



December 15, 2025

VIA ELECTRONIC SUBMISSION

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

**Re: Small Business Lending Under the Equal Credit Opportunity Act (Regulation B),  
Docket No. CFPB-2025-0040**

Dear Acting Director Vought:

The Office of Advocacy (Advocacy) submits this letter in response to the Consumer Financial Protection Bureau's (CFPB) proposed rule to revise certain provisions of Regulation B, subpart B, implementing changes to the Equal Credit Opportunity Act made by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1071).<sup>1</sup>

The proposed rule would revise provisions pertaining to the coverage of certain credit transactions (i.e., merchant cash advances) and financial institutions (i.e., agricultural lending institutions). The proposed rule would also update the small business definition. The CFPB is also reconsidering how and whether certain data points are collected. Furthermore, the CFPB continues to seek feedback and comments on the compliance date and other proposed revisions that may impact small businesses and financial institutions.

Advocacy commends the CFPB for proposing revisions in response to data, information, and comments received from small entity stakeholders. Advocacy received positive feedback from stakeholders who would be directly affected by the proposed revisions and believes the Bureau should continue its efforts to revise Section 1071 regulations to eliminate unnecessary burdens on small entities. Additionally, based on the information most recently received from small businesses, the CFPB should ensure that revisions to Section 1071 regulations minimize unnecessary burdens on small financial institutions and continue to regulate the financial lending sector so that small businesses can grow and thrive.

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<sup>1</sup> 90 Fed. Reg. 50952 (Nov. 13, 2025).

## I. The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent voice within the executive branch that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. The views expressed by Advocacy do not necessarily reflect the views of the Small Business Administration or the Administration.

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),<sup>2</sup> gives small entities a voice in the rulemaking process. If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis to Advocacy for such a determination that adequately supports its certification.<sup>3</sup>

For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.<sup>4</sup> As part of this process, Section 609 of the RFA requires the CFPB to conduct special outreach efforts through a Small Business Advocacy Review (SBAR) panel.<sup>5</sup> The panel must carefully consider the views of the impacted small entities, assess the impact of the proposed rule on small entities, and consider less burdensome alternatives for small entities.<sup>6</sup> Since the creation of the CFPB, the agency has participated in 11 SBAR panels involving its proposed regulations.<sup>7</sup> Under Section 609(e) of the RFA, the Chief Counsel for Advocacy may waive an SBAR panel if the panel “would not advance the effective participation of small entities in the rulemaking process.”

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.<sup>8</sup> The agency must include a response to these written comments in any explanation or discussion accompanying the final rule’s publication in the *Federal Register*, unless the agency certifies that the public interest is not served by doing so.<sup>9</sup>

Advocacy’s comments are consistent with Congressional intent underlying the RFA, that “[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public.”<sup>10</sup>

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<sup>2</sup> Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. §601-612).

<sup>3</sup> 5 U.S.C. § 605(b).

<sup>4</sup> *Id.* § 603.

<sup>5</sup> *Id.* § 609.

<sup>6</sup> *Id.*

<sup>7</sup> U.S. Consumer Fin. Prot. Bureau, *Small Business Review Panels*, <https://www.consumerfinance.gov/rules-policy/small-business-review-panels/> (last updated Dec. 12, 2024).

<sup>8</sup> Small Business Jobs Act of 2010, Pub. L. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).

<sup>9</sup> *Id.*

<sup>10</sup> Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

## II. Background

The CFPB’s proposed rule reconsiders portions of a 2023 final rule<sup>11</sup> implementing changes made to the Equal Credit Opportunity Act (EOCA) by Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>12</sup> Section 1071 requires that financial institutions collect and report to the CFPB certain data regarding small business credit applications.<sup>13</sup> The current proposed rule is “reconsidering coverage of certain credit transactions and financial institutions; the small business definition; inclusion of certain data points and how others are collected; and the compliance date.”<sup>14</sup>

During the comment period before the 2023 final rule, Advocacy’s submitted comments to document concerns related to the definition of small business, the scope of the regulation’s coverage, discretionary data points, the visual identification requirement, the implementation date, and the cost of credit for small businesses.<sup>15</sup> Advocacy’s comment letter further suggested that the rule would be “unnecessarily burdensome to small entities, may impact the cost of credit for small businesses, and may lead to a decrease in lending to small businesses.”<sup>16</sup>

In the initial regulatory flexibility analysis for the 2025 proposed rule, the CFPB estimated that 1,269 small financial institutions would be directly impacted and justifiably decided not to certify the proposed rule.<sup>17</sup> The 2025 proposed rule makes significant changes to the 2023 final rule. For example, the CFPB’s proposed increase of the loan origination threshold from 100 to 1,000 covered credit transactions would significantly reduce the number of financial institutions subject to Section 1071 reporting requirements, lowering regulatory burdens for small businesses and small financial institutions.

During the development of the proposed rule, Advocacy reached out to small entity representatives (SERs) who participated in the 2020 SBAR panel to gain perspective on the proposed revisions. On November 25, 2025, Advocacy also held a roundtable to listen to stakeholders’ comments on the proposed rule. On December 8, 2025, Advocacy submitted notice of the Chief Counsel’s waiver of the SBAR panel requirement for the CFPB’s 2025 proposed rule. The Chief Counsel determined that convening an additional SBAR panel would not advance the effective participation of small businesses in the rulemaking process.

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<sup>11</sup> 89 Fed. Reg. 55024 (July 3, 2024).

<sup>12</sup> Pub. L. No. 111–203, § 1071, 124 Stat. 1376, 2056 (2010) (codified at 15 U.S.C. § 1691c–2).

<sup>13</sup> *Id.*

<sup>14</sup> 90 Fed. Reg. 50952 (Nov. 13, 2025).

<sup>15</sup> U.S. Small Bus. Admin., Off. of Advoc., Comments on Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B) (Jan. 6, 2022), [https://advocacy.sba.gov/wp-content/uploads/2022/01/FINAL\\_CFPB-Small-Business-Lending-Data-Collection-for-Filing\\_1.6.22.pdf](https://advocacy.sba.gov/wp-content/uploads/2022/01/FINAL_CFPB-Small-Business-Lending-Data-Collection-for-Filing_1.6.22.pdf).

<sup>16</sup> *Id.*

<sup>17</sup> 90 Fed. Reg. at 50,978.

### **III. Impact on Financial Institution Coverage**

According to the CFPB's analysis in the 2025 proposed rule, raising the origination threshold from 100 to 1,000 originations would reduce the number of covered small depository institutions from approximately 800 to 5 institutions.<sup>18</sup> This represents a reduction of approximately 795 small depository institutions (99%) that would have been covered under the 2023 final rule but would no longer be covered under the 2025 proposed rule. The proposed changes would also decrease the number of covered small nondepository institutions from approximately 496 to 25 institutions. This represents a reduction of approximately 444 small nondepository institutions (95%).

### **IV. Data Collection Coverage**

While the proposed threshold increase would substantially reduce the number of covered institutions, the CFPB estimates that covered institutions would still capture well over 90 percent of small business loan originations by number, and approximately 60.3%-62.0% by dollar value.<sup>19</sup> The institutions removed from coverage under the proposed rule accounted for approximately 5.0%-5.7% of the number of small business loan originations, and 24.1%-26.1% by dollar value.<sup>20</sup>

### **V. Compliance Cost Savings for Small Financial Institutions**

The CFPB previously estimated that annual compliance costs for Section 1071 reporting range from \$58,400 to \$95,200 per year for smaller financial institutions.<sup>21</sup> For the smallest institutions (Type A financial institutions with fewer than 300 applications per year), one-time implementation costs were estimated to be substantial, requiring significant investment in system updates, staff training, policy development, and ongoing compliance monitoring. The CFPB reports that the aggregate savings to small depository institutions would be \$600 million over ten years.<sup>22</sup>

By raising the origination threshold to 1,000, the proposed rule would exempt predominantly smaller community banks and credit unions from these compliance costs. These smaller institutions typically have limited resources for compliance infrastructure and experience proportionally higher compliance costs relative to their lending volume. Smaller institutions also typically serve rural and underserved communities where relationship lending is emphasized and have less experience with complex data collection regimes. Similar to the Home Mortgage Disclosure Act (HMDA), the CFPB proposed revisions align data collection with statutory intent.

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<sup>18</sup> 90 Fed. Reg. at 50,970 tbl.9.

<sup>19</sup> *Id.* at 50,970 tbl.1.

<sup>20</sup> *Id.* at 50,971 tbl.2.

<sup>21</sup> Conf. of State Bank Supervisors, Comments on Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B) (Jan. 6, 2022), <https://www.csbs.org/policy/statements-comments/small-business-lending-data-collection-under-equal-credit-opportunity>.

<sup>22</sup> 90 Fed. Reg. at 50,989, 50,990.

## **VI. Economic Impact of the Small Business Definition Change**

The CFPB's proposed reduction in the small business gross annual revenue threshold from \$5 million to \$1 million significantly narrows the scope of businesses covered by Section 1071 reporting requirements. The CFPB estimated in the 2023 final rule that a \$1 million threshold would exclude approximately 27% of the small businesses that would have been covered under the \$5 million threshold.<sup>23</sup> The CFPB notes that a \$1 million threshold would better align with Regulation B subpart A's threshold for determining adverse action notice requirements<sup>24</sup> as well as existing regulations like the Community Reinvestment Act (CRA) regulations for "smaller businesses."<sup>25</sup> The CFPB further asserts that the proposed revision reduces regulatory complexity and benefits small financial institutions most in need of regulatory relief.

Current data demonstrates that the proposed \$1 million threshold would focus reporting on very small businesses. Approximately 94.4% of small businesses in the United States generate less than \$1 million in annual revenue.<sup>26</sup> The average annual revenue for nonemployer businesses (businesses without employees, representing 82.8% of all small businesses) is approximately \$57,611. Among employer businesses with 1-4 employees, average annual revenue is approximately \$517,316, while businesses with 5-9 employees average \$1.58 million.

Lowering the small business revenue threshold covered under Section 1071 reporting requirements will reduce the costs of data collection and provide savings for small business borrowers as well. Covered lenders are likely to pass data collection costs on to applicants in the form of higher fees or interest rates. Based on Advocacy estimates, lowering the threshold will save an estimated \$29.4 million in annual cost savings for small business borrowers and reduce the costs of approximately 1.4 million small business loans lent to firms with between \$1 and \$5 million in revenue.<sup>27</sup>

## **VII. Considerations for Small Lenders**

In addition to reducing the number of covered small businesses, the economic benefits experienced by lowering revenue thresholds may also lower ongoing compliance costs by reducing data collection. However, the CFPB should note that some stakeholders are concerned that the reduced threshold could limit visibility into lending patterns for businesses in the \$1-5 million revenue range with access-to-capital challenges.

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<sup>23</sup> *Id.* at 50,960.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Census Bureau, *Statistics of U.S. Businesses*, [www.census.gov/programs-surveys/susb.html](https://www.census.gov/programs-surveys/susb.html) (last revised Mar. 11, 2025); U.S. Census Bureau, *Nonemployer Data*, [www.census.gov/programs-surveys/nonemployer-statistics/data.html](https://www.census.gov/programs-surveys/nonemployer-statistics/data.html) (last revised July 8, 2024).

<sup>27</sup> Advocacy calculations using Federal Financial Institutions Examination Council, Community Reinvestment Act Data, <https://www.ffiec.gov/data/cra>, and U.S. Census Bureau, *Statistics of U.S. Businesses*, <https://www.census.gov/programs-surveys/susb/data.html>.

## **VIII. Advocacy's Recommendations**

### **A. Loan Origination Threshold**

Advocacy supports the CFPB's rationale for increasing the origination threshold from 100 to 1,000 transactions. This change will significantly reduce compliance burdens on small financial institutions while maintaining coverage of most small business lending by volume. The Bureau's analysis demonstrates that covered institutions would still capture well over 90 percent of small business loan originations, ensuring meaningful data collection. Advocacy encourages the CFPB to assess whether the 1,000 origination threshold adequately captures lending patterns across different geographic markets, particularly in rural and underserved communities where smaller institutions may play a more significant role.

### **B. Small Business Definition**

Advocacy commends the CFPB for proposing to lower the revenue threshold from \$5 million to \$1 million. This change better targets very small businesses and aligns with existing regulatory frameworks, reducing complexity for covered financial institutions. Given that approximately 94.4% of U.S. businesses generate less than \$1 million in annual revenue, this threshold continues to cover the smallest businesses. Furthermore, given their limited time and resources, focusing reporting requirements on this population most likely to benefit from enhanced fair lending oversight will help maximize the net benefits of this rule. The CFPB should track whether the \$1 million threshold adequately captures lending to small businesses and evaluate whether adjustments are needed over time.

### **C. Data Collection and Regulatory Burden**

Advocacy supports the CFPB's proposal to remove certain discretionary data points while maintaining core statutory data points. This streamlined approach will reduce complex implementation and costs for covered institutions, improve data quality, and minimize disruption to small business lending relationships. The CFPB should ensure that data collection requirements remain restricted to statutorily required data points and only those discretionary points demonstrably necessary for the growth and development of small businesses.

### **D. Coverage Considerations for Certain Credit Transactions and Financial Institutions**

Advocacy notes stakeholder concerns about differential treatment of various types of lenders. While the exclusion of merchant cash advance providers, agricultural lenders, and Farm Credit System lenders may be justified based on product complexity and existing regulatory frameworks, these excluded markets should be monitored to determine whether future inclusion might be appropriate as products and regulatory frameworks evolve. Said monitoring should ensure that small institutions do not experience competitive disadvantages or reductions in access to capital.

## **E. Implementation Timeline**

Stakeholders support the proposed compliance date of January 1, 2028. This provides adequate time for covered institutions to implement systems and procedures, particularly given the significant changes from the 2023 final rule. This timeline will ensure quality initial data collection and minimize disruptions to small business credit access.

## **IX. Conclusion**

Advocacy commends the CFPB for publishing this proposed rule and seeking comments from small business stakeholders on the economic impacts of Section 1071 revisions. CFPB has developed its rulemaking squarely in line with the purposes of the Regulatory Flexibility Act: listening to the compliance concerns of affected small entities, taking those concerns into consideration, and formulating a rule that implements statutory goals without excessive small-entity compliance costs.

The proposed rule changes, particularly the increase in the origination threshold to 1,000 transactions and the reduction of the small business definition to \$1 million in gross annual revenue, represent meaningful steps toward reducing regulatory burden on small financial institutions while maintaining robust oversight of the small business lending market.

Based on available data showing that approximately 1,421-1,570 smaller financial institutions would be relieved from compliance costs estimated at \$58,400-\$95,200 annually, and that the revised thresholds will still capture over 90% of small business lending by volume, Advocacy believes these changes appropriately balance the statutory goals of Section 1071 with the need to avoid unnecessary regulatory burden. Advocacy believes effective engagement with impacted small businesses and small financial institutions will spur thriving small business economies.

Advocacy supports the CFPB's consideration of economic impacts that the Section 1071 revisions would have on small entities, as required under the Regulatory Flexibility Act. Advocacy encourages monitoring of loan markets to ensure that fair lending and community development purposes are achieved without unnecessarily burdening small businesses or their lenders. If you have any questions or require additional information, please contact me or Assistant Chief Counsel Will Purcell at (202) 374-0420 or [will.purcell@sba.gov](mailto:will.purcell@sba.gov).

Sincerely,

/s/

Dr. Casey B. Mulligan  
Chief Counsel  
Office of Advocacy  
U.S. Small Business Administration

/s/

Will Purcell

Assistant Chief Counsel

Office of Advocacy

U.S. Small Business Administration

Copy to: Mr. Jeffrey B. Clark, Sr., Associate Administrator  
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Office of Management and Budget