Hope
credit union
enterprise corporation
policy institute

Hope Credit Union
Hope Enterprise Corporation
4 Old River Place | Jackson, Mississippi 39202
601-944-1100 | www.hopecu.org

Mr. Grady Hedgespeth
Assistant Director, Office of Small Business Lending Markets
Consumer Financial Protection Bureau

Jennifer A. Smith
Assistant Chief Counsel for Economic Regulation & Banking
Office of Advocacy U.S. Small Business Administration

Lindsay M. Abate
Policy Analyst Office of Information and Regulatory Affairs
Office of Management and Budget

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Please find below the comments of the Hope Enterprise Corporation / Hope Credit Union / Hope Policy Institute (HOPE) in response to the Consumer Financial Protection Bureau's outline of proposals under consideration to implement small business lending data collection requirements. HOPE appreciates the opportunity to have participated as a Small Entity Representative for the Small Business Advocacy Review Panel.

HOPE is a community development financial institution, credit union, loan fund and policy institute that provides affordable financial services; leverages private, public and philanthropic resources; and engages in policy analysis to fulfill its mission of strengthening communities, building assets, and improving lives in economically distressed areas throughout Alabama, Arkansas, Louisiana, Mississippi and Tennessee. HOPE exists to mitigate the extent to which factors such as race, gender, birthplace and wealth limit one's ability to prosper. Since 1994, HOPE has generated more than $2.5 billion in financing that has benefitted more than 1.5 million people in the Deep South.

Providing access to small business loans for historically underserved people and communities is a critical part of HOPE's activities. Between 2017 and 2019, 72% of HOPE's commercial loans were under $1 million. In 2019, over 60% of our commercial loans were to minority and women-owned businesses. In March 2020, HOPE launched a new small business loan product up to $100,000 to meet the demands and needs in our region. HOPE is both a certified Community Advantage Lender, and a participant in the SBA Paycheck Protection Program (PPP). Prior to PPP, HOPE originated about 50 business loans in a typical year, the majority of which go to businesses owned or led by women or people of color.

In response to the health and economic consequences of COVID-19, HOPE, like many CDFIs, stepped up to meet the challenges facing small businesses and to support the deployment of PPP funds.[1] As of September 15, 2020, HOPE funded 2,587 loans totaling $81 million, supporting more than 10,200 jobs in the Deep South. The majority of HOPE's PPP borrowers are businesses owned or led by people of color and women, and the majority are located in communities of color.

As the Bureau proceeds with the rulemaking, HOPE urges the following:

1. Expansive coverage, of both lenders and credit, with few exceptions, with robust information gathered to ensure minority-owned businesses are receiving fair access to capital.
2. HOPE's experience demonstrates such data collection is possible, not cost-prohibitive, and to the extent there is a cost, it is outweighed by the benefits.
3. Robust data collection is beneficial for individual lenders and borrowers, and creates a level playing field for a more robust marketplace.

Each of these recommendations is explained below in more detail. They are rooted not only in HOPE's lending practices, but also in the existing disparities in small business lending for people of color and women-owned businesses.

Existing Disparities

The current reality is that Black-owned businesses are less likely to have an existing relationship with a financial institution, just as, or more, likely to seek credit, and yet, are more likely to be denied or discouraged than white owned businesses. Fewer than 25% of Black-owned employer firms have a recent borrowing relationship with a bank.[2] This number drops to 10% among Black non-employer firms, compared with 25% white-owned non-employers.[3] These gaps in financial relationships exist even among healthy firms. According to the Federal Reserve Bank of New York's August 2020 report, *Double Jeopardy*, 73% of healthy or stable white employers have an existing banking relationship, compared to 42% of healthy or stable Black employers.[4]

Lack of access to capital is not due to Black businesses not applying for it. In fact, Black-owned firms—both employer and non-employer—apply for financing at equal or higher rates than white-owned firms but are denied at higher rates.[5] Black business owners are also more likely than white owners to report being discouraged, or not applying for financing because they believe they will be turned down. Among Black employer firms, 37.9% reported being discouraged, compared to 12.7% of white-owned firms.[6]

These disparities and experiences were present prior to COVID-19, but the Paycheck Protection Program put them on full display. This was clear from HOPE's vantage point in serving smaller businesses and businesses of color. Many of the businesses that reached out to HOPE had been underserved or unserved by traditional lenders during the PPP process. A Black dentist was not funded by a large bank, and the bank never called to check on the application. The dentist applied with HOPE, and we approved her $12,000 loan request. HOPE approved a woman-owned staffing company in Memphis, coming to us after having received no response from her regional banks. HOPE approved a $7,200 loan for a Black-owned, 27-year old barbershop in New Orleans after the owner received no help from the bank he had asked to assist him. These stories were a constant narrative in our PPP lending process, an extension of a banking system that has historically failed to serve communities of color and low-income communities with the same attention as others.

The outcomes of PPP and the impact of COVID-19 on small businesses of color, should also be top of mind when implementing1071 to ensure that minority-owned and women-owned businesses will have access to capital and be included in the country's economic recovery. Due to a range of structural barriers within PPP, businesses owned by people of color faced greater barriers in accessing these relief funds. As just one of many examples, non-employer firms were unable to apply for PPP funds for the program's first seven days, until April 10, and the first round of $350 billion was fully depleted just six days later on April 16. This exclusion of non-employer firms at the start of this program was especially significant, as over 90% of Black and Latino owned businesses are non-employer firms.[7] As of August 8, still, only 5.4% of the deployed $525 billion in PPP loans went to businesses reporting one or fewer employees.[8]

Unfortunately, there is limited data on the race of PPP loan recipients. According to the U.S. Government Accountability Office "information was not reported for business owners' race for 90 percent of approved [PPP] loans, gender for 79 percent of approved loans."[9] As such, the remaining available proxy is looking at whether PPP loans reached communities where a significant number of Black-owned businesses are located. The Federal Reserve Bank of New York found that PPP loans "reached only 20% of eligible firms in states with the highest densities of Black-owned firms, and in counties with the densest Black-owned business activity, coverage rates were typically lower than 20%."[10] The PPP's shortcomings unfolded against backdrop in which from February through the end of April, the number of Black-owned business owners declined by 41% and Latino business owners declined by 32%, compared to a decline of 17% of white business owners.[11] The disparities in access to PPP funds and COVID-induced business closures will reverberate for years in the growth and health of businesses owned by people of color. Fair access to capital in the years ahead is critical to closing the gaps it caused and perpetuated.

Section 1071 must be implemented with the recognition of the current realities faced by Black-owned businesses and other businesses owned by people of color and women. The Bureau must account for, not ignore, these disparities in order to craft a final rule best positioned to help alleviate them.

Towards this end, HOPE's specific recommendations are provided below.

1. **Expansive coverage, of both lenders and credit, with few exceptions, with robust information gathered to ensure minority-owned businesses are receiving fair access to capital.**

These realities underscore the importance of broad, expansive coverage, both in type of lenders and type of credit covered, as well as the definitions of small business, minority-and women-owned business, and application.

What financial institutions are covered

HOPE agrees with the proposal that all financial institutions should be covered, with only a limited exemption for those institutions that make less than 25 loans a year. The Bureau's own data provide that, under this option, based on call reports, roughly half of all Depository Institutions would be excluded, but it would capture 99% of small business loan originations by depositories.[12] Although the Bureau states that it considered thresholds based on higher activity levels, it does not provide information about how many depositories or small business loans would be exempt from such thresholds.

The Bureau should not make exemptions based on asset size. An exemption limit based on the number of loans is preferable to an exemption based on asset size for two reasons: (1) a sizeable number of small business loans are made by smaller financial institutions,[13] and (2) there is no data or comparable measure for asset size of non-depository institutions. The Bureau's data does not provide the number of small business loans that will be excluded due to exemptions based on asset sizes larger than $100 million.

Finally, in a region like the Deep South, with a dearth of large bank branches, communities are more likely to be served by smaller banks. Excluding small banks based on asset size may have an outsized effect of excluding a significant number of small business loans in those areas. For example, in Alabama, excluding lenders with asset size less than $100 million would exclude over 4,800 small business loans made by banks totaling over $329 million in capital. By comparison, an exemption based on less than 25 small business loans in a calendar year, only 19 small business loans totaling about $623,000 would be excluded.[14]

What types of credit are covered

The current proposal is too narrow and leaves out many products that small business lenders are accessing. The Bureau should include all that they are proposing to include, and include some that they are proposing to exclude. Specifically, HOPE supports the inclusion of merchant cash advances, factoring, and leases as part of this small business data reporting.

Merchant cash advances and factoring are generally provided online, and therefore may have disproportionate impact on borrowers of color. Data from the Federal Reserve show that minority-owned firms with 1 to 499 employees are more likely to use financing from online lenders than white firms, due in part to the perception they will be denied or discouraged by banks. See Table 1.

Table 1: Lender type used for firms with 1 to 499 employees, by race

	Bank	Online	Credit Union
Black	23%	27%	8%
Hispanic	32%	22%	4%
White	46%	19%	6%

Source: Federal Reserve Banks, 2020 Report on Employer Firms Small Business Credit Survey, https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/2020-sbcs-employer-firms-report.pdf

Failing to gather data for these products will risk creating a two-tiered reporting system, leaving out a significant amount of activity by small business owners of color seeking access to capital. Given the range of predatory practices and high-pricing within merchant cash advances and factoring, gathering data on the terms of these products, such as pricing, of this type of credit is as important as their inclusion in 1071 reporting.

In terms of consumer loans for a business purpose, the CFPB should monitor to assess the trends in this area, and if it grows, consider including it for the purposes of 1071 reporting.

What is considered a small business

The Bureau should provide an expansive definition to ensure robust and accurate data collection about the marketplace. Specifically, the Bureau should use the Small Business Administration (SBA) definition of businesses less than 500 employees and under $8 million in revenue. The Bureau's data provides that defining small businesses as those with less than $1 million in revenue, would leave out 23% - nearly one in four - of small businesses with employees.[15] By comparison, the SBA definition of businesses with less than 500 employees covers all but 63,000 minority and women-owned businesses. Even though, under this scenario, the Bureau is considering different revenue thresholds for different industry sectors other than wholesale trade and manufacturing, HOPE supports the single bright line standard of either employee size (less than 500) or $8 million in revenue, regardless of industry type.

What is considered a minority- or women- owned business

HOPE concurs with the Bureau's proposal of a definition based on more than 50% of ownership. This definition is consistent with how the CDFI Fund defines minority- and women-owned ownership. HOPE is also in agreement, and familiar with, the definitions of ownership and control that are set forth in the Financial Crimes Enforcement Network's customer due diligence (CDD) rule.

As is the case with HMDA, the data should be collected and reported on a disaggregated basis, to identify differences among different racial and ethnic groups. SBA(7)(a) lending reports already do this, and provide an informative example as to their importance. For example, between 2015 and 2020, 28% of approved 7(a) loans went to minority-owned businesses.[16] However, when looking at Black businesses alone just 2.5% of approved SBA 7(a) loan capital went to Black borrowers ($3.7 billion out of $144 billion). Having this data available for specific racial and ethnic groups is critical to understanding how their unique capital needs are, or are not being met, specifically in light of a long-history of discriminatory and exclusionary lending practices.

What is considered an application

CFPB should err on the side of inclusiveness – an oral or written request for extension of credit. This is consistent with the definition in Regulation B, which implements the Equal Credit Opportunity Act. CFPB should not use the restrictive definition of waiting until all the information is received for a completed application. HOPE commercial lending staff finds it beneficial to be able to document and remain in touch with potential small business borrowers who are in contact with us even as they are at various stages of the inquiry process.

A broad definition of applicant is not only beneficial for business purposes, but is critical to carry out the purposes of section 1071. A broad, inclusive definition is necessary to for capturing businesses who may be turned away by other lenders early in the process, which are most likely to be businesses owned by people of color. A broad definition of application will help illuminate how often business owners of color, who are less likely to have an existing financial relationship and therefore need to make inquiries to financial institutions less familiar with them or their needs, are being turned away before they even get in the door.

2. HOPE's experience demonstrates such data collection is possible, not cost-prohibitive, and to the extent there is a cost it is outweighed by its benefits.

For loans that HOPE originates, we already gather essentially all of the fields that the CFPB is proposing to collect: minority/women ownership, gross annual revenue, number of employees, loan type/purpose/pricing, length of time in business, NAICS code, race/sex/ethnicity of owner, census tract, application date, unique id, and credit amount applied for. The Bureau should also include a mechanism to gather information on credit scores. On this point, HOPE concurs with the National Community Reinvestment Corporation that creditworthiness data can be reported by buckets or percentiles.

HOPE strongly urges the collection of pricing information, including all interest and fees. It is necessary for understanding whether different quality credit is being offered to different groups. Access to credit is not helpful if it is predatory, unaffordable credit. Without pricing information, it will not be possible to carry out the purpose of Section 1071, as it would not be possible to know if borrowers of color or women-owned businesses are being offered credit on less favorable terms than their white counterparts.

HOPE offers this story as just one example of the importance of gathering pricing information:

> HOPE recently closed a loan with a minority-owned, janitorial and landscaping company in Mississippi. Owned by a father and son team, it has expanded and secured contracts in five states and operates as a second-chance employer, providing job opportunities to people who were formerly incarcerated. The company reached out to HOPE seeking help to get out of a predatory lending cycle by refinancing its highest interest predatory loan – an online small business loan carrying 55% APR. Beyond the pricing, other terms of the loans were troubling, such as requiring weekly ACH withdrawals of about $1,200, a 19-month repayment term, and in the case of default, allowing the lender to collect the loan balance in full without notice. HOPE was able to help the borrower escape the 55% APR loan and replace it with a small business loan with 8% annual interest. HOPE's help will save the business $3,900 a month in loan payments, money that is now free to invest in the growth of the business.

Given that HOPE largely collects most of this data for the CDFI Fund Transaction Level Report (TLR), it shows that such data collection is possible, even for smaller lenders. As such, in terms of one-time costs, HOPE does not anticipate significant costs, as systems are already in place to gather much of this data required. It will primarily entail updating software, training compliance, and updating materials.

In terms of ongoing costs, HOPE anticipates that adjusting to the new requirements will be a fairly minimal burden, and also greatly beneficial. Much like HMDA is now, the gathering and reporting of this data will be considered simply as part of our necessary and normal costs of doing business and built into our cost and pricing structure. HOPE does not plan on raising fees or restricting access to credit due to this effort.

To maximize efficiencies in data collection, the Bureau should coordinate with the CDFI Fund to streamline 1071 reporting requirements with CDFI Fund Certification, Annual Reporting, and Transaction Level Reports. The CDFI Fund is currently undertaking a review and improvement to its current annual reporting process for all CDFIs.[17] Areas of coordination could include consistency of definitions, the types of data collection, and the timing of required reporting. The Bureau and the Fund should explore options to streamline annual reporting requirements such as through data sharing.

3. **Robust data collection is beneficial for individual lenders, beneficial for borrowers, and creates a level playing field for a more robust market place.**

Gathering this data is not cost-prohibitive, but to the extent there is a cost, it is outweighed by the benefits. It also underscores the importance of having broad coverage in terms of covered lenders and covered credit in order to having a level playing field across all lenders. The benefits include identifying capital gaps in the market we serve, as well as being able to share HOPE's practices as a mission-based lender.

Importantly, and at the heart of 1071, this data is necessary to close the capital gap for businesses owned by people of color. Black entrepreneurs have difficulty accessing credit, often receiving less credit than white-owned businesses. In 2016, approximately 60% of Black entrepreneurs reported difficulty accessing credit and securing funds for expansion, twice the rates for white entrepreneurs.[18] Prior to COVID-19, **the credit gap in the Black business community stood between $7 and $8.5 billion**, the highest in the nation on a population-adjusted basis, in terms of unmet needs.[19]

Closing the capital gap will fuel economic growth, beneficial to lenders and the communities we serve. Prior to COVID-19, there were 2.6 million Black-owned businesses in the U.S., supporting 3.56 million jobs.[20] These jobs created by Black businesses comprise a fifth of the employed Black workforce. This number could be much higher if Black businesses had access to the necessary capital to grow. According to the Association for Economic Opportunity, if Black-owned businesses could reach employment parity with all firms, they would create nearly 600,000 new jobs.[21] And, assuming these businesses hired mostly Black employees, these new jobs could significantly reduce the rate of unemployment in the Black community.

Growing and supporting Black entrepreneurs is key to building wealth in Black communities. While white adults have 13 times the wealth that Black adults do, the gap closes to three to one when comparing the median wealth of white business owners to Black business owners. The median net worth for Black business owners is 12 times higher than Black non-business owners.[22]

Ultimately, **closing the racial wealth gap has the potential increase the national Gross Domestic Product (GDP) between $1 and $1.5 trillion by 2028**.[23] Closing the gap in access to small business capital for businesses owned by people of color is a critical pathway to closing the racial wealth gap. Lenders and businesses alike will benefit from the resulting economic activity from a fairer, more robust marketplace.

Conclusion

Collecting and using data is essential to the success of small lending entities. Data transparency and fairness should be an advantage to smaller lenders, allowing smaller entities to better distinguish our value proposition compared to larger lenders who are not in, or as familiar with the people and places we serve; or predatory lenders who prey on those most vulnerable.

Many CDFIs and smaller lenders are already collecting much of the data proposed in the CFPB outline. To the extent any additional data is required, the additions are incremental, the related costs are marginal, and are far outweighed by the benefits of this data.

There is already too high of a cost for not having these data reporting requirements in place. This is evident in continued disparities and inequities in the business credit marketplace. The limited data currently available, primarily through after-the-fact surveys of business owners about their experiences, clearly shows that there are lenders who continue to exclude businesses owned by people of color and women-owned businesses. These exclusionary lending practices, which Section 1071 has the opportunity to address, is costly to businesses, lenders, and our economy as a whole.

What we need are clear rules of the road and a level playing field, not only for lenders, but more importantly for all borrowers, regardless of their race, gender or geography. The Bureau has the opportunity to accomplish this through its Section 1071 rulemaking.

Thank you for your consideration of this information. HOPE appreciates the opportunity to participate and provide feedback.

Sincerely,

Diane M. Standaert
Senior Vice President, Policy and Advocacy
diane.standaert@hope-ec.org

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[2] Claire Kramer Mills and Jessica Battisto, Federal Reserve Bank of New York, "Double Jeopardy: Covid-19's Concentrated Health And Wealth Effects In Black Communities," Aug. 2020, at 6 https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses (Double Jeopardy)
[3] Id.
[4] Id.
[5] Id. (finding "Among Black-owned firms, 28% of nonemployers and 54% of employers applied for financing in the last 12 months, compared to 45% of white employer firms and 25% of white nonemployers).
[6] Id.
[7] Ashley Harrington, Center for Responsible Lending, Testimony Before the United States House Committee on Small Business, "Paycheck Protection Program: Loan Forgiveness and Other Challenges," June 17, 2020
[8] U.S. Government Accountability Office, "COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Action," Sept. 2020, at 59, https://www.gao.gov/assets/710/709492.pdf
[9] Id. at 62, https://www.gao.gov/assets/710/709492.pdf
[10] Double Jeopardy, at 2.
[11] Robert W. Fairlie, National Bureau of Economic Research, "The Impact Of Covid-19 On Small Business Owners: Evidence Of Early-Stage Losses From The April 2020 Current Population Survey," June 2020, https://www.nber.org/system/files/working_papers/w27309/w27309.pdf
[12] CFPB, Small Business Advisory Review Panel for Consumer Financial Protection Bureau, Small Business Lending Data Collection Rulemaking, Outline of Proposals Under Consideration and Alternatives Considered, Sept. 15, 2020, at 12, https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa_outline-of-proposals-under-consideration_2020-09.pdf
[13] See e.g., Federal Reserve Banks, 2020 Report on Small Employer Firms: Small Business Credit Survey (finding that 36% of all firms with 1 to 499 employees applied to small banks, including 32% of small firms with medium to high credit risk).
[14] Hope Policy Institute, Analysis of SBA Office of Advocacy, "Small Business Bank Lending by State,2019: Outstanding Small Business Loans by Banks Headquartered in Alabama, June2019," (reporting bank lending of small business loans under $1 million) https://cdn.advocacy.sba.gov/wp-content/uploads/2020/09/10092934/State-Tables-SBL-Report.pdf
[15] CFPB, Small Business Advisory Review Panel for Consumer Financial Protection Bureau, Small Business Lending Data Collection Rulemaking, Outline of Proposals Under Consideration and Alternatives Considered, Sept. 15, 2020, at 61, https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa_outline-of-proposals-under-consideration_2020-09.pdf
[16] SBA, "Weekly Approvals Report with data as of 09/30 for each FY," https://www.sba.gov/sites/default/files/2020-10/WebsiteReport_asof_20200930-508.pdf
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[18] Federal Reserve Bank of Cleveland, 2016 Small Business Credit Survey: Report on Minority-owned Firms, https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms
[19] Association for Enterprise Opportunity. Tapestry of Black Business Ownership in America: Untapped Opportunities for Success. Feb. 2017, https://www.aeoworks.org/images/uploads/fact_sheets/AEO_Black_Owned_Business_Report_02_16_17_FOR_WEB.pdf
[20] Id.
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[22] Id.
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