



January 5, 2022

RE: Docket No. CFPB-2021-0015, Section 1071 Small Business Lending Data Collection

To Whom it May Concern:

Pittsburgh Community Reinvestment Group (PCRG) appreciates this opportunity to comment on the proposed rule for collecting small business data required by Section 1071 of the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010. PCRG is a non-profit organization comprised of a regional coalition of 60 community-based organizations (CBOs) and community development corporations (CDCs) located throughout Western Pennsylvania. Our mission is to advocate for economic justice, equitable investment practices, and financial resources to revitalize communities through community engagement and advocacy. One of our most crucial advocacy tools is PCRG's Annual Mortgage Lending Study – a critical examination of Home Mortgage Disclosure Act (HMDA) data within Allegheny County, and the City of Pittsburgh.

Section 1071 requires the Consumer Financial Protection Bureau (CFPB) to enhance publicly available small business data to include the race and gender of small businesses applying for credit. Its purpose is to “facilitate enforcement of the fair lending laws and enable communities, government entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.”

The CFPB stated in its proposed rule that a lack of a comprehensive database on lending has made it difficult for stakeholders to remove barriers to equitable lending for women-owned and minority-owned small businesses. The Section 1071 data would remedy this deficiency by establishing a publicly accessible and transparent data platform for small business lending data, like the database that currently exists for HMDA data.

Data disclosure will help address significant racial and gender gaps

Significant racial and ethnic gaps in access to credit and lending, exacerbated by the pandemic, need to be narrowed. In the early 1990s after Congress improved HMDA data to include the demographics of borrowers, the number of home loans for people of color and modest-income borrowers surged. We expect a similar outcome after the Section 1071 data becomes public.

Citigroup estimated that over a twenty-year time, fairer access to lending would have enabled African American small businesses to add \$13 trillion in revenue and create 6.1 million jobs.¹ PCRG believes that the techniques used in our Mortgage Lending Study would greatly enhance our ability to work with our

¹ Dana Peterson and Catherine Mann, “Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.” <https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/>

banking partners to strengthen community benefits agreements (CBAs) with the new availability of small business lending data collected under Section 1071.

The data needs to comprehensively cover the lending marketplace

We applaud the CFPB's decision to require lenders with 25 or more originations to report data. This would likely cover most lenders. The fair lending and community development purpose of Section 1071 would be undermined if the threshold is raised to a higher number of loans. The CFPB estimates that the proposed threshold of 25 loans would cover about 70% of all banks.² However, if the CFPB increases the threshold to 50 loans, coverage would drop precipitously to 52% of all banks.³ Without accurate and comprehensive information from a significant portion of active lending institutions, too many lenders and loans then would be exempt and not visible to our member organizations that represent smaller cities, and rural areas – like our partner, the City of Washington (PA) Citywide Development Corporation.

We do not believe that compliance with Section 1071 would be prohibitively costly to lenders as CFPB has projected the cost of compliance to be about \$7 to \$28 in variable cost per application.⁴ Additionally, CFPB estimates that the time to transcribe data would be approximately 11 minutes per application.⁵ Both the time and monetary costs of such a program to financial institutions would more than be offset by the benefits gained from increased access to small business lending, considering the net income per application is still in the magnitude of thousands of dollars per application.⁶

In addition to banks, the Section 1071 rule must apply to credit unions, online financial technology companies, other non-depository institutions, and community development financial institutions. In Allegheny County (PA), non-depository lenders made up about 30% of all completed home mortgage applications in 2018.⁷ By 2020, that number increased to about 41% of all completed home mortgage applications.⁸ We cannot allow a significant portion of the lending market evade scrutiny simply because they lack financial deposits. All lenders must comply with fair lending laws and requiring them to disclose data on their lending activity is a highly effective way to ensure compliance.

We are pleased that the CFPB reversed its earlier decision and opted to include merchant cash advance (MCA) companies as data reporters. This form of lending has been high cost as MCAs advance funds to small businesses and then receive a daily or periodic percentage of those small businesses' receipts. We urge the CFPB to reverse its decision on factors and require them to submit data to monitor their financing for abuses.

The data must be robust including key factors for underwriting

² Consumer Financial Protection Bureau, "Small Business Lending Data Collection under the Equal Credit Opportunity Act, Section 1071 Notice for Public Rulemaking," September 2021, pg. 239
https://files.consumerfinance.gov/f/documents/cfpb_section-1071_nprm_2021-09.pdf

³ See Footnote 2

⁴ Consumer Financial Protection Bureau, "Small Business Lending Data Collection under the Equal Credit Opportunity Act, Section 1071 Notice for Public Rulemaking," September 2021, pg. 738

⁵ Consumer Financial Protection Bureau, "Small Business Lending Data Collection under the Equal Credit Opportunity Act, Section 1071 Notice for Public Rulemaking," September 2021, pg. 710

⁶ Consumer Financial Protection Bureau, "Small Business Lending Data Collection under the Equal Credit Opportunity Act, Section 1071 Notice for Public Rulemaking," September 2021, pg. 732

⁷ Consumer Financial Protection Bureau, Home Mortgage Disclosure Act (HMDA) Data, 2018

⁸ Consumer Financial Protection Bureau, Home Mortgage Disclosure Act (HMDA) Data, 2020

The CFPB is correct to require collection of data regarding whether a business is a start-up, the number of employees, and the full six-digit North American Industry Classification System (NAICS) code. A database will be able to adequately achieve a fair lending purpose only if it contains key variables used in underwriting and that enable meaningful fair lending analysis. Therefore, we ask that CFPB enable best practices to disseminate the highest specificity of NAICS information possible while protecting the anonymity of loan applicants.

We ask the CFPB to reconsider its decision to refrain from collecting the credit score of the small business applicant. Since CFPB implemented the expanded HMDA data collection rules in 2018, PCRG has seen that African American home mortgage applicants are year-over-year more than 10% more likely to be denied for credit history than white applicants in Allegheny County.⁹ Having more robust information on the small businesses lending market would allow PCRG to better advocate to our financial partners for more equitable credit scoring models in the loan application process.

Pricing information measures affordability, sustainability, and viability of lending

The CFPB proposed to collect a number of data points for pricing, including interest rates and fees. We ask the CFPB also to include the Annual Percentage Rate (APR) since it clearly summarizes the overall price of a loan. Access to loans is not meaningful if they are disproportionately high-priced with onerous terms and conditions for traditionally underserved small businesses. Pricing information is needed to monitor the affordability of loans and to allow stakeholders to act if lending is not sustainable in underserved communities.

Data on race and gender must be detailed and disability status of the small business must be included

We appreciate that the CFPB is proposing to require the collection of disaggregated racial and ethnic categories because the HMDA data revealed that racial and ethnic subgroups have different experiences in the home buying market. PCRG has been encouraged by the rate of voluntary disclosure disaggregated racial and ethnic categories in the HDMA data and expect to see a similar volume in small business lending applications.

We urge the CFPB to improve upon its proposed collection of data on gender identity and sexual orientation. In June 2021, the House of Representatives passed H.R. 1443, the “LGBTQ Business Equal Credit Enforcement and Investment Act” with bipartisan support. This bill would amend the Equal Credit Opportunity Act (through Section 1071) to require CFPB collect data on gender identification and sexual orientation.¹⁰ By implementing voluntary collection of such data now, CFPB can significantly reduce the regulatory burdens of implementing similar rules required by law in the future. Likewise, the CFPB should collect information on whether the small business is owned by people with disabilities.

The data must be easily accessible to the public

⁹ Consumer Financial Protection Bureau, Home Mortgage Disclosure Act (HMDA) Data, 2018-2020

¹⁰ LGBTQ Business Equal Credit Enforcement and Investment Act, H.R. 1443, 117th Congress (2021)
<https://www.congress.gov/bill/117th-congress/house-bill/1443>

Section 1071 data will be most effective in holding lenders accountable for providing access to affordable credit if it is publicly available in an easy manner for community-based organizations to use. CFPB has shown considerable success in anonymizing data prior to public disclosure. We strongly believe that this data can publicly disseminated while still protecting private individuals. As the CFPB stated, “The Bureau also notes that, based on the Bureau’s expertise and analysis, the publication of HMDA data—which contains many data fields that are similar to data fields that would be disclosed under Section 1071—has not resulted in any measurable increase in fraud or identity theft against mortgage applicants.” There is little to lose and much to gain in terms of accountability with the public release of a robust database. If CFPB does not disclose these variables to the public, organizations like PCRG cannot hold lenders accountable.

Conclusion

PCRG urges the CFPB to require the collection and public dissemination of a database detailed enough to meaningfully achieve the fair lending and community development statutory purposes of Section 1071. Such data will allow PCRG to continue holding lenders accountable to fair lending laws and Community Reinvestment Act (CRA) enforcement in the Pittsburgh metro area. While being able to develop a clear understanding of market gaps which will help us innovate new lending products with our local lending institutions. Thank you for the opportunity to comment on this important matter.

Sincerely,



Ernie Hogan
Executive Director