

December 15, 2025

Acting Director Russell Vought
U.S. Consumer Financial Protection Bureau (CFPB)
1700 G St NW
Washington, DC 20552

RE: RIN 3170-AB40 – Small Business Lending Under the Equal Credit Opportunity Act (Regulation B)

Dear Acting Director Vought:

As a leading representative and advocate on behalf of America's 36 million small businesses, Small Business Majority, and the undersigned organizations, write to provide comments in response to the U.S. Consumer Financial Protection Bureau's (CFPB) proposed rule to revise the Bureau's 2023 Small Business Lending Rule, which implements Section 1071 of the Dodd-Frank Act. Small Business Majority strongly opposes the proposed rule as it significantly undermines previous efforts to increase transparency and expand compliance for lenders in the small business market. The proposed rule will slash compliance rates to a bare minimum, exclude small businesses over certain revenue thresholds and exempt industries altogether that make up the whole of the small business ecosystem.

Small Business Majority is a national small business organization that empowers America's entrepreneurs to build a thriving and equitable economy. From our 11 offices across the country, we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to deliver resources to entrepreneurs and advocate for public policy solutions that promote inclusive small business growth. Our work is bolstered by extensive research and deep connections with the small business community that enable us to educate stakeholders about key issues impacting America's entrepreneurs, with a special focus on the smallest, most under-resourced businesses.

The 2023 rule was promulgated with an eye towards closing financing gaps in key communities representing American entrepreneurship

Small businesses are the backbone of local communities and our national economy, accounting for 99% of all U.S. businesses and roughly 44% of the nation's economic activity. Yet many small enterprises continue to face significant barriers to accessing the responsible and affordable capital necessary for growth.¹ These barriers, including inadequate credit history, limited access to established banking relationships and inflexible underwriting standards continue to disproportionately impact women and minority-owned businesses in their pursuit of responsible financing. According to data from the 2024 Small Business Credit Survey, white-owned small businesses were more than 20% more likely to be fully approved for the financing they sought than Black-owned businesses.² While 56% of white-owned businesses received the full amount of financing they requested, only 35% of Black-owned, 38% of Asian-owned, and 39% of Hispanic-owned businesses were fully approved for the loans they sought. These sentiments also ring true among those in our network: according to national polling conducted by Small Business Majority, while roughly 19% of small business owners overall obtained less capital than they sought, the number is higher among AAPI (36%), Black (31%) and Latino (26%) small business owners.³ These disparities are also prominent in Small Business Administration (SBA) approved loans as male-

¹ "Frequently Asked Questions About Small Business, 2024." U.S. Small Business Administration Office of Advocacy. July 23, 2024. <https://advocacy.sba.gov/2024/07/23/frequently-asked-questions-about-small-business-2024/>

² "2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey." Fed Small Business. March 27, 2025. <https://www.fedsmallbusiness.org/reports/survey/2025/2025-report-on-employer-firms>

³ "Small businesses struggling to access capital, harming their financial recovery." Small Business Majority. February 17, 2021. <https://smallbusinessmajority.org/our-research/access-capital/small-businesses-struggling-access-capital-harming-their-financial-recovery>

owned businesses accounted for nearly 70% of 7(a) loans and 64% of 504 loans, a stark contrast when considering that 43% of small businesses in the U.S. are women-owned.⁴

Regulations brought forth by the Dodd-Frank Act, otherwise known as Section 1071, were promulgated to address these same challenges that millions of entrepreneurs continue to face on a national scale. While private sector data clearly shows that specific communities struggle even more to access capital, the U.S. government has lacked access to a harmonized view of the small business lending market because banks have not been required to report key information about their small business borrowers. Ensuring that this data is collected and made available is paramount to ensuring that policymakers have the tools and the context that they need to begin closing credit gaps that erect barriers for far too many entrepreneurs. The 2023 rule, while not perfect, went much further to address some of these concerns that stakeholders like Small Business Majority have raised on a consistent basis over the past two decades. Unfortunately, the proposed rule issued this year would roll back much of the progress made in the 2023 rulemaking.

CFPB's proposed rule would weaken reporting requirements, allowing small business lenders to continue operating with little oversight

As stated above, inequitable lending standards and practices are commonplace because there is no universal dataset revealing the unique contextual barriers that stand in the way of the pursuit of the American Dream, which is business ownership. Without access to banking data, lenders and the public sector cannot develop a fundamental understanding of how the small business lending market can be more effective in expanding access to affordable, responsible capital. While the Bureau's 2023 Final Rule made meaningful progress toward fully implementing Section 1071 data collection and compliance, the Bureau's continued attempts to weaken it through this proposed rule threatens much-needed transparency in a small business lending industry that has long operated with minimal federal oversight. Section 1071 was intended to represent a market-based approach to improving access to financing without requiring substantial cost to the government.

We encourage the Bureau to consider the following comments as it finalizes the rule to help foster a more transparent and competitive small business lending market that strengthens access to affordable, responsible capital for small businesses.

- **Raising loan origination thresholds and narrowing the small business definition would exempt the majority of banks and loans from compliance:** The proposal to raise the covered loan origination threshold from 100 to 1,000 credit transactions in each of the two preceding calendar years would result in only about 2% of banks being required to comply with the rule's data collection and reporting requirements. When paired with the Bureau's proposal to lower the small business revenue threshold from \$5 million to \$1 million, a significant portion of small business loans would then be exempt from data collection and reporting. Under the small business definition change, banks that remain above the proposed loan-origination threshold could nevertheless avoid 1071 data collection and reporting requirements simply by originating loans to small businesses with annual revenues exceeding \$1 million, which is already common practice for many larger financial institutions. This reality would set a clear precedent that loans to the smallest businesses are not profitable or worthwhile for the bank to pursue, which could result in millions of businesses falling by the wayside where they risk falling victim to a predatory lending model to get access to a loan that a responsible bank would not grant. While we agree that the \$1 million threshold is a more accurate representation of an under-resourced small business, we are concerned that reducing these thresholds will result in a much narrower dataset that fails to account for a large portion of small business lending activity.

Small Business Majority urges the CFPB to retain the 2023 Final Rule's original standards, including the 100 covered credit transaction threshold and the \$5 million gross annual revenue

⁴ "Small Business Statistics in 2024." National Association of Women Business Owners. March 6, 2024. <https://nawbo.org/expert-reviews/blog/small-business-statistics/>

definition for small businesses. We encourage the Bureau to still consider small businesses that fit the Small Business Administration’s definition of a small business as the industry-based size standards represent a better picture of the landscape of America’s small businesses as opposed to only viewing a small subset of businesses.

- **Merchant cash advances remain a common business financing product and must be included as a covered credit transaction:** According to the Federal Reserve Banks 2025 Small Business Credit Survey, merchant cash advances (MCAs) have the lowest denial rate among financing products, with just 9% of MCA applicants reporting being denied financing.⁵ This compares to denial rates of 32% for business loans, 38% for personal loans, and 45% for SBA loans. While MCAs represent a growing segment of alternate financing options for small businesses, the higher costs of these products have a disproportionate negative impact on smaller, minority-owned and under-resourced businesses. In fact, minority-owned firms are twice as likely to seek financing through potentially “higher-cost and less transparent” MCA products than other entrepreneurs. Fifteen percent of Hispanic-owned firms applied for MCAs, according to the 2019 Small Business Credit Survey, compared to just 8% of White-owned firms. Additionally, Black-owned firms are more than twice as likely to seek financing through factoring, a similar high-cost, sales-based financing product, than White-owned firms.⁶ Although the MCA market has experienced rapid growth in recent years, these products continue to operate with little federal oversight, inflicting harm on small businesses. Many financing companies use opaque pricing terms, rather than displaying the annual percentage rate (APR), that mask the true and full cost of the product. In speaking with members of our network, many small businesses say that predatory or predatory-like products fail to disclose accurate costs, hurting their bottom line.

The Bureau’s proposed exclusion of MCAs from the definition of a covered credit transaction under this rule would prevent policymakers and industry stakeholders from rolling back the curtain on these oftentimes predatory and high-cost financing products that plague the financial health of small businesses. Despite its rise in market share of small business loan products, the MCA industry has faced backlash from government entities including the SBA, which recently issued SOP 50 10 8, stating that SBA 7(a) loans cannot directly refinance MCA debt.⁷ The SBA in making this decision has affirmed the damaging nature of high-cost MCA products that often leave small firms with no choice but to restructure or refinance to retain or improve their credit history. The Federal Trade Commission (FTC) also denounced the role of MCAs in the market, as Chair Ferguson testified earlier this year before the House Committee on Appropriations noting several enforcement actions the FTC pursued against bad actors in the MCA market.⁸ Absent any regulation requiring greater insights into the MCA industry and absent the ability of government guaranteed lenders to work to refinance these products, small firms will feel the impact by facing the difficult decision to close their doors or declare bankruptcy.⁹

It is important to recognize that the MCA market is quickly outpacing the size of the SBA for small dollar loans. It’s projected to exceed a market of \$44 billion in the next six years, placing the industry on track to outpace the SBA for all small business loans.¹⁰ The SBA has arguably faced significant competition from products in the MCA industry as MCA lenders are able to get capital

⁵ “2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey.” FED Small Business. March 27, 2025. <https://www.fedsmallbusiness.org/reports/survey/2025/2025-report-on-employer-firms>

⁶ “2019 Report on Minority-Owned Firms: Based on the 2018 Small Business Credit Survey.” FED Small Business. December 13, 2019. <https://www.fedsmallbusiness.org/reports/survey/2019/2019-report-on-minority-owned-firms>

⁷ “New Technical Updates Version of SOP 50 10 8 Takes Effect June 1.” National Association of Government Guaranteed Lenders. May 29, 2025. <https://www.naggl.org/new-technical-updates-version-of-sop-50-10-8-takes-effect-june-1>

⁸ “Testimony of the Federal Trade Commission before the Committee on Appropriations Subcommittee on Financial Services and General Government.” Federal Trade Commission. May 15, 2025 https://www.ftc.gov/system/files/ftc_gov/pdf/FTC-Chairman-Andrew-N-Ferguson-FSGG-Testimony-05-15-2025.pdf

⁹ “An Easy Financing Source Pushes Some Small Businesses Into Bankruptcy.” The Wall Street Journal. February 14, 2024. <https://www.wsj.com/articles/an-easy-financing-source-pushes-some-small-businesses-into-bankruptcy-c2b2ad1b>

¹⁰ “United States Merchant Cash Advance Market Size And Forecast.” Verified Market Research. November 2025. <https://www.verifiedmarketresearch.com/product/us-merchant-cash-advance-market/>

out the door more quickly than government-guaranteed loans. MCA products are also highly profitable for brokers who receive significant commission for underwriting MCA products, as opposed to the lower commissions that government guaranteed lenders receive when reaching small businesses. Because of the incentive of astronomical commissions, MCA brokers are often more motivated to reach businesses than the SBA.¹¹

While temporarily a positive for the microbusiness seeking a low-dollar loan in short order, the damage of an MCA loan has the potential to push burgeoning entrepreneurs out of business ownership and back to the workforce. We strongly urge the Bureau to reconsider this provision of its proposed rule and to focus on collecting data on MCA products by capturing the term length, which would shed light on the real APR that borrowers are paying under an MCA product.

Lastly, if the Bureau is committed to limiting the rule to small businesses with revenues under \$1 million, including MCAs is essential, since lower-revenue businesses are more likely to rely on short-term high cost products. Small Business Majority urges the CFPB to require MCAs to comply with the final rule to allow for greater transparency into an important portion of the small business lending market, especially for smaller, under-resourced businesses.

- **The exclusion of agricultural lending will impede critical data collection in a sector that is increasingly dominated by large corporations:** Small, family-owned farms, those with gross cash farm income under \$350,000 per year, are the backbone of rural America and the nation's agricultural supply chain, accounting for 85% of all U.S. farms.¹² However, these small farms continue to struggle to access the capital and opportunity needed to remain competitive in an industry that is increasingly dominated by larger competitors. In fact, while large-scale farms only represent 4% of U.S. farms, they produce 51% of the value of all agricultural products. This trend jeopardizes the long-term viability of small, family-owned farms, which have declined by 8% since 2017, in stark contrast to very large-scale farms that have grown by 65% during the same period.¹³

While we recognize the complexity of agriculture lending compared to traditional small business lending, Small Business Majority is concerned that the Bureau's proposal to outright exclude agriculture lending products from the rule will ultimately prevent lenders and policymakers from adequately addressing gaps in the agricultural lending market that may be threatening the livelihood of small, family-owned farms. Furthermore, given that minority-owned farms constitute less than 5% of all small farms, it is especially important to assess how effectively the lending market supports these producers to ensure they can innovate and invest in sustainable models that enables them to remain pillars of their local communities and supply chains.¹⁴ Small Business Majority urges the CFPB to incorporate agricultural lending into the final rule so policymakers can access the data necessary to address lending disparities in this critical sector.

- **Small business owners support more transparent loan pricing terms and the Bureau's data collection efforts should endeavor to reflect pricing terms:** Small Business Majority research has found that an overwhelming 87% of entrepreneurs support greater transparency in small business financing. The approach taken by the Bureau to omit certain pricing terms from disclosure under 1071 reporting requirements continues to encourage banks to omit key datapoints as they follow the loan origination process. Any effort to collect data on small business loan products should reflect pricing data including terms like interest rates (such as APR), origination fees, annual charges, and sales-based charges like broker fees and penalties. The

¹¹ "Feds crack down on lenders targeting small businesses with high-interest loans, abusive collection tactics." NBC News. August 2020. <https://www.nbcnews.com/business/economy/feds-crack-down-lenders-targeting-small-businesses-high-interest-loans-n1236167>

¹² "Family-owned farms account for 95% of U.S. farms, according to the Census of Agriculture Typology Report." United States Department of Agriculture National Agriculture Statistics Service. August 19, 2025. <https://www.nass.usda.gov/Newsroom/2025/08-19-2025.php>

¹³ Ibid.

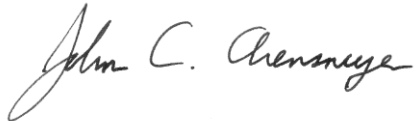
¹⁴ "2022 Census of Agriculture Highlights: Family Farms." United States Department of Agriculture National Agricultural Statistics Service. August 2025. https://www.nass.usda.gov/Publications/Highlights/2025/Census22_HL_FamilyFarms_FINAL.pdf

Responsible Business Lending Coalition states in its comment letter to the 2022 rule that without disclosing these datapoints, stakeholders will have no insight into the evolution of the banking industry since 1071's inception. It is critical to understand how the banking industry has changed since the 2000s and to view and compare trends (both positive and negative) to adjust policies for bankers as it relates to small business lending to maximize the success of the lender and the borrower in the pursuit of entrepreneurship.¹⁵

It has now been over 15 years since Section 1071 was signed into law after the passage of the Dodd -Frank Act in 2010, and we have yet to collect a single piece of small business lending data. Persistent efforts to undermine the Bureau's 2023 Final Rule will result in a loss of economic activity, like job creation and innovation, to take place if policy is not addressed to fix the shortcomings of the small business lending market.

Should you have any questions or would like to discuss our comments further, please contact our Government Affairs Director, Alexis D'Amato, at adamato@smallbusinessmajority.org or (202) 967-0995.

Sincerely,



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Founder & CEO
Small Business Majority

Accompany Capital
Adelante Community Development
Association for Enterprise Opportunity
California Capital Financial Development Corporation
Colorado Black Chamber of Commerce (CBCC)
Community Allies
Community Enterprise Development Services (CEDs)
HEAL Food Alliance
Housing and Economic Rights Advocates (HERA)
Inner City Capital Connections (ICIC)
Local Initiatives Support Corporation (LISC) - DC
Microenterprise Collaborative of Inland Southern California
Opportunity Finance Network (OFN)
Rocky Mountain Microfinance Institute (RMMFI)
South Carolina Small Business Chamber of Commerce
Small Business Anti-Displacement Network
Startup Colorado
The Central Valley Urban Institute
Uptima Entrepreneur Cooperative
Wezesha Dada Center (WDC)
Women's Economic Ventures

¹⁵ "RE: Docket No. CFPB-2021-0015, Section 1071 Small Business Lending Data Collection." Responsible Business Lending Coalition. January 6, 2022. https://16351f14-e143-4d4a-b04f-aba3aa1af396.usrfiles.com/ugd/16351f_12b529b9397e4a0c994da098b1b4fe4e.pdf