

Vaishali Rao Discusses with Law360 the CFPB's Loss in Novel Redlining Case Brought Against a Mortgage Lender

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Hinshaw partner Vaishali Rao discussed with *Law360* the significance of the recent federal court dismissal of the Consumer Financial Protection Bureau's (CFPB) first-ever redlining case brought against a nonbank mortgage lender accused of unlawful discrimination. The CFPB had brought the action under the Equal Credit Opportunity Act (ECOA).

Rao said the decision came down to the use of the word "applicant" in the ECOA and that the judge had read that term "very narrowly." She noted that lenders have sometimes struggled to ascertain how far the "prospective applicant" label used in the ECOA ban on discrimination and so-called discouragement extends and where their associated fair lending obligations kick in. "Industry participants wonder, for example, is it illegal to build a marketing campaign in certain areas? Are entities required to offer their product to applicant pools where maybe the product is not viable?" she stated.

Rao also addressed what this decision could mean for the CFPB's ability to address bias in targeted advertising. "The bureau has said that they have set a priority to ensure that the use of [artificial intelligence] is nondiscriminatory, but the reality is a lot of the marketing is AI-generated, too," Rao said. The case "would appear to be limiting the bureau's reach in that regard."

[Read the full article \(subscription required\)](#)

"CFPB Redlining Loss Casts Doubt On Its Fair Lending Future," *Law360*, February 8, 2023.

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