Banking and Finance Law Daily Wrap Up, EQUAL CREDIT OPPORTUNITY—CFPB reconsiders its 'small business lending' rule under Reg. B, (Nov. 12, 2025)

Banking and Finance Law Daily Wrap Up

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The Bureau is requesting public comment on its proposed rule by December 15.

The Consumer Financial Protection Bureau is proposing to revise certain provisions of Regulation B, which implements the Equal Credit Opportunity Act. The CFPB is reconsidering its "small business lending" rule under Reg. B after the Bureau previously made changes required by section 1071 of the Dodd-Frank Act. In particular, the CFPB is reconsidering Reg. B's "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" pertaining to the small business lending rule." Moreover, the proposed changes "would streamline the rule, reduce complexity for lenders, and improve data quality, advancing the purposes of section 1071 and complying with recent executive directives," the Bureau stated.

According to the CFPB's notice, which is scheduled for publication in the *Federal Register* on November 13, the Bureau is seeking public comment on the proposal. Comments must be submitted by Dec. 15, 2025.

Backdrop. In May 2023, the CFPB published a final rule to implement section 1071 of the Dodd-Frank Act "by adding subpart B to Regulation B (the 2023 final rule). Since then, there have been legal challenges to the 2023 final rule. After developments in the litigation and interim regulatory activity by the CFPB, in early October of 2025 the Bureau published a final rule extending the applicable compliance dates for its small business lending rule (see *Banking and Finance Law Daily*, Oct. 1, 2025).

CFPB's current perspective. Against this backdrop, the CFPB now believes that:

- the 2023 final rule "should have given more weight to qualitative differences among certain types of lenders and the likelihood that smaller lenders would face difficulties addressing the complexity of a rule of broad scope, both of which could potentially diminish the quality of the data they collect;"
- based on past experience, "a longer-term approach to advance the statutory purposes of section 1071" is preferable to "commence the collection of data with a narrower scope to ensure its quality and to limit, as much as possible, any disturbance of the provision of credit to small businesses;"
- the statutory purposes of the rule "are not well served by an expansive rule that could create disruptions in small business lending markets," and an "incremental approach" instead "may better serve the statutory purposes of section 1071 in the long term;"
- such an incremental approach "would start with core lending products, core providers, and core data points;"
- the Bureau should "approach the section 1071 data collection regime as a longer-term project akin to the HMDA [Home Mortgage Disclosure Act];" and
- the Bureau should take into account the Trump administration's executive orders, including Executive Order 14168, "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which "directs Federal agencies to remove references and questions discussing gender identity," among other things.

Further, the CFPB believes that the 2023 final rule "has not created significant reliance interests that would dissuade the Bureau from reconsidering its position as to certain portions of the rule." At the same time "litigation

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challenging provisions of the 2023 final rule and delays in the compliance dates for this rule" suggest that reconsideration of certain issues "would not meaningfully change compliance obligations."

Key issues of proposal. Along these lines, the CFPB's 198-page notice of its proposed revisions to the small business lending rule highlights the main issues the Bureau seeks to address:

- *Covered financial institutions*. Because the CFPB believes that the focus of the rule, "at least initially, should be [on] truly small businesses," the Bureau is proposing to "change the gross annual revenue threshold in the rule's definition of small business from $5 million or less to $1 million or less."
- *Data points*. The CFPB "intends to focus data collection on data points specifically identified in section 1071 and a limited number of other data points needed to facilitate the collection of these statutory data points." Moreover, the CFPB is proposing to "remove the discretionary data points for application method, application recipient, denial reasons, pricing information, and number of workers."
- *Time and manner of data collection*. The CFPB proposes to "remove certain requirements that are not statutorily required and appear to anticipate or presume non-compliance with the rule." In addition, the Bureau proposes to "add a provision that would emphasize for applicants their statutory rights under the rule."
- *Compliance dates*. In keeping with other proposed changes to the small business lending rule, the CFPB is proposing to "extend the rule's compliance date provisions" to Jan. 1, 2028, "for all financial institutions that remain covered by the rule, and to make other simplifying and streamlining changes."

Additional considerations. Notably, the CFPB has also commented about the following topic areas:

- *Privacy and data publication*. The CFPB's latest proposal is *not* presently reconsidering "the privacy discussions in the 2023 final rule or its statements about the eventual publication of data."
- *Grace period*. Although the CFPB's latest proposal does not seek to change "the grace period policy statement" itself, the Bureau does intend to "maintain the grace period for the same reasons articulated in the 2023 final rule, as amended by the 2025 interim final rule, and to alter the grace period to coincide with the new proposed compliance date, if it is finalized."

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