



January 26, 2023

The Honorable Rohit Chopra, Director  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20052

Dear Director Chopra:

As the financial services industry awaits the finalization of the Bureau’s rulemaking for Small Business Lending Data Collection under the Equal Credit Opportunity Act (“the Section 1071 Rule”), the Consumer Bankers Association (CBA)<sup>1</sup> requests that the Bureau immediately, upon the publication of a final Section 1071 Rule, establish industry-wide working groups and channels to facilitate proper implementation. CBA supports the goals of the Section 1071 Rule to protect and expand access to credit for small businesses and underserved communities and wants to minimize operational challenges to facilitate effective and timely implementation of the Rule.

After the finalization of the Bureau’s revisions to the Home Mortgage Disclosure Regulation C<sup>2</sup> (“the HMDA Final Rule”), the Bureau engaged in a tremendous effort alongside the financial services industry to help facilitate the systems reprogramming necessary to correctly implement the HMDA Final Rule. Some examples were written implementation materials (including guides, charts, and summaries), industry roundtables, outreach calls, and, of particular importance, the Bureau’s participation in vendor working groups. During these vendor and industry working group calls, the Bureau provided straightforward answers to key regulatory and programming questions. Providing answers quickly through these working group calls enabled programmers to meet testing and programming timelines to ensure on-time implementation. Having similar industry implementation conversations on the Section 1071 Rule will provide the Bureau with the opportunity to address industry challenges early and avoid delays in the data collection and disclosure requirements.

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<sup>1</sup> CBA is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

<sup>2</sup> In October 2015, the CFPB issued a HMDA Rule implementing the Dodd-Frank Act amendments to Regulation C. 80 Fed. Reg. 66,128 (Oct. 28, 2015) (2015 HMDA Rule). The 2015 HMDA Rule modified the types of institutions and transactions subject to Regulation C, the types of data that institutions are required to collect, and the processes for reporting and disclosing the required data. On August 24, 2017, the CFPB issued another rule to further amend Regulation C to make technical corrections and clarify and amend certain requirements adopted by the 2015 HMDA Rule. 82 Fed. Reg. 43,088 (Sept. 13, 2017). The Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law, No. 115-174, 132 Stat. 1296 (2018), amended HMDA by adding partial exemptions from HMDA’s requirements for certain transactions made by certain insured depository institutions.

Many have compared the Bureau's Section 1071 Rule to the HMDA Final Rule because they are both data collection rulemakings which have similar goals of facilitating greater transparency in the market for financial services. However, there is a chasm between what the HMDA Final Rule requires and what a final Section 1071 Rule will require in terms of industry implementation and system builds. Where the HMDA Final Rule required the re-programming of *existing* systems, the Section 1071 Final Rule will require *new* systems to be created and programmed. New system builds are always challenging, but this will be a formidable challenge for the financial services industry to complete if the Bureau finalizes a 24-month or 36-month implementation timeframe, and near impossible if the Bureau finalizes the 18-month implementation timeframe that was proposed.<sup>3</sup>

Regardless of the finalized implementation period, it will be essential the Bureau work collaboratively with industry during the implementation period to ensure the goals of protecting and expanding access to credit for small businesses and underserved communities come to fruition. The Bureau must provide answers to industry on regulatory and programming questions that are essential to the accurate implementation of Section 1071 data collection systems. Thus, CBA strongly encourages the Bureau to facilitate or join industry working groups focusing specifically on Section 1071 implementation.

CBA's unique membership includes not only member banks and credit unions, but suppliers, vendors, and software providers in the financial services industry.<sup>4</sup> CBA stands ready to assist the Bureau in convening relevant parties to answer crucial regulatory, programming, software development, and other implementation questions.

CBA looks forward to working with the Bureau on Section 1071 implementation. Please do not hesitate to contact me directly on this matter at [dsmith@consumerbankers.com](mailto:dsmith@consumerbankers.com).

Sincerely,



Dan Smith  
Executive Vice President, Regulatory Affairs  
Consumer Bankers Association

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<sup>3</sup> As CBA summarized in its comment on the notice of proposed rulemaking, “[w]ithout the time to properly implement for Section 1071, Lenders may be forced to pause small business lending, which could have significant negative impacts on the most vulnerable business the rule is intended to benefit. Accordingly, we believe an implementation period of no less than thirty-six months would afford adequate time for lenders to properly standup 1071 requirements.” CBA, *Letter to Consumer Financial Protection Bureau re: Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B) - Proposed Rule - Docket No. CFPB-2021-0015* (Jan. 6, 2022), at 3, available at <https://www.consumerbankers.com/sites/default/files/20210106%20CBA%20CFPB%201071%20NPRM%20Comment.pdf>.

<sup>4</sup> See a full list of CBA's Associate Membership here: <https://www.consumerbankers.com/membership-information/associate-membership>.