December 15, 2025

Acting Director Russell Vought
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

RE: Docket No. CFPB-2025-0040 or RIN 3170-AB40,
Small Business Lending Under the Equal Credit Opportunity Act (Regulation B)

Dear Acting Director Russell Vought:

The Responsible Business Lending Coalition (RBLC) respectfully submits the following comments in response to the Consumer Financial Protection Bureau's (CFPB) proposed rule to narrow the scope and coverage of Section 1071 small business financing reporting requirements. RBLC is a leading cross-sector voice on innovation to improve innovation in small business financing. The RBLC and its members represent over 1,000 small business lenders, community development financial institutions, investors, and small business groups. Across many differences, these for-profit and nonprofit organizations have come together in a shared commitment to innovation in small business lending as well as serious concerns about the rise of irresponsible small business lending.

Since 2015, the RBLC has advocated for pro-market policies protecting small businesses and catalyzing growth of better financing options, guided by the *Small Business Borrower's Bill of Rights*. These rights, which we believe small businesses deserve, include the rights to transparent pricing and terms, safe products, responsible underwriting, fair treatment from brokers and lead generators, inclusive credit access and fair collection practices.

The RBLC believes that the CFPB would best avoid negative unintended regulatory consequences and achieve the objective of improving access to capital by:

1) **Maintaining merchant cash advances (MCAs) as covered transactions.** Exempting MCAs would create an unlevel playing field advantaging this form of financing described by the Small Business Administration (SBA) under President Trump as "extortionists."[1] This picking of winners and losers products may have the unintended consequence of the government shifting the lending market into this "higher-cost and less-transparent credit product," as MCAs are described in Federal Reserve research.[2]

[1] Small Business Administration, "7a Connect Quarterly Update April 2025," available at: https://www.youtube.com/watch?v=Covk7rMfBJE&t=2636s (last accessed Dec. 9, 2025).
[2] Federal Reserve Bank of Atlanta, "Report on Minority-Owned Firms," Dec 2019. Page IV, describing "higher-cost and less-transparent credit products." Available at: https://www.fedsmallbusiness.org/reports/survey/2019/2019-report-on-minority-owned-firms

2) **Continuing to include pricing data.** Measuring whether credit is being provided, without considering at what cost, may have the foreseeable unintended consequence of incentivizing lenders to increase their approval rates by increasing the prices they charge small businesses, rather than by innovating to deliver affordable credit.

3) **Using a 100-origination reporting threshold, rather than 1,000.** Limiting the 1071's scope to so few reporting entities creates an unlevel playing field for reporters and fails to achieve congressional intent.

4) **Retaining the $5 million gross annual revenue definition of a small business, rather than $1 million.** Businesses with revenues of $1 million-$5 million in annual revenue are nonetheless small, and often very small businesses.

First and foremost, we must begin the discussion of Section 1071 sharing our appreciation for this law as a market-based, pro-competition solution to improving access to capital. Rather than relying on strict rules to govern market behavior, or costly subsidies, it creates transparency to help the market improve itself.

The most successful implementation of Section 1071 rules will leverage the market-based nature of the law to create the exchange of information among market participants that markets rely on to efficiently allocate products—small business credit in this case.

As we have previously written in several comment letters addressing Section 1071, the RBLC also appreciates 1071's Congressional intent to: "1) facilitate enforcement of fair lending laws, and; 2) enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses."[3]

Comprehensive Data Benefits Small Businesses and Responsible Lenders

What if we believed that small businesses are the backbone of the American economy? What if we truly believed that small businesses rely on access to capital to create jobs and opportunity in our country? We would not be satisfied that, today, no one knows how much small business lending is happening, to whom, and on what terms. We would gather the data needed to empower the market to produce the access to capital small businesses rely on to thrive.

As a coalition that includes lenders who would ourselves be held to compliance, RBLC urges the CFPB to consider the risk of narrowing coverage so aggressively that it limits the usefulness of the data and fails to satisfy congressional intent. Section 1071 was enacted to address a basic information gap in the small business financing market. At present, there is no comprehensive source of data showing what types of credit small businesses apply for, the terms offered, how often applications are approved or denied, or how specific products affect outcomes for different types of firms. A rule that fails to capture this information would create

[3] 15 U.S.C. § 1691c-2(a)

misrepresentations and gaps, whereby neither borrowers nor lenders could reliably assess how credit flows across regions, populations of entrepreneurs, and business sectors.

A comprehensive rule can sharpen competition in credit supply by creating greater transparency in small business lending and help creditors identify potentially profitable opportunities to extend credit.[4] These insights could spur innovation by encouraging adoption of, and investment into, products and practices that the 1071 data reveal are effective in serving a variety of market segments. If done right, Section 1071 can drive market-based innovation.

For lenders, Section 1071 can improve product development and market analysis. Fintechs, Community Development Financial Institutions (CDFIs), community banks, and other credit providers often rely on internal data to inform underwriting standards or identify underserved borrower segments. Public data under Section 1071 would broaden that analysis, allowing lenders to assess how their products perform relative to other providers serving similar markets. That would improve access to capital by producing more marketing into segments where needs are unmet and business opportunities are identified. And it would help lenders determine how to most effectively serve those small businesses.

Responsible lenders in the RBLC welcome transparency efforts across banks, credit unions, loan funds, and other lenders. Broad coverage prevents regulatory inconsistencies in data reporting and fair lending practices.

Transparency has been shown to improve lending markets. Following implementation of the Home Mortgage Disclosure Act (HMDA), the availability of loan-level performance and demographic data allowed lenders to identify gaps in service, improve risk models, and adjust pricing.[5] HMDA data also supported regulators and researchers in distinguishing where differences in access were attributable to risk versus structural barriers. Section 1071 has similar potential to provide an objective basis for evaluating small business credit availability.

Concerns about compliance burden for lenders are important and should be considered in the context of the efficiencies that standardized reporting can create. Many lenders already collect portions of the required information through existing state, federal, or investor reporting frameworks, including Community Reinvestment Act examinations, SBA lending documentation, and CDFI Fund reporting. Implementation of a rule that includes features designed to reduce operational complexity, such as permitting lenders to reuse information collected within the previous 36 months and aligning core data elements with familiar HMDA structures would reduce the compliance burden. In the absence of uniform reporting requirements, lenders face inconsistent definitions, varying expectations from investors or funders, and fragmented data sources that hinder planning.

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[4] Final Rule, 88 Fed. Reg. 35150, 35153. May 2023. Available at: https://www.federalregister.gov/documents/2023/05/31/2023-07230/small-business-lending-under-the-equal-credit-opportunity-act-regulation-b

[5] Bhutta, Neil, 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

There are also costs to the lack of transparency in the small business finance market. We estimate that every year, small businesses are overpaying about $1.75 billion every year in unnecessary interest and fees, because of a lack of transparent pricing information for small business borrowers. Much of this unnecessary expense to small businesses is charged by merchant cash advances, which the proposed rule inadvisably would exempt. Borrowers similarly encounter wide variation in product marketing, broker incentives, and pricing disclosures that make comparison between their financing options difficult, even where affordable alternatives exist. The lack of a consistent data framework also makes it harder to identify where underserved markets persist and whether specific interventions are necessary.

A final rule that captures the core products, pricing features, and providers that shape the current market will offer meaningful insights to lenders, regulators, and borrowers. By contrast, a rule that excludes MCAs and pricing terms while also shrinking the universe of covered lenders to a statistically inconsequential number, will provide only a partial view and limit the statute's utility.

1) **Maintain Coverage of Merchant Cash Advances To Avoid Unintended Consequences of Advantaging "Extortionists"**

At the launch of our organization, now-Federal Reserve Governor Barr gave a speech noting that, "The problems that we're starting to see in the small business lending market, to me, are extremely troubling… in some respects, reminiscent of some of the problems in the subprime mortgage sector that we saw in the leadup to 2008."[6] These concerns are especially concentrated in the merchant cash advance market, which the SBA under President Trump has described as "extortionists."[7]

The SBA explained in April that their data shows that the use of merchant cash advances is contributing to small businesses having "a very high fail rate."[8] This is harming not only the businesses themselves, but also the other lenders and SBA itself, whose portfolios suffer as small businesses fail after using MCAs.

It would be extremely troubling for this rule to advantage the same financing companies with a free pass that the Administration is describing as "extortionists." We do not want the American economy to have "a very high fail rate."[9] But if the CFPB exempts MCAs from Section 1071, it creates an unlevel playing field that penalizes loans and other traditional credit products, and

[6] Forbes, "Why Online Small Business Loans Are Being Compared To Subprime Mortgages," Dec 2015. Available at: https://www.forbes.com/sites/laurashin/2015/12/10/why-online-small-business-loans-are-being-compared-to-subprime-mortgages/

[7] Small Business Administration, "7a Connect Quarterly Update April 2025," available at: https://www.youtube.com/watch?v=Covk7rMfBJE&t=2636s (last accessed Dec. 9, 2025).

[8] *Id.*

[9] *Id.*

may have the unintended result of encouraging lenders to focus their growth in this product category to avoid Section 1071 compliance requirements.

Other federal agencies have also highlighted the harm that MCAs can result in. Federal Trade Commission Chairman Andrew Ferguson testified this year about the FTC's work "to protect small businesses from unscrupulous lenders and other financing schemes," highlighting the FTC's work to shut down some merchant cash advance financiers.[10]

We note that, among the comments in earlier comment periods, nearly all comments addressing merchant cash advances encouraged the CFPB to cover this form of credit. Notably, this broad pro-coverage stance cut across typical ideological lines. Large banks, small banks, fintechs, community advocates, and individual comments all advocated for MCAs to be included. This near-unanimity is captured in the CFPB's final analysis: the Bureau observed that almost all commenters on this issue supported covering MCAs, and it acknowledged receiving only a "limited number of commenters" (essentially the MCA industry itself) who argued against including MCAs as credit.[11] In other words, virtually every stakeholder outside the MCA business did not see justification for a special carve-out.

For example, the American Bankers Association (ABA) urged the Bureau to ensure "Merchant cash advance products should be subject to the section 1071 rule," emphasizing that coverage must reflect "the full range of small business lending" for the data to be meaningful.[12] Similarly, the Independent Community Bankers of America (ICBA) objected to any exclusion of MCAs. ICBA's comment noted that the Bureau "should reconsider its exclusion of merchant cash advances (MCA) and other unconventional products." ICBA stressed that "[t]he purpose of Section 1071 is to increase transparency and data on small business lending," which warrants including MCAs.[13]

States across the ideological spectrum are also increasing their focus on merchant cash advances. Texas passed a new law to crack down on MCA financing, signed by Governor Abbot on June 20th, 2025 .[14] In passing laws to address MCA financing, Texas is joined by Virginia,

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[10] Andrew N. Ferguson, *Testimony of the Federal Trade Commission Before the Committee on Appropriations, Subcommittee on Financial Services and General Government* (May 15, 2025), at 15-16, https://www.ftc.gov/system/files/ftc_gov/pdf/FTC-Chairman-Andrew-N-Ferguson-FSGG-Testimony-05-15-2025.pdf
[11] United States District Court, Southern District of Florida. *Report and Recommendation on Cross Motions for Summary Judgment in Revenue Based Finance Coalition v. Consumer Financial Protection Bureau.* Feb. 17, 2025. Available at https://www.consumerfinanceandfintechblog.com/wp-content/uploads/sites/58/2025/02/PDF-1.pdf
[12] American Bankers Association (ABA). *ABA Letter to CFPB on Section 1071 Proposals Under Consideration.* Dec. 14, 2020.
[13] Independent Community Bankers of America (ICBA). *ICBA Response to the CFPB's Outline of Proposals for 1071.* December 14, 2020. https://www.icba.org/w/icba-response-to-the-cfpb-s-outline-of-proposals-for-1071
[14] "Texas Enacts New Commercial Sales-Based Financing Bill Severely Restricting Automatic Debits," *Consumer Financial Services Law Monitor*, June 2025. https://www.consumerfinancialserviceslawmonitor.com/2025/06/texas-enacts-new-commercial-sales-based-financing-bill-severely-restricting-automatic-debits/

Utah, Florida, California, New York, Georgia, Louisiana, Kansas, Missouri, and Connecticut who have all recently passed laws to regulate MCA financing.

The proposed rule proposes that this trend of state lawmaking to address merchant cash advance as a reason to avoid collecting data about this product.[15] The opposite is true. The growing number of state laws about merchant cash advance reflects a need to better inform lawmaking decisions through data, such as what Section 1071 coverage would provide.

Similarly, the growth of MCA financing is further evidence that understanding how this form of credit is affecting small businesses is necessary to achieve the congressional intent to "enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses." One forecast projects that the MCA volume in the United States will grow from $19.7 billion in 2024 to $32.7 billion by 2032, representing a growth of about 67 percent in just eight years.[16] A great majority of the MCA financing transactions are under $250,000 which coincides with the smaller loan amounts that small businesses tend to seek, according to the Federal Reserve.[17] If the CFPB observes that the growth of MCA financing is a significant trend in small business financing, it would be an odd conclusion to avoid gathering data to learn about this significant trend.

To achieve congressional intent, it is particularly important the 1071 rule includes the forms of financing that disproportionately impact minority-owned, women-owned, and small businesses, such as MCAs. Federal Reserve research shows that minority-owned businesses are twice as affected by "potentially higher-cost and less transparent credit products"—a phrase the Federal Reserve uses to refer *specifically* to MCAs.[18] A Section 1071 rule would fall far short of its purpose of describing how the capital needs of small, women-owned, and minority owned businesses are being met, if it excludes the financing products that disproportionately affect these businesses.

The proposed rule considers that, "because MCAs have not generally been regulated as credit, many smaller MCA providers may lack the infrastructure needed to manage compliance with

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[15] "Further, the CFPB believes that the 2023 final rule's coverage of MCAs does not take into account State law developments addressing sales-based financing. Several States have legislation and/or regulations in place addressing the MCA market and requiring providers to disclose terms such as the total cost of capital and the financing rate. Such laws provide key protections for users of MCAs and may shape MCA terms and practices in ways that bear on the question of whether they meet ECOA's definition of "credit." Small Business Lending Under the Equal Credit Opportunity Act (Regulation B), 90 Fed. Reg. 50952 (Nov. 13, 2025) (proposed rule 2025-19865).

[16] *U.S. Merchant Cash Advance Market*, Verified Market Research, available at https://www.verifiedmarketresearch.com/product/us-merchant-cash-advance-market (last visited Dec. 9, 2025).

[17] 2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey. 2025. Federal Reserve Banks. https://doi.org/10.55350/sbcs-20250327

[18] Federal Reserve Bank of Atlanta, "Small Business Credit Survey: Report on Minority-Owned Firms," Dec 2019.
https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf

regulatory requirements associated with making extensions of credit." We suggest that a company's history of evading laws is no reason to exempt these companies from future legal compliance. Rather, the establishment of compliance programs at these companies--if they are large enough to be covered by the rule--may be overdue and an important part of a level playing field among lenders of fair and legal practice. Concern about burdening small firms is addressed by the rule's coverage threshold for the number of transaction, not the type of credit product.

Despite MCAs growing influence in the small business landscape, the absence of transparency has allowed problematic practices to proliferate. Many MCAs are often 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.[19] Effective APRs in certain cases exceed 100 percent and have resulted in small business bankruptcies.[20] These products often rely on broker incentives that steer borrowers into expensive financing even when more affordable options exist. In many cases, small businesses do not encounter traditional financial institutions or CDFIs until after they have already taken on MCA debt that impairs their cashflow or jeopardizes their business. These are market trends that are valuable to understand to achieve congressional intent.

These interventions underscore the harms of MCAs that stem from informational asymmetry. They persist in part because there is no comprehensive dataset on how these products are marketed, what terms are offered, or who receives them. State regulation and enforcement actions do not eliminate the need for federal data collection. On the contrary, the existence of multiple state regimes demonstrates a growing national interest in understanding how these markets operate. Section 1071 offers the most efficient and uniform means to generate that visibility.

Responsible lenders end up competing against MCAs on fundamentally unequal terms. CDFIs, for example, compete on sustainable pricing, underwriting discipline, and long-term borrower outcomes, while MCAs compete on speed and opaque repayment structures. As a result, borrowers who could qualify for affordable financing often take MCAs first; once high remittances begin to strain cash flow, they no longer meet underwriting standards for responsible credit. Banks and CDFIs are then forced to absorb the cleanup and risk—refinancing distressed borrowers or providing emergency working capital after MCA debt has already undermined the business. This creates a structural market penalty for lenders, reducing efficiency and adding cost in the small business credit market.[21]

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[19] 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.
[20] Federal Reserve Board & Federal Reserve Bank of Cleveland, *Uncertain Terms: What Small Business Borrowers Find When Browsing Online Lender Websites* (Dec. 2019), available at https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf
[21] Accion Opportunity Fund, *Unaffordable and Unsustainable: The New Business Lending on Main Street* (May 2016), available at https://aofund.org/wp-content/uploads/2016/05/Unaffordable-and-Unsustainable-The-New-Business-Lending-on-Main-Street_Opportunity-Fund-Research-Report_May-2016.pdf

2) Omitting Pricing Data Invites the Unintended Consequence of Driving Up Financing Prices

The exclusion of pricing data from 1071 may have the perverse effect of increasing cost and discrimination in lending, rather than reducing it. If blind to pricing, the rule will have the unintended result of encouraging lenders to boost the appearance of service to small businesses in the easiest way possible—simply by charging high rates to enable approval of borrowers who might otherwise be considered too risky, rather than by providing prudent credit that helps small businesses grow and create jobs.

The RBLC thus urges the CFPB to include the pricing data points defined in earlier versions of the rule, including interest rate, origination charges, initial annual charges, for a merchant cash advance or other sales-based financing transaction, the difference between the amount advanced and the amount to be repaid, broker fees, non-interest charges, and prepayment penalties.

Consider how misleading 1071 data will be if it views a loan to a small business with a 200% APR and another with a 10% APR as identical in serving small businesses' credit needs. The data may not show the difference, but the underlying American economy will.

The practices that led to the subprime mortgage crisis illustrate the folly of incentivizing financial inclusion based on access to capital alone, without regard for the price and terms of the capital being accessed. Precrisis subprime mortgage lenders like Countrywide advertised great success in financial inclusion because of high volumes of lending to lower income Americans and communities of color. The problem was the cost and quality of the products that Countrywide's borrowers were being "included" in. These mortgages were often expensive, poorly underwritten, and structured with fees and repeat-borrowing that extracted wealth rather than creating it—characteristics shared by some small businesses financing products, such as some merchant cash advances, which the proposed rule would exempt from data collection. The "inclusion" of Americans in these unaffordable subprime mortgage products contributed to a collapse in U.S. household wealth. Between 2007 and 2009, net worth dropped by roughly $16 trillion, and an estimated 3.8 million foreclosures occurred by 2010.[22] To avoid repeating the mistakes of the past, and lead to improved credit options instead of encouraging irresponsible lending, the 1071 rule must continue to include pricing data.

The collection of pricing data is also a necessary response to the evolution of the small business financing market since Section 1071 was written over a decade ago. In the 2000s, before the crisis that generated the Dodd-Frank Act, small business financing pricing was fairly homogenous. Community banks were the largest provider of small business credit, and most small business capital took the form of fairly modestly priced loans and lines of credit with APRs generally in the teens or lower.

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[22] The Century Foundation, *A Tale of Two Recoveries: Wealth Inequality After the Great Recession* (Aug. 28, 2013).

Since then, prices in the small business financing market have become widely varying, in part resulting from a proliferation of newer high-cost, short-term, often less-transparent products. While variations in pricing data may have been less significant in the 2000s, it is critical today--both for providing the CFPB with adequate tools to efficiently enforce fair lending laws and for encouraging the growth of lower-cost financing options in the market.

Small businesses themselves see transparent pricing information as critical. In response to the persistent lack of pricing data and transparency in the small business lending market, 87% of small business owners are supportive of bringing more transparency to small business financing products to ensure fees and terms, including APR, are transparently disclosed to the borrower upfront.[23]

RBLC's previous comments provide additional recommendations for capturing key economic characteristics of MCA transactions, including pricing components, repayment mechanics, and the role of brokers.[24] Regarding implementation, we support the inclusion of term length as reflected on page 44 of the 2023 Final Rule text. Term length is the closest comparable variable to maturity for sales-based financing products and enables meaningful comparisons across lenders.

3) Comprehensive Coverage of Lenders and Loans Needed to Accurately Capture Small Business Credit Market

In the estimates provided by the CFPB of the proposed rule, raising the coverage threshold to 1,000 loans and lowering the small business definition as gross annual revenue of $1 million or less significantly reduces the coverage of depository institutions to a meager 1.85% to 1.95% of all depository institutions. This is a significant drop from the coverage estimated in the 2023 Final Rule which would have covered about a third of all depository institutions.

Raising the Section 1071 reporting threshold from 100 to 1,000 originations would significantly undercut the rule's ability to reveal where small-business credit is and is not flowing. As currently designed, the 100-loan threshold captures a broader range of lenders, including community banks, regional institutions, and smaller lenders that often serve smaller firms and underserved communities.[25]

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[23] Small Business Majority, *Voice of Main Street: Entrepreneurs Struggle to Access Funding, Support Policies That Increase Availability of Responsible Capital* (Apr. 29, 2025). Available at https://smallbusinessmajority.org/sites/default/files/research-reports/2025-April-Voice-of-Main-Street-Report.pdf

[24] See pages 22-28, Responsible Business Lending Coalition, Comment Letter on Proposed Rule, Section 1071 Small Business Lending Data Collection (Jan. 6, 2022). Available at: https://16351f14-e143-4d4a-b04f-aba3aa1af396.usrfiles.com/ugd/16351f_12b529b9397e4a0c994da098b1b4fe4e.pdf

[25] Congressional Research Service, *Section 1071: Small Business Lending Data Collection and Reporting* (CRS Report No. R47788). Available at: https://www.congress.gov/crs-product/R47788

Under the proposed 1,000-loan threshold, many of those lenders would fall outside the reporting requirement. That would effectively silence much of the financing activity that supports rural businesses, and lower-revenue enterprises which are precisely the segments where credit deserts are most common. The dataset would instead skew heavily toward institutions with large volumes of originations, painting a misleading picture of market reach and concealing areas of unmet demand.

Empirical evidence supports the importance of leveraging smaller lenders for small-business credit. According to the 2023 Federal Reserve's Small Business Credit Survey (SBCS), in the prior 12 months nearly 39% of small businesses seeking financing applied to small banks, while 31% applied to large banks; about 16% applied to online lenders.[26] Notably, small banks had a higher approval rate: in 2022, 82% of small-bank small business applicants received at least some financing, compared with 68% at larger banks.[27]

Furthermore, community banks and similarly scaled institutions maintain a disproportionate share of their assets in small business loans compared to larger banks. A study by the Federal Reserve Bank of St. Louis showed that small-business loans under $1 million represent a far higher share of total assets at community banks than at large banks.[28]

Given this reality, raising the reporting threshold undermines Section 1071's capacity to detect credit deserts, assess product availability by firm size or geography, or evaluate how small-business lending differs across lender types. It would privilege scale over substance.

Moreover, the original 100-loan threshold was established after a reasoned administrative process that included a formal SBREFA panel, public comment, and empirical analysis of burden versus coverage. Several other thresholds were considered, but a threshold of 1,000 was not.[29] Abandoning that threshold without equivalent empirical justification would constitute an arbitrary departure from the prior rulemaking record and from the regulatory principles the CFPB itself follows.

4) The rule should cover businesses with revenues up to $5 million, which are also small businesses often starved for access to capital

Narrowing the definition of a "small business" from $5 million in gross annual revenue to $1 million would also result in systematically under-inclusive data. Small businesses often exceed $1 million in gross revenue while facing the same credit challenges that Section 1071 was

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[26] Federal Reserve Bank of St. Louis (Mike Eggleston), *Small Business Lending Trends and Banking Deserts, 2019-23* (Sept. 23, 2025). Available at: https://www.stlouisfed.org/on-the-economy/2025/sep/small-business-lending-trends-banking-deserts
[27] *Id.*
[28] Mary Ellen Biery, *Small Business Lending Statistics: How Banks & Credit Unions Fit In*, Abrigo Blog (May 22, 2024). https://www.abrigo.com/blog/small-business-lending-data-banks-credit-unions/
[29] Consumer Financial Protection Bureau, *Executive Summary of the Small Business Lending Rule* (Mar. 30, 2023). https://files.consumerfinance.gov/f/documents/cfpb_sbl_executive-summary.pdf

designed to address. Restaurants, construction trades, logistics and trucking owner-operators, childcare providers, and local manufacturing firms frequently generate well over $1 million in annual receipts but still lack sufficient collateral, credit history, or bank relationships to secure affordable financing. Federal Reserve employer-firm data show that roughly 70 percent of small businesses seek credit amounts under $250,000, regardless of whether they earn $1 million or $4 million in revenue[30].

One RBLC member small business lender shared that the average amount of their unsecured small business loans was only $40,000, while the average small business borrowing this $40,000 had annual revenues of $1.2 million. This illustrates that in some sense, the proposed rule is no longer a small business rule, but a microbusiness rule.

Reducing the revenue cap to $1 million would also disproportionately exclude minority-owned and women-owned businesses at the stage where they begin to scale, contrary to Section 1071's stated statutory purpose. Studies of revenue and liquidity gaps show that firms owned by women and people of color tend to reach higher revenue levels later, with shallower cash reserves and shorter time-to-profitability.[31] These firms remain credit-constrained even after surpassing $1 million in revenue, and often rely on non-bank or alternative financing precisely because traditional lenders still view them as high-risk. Excluding such businesses from the dataset would conceal this critical inflection point, leaving policymakers and lenders blind to the conditions under which firms transition from microenterprise to stability.

The $5 million threshold is therefore not arbitrary. It reflects the diversity of small-business models and the scale at which firms still face structural barriers to credit access. Congress itself has repeatedly used a similar range in federal small-business programs: SBA 7(a) borrowers, SBIC portfolio companies, and many CDFI-eligible enterprises exceed $1 million in annual receipts while unquestionably remaining "small" from a capital access perspective. Narrowing the definition to $1 million would place Section 1071 coverage far below these established federal benchmarks, undermining comparability with other policy regimes.

For these reasons, neither the reporting threshold nor the small-business size threshold should be narrowed in the manner proposed. Both changes would exclude precisely the market segments that Section 1071 was enacted to understand, and would materially reduce the ability of lenders, policymakers, and researchers to identify financing patterns, credit deserts, and product models that either increase or impede access to responsible credit.

Conclusion

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[30] Federal Reserve Banks. *2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey.* Federal Reserve Bank Small Business Credit Survey, March 27, 2025. https://doi.org/10.55350/sbcs-20250327

[31] JPMorgan Chase Institute, *Small Business in Black and Hispanic Communities* (September 30, 2019).

Small businesses, small business lenders, and policymakers need the right data to identify and design programs to meet unmet credit needs, increase competition, 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.

RBLC members stand ready to implement Section 1071 and believe that, with our recommendations, this rule is essential for addressing disparities in small business credit. Our recommendations include covering merchant cash advances (MCAs), including pricing data, establishing a coverage threshold of 100 originations, and setting a small business definition as gross annual revenue of $5 million or less. We believe implementing these recommendations will bring transparency, spur responsible innovation, and shed light on blind spots in small business credit markets.

We appreciate the opportunity to submit this comment. For questions, please contact me at louis@borrowersbillofrights.org.

Sincerely,

Louis Caditz-Peck
Executive Director
Responsible Business Lending Coalition