

September 14, 2017

Monica Jackson  
Office of the Executive Secretary, Consumer Financial Protection Bureau  
1700 G St. NW  
Washington, D.C. 20552

**Re: Request for Information Regarding the Small Business Lending Market  
Docket No. CFPB-2017-0011**

Dear Ms. Jackson,

Thank you for this opportunity to respond to the Consumer Financial Protection Bureau's ("the Bureau") request for information regarding the small business lending market. The undersigned groups strongly support expeditious implementation of Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Section 1071 modifies the Equal Credit Opportunity Act ("ECOA") to require financial institutions to collect and report information about credit applications by women-owned, minority-owned, and small businesses. More specifically, it requires the collection of demographic data about small business applicants for credit, details about their businesses, and the action taken by financial institutions on their applications. Currently, the United States, unlike other developed countries, does not maintain sufficient publicly available national data on the small business lending market.<sup>1</sup> This leaves regulators in the dark on how to "facilitate the enforcement of fair lending laws"<sup>2</sup> and business owners and financial institutions alike uncertain about their position in the lending market. In addition, this omission leaves consumers at risk, because, as Director Cordray has noted, "the line between consumer finance and small business finance is quite blurred."<sup>3</sup>

Small businesses play a vital role in the U.S. economy. Over 99 percent of all employer firms are classified as small businesses (under 500 employees) while over 92 percent of firms can be classified as microenterprises (five or fewer employees).<sup>4</sup> These firms employ over half of all

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<sup>1</sup> Karen Mills, Gutting this Dodd-Frank rule will hurt America's small businesses, Jun. 25, 2017, available at <http://thehill.com/blogs/pundits-blog/finance/339262-gutting-this-dodd-frank-rule-will-hurt-americas-small-businesses>

<sup>2</sup> P.L. 111-203.

<sup>3</sup> Prepared Remarks of CFPB Director Richard Cordray at the Small Business Lending Field Hearing, May 10, 2017, available at <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-cfpb-director-richard-cordray-small-business-lending-field-hearing/>

<sup>4</sup> Center for Women's Business Research, The Economic Impact of Women-Owned Businesses In the United States, Oct. 2009, available at <https://www.nwbc.gov/sites/default/files/economicimpactstu.pdf>; National Community Reinvestment Coalition, Small Business Loan Data: Recommendations to the Consumer Financial Protection Bureau for Implementing Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of

people and are responsible for the creation of over 60% of new jobs. Among small businesses, women-owned firms have been growing at double the rate of other groups while minority-owned firms have steadily outpaced other groups as well.<sup>5</sup> Additionally, 8 million women-owned businesses were found to be responsible for creating and maintaining 23 million jobs while 12,000 certified minority owned business were responsible for creating 2.2 million jobs.<sup>6</sup> It is undeniable that small businesses, including women- and minority-owned businesses, are crucial drivers of the economy.

However, despite their critical importance to the economy, women and minority business owners face obstacles that their male and non-minority counterparts do not. Research shows that women business owners and minority business owners are less likely to apply for private loans to grow their businesses for fear of being rejected.<sup>7</sup> The same research shows that minority business owners are in fact significantly more likely to have their applications for credit rejected by financial institutions.<sup>8</sup> Even those who are approved typically receive less and pay higher interest rates.<sup>9</sup>

In order to continue to encourage the growth of small businesses and their positive effect on the economy, it is imperative to understand the challenges they face in accessing credit and to ensure financial institutions are complying with fair lending laws. Such a task is only possible with thorough data collection and analysis of the small business lending market. Similar collection and public reporting of borrower data under the Home Mortgage Disclosure Act has been successfully carried out before and has improved access to credit for minority homebuyers. However, the necessary data collection cannot begin until the Bureau finalizes rules. Though the modified ECOA already instructs lenders to collect and report data, the Bureau has found that financial institutions' obligations under Section 1071 "do not arise until the Bureau issues implementing regulations and those regulations take effect."<sup>10</sup> Robust policies designed to support small businesses is dependent on robust data, and collection of that data is dependent on the Bureau taking timely, decisive action.

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2010, 2014, available at <http://www.ncrc.org/images/PDFs/recommendations-to-cfpb-on-small-business-loan-data.pdf>

<sup>5</sup> Michael McManus, *Minority Business Ownership: Data from the 2012 Survey of Business Owners*, Sept. 14, 2016, available at <https://www.sba.gov/sites/default/files/advocacy/Minority-Owned-Businesses-in-the-US.pdf>

<sup>6</sup> National Minority Supplier Development Council, *Minority-Owned Businesses Critical Measure of the Nation's Economic Health*, Jun. 26, 2016, available at <http://www.nmsdc.org/minority-owned-businesses-critical-measure-nations-economic-health/>

<sup>7</sup> Michael S. Barr, *Minority and Women Entrepreneurs: Building Capital, Network, and Skills*, Mar. 2015, available at [https://www.brookings.edu/wp-content/uploads/2016/07/minority\\_women\\_entrepreneurs\\_building\\_skills\\_barr.pdf](https://www.brookings.edu/wp-content/uploads/2016/07/minority_women_entrepreneurs_building_skills_barr.pdf)

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Letter from Leonard J. Kennedy to Chief Executive Officers of Financial Institutions under Section 1071 of the Dodd-Frank Act, Apr. 11, 2011, available at <http://files.consumerfinance.gov/f/2011/04/GC-letter-re-1071.pdf>

We therefore urge the Bureau to fully implement Section 1071. Specifically, we call on the Bureau:

- to require reporting on the full breadth of small business lending consistent with the statutory intent, including promulgating broad definitions of “small business,” “loan or other credit,” and rejecting calls for broad exemptions from reporting for community banks, credit unions, or non-depositories;
- to capture important data about loans applied for and made, including data regarding the quality of credit extended (e.g., creditworthiness, key price and other terms), the size and nature of the business seeking credit, and the detailed racial and ethnic data regarding business owners similar to that collected pursuant to the Home Mortgage Disclosure Act database; and
- to complete the rulemaking and begin collection of these data expeditiously.

Thank you for the consideration of our views.

Sincerely,

Americans for Financial Reform  
California Reinvestment Coalition  
Center for Responsible Lending  
Consumer Action  
Consumer Federation of America  
Empire Justice Center  
The Leadership Conference for Civil and Human Rights  
Main Street Alliance  
NAACP  
National Association for Latino Community Asset Builders  
National Association of Consumer Advocates  
National CAPACD  
National Consumer Law Center (on behalf of its low income clients)  
National Fair Housing Alliance  
National Urban League  
People’s Action  
Reinvestment Partners  
Tennessee Citizen Action  
U.S. PIRG