

July 18, 2025

Mr. Russell Vought  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

RE: Docket No. CFPB-2025-0017 / RIN 3170-AB40

Interim Final Rule- Small Business Lending Under the Equal Credit Opportunity Act (Regulation B); Extension of Compliance Deadlines

Dear Acting Director Russell Vought:

Opportunity Finance Network (OFN) respectfully submits the following comments in response to the Consumer Financial Protection Bureau's (CFPB) Interim Final Rule (IFR), which extends the compliance deadlines for the Section 1071 small business lending data collection rule by one year. OFN urges the CFPB to move forward with implementation of a strong and durable final rule without further delay.

OFN is the nation's leading network and intermediary focused on community development investment, managing over \$1 billion in total assets and a membership of more than 475 community development financial institutions (CDFIs). Our membership includes community development loan funds, credit unions, banks, and venture capital funds. OFN is a trusted investment partner to the public, private, and philanthropic sectors and, for nearly 40 years, has helped partners invest in communities to catalyze change and create economic opportunities for all.

Since its founding in 1986, OFN members have originated \$111 billion in financing, helping to create or maintain more than 3 million jobs, start or expand more than 850,000 businesses and microenterprises, and support the development or rehabilitation of nearly 2.4 million housing units and more than 14,000 community facility projects in rural, urban, and Native communities across the United States.

### **Small Businesses Need Transparent and Competitive Lending Markets to Thrive**

As noted in the CFPB's own court filings, "CFPB anticipates issuing a Notice of Proposed Rulemaking as expeditiously as reasonably possible".<sup>1</sup> When such future rulemaking occurs, it should reinforce transparency, accountability, and fair market competition in small business lending. Better data enables policymakers and lenders to identify gaps and expand access to responsible credit—supporting business formation, job creation, and local economic growth.

Any future rule under Section 1071 should reinforce free-market principles by supporting accountability and transparency in lending. Regulation that creates transparency to help the market improve its own behavior is a market-based, pro-competition alternative to strict rules or costly subsidies. Just as the Home Mortgage Disclosure Act (HMDA) spurred better

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<sup>1</sup> *Revenue Based Finance Coalition v. CFPB*, No. 1:23-cv-24882-DSL, Defs.' Resp. to Mot. to Stay at 1 (S.D. Fla. Apr. 3, 2025)



mortgage lending practices, Section 1071 can similarly improve outcomes in small business financing<sup>2</sup>.

Without Section 1071, there is no comprehensive source of data that shows what types and amounts of credit small businesses apply for, the pricing or other terms of that credit, whether prepayment penalties or other conditions are imposed, and the outcomes of credit applications.<sup>3</sup> These insights could spur innovation by encouraging adoption of, and investment into, products and practices that the data reveal are effective in serving a variety of market segments.

Small business owners in rural areas stand to benefit significantly from increased data transparency through Section 1071, for example. A study by the U.S. Small Business Administration (covering 2007–2016) found that rural firms had poorer access to bank credit than urban firms in both loan volume and number and that this disparity widened after the Great Financial Crisis.<sup>4</sup> These systemic disparities highlight the need for standardized, geo-coded lending data. Section 1071's comprehensive data collection would make such rural financing gaps visible, enabling policymakers and lenders to target interventions, develop products, and fill credit deserts more effectively.

### **Data Keeps Bad Actors Accountable**

CDFIs play a key role in ensuring small businesses and consumers have access to affordable financing, offering alternative financing options to harmful predatory lenders. Predatory lending practices distort free market competition and undermine local economies by limiting access to capital. As responsible lenders, OFN members welcome transparency efforts across industries – banks, credit unions, loan funds, online and fintech lenders. This broad coverage addresses regulatory inconsistencies in data reporting and fair lending practices. While larger financial institutions may delay compliance, CDFIs and smaller lenders who often serve more vulnerable borrowers face continued pressure to self-report without regulatory clarity.

In recent years, there has been an increase in predatory high-cost, short-term products for small businesses due to lack of transparency.<sup>5</sup> Actors in some corners of small business financing markets who are not transparent with respect to pricing and terms, do not practice responsible underwriting, and offer products with excessive pricing and fees that can trap small businesses in cycles of debt. Any future rule should also apply to merchant cash advance, factoring and fintech companies help address this market failure by creating a level playing field for all small business lenders. Regardless of institutional structure, lenders who are providing the same product should be beholden to the same rules of transparency. CDFIs

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<sup>2</sup> Neil Bhutta and Daniel Ringo. 2013. *Mortgage Market Conditions and Borrower Outcomes: Evidence from the 2012 HMDA Data and Matched HMDA–Credit Record Data*. Federal Reserve Bulletin, November. Washington, DC: Board of Governors of the Federal Reserve System. <https://www.federalreserve.gov/publications/2013-november-mortgage-market-conditions.htm>

<sup>3</sup> Preamble to the Final Rule, 88 Fed. Reg. 35150, 35153

<sup>4</sup> Cole, R. A. (2020, May). *Bank Lending to Rural vs. Urban Businesses in the United States: 2007–2016*. U.S. Small Business Administration, Office of Advocacy. [https://advocacy.sba.gov/wp-content/uploads/2020/05/REPORT-Cole-Rural-and-Urban-Lending\\_pd.pdf](https://advocacy.sba.gov/wp-content/uploads/2020/05/REPORT-Cole-Rural-and-Urban-Lending_pd.pdf)

<sup>5</sup> Levitin, Adam J. 2025. “Predatory Small Business Financing: Market and Regulatory Failures.” 42 *Yale Journal on Regulation* (forthcoming; originally posted March 6, 2025). Available at SSRN: 5168648.



have long operated with accountability and transparency — Section 1071 brings the rest of the market closer to that standard. Over time, with the data to prove that CDFI loans are safer, more affordable, and less extractive, this could reduce market share for harmful lenders and redirect businesses toward more responsible options.

### **Opportunity Cost of No Small Business Lending Data and Delays to Section 1071 Implementation**

More than two years have passed since the CFPB finalized the Section 1071 rule and over fifteen years since the Dodd-Frank Act first directed the CFPB to implement it. Despite some opposition centered on the perceived burden of compliance, the benefits of standardized data collection for small business lending clearly outweigh the costs.

The CFPB's IFR, which postpones compliance deadlines by an additional year, imposes costs on borrowers, lenders, and policymakers. For one, there is the opportunity cost of foregone economic growth in local communities due to stalled availability of comprehensive small business lending data needed to identify and close credit gaps. The small business financing market continues to operate in data-blind spots that hinder targeted policy or programmatic interventions.

Many OFN members that have already invested in Section 1071 compliance—upgrading systems, hiring staff, and aligning internal reporting—now face regulatory limbo. Meanwhile, institutions that chose not to prepare are rewarded by the delay, undermining incentives for good-faith compliance. Lenders and vendors are caught in a costly state of flux, postponing implementation plans, delaying vendor contracts, and reducing clarity around long-term compliance expectations.

### **CDFIs Support Timely and Balanced Future Rulemaking**

According to a survey of small business lenders in our network, nearly all of the OFN member respondents who would be a covered financial institution reported already collecting at least partial required data under Section 1071. These lenders have already invested in data infrastructure and are ready to report to the CFPB as they already do for other federal agencies like the CDFI Fund. The disaggregated data on demographics, loan terms and census tracts allows CDFIs to show impact not just through stories, but with consistent national data, elevating their credibility with policymakers, funders, and banks for Community Reinvestment Act credit.

Any future rule should aim to reduce the compliance burden. Interagency coordination to streamline Section 1071 data collection and reporting requirements with CDFI Fund transaction-level reporting has the potential to create efficiencies while providing invaluable, data-rich insights into small business lending. To the extent possible, the CFPB should standardize data formats to match those used in reporting to the Treasury Department's CDFI Fund. The CDFI industry uses several different loan software products. Existing software providers continually modify their systems to comply with the CDFI Fund's reporting requirements. OFN urges the CFPB to work with both the CDFI Fund and loan software providers to streamline the process of integrating new data collection processes into existing systems.



Lenders should be allowed to reuse demographic and pricing data collected in the prior 36 months, streamlining the application process and reducing duplication. The rule also should minimize redundancy with existing frameworks by aligning key data elements with the Home Mortgage Disclosure Act (HMDA), Community Reinvestment Act (CRA), and CDFI Fund reporting regimes.

In any future improvements to Section 1071, OFN also urges including pricing information in the form of APR as a mandatory data point. This standardization of pricing allows for apples-to-apples comparison between financing of different terms, amounts or product types, thereby reducing information asymmetry. Clearly identifying the true, all-in price that includes interest and fees turns confusing financing offerings into a single, understandable metric that empowers small borrowers to make their own, smart decisions.

Moreover, the CFPB should ensure that data reported in good faith will not be taken out of context, ensuring its use aligns with the statute's intent to promote transparency and improve credit access, not to penalize good-faith lenders. CFPB should provide institutions with regulatory certainty by establishing boundaries and protocols for how collected data will inform supervision, enforcement, or public reports. Lenders are more likely to report accurately and proactively if they understand that Section 1071 data will not be used to draw uncontextualized or unfair inferences.

## **Conclusion**

Section 1071 is a pro-market tool that will help lenders identify and design the appropriate financial services and products to meet unmet credit needs, increase competition and encourage innovation and the replication of lending models that are successful in reaching borrowers across segments of the small business markets, and discourage non-competitive and unscrupulous lending practices.

CDFIs stand ready to implement a well-designed Section 1071 rule and believe timely, consistent data is essential for addressing disparities in small business credit. CFPB should avoid further delays and fulfill their stated commitment to issue another rulemaking as expeditiously as possible. Any new rule should ensure that:

- Merchant Cash Advances, factoring, and fintech companies are covered financial institutions
- Streamlined data collection process across federal agencies
- APR is a required data point
- Use of data by CFPB is clearly outlined so as not penalize those who report in good faith

Delaying Section 1071 implementation delays transparency, stifles responsible innovation, and perpetuates blind spots in small business credit markets. The CFPB must act decisively to restart progress, support compliant institutions, and honor its statutory mandate to improve fairness and access in small business lending. We appreciate the opportunity to submit this comment. For questions, please contact me, Susie Han at [shan@ofn.org](mailto:shan@ofn.org).

Sincerely,

Susie Han  
VP, Regulatory Affairs