

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—CFPB convenes panel on forthcoming small business data collection rule, (Sept. 16, 2020)

Banking and Finance Law Daily Wrap Up

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By Jacob Bielanski

The mandated panel will convene in October to discuss implementation of Dodd-Frank Act section 1071, which requires the Bureau to develop rules for financial institutions to collect and report data on credit applications made by small-, woman-, and minority-owned businesses.

The Consumer Financial Protection Bureau officially published guidance for the mandated Small Business Review Panel, which will purportedly assist the Bureau developing a proposed final rule for data collection on small businesses loans mandated in section 1071 of the Dodd-Frank Act. An [announcement](#) from the CFPB accompanying the review panel materials said the panel would convene in October, with a report to follow within 60 days thereafter. The panel is mandated by the Small Business Regulatory Enforcement Fairness Act whenever a rule proposal would impact a "substantial number of small entities."

Implementation of section 1071 would require financial institutions to retain a minimum of 12 data points for any covered application. These would include whether the applicant was a minority- or woman-owned business; the census tract of the business; information on the type, size and proposed purpose for the credit; and what action was taken by the financial institution. An additional four "discretionary" data points, including loan pricing and time in business, were proposed by the CFPB. Financial institutions would need to submit a report at least annually on its collected data. The CFPB has set an initial timeline of two years after final rule publication for implementation.

As part of the panel review, the CFPB distributed a 35-page [discussion guide](#) for panel members that includes 84 questions to consider prior to the meeting, regarding the different aspects of the rule. The CFPB will select panel members, in consultation with the Small Business Administration, to represent categories of small entities likely to be subject to the requirements of a rule under development.

While section 1071 of Dodd-Frank refers only to "credit" for which types of applications require data collection, the CFPB in its outline for panel members said it had initially interpreted that to mean term loans, lines of credit and business credit cards. It is considering explicit exclusions of items such as consumer-designated credit, leases and merchant cash advances.

The CFPB also noted that while section 1071 required data collections on lending to businesses of any size that were women- or minority-owned, in addition to those defined as "small," it proposed to limit the scope to only small businesses, as that definition would cover "nearly all" women- and minority-owned businesses.

According to an [outline](#) provided for the panel members, the process for implementing section 1071 began in 2017 with a field hearing on the matter, and most recently a symposium last November to "stimulate a dialog" from expertise among " academic, think tank, consumer advocate, industry, and government experts in the small business lending arena."

RegulatoryActivity: CommunityDevelopment ConsumerCredit CFPB DoddFrankAct