Hope credit union enterprise corporation policy institute

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

December 15, 2025

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

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

Dear Acting Director Vought:

Please find below the comments of HOPE (Hope Enterprise Corporation, Hope Credit Union, and Hope Policy Institute) in response to the Consumer Financial Protection Bureau's proposed revisions to the 2023 final rule implementing Section 1071 of the Dodd-Frank Act, which mandates small business data collection under the Equal Credit Opportunity Act (ECOA).

We also would like to note for the record that a 30-day comment period is too short for proposals as complex and significant as this, especially considering the simultaneous proposal that is related to the rollback of other provisions of ECOA's Regulation B. We respectively request that the CFPB extend the comment period by at least 60 days to ensure meaningful opportunity for stakeholders to review and provide feedback.

About HOPE
HOPE is a credit union, community development financial institution, 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, Georgia, Louisiana, Mississippi, and Tennessee. Since 1994, HOPE has generated nearly $4 billion in financing that has benefited over three million people.

Hope Enterprise Corporation began operations in 1994 as the Enterprise Corporation of the Delta, a loan fund and business development organization established to expand access to support jobs in 55 economically distressed river counties and parishes in Arkansas, Louisiana, and Mississippi. Since its first small business loan to a cabinet manufacturer in the Arkansas Delta, HOPE has made roughly 6,800 business loans totaling over $1 billion.

HOPE bridges capital access gaps successfully by deploying financial products and services designed to address the needs of entrepreneurs and by leveraging a range of private and public resources. For example, in response to the COVID-19 pandemic, HOPE and other Community Development Financial Institutions (CDFIs) utilized the Paycheck Protection Program (PPP) to respond to the disproportionate challenges facing very small businesses. HOPE's median loan

size was $14,063, and 68% of loans were to sole proprietors. One-third of HOPE's PPP loans flowed to persistent poverty counties – most of which were rural.

HOPE appreciates another opportunity to comment on the importance of small business data collection. HOPE participated as a Small Entity Representative (SER) as required by the Small Business Regulatory Enforcement Fairness Act (SBREFA) and provided comment on the proposal that informed the 2023 Final Rule. The proposed revisions represent a significant reduction in scope in which many rural and diverse businesses will suffer. Conversely, the 2023 final rule would have worked to create a more level playing field for small businesses.

In this proposed revision, the CFPB is dramatically narrowing the scope of small business data collection, obscuring significant parts of the marketplace and potentially rendering it ineffective in carrying out the statutory purpose of Section 1071. HOPE encourages the CFPB to retain the spirit of Section 1071 by:

1) Providing expansive coverage of lenders, products, and small businesses;
2) Collecting essential data to ensure fair lending; and
3) Publishing accessible, disaggregated data.

These recommendations are informed significantly by HOPE's lending practices and data. HOPE's experience demonstrates that key data can be obtained in a reasonable manner and that the benefits of data collection far outweigh any related costs. With these recommendations, the CFPB can provide an even playing field for both lenders and borrowers and strengthen the intent of Section 1071 which is to provide a more robust marketplace and stronger economy.

Pre-existing Capital Gaps Disproportionally Impact Black and Brown Businesses

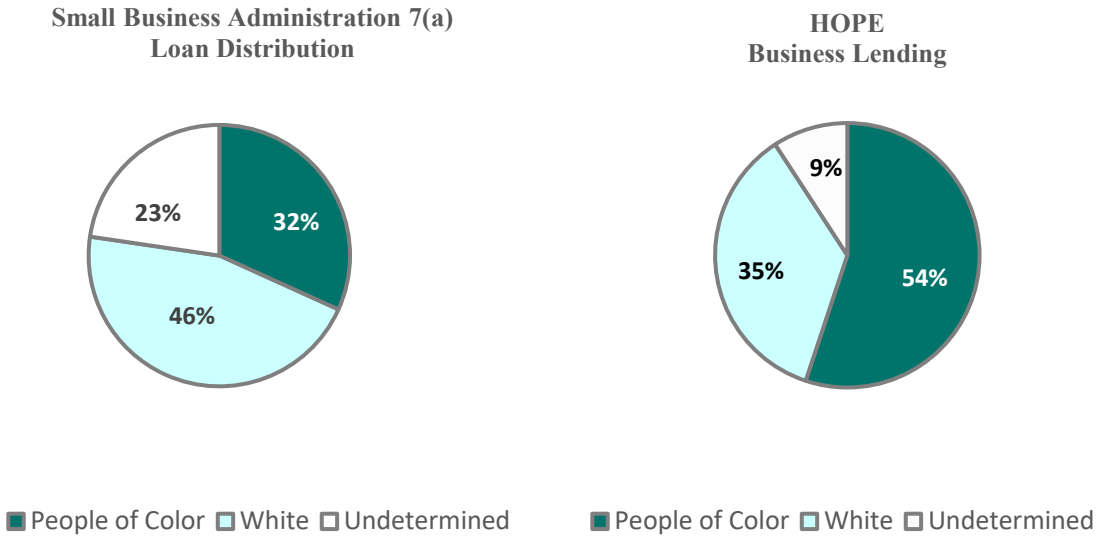
Small businesses are the backbone of local economies across this country – they account for 44% of U.S. economic activity and employ 46% of the American workforce.[1] Small businesses are the largest driver of new jobs. From 1995-2023, 60% of new jobs were created by small businesses.[2] For communities of color, small businesses are equally important and impactful. Black and Latino owned businesses represent 25% of businesses and employ over 8 million people.[3] Their importance is evident is the Deep South, also, where one in three small businesses are owned by people of color and nearly 40% are owned by women.[4]

However, for many minority–owned businesses, their impact is greatly stifled by challenges in access to capital and affordable financial services. The Federal Reserve finds in their Small Business Credit Survey that diverse businesses are less likely to have a relationship with mainstream financial institutions like banks when compared to white-owned businesses.[5] According to the most recent data available, less than a quarter (23%) of Black-owned businesses accessed credit from a bank in the five years prior to 2020 while 46% of white-owned businesses accessed credit through a bank over the same time span. New data from the Federal Reserve show that Black and Hispanic-owned businesses have the least fully approved loan applications (35% and 39%, respectively) and the highest rates of loan denials (47% and 51%,

respectively). White-owned businesses, conversely, have the highest rates of full loan approvals (56%) and lowest rates of denials (30%).[6]

This is true even for federal capital programs. In FY2024, less than one-third of SBA7(a) loans went to diverse businesses.[7] Conversely, over half (54%) of HOPE's commercial and small business loans were to businesses of color in FY2024. See Figure 1.

Figure 1: SBA 7(a) Lending Breakdown as Compared to HOPE, FY2024



Source: Small Business Administration. (2024). https://sballmstab.sbalenderportal.com/t/ExternalSBA/views/7a504SummaryReport/Report?%3Aembed=yes&%3Atoolbar=no

This lack of capital access means that diverse businesses face significant challenges with expanding capital reserves, increasing business growth, and maintaining adequate cashflow. These challenges are particularly acute given the impact of the rising costs of goods and services. In a survey sample of HOPE's business borrowers in April of this year, respondents reported that economic conditions have led over one-third (35%) of borrowers to rely heavily on credit or loans to cover basic expenses.[8]

For these reasons, to help identify and fill capital gaps in the small business marketplace, HOPE provides the following recommendations on the CFPB's proposed rule:

1) Provide expansive coverage of products, lenders, and small businesses

The CFPB is proposing to exclude several key credit transactions, financial institutions, and small business loan applications. These exclusions will serve to keep many small businesses vulnerable to predatory products and invisible in the mainstream small business lending landscape.

Covered credit transactions
The CFPB should include a broad range of credit products to best reflect the variety of ways in which small businesses seek credit. Traditional and non-traditional (merchant cash advances) forms of credit should be included. Farm lending should also be included, given the regional economic and cultural importance of farming in the Deep South. Over one-third (36%) of Black-owned farmland in the United States is in HOPE's footprint.[9] Access to capital is a determining factor in a farmer's ability to keep or expand their landholding, and Black farmers still face discrimination in accessing capital – a continuation of a decades – long history of underinvestment and discrimination.[10]

Covered financial institutions
The CFPB is proposing to exclude Farm Credit System (FCS) lenders and financial institutions that originate 999 credit transactions or less for two consecutive years, each. As previously stated during the SBREFA process, HOPE recommends covering all lenders that make more than 25 loans each year for two years. Many businesses in the Deep South are likely to be served by smaller banks that individually may have smaller loan volumes but may account for a disproportionately significant amount of lending in their local community.

HOPE continues to oppose an asset-based threshold for the purposes of determining a financial institutions' coverage by this rule. As noted in our comments during the SBREFA process, an exemption limit based on the number of loans is preferable to an exemption based on asset size for two reasons: (1) sizeable number of small business loans are made by smaller financial institutions[11] and (2) there is no data or comparable measure for asset size of non-depository institutions.[12] 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.[13]

Covered small businesses
HOPE urges the CFPB to define a small business as a business with less than 500 employees and under $8 million in revenue, as was stated in our public comment during the SBREFA process.[14] Having an expansive definition of small business is particularly important given that the CFPB proposes to collect only the data for lending to businesses that meet the definition of small businesses, but not businesses owned by women or people of color that fall outside of this definition. Disparities in mortgage lending show that income does not ameliorate racial discrimination. Recent data from HMDA shows that Black applicants earning over $150,000 face similar denial rates than white applicants earning between $30,000 and $50,000.[15]

Ensuring that high-revenue businesses are treated fairly in the lending marketplace is vital to growing the economy, particularly one where borrowers of color encounter challenges in securing the capital they need to grow and sustain their business. The CFPB's proposal to shift

thresholds from $5 million to $1 million in gross revenue is a stark retrenchment in eligible businesses to be covered by the rule which will unnecessarily deprive fair lending protections to small businesses owned by women and people of color and inhibit their growth trajectories.

Ensuring these businesses have access to the capital they need is strongly aligned with the community development purpose of Section 1071 and with HOPE's efforts to ensure greater participation of diverse businesses in the development of affordable housing, community facilities, and state and federal contracting. In each of these areas, diverse businesses and developers are woefully underrepresented. Access to credit will be necessary to ensure they are equipped to participate in these community-stabilizing, wealth-building opportunities.

2) Collect essential data to ensure fair lending

Although the CFPB is proposing to include some discretionary data points beyond what the statute requires, it is also proposing to exclude discretionary data points for application method, denial reasons, pricing information, and number of workers. The exclusion of these data points will make it nearly impossible to determine whether someone is receiving fair credit on fair terms. Of particular importance is collecting data on pricing and denial reasons. Providing data on loan pricing e.g. interest rates, origination charges, etc. and reasons for denial will help ensure that users of the data are
comparing applicants with similar profiles, thereby controlling for factors that might provide non-discriminatory explanations for disparities in credit and pricing decisions.

We further support the inclusion of credit scores and business structure. Without credit score, it is unclear if business owners are getting similar rates of financing if they are similarly situated, all things else considered equal. Credit scores are a critical component in accessing capital and determining interest rates. This data can help determine disparities in pricing given that other data pricing data will be collected. Collecting credit scores will show instances in which white businesses with poorer credit scores get lower interest rates when Black businesses get higher interest rates with higher credit scores.

Without business structure, the CFPB will overlook critical racial dynamics of the small business market in the Deep South – 96% of businesses in the Deep South are non-employer firms.[16] They represent a sector of business that offers ease of entry and flexibility for many Americans, but if financial institutions are not required to report on lending and applications by business structure and credit score, less information is available to determine whether or not discrimination may be occurring in certain market segments.

Business structure can lead to differential lending experiences for several reasons. One may be bias from the lending institution. Financial institutions may perceive certain business structures as representing different levels of expertise or sophistication of the business owner, thus, leading to different treatment. Another reason may be structural differences in underwriting processes due to differences in treatment of profits and losses for tax purposes based on business structure. Without the information about business structure, it will not be possible to identify

gaps in capital access such as whether non-employer corporations receive more or better capital than non-employer sole proprietors – the latter of which are more likely to be owned by people of color.

3) Publish accessible, disaggregated data

Even if all the right data are collected, it will not be meaningful if there is not a transparent and efficient way to review and analyze the data. The CFPB should publish the data on its website in a downloadable and searchable fashion, similar to how HMDA data is currently available. If the data were only available by request to individual lenders, it would essentially be unusable for researchers to identify wrongful actors and trends across the country.

We also urge the CFPB to produce state-by-state level reports in addition to national aggregate data trends. The state-by-state reports are critical to assessing differences within different states in our market, as well as being able to see how these trends differ from national trends. The CFPB should also consider aggregate reports that include an examination of trends for rural areas and for persistent poverty counties, and in particular, rural persistent poverty counties.

As with the publication of HMDA data, there are sufficient protections in place to guard against the release of individual borrower data and maintain the provision of robust information about the lending activities of specific financial institutions. By making the data accessible, the CFPB will ensure a more fair and transparent marketplace, benefitting small businesses, lenders, and our communities.

Existing research on lending disparities, such as those produced by the Federal Reserve and others cited here, provide important insights into capital access and underscore the importance of broad, easily accessible publication of data collection under Section 1071. Existing reports on business lending primarily rely on survey data to identify small business trends by race, business industry, and other key identifiers, where available. These surveys, however, cannot describe small business lending outcomes as thoroughly or accurately as Section 1071 has the potential to do.

Conclusion

Section 1071 must include the appropriate guard rails to ensure a fairer marketplace. In addition to finalizing a rule closer to the 2023 final version, the CFPB should continue to move towards implementation, without further delay. With the appropriate coverage and scope, the proposed rule will quantify and make transparent the extent to which financial institutions serve business owners of color and other marginalized groups.

In an increasingly diverse nation, closing the small business capital gap is key to building a robust, equitable economy.

Sincerely,

William Bynum

Kiyadh Burt

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[1] Small Business Administration (2024). "Frequently Asked Questions: July 2024". https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf

[2] Id.

[3] Id.

[4] Hope Policy Institute Analysis of Annual Business Survey Program (2024) Statistics for Employer Firms by Industry, Sex, Ethnicity, Race and Veteran States for the U.S., States, and Metro Areas, https://data.census.gov/table/ABSCS2023.AB2300CSA03?hidePreview=true ; Annual Business Survey Program (2024) Statistics for Non-Employer Firms by Firms by Industry, Sex, Ethnicity, Race and Veteran States for the U.S., States, and Metro Areas, https://data.census.gov/table/ABSNESD2023.AB2300NESD01?q=ab2300*

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[8] Hope Policy Institute. (2025). "HOPE Member Pulse Survey: Initial Insights". http://hopepolicy.org/blog/hope-member-pulse-survey-initial-insights/

[9] Census Bureau. (2022). "" 2022 Census of Agriculture Highlights: Black Producers". https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_BlackProducers.pdf

[10] For further discussion of the importance of including merchant case advances and agricultural lending for Deep South communities, see HOPE's comment during the SBREFA process, https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa-report.pdf,; and HOPE's 2020 comment to the proposed rule for Section 1071, http://hopepolicy.org/manage/wp-content/uploads/FINAL-HOPE-Section-1071-Comment-01-06-22.pdf

[11] Federal Reserve Banks. (2025). "2025 Report on Employer Firms: Findings from the 2024 Small Business Credit Survey".https://www.fedsmallbusiness.org/-/media/project/clevelandfedtenant/fsbsite/reports/2025/2025-report-on-employer-firms.pdf

[12] See HOPE's comment during SBREFA process for more discussion of asset-sizes, https://files.consumerfinance.gov/f/documents/cfpb_1071-sbrefa-report.pdf

[13] Hope Policy Institute, Analysis of SBA Office of Advocacy, "All Lenders by State and Territory making Small business Loans of $1 Million or less, CRA Data 2019," https://advocacy.sba.gov/wp-content/uploads/2022/07/Appendix-Tables_2020-508c.xlsx

[14] See HOPE, Comments as a Small Entity Representative to the CFPB's Small Business Review Panel, November 19, 2020, available at http://hopepolicy.org/manage/wp-content/uploads/FINAL-HOPE-Comments-1071-Rulemaking-11-19-2020.pdf

[15] Sara Miller (2025). "Black Households Face Higher Mortgage Denials than White Applicants, Research Finds". HOPE Policy Institute. http://hopepolicy.org/blog/black-households-face-higher-mortgage-denials-than-white-applicants-research-finds-2/

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