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Comment Intake—1071 Reconsideration NPRM
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Delivered electronically via: <https://www.regulations.gov>

RE: Proposed Rule and Request for Public Comment on the Small Business Lending Rule under the Equal Credit Opportunity Act (Regulation B) [Docket No. CFPB-2025-0040; RIN 3170-AB40]

To Whom It May Concern:

On behalf of the Defense Credit Union Council (DCUC),¹ thank you for the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) proposed rule and request for public comment relating to the Equal Credit Opportunity Act (ECOA) and its implementing Regulation B. DCUC represents credit unions that serve active-duty military, veterans, and their families worldwide.

The CFPB is proposing revisions to certain provisions of Regulation B, subpart B, which implement changes to ECOA made by Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Specifically, the CFPB is reconsidering coverage of certain credit transactions and financial institutions; the small business definition; inclusion of certain data points and how others are collected; and the compliance date. The CFPB believes its proposed changes would streamline the rules, reduce complexity for lenders, and improve data quality further advancing the purposes of Section 1071 and complying with recent executive directives.

DCUC appreciates the CFPB's efforts to reconsider and streamline the Section 1071 rule to reduce complexity, narrow requirements, and better account for the differences among lenders. We strongly support the CFPB's recognition that the 2023 final rule implementing Section 1071 imposed unnecessary burdens on smaller and less complex financial institutions and that a more narrowly tailored rule better addresses the intention of Section 1071.

I. DCUC's General Position

¹ The Defense Credit Union Council represents more than 200 defense-affiliated credit unions and over 40 million members—including active-duty servicemembers, Guard and Reserve personnel, veterans, Department of War civilians, and military families.

As we have consistently stated throughout the multiyear Section 1071 rulemaking process, DCUC believes that credit unions should be exempt from the Section 1071 reporting requirements.

When Congress passed the Dodd-Frank Act in 2010, Section 1071 amended ECOA to require that financial institutions collect and report to the CFPB certain data regarding applications for credit for women-owned, minority-owned, and small businesses. The CFPB worked on regulatory requirements for Section 1071 for many years and sought informal and formal feedback from stakeholders on several occasions.¹ Throughout this entire time, the credit union industry has attempted to educate the CFPB on the different credit union model, the fact that credit unions are limited in business lending due to their member business lending cap thereby decreasing the usefulness of any data collected and reported, and that based on these circumstances, credit unions should be exempt from these reporting requirements.¹ The credit union industry made the point many times that due to legal limitations on credit union business lending, any data collected on business lending from credit unions would have little value but would add greatly to the industry's regulatory burden.

Now that the CFPB is again asking for public comments on proposed regulations implementing Section 1071, DCUC will again provide the same position that this rule does not have practicality regarding credit unions and only poses an additional compliance burden with no benefit served. We therefore ask the CFPB to exempt credit unions from the Section 1071 reporting requirements.

If the CFPB continues to include credit unions within the scope of the regulatory requirements, we generally support the changes made by this proposal, subject to the comments outlined below.

II. General Direction of Rulemaking

DCUC supports the CFPB's willingness to adopt more modest data collection requirements and a more targeted regulatory approach, as we believe this is better policy and more closely aligns with the statutory purposes of Section 1071. We also support the CFPB's willingness to implement Section 1071 without using its discretionary authority to expand the statutory requirements.

Furthermore, DCUC supports the CFPB's assessment that Section 1071's previous regulatory requirements did not properly account for the operational differences among lenders, especially

² Since Section 1071 became law in 2010, the CFPB has sought public comment from stakeholders numerous times; held a field hearing and published a request for information in 2017; published a survey to collect information about industry costs, released an outline of proposals under consideration, and convened a Small Business Review Panel with small entity representatives in 2020; published a proposed rule in 2021; published a final rule in 2023; and published interim final rules in 2024 and 2025 to extend the rule's compliance dates.

³ See 12 CFR § 723.8(a) ("The aggregate limit on a federal insured credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of the Federal Credit Union Act.").

smaller and community-based institutions. We agree with the CFPB’s statement that “the 2023 final rule should have given more weight to qualitative differences among certain types of lenders and the likelihood that smaller lenders would face difficulties addressing the complexity of a rule of broad scope, both of which could potentially diminish the quality of the data they collect.”¹ We reiterate that these considerations support a full exemption for credit unions per our previous comments.

III. Covered Credit Transactions

DCUC supports the CFPB’s proposal to focus initial data collection efforts on core lending products that are most likely to be foundational to small businesses’ formation and operation such as loans, lines of credit, and credit cards, and to exclude merchant cash advances (MCAs), agricultural lending, and small dollar loans from the definition of covered credit transaction at this time.

We agree that while MCAs have characteristics of regular loans, they have a different structure, and it is questionable whether they meet the definition of “credit” under ECOA and Regulation B. We also support the exclusion of agriculture lending, which better aligns the rule with the statutory intent of Section 1071.

With respect to small-dollar business credit, DCUC supports the exclusion of small dollar business credit transactions of \$1,000 or less but recommends expanding the exemption to include loans of \$5,000 or less, which would further reduce regulatory burden without undermining the rule or Section 1071’s objectives. We believe this amount is a more reasonable limit.

IV. Coverage Thresholds

DCUC strongly supports the CFPB’s proposal to raise the covered origination threshold from 100 to 1,000 transactions and to exclude Farm Credit System lenders. We recommend increasing the threshold further, to at least 2,000 covered transactions, which would more effectively limit regulatory burden on smaller lenders, including many credit unions, while preserving meaningful data collection from larger market participants. We believe that this higher threshold better aligns with the President’s Executive Order 14192, which directs federal agencies to review current regulatory requirements for regulatory burden.¹ If the CFPB finalizes the threshold at 1,000 covered credit transactions as proposed, we urge the agency not to decrease this threshold in future years, as doing so could discourage lending activity and decrease credit availability.

DCUC also supports the CFPB’s proposal to revise the definition of “small business” by lowering the gross annual revenue threshold in the rule’s definition from \$5 million or less to \$1 million or less. This change better reflects the statutory intent of Section 1071, aligns with other regulatory frameworks such as Community Reinvestment Act provisions for “smaller

⁴ 90 Fed. Reg. 50953 (Nov. 13, 2025).

⁵ Exec. Order No. 14192, *Unleashing Prosperity Through Deregulation*, 90 Fed. Reg. 9065 (Feb. 6, 2025).

businesses,” and would reduce compliance burden for credit unions while still capturing the vast majority of actual small businesses.

Furthermore, DCUC supports the CFPB’s proposed changes to the inflation adjustment provision in § 1002.106(b)(2) to require adjustment in \$100,000 increments (rather than \$500,000) every five years after 2030 (rather than 2025).

V. Data Points

DCUC strongly supports the CFPB’s proposal to limit required data collection to those data points expressly mandated by Section 1071, including a minimal number of data points only to facilitate compliance with the statute.

Section 1071 provides for two types of data points, those statutorily required under ECOA section 704B(e) and discretionary data points based on CFPB discretion provided for in ECOA section 704B(e)(2)(H). In the CFPB’s previous rulemaking on 1071, it finalized several discretionary data points that were not expressly required in Section 1071, such as data points on pricing information, time in business, North American Industry Classification System (NAICS) code, number of workers, application method, application recipient, denial reasons, and number of principal owners. We support the removal of all discretionary data points, including the data points for application method, application recipient, denial reasons, pricing information, and number of workers. As credit unions and other stakeholders have previously noted in comments and in the small business review panel conducted under the Small Business Regulatory Enforcement Fairness Act (SBREFA) requirements, the cost of including additional points of data does not justify the benefit the data may provide.

Additionally, the data points added by the CFPB in its 2023 rulemaking—including application method, application recipient, and number of workers—were not critical to the purpose of Section 1071. The CFPB’s discretionary authority under Section 1071 should be exercised judiciously and not used as a tool for the agency to collect information from the industry for futile purposes or just because it can. If any data points are added under the CFPB’s discretionary authority, there should be a strong policy purpose and justification for their addition.

VI. Time and Manner of Collection

DCUC supports the CFPB’s proposal to revise the time and manner of collection provisions to remove prescriptive requirements that are not statutorily required and appear to anticipate or presume non-compliance by financial institutions. DCUC also supports the CFPB’s proposed provision that would emphasize for applicants the statutory rights under the rule.

Section 1071, as implemented by Regulation B, subpart B, creates binding obligations for covered financial institutions to ask small business applicants for credit for their demographic information, but it includes no requirements regarding how institutions must ask for the information. By contrast, the 2023 final rule imposed obligations in § 1002.107(c) based on theoretical concerns that institutions would seek to evade compliance by discouraging applicants from providing their information or otherwise interfering with applicants providing their data.

DCUC agrees that the current provisions regarding discouragement focus on problems that do not exist and are therefore redundant and unnecessary. We also agree with the CFPB’s proposal to revise provisions concerning the time and manner of collection in order to provide compliance guidance instead of prescriptive requirements.

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VII. Compliance Date

DCUC supports the CFPB's proposal to establish a compliance date of January 1, 2028, for all financial institutions that remain covered by the rule. We also support eliminating the tiered compliance structure in favor of a single compliance date. This clear and simple approach is best for the industry and small businesses.

Given the significant revisions proposed in this rulemaking and the need for systems updates, training, and changes to policies and procedures, the additional compliance time is critical. We also believe that the CFPB should finalize this compliance date amendment in advance of finalizing the proposed rule's other changes, so financial institutions have certainty on the timing of any obligations before waiting for the completion of the final rulemaking.

Furthermore, DCUC supports the CFPB's proposal to revise § 1002.114(c)(3) and its commentary to require a financial institution to count its originations of covered credit transactions in each of calendar years 2026 and 2027 to determine compliance on the proposed compliance date of January 1, 2028. Referring to the number of originations during calendar years 2026 and 2027 would be more accurate in determining which institutions should comply with the rule starting in January 2028.

DCUC appreciates the CFPB's efforts to streamline and improve the Section 1071 regulatory requirements. We urge the CFPB to exempt credit unions from the reporting requirements or, at a minimum, adopt the proposed changes including our feedback in a manner that reduces regulatory burden while preserving Section 1071's intent.

DCUC is eager to be a resource to the CFPB as it continues its efforts to complete this rulemaking and streamline other regulatory requirements. Please contact me at Jason.Stverak@dcuc.org with any questions on this rulemaking or other matters that impact credit unions.

Sincerely,



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