

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—CFPB extends Small Business Lending Rule compliance dates, (Jun. 26, 2024)

Banking and Finance Law Daily Wrap Up

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The CFPB said it was extending compliance dates by 290 days pursuant to court orders in *Texas Bankers Assn. v. CFPB*.

The Consumer Financial Protection Bureau announced the promulgation of an interim rule that extends compliance dates for the Small Business Lending Rule, an extension pursuant to the federal district court's preliminary stay orders in *Texas Bankers Assn. v. CFPB*. The CFPB [said](#) the [interim final rule](#) follows the Supreme Court's decision in *CFPB v. Community Financial Services Assoc. of America, Ltd.*, No. 22-448 (U.S. May 16, 2024) that ultimately reversed the Fifth Circuit's affirmation of the preliminary stay. The interim final rule takes effect, and comments must be received by, 30 days after publication in the *Federal Register*.

Background. In March 2023, The Consumer Financial Protection Bureau (CFPB) issued a final rule amending Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Consumer Financial Protection Act of 2010 (CFPA). The new rule requires covered lenders to collect certain information from small businesses that apply for credit and to report that data annually to the CFPB. The CFPB said the rule is designed to work in concert with the Community Reinvestment Act (see [Banking and Finance Law Daily](#), March 31, 2023).

The Texas Bankers Association (TBA) and other associations representing payday lenders and credit-access businesses challenged the regulations in the United States District Court for the Southern District of Texas, McAllen Division., in *Texas Bankers Assn. v. CFPB*. The Fifth Circuit later accepted the associations' argument that CFPB funding violated the Appropriations Clause on separation of powers grounds.

On CFPB's appeal to the Supreme Court in *CFPB v. Community Financial Services Assoc. of America, Ltd.*, No. 22-448 (U.S. May 16, 2024), the high court reversed and remanded holding that the CFPB's funding mechanism does not violate the Appropriations Clause (see [Banking and Finance Law Daily](#), May 16, 2024). However, in the meantime, the McAllen Division district court had halted the rule's data collection requirements. The district court further ordered that the CFPB extend the plaintiffs' and their members' compliance deadlines to compensate for the period stayed, and it later made that extension nationwide (see [Banking and Finance Law Daily](#), August 1, 2023).

Extension. The CFPB's press release announced a 290-day extension pursuant under the interim rule representing time elapsed between the district court's first issuance of a stay in 2023 and the Supreme Court's decision in *CFPB vs. CFSA* last month.

Data collection start. The dates to begin collecting data are:

- July 18, 2025, for highest volume lenders;
- January 16, 2026, for moderate volume lenders; and
- October 18, 2026, for smallest volume lenders.

Lenders can start collecting data earlier if they like. The rule permits lenders to collect demographic data up to one year before their compliance data to test procedures and systems.

Data reporting start. The deadline for reporting small business lending data to the CFPB (“first filing deadline”) remains June 1 following the calendar year for which data are collected. This means that the first data collection reporting deadlines are:

- June 1, 2026, for highest volume lenders; and
- June 1, 2027, for moderate and small volume lenders.

Grace period. The CFPB said it has also updated its grace period to reflect the revised dates. The agency said it:

- “does not intend” to assess penalties for reporting errors for the first 12 months of collection;
- “does not intend” to require data resubmission unless data errors are material;
- “does not intend” to assess penalties for unintentional errors in “initial” data submissions; and
- “intends” to conduct examinations only to assist lenders in diagnosing compliance weaknesses provided the lenders are making a good faith effort to comply.

Resources. The CFPB said it has posted resources to help lenders implement the rule at the Small Business Lending Database web page. Interested beta testers and others who seek general rule updates should sign up for updates at that page. The small business lending data submission platform is to be available for “open beta testing” in August.

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