



June 26, 2024

## CFPB ISSUES COMPLIANCE DATES FOR SMALL BUSINESS DATA LENDING RULE

The Consumer Financial Protection Bureau (CFPB) issued an interim final rule to extend compliance deadlines for the small business data lending rule. After the CFPB issued the small business data lending rule on March 30, 2023, a federal court in Texas stayed the rule pending the Supreme Court's decision in *Consumer Financial Protection Bureau v. Community Financial Services Association of America* (CFPB v. CFSA). See our [Alert of Oct. 27, 2023](#). The Supreme Court released its opinion in *CFPB v. CFSA* last month. See our [Alert of May 21, 2024](#).

In granting the 2023 preliminary injunction, the Texas court required the CFPB to extend the small business data lending rule's compliance deadlines to compensate for the period stayed. The interim final rule extends compliance dates by 290 days, which is the time that has elapsed between the Texas court's first issuance of a stay last year and the Supreme Court's decision in *CFPB v. CFSA*.

Under the interim rule, lenders with the highest volume of small business loans must begin collecting data by July 18, 2025; moderate volume lenders by January 16, 2026; and the smallest volume lenders by October 18, 2026. The deadline for reporting small business lending data to the CFPB remains June 1 following the calendar year for which data is collected. Thus, high volume lenders will first submit data by June 1, 2026, moderate and low volume lenders will first submit data by June 1, 2027. Lenders may continue using their small business originations from 2022 and 2023 to determine their initial compliance date, or instead use their originations from 2023 and 2024.

The small business data lending rule implements Section 1071 of the Dodd-Frank Act, which requires creditors to determine whether a business "is a women-owned, minority-owned, or small business." Specifically, Section 1071(e) requires financial institutions to request 13 particular data points from businesses, such as the race, sex and ethnicity of the principal owners of the business. The CFPB's final rule implementing Section 1071 goes further, requiring financial institutions to request dozens of additional data points.

In the Texas case, the plaintiffs argue that the CFPB has failed to account for the effect the small business data lending rule will have on small business borrowers and community banks, which will

be required to overhaul their systems to support the new, arguably over-expansive, data collection requirements.

Entities providing "covered credit transactions" (defined as extensions of business credit, including loans, lines of credit, credit cards and merchant cash advances) to small businesses should review the small business data lending rule provisions and determine their applicability and requirements. Please let us know if you need assistance in reviewing the rule. ☐

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