

LEGAL UPDATES

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Fifth Circuit Stays 1071 Rule: A Victory, but Not for Everyone

The Fifth Circuit Court of Appeals has granted a stay in the case challenging the Consumer Financial Protection Bureau's (CFPB) Small Business Lending Rule, also known as Dodd-Frank Section 1071. This rule, stemming from the Dodd-Frank Act, mandates that financial institutions collect and report data on loan applications from women-owned, minority-owned, and LGBTQI-owned small businesses. This is welcome news for the industry – but not for everyone. The Fifth Circuit Court of Appeals limited the scope of its order to plaintiffs and intervenors. Consequently, covered financial institutions outside the scope of the current order should proceed apace until the entire rule is scrapped or tolled.

A tumultuous time for the CFPB

This stay comes amidst significant upheaval at the CFPB following the recent presidential election. President Trump removed Rohit Chopra as CFPB Director and appointed Treasury Secretary Scott Bessent as acting director. Almost immediately, Secretary Bessent ordered a complete halt to nearly all CFPB activities, including rulemaking, litigation, enforcement, and communications. CFPB lawyers were instructed to seek pauses in all active litigation. This decision reflects a shift in regulatory philosophy, with the new administration signaling a move away from its aggressive posture under former CFPB Director Rohit Chopra.

The Fifth Circuit's order: a partial stay

In the case before the Fifth Circuit, the CFPB initially requested a 90-day pause to allow the acting director to review the issues. However, the court's order goes further than that initial request. The Fifth Circuit has granted a stay of the rule and has tolled the compliance deadlines for the plaintiffs and intervenors in the case **until the litigation is resolved**. This means that the

financial institutions that are plaintiffs and intervenors in the case, and which are challenging the rule, are not required to comply with the rule’s deadlines while the appeal is ongoing.

Critically, **the stay does not apply to the entire financial services industry.**

Implications for other financial institutions

The fact that the court’s order only applies to the plaintiffs and intervenors means that the compliance dates for the Section 1071 Rule are still potentially applicable to most of the industry. The original compliance dates for the rule are:

DODD-FRANK 1071 COMPLIANCE DATES

RELEVANT DATES	HIGHEST VOLUME LENDERS (TIER 1)	MODERATE VOLUME LENDERS (TIER 2)
ORIGINAL COMPLIANCE DATE	OCTOBER 1, 2024	APRIL 1, 2025
NEW COMPLIANCE DATE	JULY 18, 2025	JANUARY 16, 2026
FIRST FILING DEADLINE	JUNE 1, 2026	JUNE 1, 2027

Source: Consumer Financial Protection Bureau, <https://www.consumerfinance.gov>

Potential for further action

Given the limited scope of the stay, other financial institutions and trade associations may now consider seeking to intervene in the case. Intervention may allow other entities to request a modification of the court’s order to include other trade groups and their members. It is also possible that the CFPB may choose to formally repeal the rule or extend the deadlines for all industry participants, but as of now, that remains to be seen. In this specific case, the plaintiffs have asked the court to require the CFPB to provide a status update within 30 days, and if they plan to repeal the rule.

What this means to you

While the Fifth Circuit's stay is a positive development for the specific plaintiffs and intervenors in this case, it is not a blanket reprieve for the entire financial industry. Companies must understand that the compliance deadlines for the 1071 rule may still apply. As such, it's critical that financial institutions pay attention to how this litigation develops. We're keeping our ears to the ground and will make sure to keep you updated as developments emerge.

Contact us

If you have questions about this litigation or the compliance deadlines for the 1071 rule, please contact Chris Friedman or your Husch Blackwell attorney.