

LEGAL UPDATES

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CFPB Finalizes Revised Section 1071 Rule: A Narrower Framework with a 2028 Compliance Date

The CFPB has finalized its long-anticipated revision to the Section 1071 small business lending data collection rule, published in the Federal Register on May 1, 2026. The final rule (Docket No. CFPB-2025-0040; RIN 3170-AB40) amends Regulation B, subpart B, by substantially narrowing the scope of the 2023 original, contracting coverage to larger lenders, core lending products, and a smaller universe of small businesses, while stripping out several of the discretionary data points that drew the sharpest industry criticism. If you have been tracking this rule, very little in the final product will surprise you—the Bureau hewed closely to the proposed November 2025 rule. But with a single, unified compliance date now on the books, it is worth taking stock of where things stand.

A quick look back

Congress enacted Section 1071 of the Dodd-Frank Act in 2010 to require financial institutions to collect and report data on small business credit applications, with the dual purpose of facilitating fair lending enforcement and identifying credit access gaps for women-owned, minority-owned, and small businesses. The CFPB published the original implementing rule in May 2023, but it was immediately challenged in three separate federal courts, *Texas Bankers Association v. CFPB* (S.D. Tex.), *Monticello Banking Co. v. CFPB* (E.D. Ky.), and *Revenue Based Finance Coalition v. CFPB* (S.D. Fla.), all of which stayed compliance deadlines for plaintiffs and their members. The Bureau issued two rounds of compliance-date extensions in 2024 and 2025 to address the resulting patchwork, and in November 2025, the Bureau proposed a substantial rewrite of the rule itself. That proposal generated approximately

410 comments before the December 15, 2025 deadline, and the Bureau has now finalized it with changes that track the proposal closely.

Key changes in the final rule

The final rule makes five categories of substantive changes:

Coverage threshold: the origination threshold rises from 100 covered credit transactions to 1,000, measured over each of the two prior calendar years, exempting most community banks, credit unions, and smaller non-bank lenders from coverage entirely.

Small business definition: the gross annual revenue ceiling drops from \$5 million to \$1 million, focusing the rule on what the Bureau now characterizes as “truly small businesses.”

Covered transactions: merchant cash advances, agricultural credit, and loans under \$1,000 are expressly excluded from the definition of “covered credit transaction,” a significant departure from the 2023 rule that had swept in MCAs and agricultural lending. Farm Credit System lenders are excluded from the definition of “covered financial institution” altogether.

Data points: the final rule removes the discretionary data points for application method, application recipient, denial reasons, pricing information, and number of workers, leaving a leaner set focused on the data points Congress specifically identified in the statute, plus a limited number of operational fields.

Demographic data: consistent with Executive Order 14168, the final rule removes the LGBTQI+-owned business data point and adopts a binary male/female sex field for principal owners’ demographic data.

The effective date is 60 days after Federal Register publication (approximately July 1, 2026), and the compliance date, meaning the date by which covered institutions must begin collecting data, is **January 1, 2028**, with a grace period through December 31, 2028. The Bureau intends to address data privacy and publication protocols in separate notice-and-comment rulemaking, likely after the first full year of data collection.

Where does litigation stand?

Three industry-side lawsuits remain pending. The Fifth Circuit stay in *Texas Bankers* remains in place for plaintiffs and intervenors, but the revised rule makes much of the underlying controversy moot from a practical standpoint. The *RBFC* case in the Southern District of Florida is likely headed

toward dismissal or abeyance now that MCAs are expressly excluded from coverage—the Bureau’s about-face on that issue mirrors RBFC’s core litigation theory. The *Monticello* case in Kentucky remains paused.

On the other side, *Rise Economy v. Vought*, filed in the D.C. district court by a coalition of consumer advocates, seeks to compel implementation of the broader 2023 rule and is the litigation vehicle most likely to generate a challenge to the 2026 final rule on APA grounds. Expect a new complaint or amended pleading shortly after Federal Register publication.

What this means for your business

For lenders that fall below the 1,000-origination threshold, which at that level means most community banks, credit unions, and smaller non-bank lenders, the immediate compliance burden is significantly reduced, though it is worth confirming whether your institution or your bank partner’s institution reaches that threshold. For MCA providers, sales-based financing companies, factors, and agricultural lenders, the express exclusion from coverage means 1071 compliance is off the table for the initial collection period, though state-level commercial finance disclosure laws continue to apply and should remain front of mind.

For institutions that remain covered, primarily larger banks and non-bank lenders originating at meaningful volume, the January 1, 2028 date is firm and provides roughly 18 months to build or refine data collection infrastructure. The Bureau has signaled it plans to publish compliance resources well in advance of that date, but institutions should not wait for guidance to begin assessment work.

The CFPB has framed this as the first iteration of what it expects to be a long-term, incrementally expanding data collection regime, explicitly drawing the analogy to HMDA’s 50-year evolution. Whether future administrations expand or contract the rule remains to be seen. For now, this is the operative framework.

Contact us

We’ll continue monitoring the developments of the Revised Section 1071 Rule. In the meantime, reach out to Chris Friedman, Marci Kawski, Alex McFall, Shelby Lomax, or another member of Husch Blackwell’s Consumer Financial Services or Alternative Commercial Finance teams for guidance tailored to your specific programs.