

Section 1071 Rulemaking / Small Business Lending Data Collection and Reporting

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December 2025

Issue Update

In March 2023, the Consumer Financial Protection Bureau (CFPB) issued a final rule to implement section 1071 of the Dodd Frank Act (2023 final rule). Section 1071 is an amendment to the Equal Credit Opportunity Act, which requires lenders to collect, and report to the Consumer Financial Protection Bureau, information about lending to “women owned, minority-owned and small businesses.” Section 1071's purpose is to facilitate enforcement of fair lending laws and community development efforts. The Bureau’s 2023 final rule applies to banks, credit unions, fintechs and other nonbank lenders that make at least 100 small business loans in each of the two preceding calendar years. The 2023 rule also requires lenders to collect 81 data fields, in contrast to the 13 data points required by Congress and defines a small business as having gross annual revenue of \$5 million or less. The ABA and other trade associations challenged the 2023 final rule in court and secured a delay in the rule’s compliance dates from the 5th Circuit Court of Appeals while the appeal is pending.

In February 2025, the CFPB informed the 5th circuit that it was planning to revise the 2023 rule. In June 2025, the CFPB postponed the mandatory compliance dates for the 2023 rule. The National Community Reinvestment Coalition and other advocates sued the CFPB in federal district court for the District of Columbia, seeking rescission of the interim final rule and a CFPB statement that it would not prioritize enforcement of the 2023 final rule. This lawsuit does not alter or remove the 5th Circuit’s stay for ABA members and members of other parties.

With the stay in place, the CFPB published a notice of proposed rulemaking on November 13, 2025, which would significantly streamline the 2023 rule and reduce the burden of collecting small business loan data. The November proposal would exempt many community banks by changing the loan volume test for whether a lender must report, from 100 loans to 1,000 loans. Note, however, that the proposal would exempt Farm Credit System lenders from 1071 regardless of their loan volume. The proposal would also reduce the amount of data lenders must collect, requiring the data that Congress intended plus five additional data points. The proposal would refocus the rule’s scope by changing the definition of a small business to one having gross annual revenues of \$1 million or less, instead of \$5 million or less. Comment is due on December 15, 2025.

Why It Matters

New data collection rules will impose additional compliance burden on banks, especially community banks. While section 1071 applies to non-banks and banks alike, banks will be regularly examined for compliance and data accuracy and non-banks will not face such scrutiny. Nonbanks are not subject to Bureau examination for compliance with 1071. Similarly, the history of redlining enforcement in the mortgage context indicates that regulators and consumer groups will focus on banks' 1071 data for evidence of discrimination and pay scant attention to non-banks. Rather than motivating banks to increase their lending to small businesses, the costs associated with the 1071 data collection and the anticipated reliance on statistical manipulation in fair lending supervision and enforcement may *discourage* bank lending to small businesses, particularly by community and mid-size banks. Finally, the CFPB will make the 1071 data public at the loan level, creating severe risks to privacy of small businesses.

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Recommended Action Items

- 1. Express support for the CFPB's November 2025 proposal to streamline the data collection but not the exemption for Farm Credit System lenders.** As outlined, the proposal would exempt many community banks and would reduce the amount of data that covered banks must collect and report. However, the November proposal completely exempts farm credit lenders regardless of their loan volume. Banks should point out that this creates an unlevel playing field for banks serving agricultural needs.
- 2. Support S. 557 and H.R. 976, which would repeal 1071 altogether,** permanently removing lenders' obligation to collect and report small business lending data to the CFPB.
- 3. Support for bills to reduce the burden of 1071, including the Small Lender Act,** which would exempt lenders originating fewer than 2,500 small-business loans in each of the preceding two calendar years or lenders with assets of less than \$10 billion. It would also limit the rule's application to small businesses with gross annual revenues of under \$1 million.
- 4. Support H.R. 2885, the Bank Loan Privacy Act,** which would help protect small businesses' privacy by requiring the CFPB to use the notice and comment rulemaking process to determine the data it will release to the public.

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