



## **Testimony for the Record**

**Submitted to the  
House Committee on Small Business  
Subcommittee on Economic Growth, Tax, and Capital Access**

**For the Hearing “The End of Relationship Banking? Examining the CFPB's 'Small  
Business Lending Data Collection' Rule”  
March 28, 2023**

**Submitted by the Responsible Business Lending Coalition**

Chairman Meuser and Ranking Member Landsman, The Responsible Business Lending Coalition (RBLC) thanks you for convening an important hearing on the Consumer Financial Protection Bureau’s (CFPB or “the Bureau”) proposed rule to implement a small business financing data collection framework. We are grateful to the Ranking Member for inviting RBLC member Luz Urrutia, CEO of Accion Opportunity Fund, to serve as a witness in this hearing.

The Responsible Business Lending Coalition (RBLC) is the leading cross-sector voice on small business financial protection. The coalition includes nonprofit and for-profit fintechs, community development financial institutions, investors, and small business advocates who all share a commitment to innovation in small business lending as well as serious concerns about the rise of irresponsible small business lending.

We believe that every entrepreneur deserves access to responsible, affordable capital that will help their business thrive, not force them out of business. That belief is why the coalition created the Small Business Borrowers' Bill of Rights: the first cross-sector consensus on the rights that small business owners deserve and the standards of practice that financing providers should abide by to uphold those rights. Over 110 small business lenders, brokers, lead generators, and advocacy organizations have endorsed these standards.<sup>1</sup>

We appreciate that the U.S. House Small Business Committee convened this important hearing about the Small Business Lending Data Collection Rule, or Section 1071, as the

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<sup>1</sup> Members of the RBLC include Accion Opportunity Fund, Camino Financial, Community Investment Management, Funding Circle, LendingClub, National Association for Latino Community Asset Builders, Opportunity Finance Network, Small Business Majority, and the Aspen Institute. For more information, including the responsible lending standards found in the Small Business Borrowers Bill of Rights, and the full list of Signatories and Endorsers, please visit [www.borrowersbillofrights.org](http://www.borrowersbillofrights.org).

committee dedicated to supporting and growing a healthy, national small business economy. Whether we live in a small town or a big city, we can all agree that thriving small businesses enrich our communities and our lives. Small businesses need access to capital so they can grow and thrive. In order to support them, we need evidence-based data to develop smarter, commonsense policy solutions. Currently, there is no comprehensive information about how much small business financing is happening, who is receiving business financing products, and at what terms. By providing the first comprehensive and accurate information about the small business lending market, including where gaps exist, Section 1071 will spur innovation within banks, community organizations, fintech companies, and others, to address these gaps and improve small businesses' access to responsible capital. Section 1071 aims to fulfill this goal by mandating a national system to collect data about how small businesses access capital.

We view Section 1071 as a market-based, pro-innovation rule. More information will empower financing providers and the broader small business support ecosystem to better meet business owners' needs. Pricing transparency will increase competition in the market, driving down the cost of credit for small businesses and incentivizing providers to offer attractive terms. We believe the transparency created by Section 1071 will also spur innovation by encouraging adoption of the products and practices that the data reveal are effective in supporting underserved market segments.

It will also provide vital information on fair lending concerns that will enable regulators to identify and address violations. Specifically, this long-needed data collection will increase equity in the commercial financing marketplace by enabling regulators to identify Equal Credit Opportunity Act (ECOA) violations and by illuminating unmet credit needs that financing providers can help fill.

Having access to comprehensive data on small business financing applications will foster fairness and opportunity for all small businesses by illuminating the types of financing sought, approval rates, and pricing. Access to this data will allow financing providers and community development organizations to determine unmet credit needs and increase the supply of capital where needed. These reasons for the RBLC's support of Section 1071 are discussed further in our comment letter submitted to the Bureau in September 2017.<sup>2</sup>

To ensure full transparency within the small business financing market and adequately address gaps in small business capital access, it's critical that the rule apply to all business financing providers. We strongly support the proposed scope of applications subject to the data collection, including the broad definition of covered financial institutions; the collection of

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<sup>2</sup> Responsible Business Lending Coalition, "Section 1071 and the Small Business Lending Market (Docket No. CFPB-2017-0011)" Sept 2017.

[http://www.borrowersbillofrights.org/uploads/1/0/0/4/100447618/final\\_rblc\\_letter\\_to\\_cfpb\\_on\\_1071.pdf](http://www.borrowersbillofrights.org/uploads/1/0/0/4/100447618/final_rblc_letter_to_cfpb_on_1071.pdf)

pricing data; the inclusion of merchant cash advances (MCA) under covered credit transactions; and the ultimate goal of establishing the first national repository of small business credit application and nondepository provider data. We emphasize the need to also include factoring financing as a type of product that is subject to the data collection.

The RBLC supports the Bureau's efforts to define "financial institutions" broadly, so that all financial institutions are required to comply with Section 1071's data collection and reporting requirements. This approach is simple and comprehensive, and enables regulators to assess the business and community development needs and opportunities for women-owned, minority-owned, and small businesses, as well as facilitate enforcement of fair lending laws across all institutions.

While nondepository lenders play a critical role in expanding access to capital for small businesses, the small business owners that RBLC member organizations serve have encountered particular issues with some nondepository financing products due to harmful terms and misleading pricing information. As the December 2021 Section 1071 Notice of Proposed Rulemaking (NPRM) notes, the design of both MCAs and factoring enables these products to avoid a formal designation as "credit" and resulting regulation, despite the fact that small businesses use both products to obtain credit.<sup>3</sup> However, there is currently a dearth of available data on nondepository credit applications, and particularly on commonly-used alternative products such as factoring and MCAs.

In order to fulfill Section 1071's congressional mandate of establishing the nation's first comprehensive small business lending database, the RBLC has advocated that the final rule include universal transaction coverage. If any commonly-used products are excluded under the final rule, researchers and policymakers will continue operating without a complete picture of the commercial financing market, and regulators will lack the data needed to enforce borrower protections on excluded industries. We strongly recommended that the Bureau include factoring as a covered product.

Factoring should be subject to the data collection framework because of fair financing concerns. No matter who they are, where they live, or how wealthy they are, every business owner deserves access to capital that will enable them to grow their venture. Factoring, as an available financing option, is identified in Federal Reserve research as a "potentially higher-cost and less transparent credit product" that has a disproportionate impact on minority-owned businesses, and Black-owned businesses in particular.<sup>4</sup> "Black-owned business applicants applied

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<sup>3</sup> Consumer Financial Protection Bureau, "Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B) Proposed Rule," December 2021.  
<https://www.federalregister.gov/documents/2021/10/08/2021-19274/small-business-lending-data-collection-under-the-equal-credit-opportunity-act-regulation-b>

<sup>4</sup> Federal Reserve Bank of Atlanta, "Small Business Credit Survey: Report on Minority-Owned Firms," Dec 2019.  
<https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf>

for factoring more frequently compared to White-owned firm applicants (7% and 3%, respectively).”<sup>5</sup> We support factoring’s inclusion in Section 1071 so that we can better understand how factors help or hurt vulnerable small businesses, just like any other financing product.

## **Conclusion**

We look forward to continued dialogue with Members of the Committee on the need for more information about the challenges and opportunities that businesses encounter in the changing small business financing landscape. We believe that implementation of Section 1071 will result in a more innovative, inclusive, and fair financial system, particularly if all financing providers and products are subject to the data collection effort. Thank you again, Chairman Meuser and Ranking Member Landsman, for convening this important hearing.

Signed,  
The Responsible Business Lending Coalition

Members include:

Accion Opportunity Fund

Camino Financial

Community Investment Management

Funding Circle

LendingClub

National Association for Latino Community Asset Builders

Opportunity Finance Network

Small Business Majority

The Aspen Institute

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<sup>5</sup> *Id.*