

November 3, 2021

The Honorable Rohit Chopra
Director, Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Request for extension of the deadline to file comments to the proposed small business lending data collection under the Equal Credit Opportunity Act, Docket No. CFPB-2021-0015; RIN 3170-AA09

Dear Director Chopra:

The undersigned trade associations appreciate the opportunity to comment on the Consumer Financial Protection Bureau's proposed rule amending Regulation B to implement amendments to the Equal Credit Opportunity Act made by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.¹ The proposal will require covered financial institutions to collect and report to the Bureau more than 21 data elements on applications for credit by small businesses in order to "facilitate the enforcement of fair lending laws" and to "enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses."²

While we appreciate the opportunity to comment, we also believe that such a complex and important subject merits sufficient time to provide feedback. The *Federal Register* notice announcing the proposed rule states that comments must be received on or before January 6, 2022. We respectfully urge you to extend the deadline by an additional 45 days to February 20, 2022.

We welcomed your written and oral testimony last week before the Senate Banking Committee and House Financial Services Committee, emphasizing the importance of "relationship banking" and noting that "Preserving relationship banking is critical to our nation's resilience and recovery, particularly in these times of stress." We also appreciated your acknowledgement that "a lot of rulemaking that occurs in Washington [is] extremely complicated" and your interest in issuing "simple, bright-line rules" that are "easy to follow [and] easy to enforce."

We share these goals, and believe that development of a final 1071 rule that achieves its statutory objectives while also minimizing burden on small lenders is critical to preserving relationship banking. The proposed rule, however, spans 913 pages and seeks feedback on a broad range of complex and interrelated definitions, data points, sample forms, and requirements for collecting and reporting the data. Even a 90-day comment period for analyzing and responding to these requests is inadequate, increasing the risk that the Bureau will make policy decisions based on flawed or incomplete information.

¹ 86 Fed. Reg. 56356 (Oct. 8, 2021).

² 15 U.S.C. §1691o-2.

In last week's testimony, you encouraged financial institutions – and in particular, small institutions – to submit comments on the cost of the proposed data collection. However, the Bureau's estimate of the costs alone extends 75 pages, and understanding or estimating costs requires reading the rule, commentary, sample data collection forms and instructions, which span another 146 pages. Community banks and credit unions do not have staff that can read and respond to the notice within the 90-days provided. Yet accurately measuring anticipated costs and identifying less burdensome alternatives is critical to finalizing a carefully calibrated rule that will help preserve relationship banking.

In addition, the proposal includes a discussion of anticipated privacy risks arising from public disclosure of the data, the proposed balancing test the Bureau intends to apply to balance risks and benefits, and the Bureau's preliminary application of the test to each of the proposed data elements. This discussion spans 107 pages, and the Bureau states that it intends to issue a "policy statement" informed by comments it receives to determine what data will be released to the public. Asking small financial institutions to analyze and respond to these issues (in addition to everything else in the proposal) is unreasonable, and yet this may be the only opportunity they have to provide feedback on these questions that will be critically important to the privacy of their small business borrowers.

As you recognize, small financial institutions play a pivotal role supporting small businesses and their communities, and much of the information the Bureau needs to move forward prudently lies with them. The present timeline does not give these institutions time to communicate through their normal advocacy channels, let alone directly to the Bureau as you have encouraged them to do.

We respectfully request that the Bureau extend the comment period 45 days to February 20. The current comment deadline will preclude the development of a sufficiently broad and complete factual record necessary to support effective policy action in an area that will have significant consequences for small businesses, small banks and credit unions, and the U.S. economy.

Sincerely,

Alabama Bankers Association

Alaska Bankers Association

American Bankers Association

Arizona Bankers Association

Arkansas Bankers Association

Arkansas Community Bankers

Bluegrass Community Bankers Association

California Bankers Association

California Community Banking Network

Colorado Bankers Association

Community Bankers Association of Georgia

Community Bankers Association of Illinois

Community Bankers Association of Kansas

Community Bankers Association of Ohio

Community Bankers Association of Oklahoma

Community Bankers of Iowa

Community Bankers of Michigan

Community Bankers of Washington

Community Bankers of West Virginia
Connecticut Bankers Association
Credit Union National Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
ICBA of New Mexico
Idaho Bankers Association
Illinois Bankers Association
Ind. Bankers Assn of New York State
Ind. Community Bankers of South Dakota
Ind. Community Banks of North Dakota
Independent Bankers Association of Texas
Independent Bankers of Colorado
Independent Banks of South Carolina
Independent Community Bankers of America
Independent Community Bankers of Minnesota
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association

Missouri Bankers Association
Missouri Independent Bankers Association
Montana Bankers Association
Montana Independent Bankers
National Association of Federally-Insured Credit Unions
National Bankers Association
Nebraska Bankers Association
Nebraska Independent Community Bankers
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Assoc. of Community Bankers
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association

Virginia Association of Community Banks

Virginia Bankers Association

Washington Bankers Association

West Virginia Bankers Association

Wisconsin Bankers Association

Wyoming Bankers Association

Cc. Grady Hedgespeth