

**September 2021**

## **Small Business Lending Data Collection under the Equal Credit Opportunity Act (Regulation B)**

### **Summary**

The CFPB has issued a [proposed rule](#) that would require covered financial institutions to collect and report data on the credit applications of small businesses, including those that are owned by women or minorities.

### **Comment Period**

The proposal has a comment period of 90 days following publication in the *Federal Register*. The Bureau does not expect to extend this deadline.

### **Purpose**

The Bureau's rulemaking is required to implement changes to the Equal Credit Opportunity Act (ECOA) made by Section 1071 of the Dodd-Frank Act. Specifically, Section 1071 requires financial institutions to collect and report to the Bureau certain data regarding certain business credit applications. This data collection is intended to facilitate enforcement of fair lending laws and to enable the identification of business and community development needs and opportunities.

### **Key Provisions**

- **Covered Financial Institutions**: A financial institution would be required to comply with the data collection if it originated at least 25 "covered credit transactions" to "small businesses" in each of the two preceding calendar years.
- **Scope of Covered Credit Transactions**: Any transactions that meet the definition of business credit under Regulation B would be considered "covered credit transactions," including loans, lines of credit, credit cards, and merchant cash advances.
- **Definition of Small Businesses**: The Bureau is seeking SBA approval of an alternative small business size standard. However, the proposed definition of "small businesses" would look to whether the business had \$5 million or less in gross annual receipts during the preceding fiscal year.
- **Data Points**: Covered entities would be required to collect and report 23 [data points](#) to the Bureau. While many of those data points are required by the Dodd-Frank Act, the Bureau has chosen to include several discretionary data points.
- **Data Collection & Reporting**: Covered financial institutions be required to collect data on a calendar-year basis and report their data to the Bureau by June 1 of the following year.
- **Publication of Data**: The Bureau intends to make the reported data publicly available on an annual basis subject modification or deletion based on a "balancing test" assessing the risks and benefits of public disclosure.
- **Firewall**: Covered financial institutions would be required to limit certain employees' and officers' access to the data collected or to provide the credit applicant a disclosure if such a "firewall" is unfeasible.
- **Compliance Deadline**: The Bureau expects to establish mandatory compliance deadline of approximately 18 months after the final rule's publication in the *Federal Register*.

The Proposed Rule can be viewed [here](#).