

[Banking and Finance Law Daily Wrap Up, TOP STORY—CFPB and community groups agree to settle small business lending lawsuit, \(Feb. 27, 2020\)](#)

Banking and Finance Law Daily Wrap Up

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By Donielle Tigay Stutland, J.D.

The CFPB commits to promulgating rules relating to collecting data in small business lending, in efforts to assist minority- and women-owned businesses against discriminatory lending practices.

On Feb. 26, 2020, the U.S. District Court for the Northern District of California approved a settlement in the small business lending lawsuit filed against the Consumer Financial Protection Bureau by a coalition of small business owners and community development organizations. In May 2019, the California Reinvestment Coalition (CRC), and the National Association for Latino Community Asset Builders (NALCAB) sued the CFPB, alleging two violations of the Administrative Procedure Act, as the Dodd-Frank Act requires the CFPB to collect and publish data on lending to women-owned, minority-owned, and other small businesses. The CFPB halted the relevant rulemaking in 2018 and has not moved forward on it since that time.

In 2010, when Congress enacted the Dodd-Frank Act, Section 1071 required the CFPB to collect data that would help identify instances of discrimination against small business lenders (including women and minority owned businesses). The CRC alleged that the CFPB has unreasonably delayed setting forth rules and regulations to implement this provision. The settlement agreement acknowledges that the CFPB is required to promulgate regulations to implement Section 1071 of the Dodd-Frank Act, and that the CFPB has not done so.

Settlement. Pursuant to the [settlement agreement and order](#), the CFPB made the following commitments:

- by September 2020, outline its proposals for collecting the required data and publicly release those proposals for consideration of their effect on small businesses;
- by October 2020, establish a Small Business Advocacy Review panel to provide input on its proposal, and the CFPB will take panelists' suggestions from the small business plaintiff groups;
- negotiate deadlines with the plaintiffs for each stage of the rulemaking process to facilitate the data collection, including the deadline to issue the final data-collection rule, and accept court-ordered deadlines if the parties cannot agree; and
- submit status reports every 90 days detailing the CFPB's progress toward implementing this data-collection rule.

CRC statement. The CRC's Executive Director, Paulina Gonzalez-Brito, [stated](#), "This settlement is a victory for impacted communities and small business owners of color striving to build wealth and a better life. CRC and our members look forward to engaging with the Consumer Bureau to ensure that the agreed upon timeline proceeds on schedule."

NCRC statement. The National Community Reinvestment Coalition (NCRC) lauded the court's action. Jesse Van Tol, CEO of NCRC, [noted](#) that "[t]he implementation of Section 1071 is long overdue. NCRC's research and evaluation of small business lending has shown time and again that [discrimination is still part of the experience](#) for many women- and minority-owned businesses. Despite these findings, it has also been clear to us that much of this discrimination goes unnoticed by banks and their federal regulators, and there is inadequate data collection for the public to hold them to account."

Companies: California Reinvestment Coalition; National Association for Latino Community Asset Builders; National Community Reinvestment Coalition

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