e-notes/RON, and rescission modernization apply across the market rather than turning on charter status alone.

For more information or assistance on this topic, please contact [Kara M. Ward](#), or a member of Baker Donelson's [Financial Services Team](#).