



December 15, 2025

Acting Director Russell Vought  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**Re: Public Comment on Small Business Lending Under the Equal Credit Opportunity Act (Regulation B), Docket No. CFPB-2025-0040**

[Beneficial State Foundation](#) appreciates the opportunity to comment on the proposed amendments to the Section 1071 small business lending data collection rule. As a nonprofit working directly with financial institutions that serve small businesses, we are concerned these changes would undermine the statute's purposes before any data has been collected.

We respectfully urge the Bureau to:

1. Retain discretionary data points for denial reasons, pricing information, and business ownership status;
2. Maintain the 100-loan origination threshold to capture lending by community-focused institutions;
3. Preserve the \$5 million revenue threshold to include lending on small businesses in their growth phase; and
4. Implement the 2023 rule and collect a critical mass of data before making changes based on actual experience.

### **Our Work and Perspective**

Since 2007, Beneficial State Foundation has equipped and connected leaders across the banking industry to create financial wellbeing for all. Through our Underwriting for Racial Justice (URJ) Lender Pilot Program, we collaborate with financial institutions to analyze comprehensive data, identify where underwriting practices create unnecessary barriers, and develop targeted solutions. This work has shown us that granular data is essential for identifying barriers to capital access and developing evidence-based responses that expand credit while maintaining sound underwriting standards.

### **Elimination of Critical Data Points**

The CFPB's proposal would eliminate discretionary data points that are necessary to identify discrimination patterns and unmet credit needs, especially data points around denial reasons and pricing information.

Denial reasons data help distinguish between applicants denied due to ability to repay versus those facing unrelated barriers. Pricing information (including both interest rates and origination charges) reveals whether similarly situated businesses received different terms, which is critical in assessing whether credit needs are being met in the community. Credit with high APRs or factor rates can be harmful for small businesses and undermine community development. Without this information, regulators can neither enforce fair lending laws effectively nor assess the needs of small businesses.

Lenders have successfully collected detailed data points, including denial reasons and pricing, under the Home Mortgage Disclosure Act (HMDA) for 50 years. The infrastructure and compliance frameworks developed for HMDA provide a foundation for Section 1071 compliance, including the discretionary data points identified in this proposed rule.

### **Dramatically Narrowed Coverage**

The CFPB's proposal would exclude merchant cash advances, raise the origination threshold from 100 to 1,000 transactions, and reduce the small business revenue threshold from \$5 million to \$1 million. These changes would create significant gaps in understanding how small businesses access capital.

Excluding merchant cash advances and loans under \$1,000 removes from view products serving businesses with limited access to traditional credit. Advocates for fairness in small business credit have decried the predatory nature of many merchant cash advance products. However, they remain a key feature of the small business credit landscape and Section 1071's statutory objective of understanding small business needs and opportunities.

Raising the threshold from 100 to 1,000 transactions would exclude community-focused lenders with deep knowledge of local markets. Many institutions we work with operate below the 1,000-loan threshold yet serve populations overlooked by larger lenders and provide critical credit access in their communities. These lenders have indicated that their existing systems can facilitate the demographic data collection required under the 2023 final rule. This data would reveal community development needs that aggregate data from large lenders cannot capture. Therefore, including lenders with 100 or more annual transactions is necessary for regulators to effectively evaluate the small business credit industry in accordance with the statute's objectives.

Although a small business revenue threshold of \$1 million aligns with CRA and Part A of ECOA, we believe this threshold is severely out of touch with the current small business landscape and is long overdue for updating, as it has not been adjusted — even for inflation — in 30 years. The 2023 rule proposed a \$5 million or less threshold, which we believe is a much more appropriate threshold. Reducing the revenue threshold to \$1 million would exclude businesses in the growth phase — precisely the moment when access to capital becomes critical for expansion and job creation.

### **Weakening of Data Integrity**

The proposed changes also eliminate many aspects of the 2023 rule that would ensure data quality — for example, sections related to missing and erroneous data, as well as requirements regarding the timing of data collection relative to application processes, and rules on how lenders must make their best effort to collect the information. Collecting erroneous data or providing large amounts of missing/empty data is counterproductive to the statute's goals, undermines enforcement of fair lending laws, and generally renders collection and compliance efforts useless.

### **Premature Reversal Without Evidence**

This proposal reverses elements of a rule that was only recently finalized after 13 years of deliberation. Following years of stakeholder engagement, the CFPB issued a proposed rule in September 2021, received over 2,100 comments, and finalized the rule in March 2023. That final rule already incorporated substantial compromises, including raising the origination threshold from 25 to 100 loans.

The CFPB now proposes substantial changes before actually collecting any data. The Bureau frames this as an "incremental approach" similar to HMDA's evolution, but HMDA expanded over 50 years based on lessons learned from actual data collection. Additionally, lenders have already invested in compliance systems for the 2023 rule.

Research on financial regulatory uncertainty demonstrates that frequent changes to financial regulations depresses economic output, with negative impacts persisting for at least two years. Repeatedly changing the rules governing how lenders evaluate creditworthiness and collect data creates uncertainty that may cause lenders to become overly cautious, potentially restricting credit access precisely when the rules are meant to expand it.

In summary, we recommend CFPB not adopt the provisions of the proposed rule on Small Business Lending Under the Equal Credit Opportunity Act (Regulation B). Beneficial State Foundation welcomes the opportunity to provide additional data from our work and to engage constructively on approaches that advance both fair lending and financial inclusion for small businesses.

Sincerely,

Erin Kilmer Neel  
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Beneficial State Foundation  
[www.beneficialstate.org](http://www.beneficialstate.org)