January 6, 2022

Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Public Comment on Section 1071 Small Business Lending Data Collection; Docket No. CFPB-2021-0015

To whom it may concern:

We appreciate this opportunity to comment on the proposed rule for collecting small business data required by Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Section 1071 requires the Consumer Financial Protection Bureau (CFPB) to enhance publicly available small business data to include the race and gender of small business owners applying for credit. Its purpose is to “facilitate enforcement of the fair lending laws and enable communities, government entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.” Though the authors are affiliated with the Urban Institute, the views in this public comment are our own and should not be attributed to the Urban Institute, its trustees, or its funders.

Background on Small Businesses

Small businesses are an anchor of the US economy. The country’s 30.7 million small businesses account for 47 percent of all US employees (SBA 2019). Small businesses have immense influence in generating economic growth, especially through the creation of wealth in local economies. And small businesses have been found to be a key path to creating family wealth for owners (Klein 2017). But beyond economic growth, small businesses also produce social capital and build community networks in which people feel embedded. Areas with high densities of small businesses have positive outcomes related to creating entrepreneurial networks and promoting a higher quality of public health (Schnake-Mahl et al. 2018). Fostering this type of social capital is essential to sustainable economic development.

Small business ownership and prosperity are not shared equally across places and demographic groups, however. Decades of segregation and barriers to accessing capital have excluded entrepreneurs of color and those living in low-income neighborhoods from the opportunities that allow wealthier and white entrepreneurs to thrive. Evidence shows that businesses owned by people of color are less likely than those owned by white people to have employees and to generate significant revenues (Austin 2016). They are also less likely to pay competitive salaries (Litwin and Phan 2012) and to survive (Vlad 2009).

Data from the US Census Bureau’s Annual Business Survey reveal that even though Latino people are 16 percent of the overall adult population in the US, Latino entrepreneurs own only about 6 percent of all employer firms (firms that employ more people than solely the business owner). Latino-owned firms employ about 5 percent of workers, pay 4 percent of payroll, and make 3 percent of sales. Black people are also underrepresented: 12 percent of US adults are Black, but 2 percent of firms are Black owned, and Black-owned firms employ 2 percent of workers, pay 1 percent of payroll, and make 1 percent of sales. Asian people are 6 percent of adults but own 10 percent of businesses; non-Latino white people are 64 percent of adults but own 81 percent of businesses (Theodos, González-Hermoso, and Park 2021). Access to capital is one reason for disparities in business ownership and size.
Small Business Lending Disparities

The Urban Institute is the United States’ leading research organization dedicated to developing evidence-based insights that improve people’s lives and strengthen communities. One important focus area of our research is the provision of capital to support small business growth in communities. Using available small business lending data reported by banks under the Community Reinvestment Act (CRA), as well as Small Business Administration (SBA) lending data, we have been able to research regional and city- and neighborhood-level demographics.

We have found, for example, that rural areas and small cities are uniquely challenged in their abilities to access small business capital (Scally et al. 2021; Theodos, González-Hermoso, and Hariharan 2021). In forthcoming work, we find that census-designated places (such as cities) with more than 1 million people receive roughly $3,600 in CRA-reported lending annually per small business employee. Conversely, census-designated places with fewer than 25,000 people receive roughly $3,100 in CRA-reported lending annually per small business employee.

We have also found stark disparities that raise serious questions about whether and how structural dynamics, biases, and discrimination with respect to race and ethnicity are affecting provision of credit to small businesses. For example, in Chicago, the median majority-white census tract received 2.3 times the SBA-reported small business lending volume of the median majority-Black census tract, after controlling for the number of small business employees (Theodos et al. 2019). In Milwaukee, the median majority-white census tract received 1.9 times the CRA-reported small business investment of the median majority-Black census tract and 2.9 times the investment of the median majority-Latino census tract (Theodos et al. 2021). In Memphis, the median majority-white census tract received 2.6 times the CRA-reported small business investment of the median majority-Black census tract (Theodos, González-Hermoso, and Meixell 2021). In Baltimore, the median neighborhood whose population is less than 50 percent Black received 3.8 times the CRA-reported small business investment of the median neighborhood whose population is more than 50 percent Black (Theodos et al. 2020).

These dynamics do not appear to be isolated to individual cities, though disparities are more pronounced in some places than others. Yet in an unpublished analysis of national data, we also find that the median majority-white census tract receives 1.4 times the CRA-reported small business investment of the median majority-Black census tract and 1.7 times the CRA-reported small business investment of the median-majority Latino census tract.

Needs for Section 1071–Related Data Collection

The CFPB stated in its proposed rule that a lack of a comprehensive database on lending has made it difficult for stakeholders to remove barriers to equitable lending for women- and minority-owned small businesses. We agree. The analyses we can do with existing data to better understand inequities in access to small business loans have limitations that could be addressed through Section 1071 regulation. We offer a few key points for consideration:

- First, data collection under Section 1071 has been far too long delayed and in ways beyond easy explanation. Moving ahead quickly is of considerable importance.

- Second, federally backed reliable data reporting on lending has a long precedent (e.g., under the Home Mortgage Disclosure Act [HMDA]). Without intending to minimize the work required to establish Section 1071 reporting, it is worth stressing that such a reporting process be well understood in terms of conceptual, technological, and procedural steps. The SBA also makes robust loan-level data from its 7(a) and 504 programs available on its website. And the Department of the Treasury’s Community Development Financial Institutions (CDFI) Fund collects annual and place-specific data from CDFIs on their small business lending activities.
Third, data collection will help, not hinder, small businesses and their abilities to access capital. Any burdens of data collection will be more than offset in benefit. Data will be used to lift up best practices. Data will help local, state, and federal policymakers; market and mission lenders; business groups; and others. Data will also be valuable in revealing disparities, irregularities, and discriminatory practices.

Fourth, existing CRA and SBA data apply only to a narrow slice of the lending universe. Most glaringly, online “fintech” companies are largely missing. We agree that, in addition to banks, the Section 1071 rule must apply to credit unions, online financial technology companies, merchant cash advance companies, other nondepository institutions, and community development financial institutions. The finance system has evolved over the past generation, and data collection must keep pace. All lenders must comply with fair lending laws, and requiring them to disclose data on their lending activities is a highly effective way to ensure compliance. We agree with the standard that all lenders with 25 or more originations in the US in a year should be required to report data.

Fifth, we need annual data available at the loan-level and also census-tract levels, potentially with different information available at the different levels. An example to consider is the American Community Survey, where individual-level files are available at a larger geography (Public Use Microdata Areas which have roughly 100,000 people) and summary tabular data are available for all Census tracts. Both levels are necessary to understand trends for businesses and also for places. We need these data to gain insight into how many applications were received in a neighborhood, the demographic and “firmographic” characteristics of who applied, the underwriting characteristics of the application, and the pricing and other terms of originated loans. These are critically important data points to have to fully understand small business lending dynamics. At a minimum, we recommend including the following specific data points: lender names; type of lenders (e.g., bank, credit union, fintech, or merchant cash advance company); detailed data on the race, gender, veteran, and disability statuses of business owners; number of employees in the businesses (which can be binned); NAICS codes; numbers of years in business; business credit or Paydex score or at least a credit score range; whether loans are secured and whether SBA guarantees are in place; loan amounts; annual percentage rates and terms of loans; dispositions of applications, including approved, denied, and application withdrawn or left incomplete; application dates and origination dates; whether the applications are for a renewal or new loan; reasons for loan denial if denied (e.g., credit score, debt coverage, or collateral); and geographic identifiers.

Finally, to be of value, data must be presented in an easily accessible format, be made available annually, and have clear definitions and conventions for reporting partners and data users to follow. Specifically, data points collected need to be disclosed in an electronic database format available over the internet to the general public. We add that it is possible to respect personal confidentiality and privacy concerns without unduly suppressing data.

We urge the CFPB to require the collection and public dissemination of a database detailed enough to meaningfully achieve the fair lending and community development statutory purposes of Section 1071. Without these data points, drawing solid conclusions about the provision of small business credit is challenging. Thank you for the opportunity to comment on this important matter.

Sincerely,

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References


