

## **AGENDA**

**To:** Office of Information and Regulatory Affairs (OIRA)

**From:** Georgetown University Law Center – Civil Rights Clinic

**Date:** April 25, 2019 – 2 p.m.

**Re:** HUD’s Implementation of the Disparate Impact Standard, FR-6111-P-01, RIN 2529-AA98

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- I. Introductions
- II. Georgetown University Law Center Civil Rights Clinic
  - A. Mission
  - B. Expertise: Litigation, Administration Law, Fair Housing Standards
- III. Legal Vulnerability of HUD’s Approach to Disparate Impact
  - A. Overview of Concerns
  - B. Existing Law
  - C. Illustrations from ANPR & Public Comments
    - Definition of “Discriminatory Effect:” Burden on plaintiffs to plead in anticipation of defendant’s affirmative defenses (“business necessity”) to establish *prima facie* case
    - Compelling plaintiffs to offer an alternative practice that is equally effective at meeting the defendant’s interest
    - Algorithms as an excessively broad defense