

Increasing Equitable Access to Capital – The Small Business Case for Fair and Transparent Lending

For entrepreneurship to remain an equitable pathway to building wealth, it is critical that small businesses have access to transparent and responsible capital to grow and scale their enterprises. However, due to centuries of historic inequities, the smallest businesses, including those that are women- and minority-owned, fall victim to harmful, predatory lending products that can ultimately lead to a business closing its doors. Data from the Federal Reserve Banks 2019 Small Business Credit Survey found that Black and Hispanic business owners are twice as likely to apply to high-cost and less transparent financing companies.¹ However, due to a lack of lending protection laws, some financial institutions are not required to disclose sometimes aggressive interest rates and vague or opaque underwriting procedures. To protect small businesses from irresponsible lenders, federal laws and regulations, including the Truth in Lending Act (TILA), must be updated and fully implemented to provide essential guardrails protecting the rights of small business borrowers by increasing transparency in the lending industry. To complement federal lending transparency efforts, the implementation of federal regulations designed to improve access to lending data, like Section 1071 of the Dodd-Frank Act, is critical to holding banks accountable for their small business lending practices.

What levers can policymakers pull to protect and promote the integrity of small business lending?

Pass a federal Truth in Lending law

In 1968, the Truth in Lending Act (TILA) was enacted through the Consumer Credit Protection Act to protect consumers from unfair credit practices by implementing regulations that require lenders to disclose information regarding the costs and terms of consumer credit. While current TILA regulations remain critical for small business borrower protections, the small business lending industry has evolved drastically over the last 50+ years and further protections are now required to ensure small business borrowers are not falling victim to predatory lending practices.

- **Examples of states that have recently passed/implemented TILA laws**
 - Through the enactment of S.B. 1235, the **California Commercial Financing Disclosures Law** (CFDL), California now requires non-depository financial institutions to disclose terms of commercial financing, including total amount of financing and the disbursement amount; finance charge; annual percentage rate (APR); term; total repayment amount; and prepayment penalties. These terms must be disclosed before the loan documents are presented to the borrower.
 - Similar to California's CFDL, New York enacted S.B. 5470, the **New York Commercial Finance Disclosure Law**, in 2020 which requires certain lenders to disclose financial terms, including amount financed, fees and APR before a financing offer of \$500,000 or less is made.
- **Congress must reprioritize these discussions** to help foster an environment that will promote small business growth amid the recent boom of small business growth
 - Small Business Majority urges Congress to pass legislation like the **Small Business Financing Disclosure Act** which would bolster the Consumer Financial Protection Bureau's (CFPB) oversight authority of small business financing and require small business lenders to disclose additional information upfront, including the APR; financing charges for loans; loan terms; payment amounts and collateral requirements. Small Business Majority research found that 87% of small businesses support efforts to ensure that fees and terms, such as APR, are transparently disclosed in commercial loan contracts.

Reestablish the CFPB’s 2023 Final Rule to enforce the Sec. 1071 small business lending rule

Nearly 15 years ago, Congress passed the Dodd-Frank Act, which updated the Equal Credit Opportunity Act (Sec. 1071) to require lenders to collect demographic data on small business loans. Section 1071 requires that certain financial institutions collect and report racial, sex, and other demographic data to the Consumer Financial Protection Bureau (CFPB). In 2021, the CFPB began the rulemaking process for Sec. 1071’s formal implementation. Although implementation of Section 1071 was originally scheduled to begin in July 2025, the administration has announced it will no longer enforce the previous administration’s rule. The CFPB has instead initiated a new rulemaking process to slash Sec. 1071 data collection and reporting compliance rates to a bare minimum. This includes narrowing the number of small businesses subject to data reporting requirements by excluding businesses earning less than \$1 million in annual revenues and all agricultural lending activities.

Small Business Majority strongly opposes the CFPB’s efforts to undermine the 2023 Final Rule’s original intent, which would have equipped policymakers and small business lenders with the tools and context that they need to begin closing credit gaps that erect barriers for far too many entrepreneurs. We urge the Bureau to reconsider these harmful and arbitrary rule changes, which risk deepening the inequities that already plague small business lending markets nationwide.

Create incentives for lenders to adhere to the Small Business Borrowers’ Bill of Rights.



- ✦ The Right to Transparent Pricing and Terms
- ✦ The Right to Non-Abusive Products
- ✦ The Right to Responsible Underwriting
- ✦ The Right to Fair Treatment from Brokers
- ✦ The Right to Inclusive Credit Access
- ✦ The Right to Fair Collections Practices

Through the **Responsible Business Lending Coalition (RBLC)**, Small Business Majority, alongside a network of non-profit and for-profit lenders, investors, and small business advocates, created the **Small Business Borrowers’ Bill of Rights**.² The Borrowers’ Bill of Rights identifies the following six fundamental rights that all small business owners seeking financing deserve and outlines how lenders, brokers and lead generators should uphold and protect these rights:

Nearly 60 small business lenders, brokers and lead generators have committed to upholding these rights, and nearly 50 advocacy and support organizations have endorsed them.³

¹ “2019 Report on Minority-Owned Firms: Based on the 2018 Small Business Credit Survey.” 2019. *Small Business Credit Survey*. Federal Reserve Banks. <https://doi.org/10.55350/sbcs-20191213>

² “Small Business Borrowers’ Bill of Rights”, Responsible Business Lending Coalition, <https://www.borrowersbillofrights.org/setting-the-standards>

³ “Small Business Borrowers’ Bill of Rights Signatories”, Responsible Business Lending Coalition, <https://www.borrowersbillofrights.org/who-we-are>