

# 7

Steps Towards

## Section 1071 Readiness

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# **7 Steps Towards** **Section 1071 Readiness**

A recent status report filed with the court by the Consumer Financial Protection Bureau (CFPB) indicates the CFPB is on track to issue the final rule for data collection under Section 1071 of the Dodd-Frank Act (DFA) no later than March 31, 2023. Once the final rule is released, it will be a sprint to complete implementation. Take these seven steps to put your institution on the path to readiness for small business data collection:

## **1. Review Your Institution's Lending Volume**

Assuming the final rule is consistent with the NPRM, determine whether your institution would qualify as a covered financial institution. Review the categories and counts of covered credit products you offer.

## **2. Evaluate Your Originations Process for Each Covered Small Business Credit Product**

Does your institution have formal applications for small business loans? If not, creating a standardized application or set of application data points will facilitate compliance with the final rule. If processes are manual, inefficient or prone to error, this may be an opportunity to streamline or automate them.

## **3. Analyze Collected Data Points**

To the extent currently permitted by Regulation B, does your institution collect the proposed data fields? Analyze your existing standardized applications or data requirements to see which of the non-demographic data points in the NPRM are currently being collected, and identify those that are not retained in a manner that permits reporting.

## **4. Test Current Data Accuracy**

Each covered financial institution will be required to have adequate procedures reasonably designed to accurately collect and report small business loan data, including expected sample sizes and error tolerance thresholds (per *Proposed Appendix H to Part 1002*). First, determine whether your institution's current data conforms with these thresholds, and identify any data points that could pose particular difficulty. It may be useful to test

current data accuracy by comparing electronic data to credit memos or other source materials. Excessive data errors indicate areas for improvement before required collection begins.

## 5. Assess Third-Party Risk

Institutions, including fintechs, will need to assess third-party risks associated with the NPRM. As loan origination systems (LOS) are critical platforms, ensure affected LOS vendors are aware of the pending Section 1071 requirements, and are able to capture the necessary data by the time the rule takes effect. Pay close attention to firewall requirements if your LOS vendor can provide segregation of the demographic data. If you plan to conduct regulatory submissions outside of your LOS, ensure any vendors used in the process are also on track for meeting regulatory submission requirements.

## 6. Incorporate Business Credit in Your Fair Lending Analyses

This is a good time to evaluate your current fair lending monitoring, testing, analysis, and reporting. If your institution's compliance management system does not currently include small business loans, it's time to make that change. ***Ask yourself these questions around your institution's reporting and control functions:*** Do business units have appropriate quality control functions around data accuracy and adverse action notices for small business credit applications? How much underwriting and pricing discretion exists in business lending units? Are you currently conducting redlining analyses of small business and small farm lending? Have you included small business lending in your fair lending underwriting and pricing regressions? Do you conduct comparative file reviews of business underwriting and pricing decisions?

## 7. Establish Internal Working Groups

Institutions may benefit from putting together one or more working groups to develop an implementation program. These groups can analyze data accuracy, technology preparedness, and can mitigate potential risks pre-implementation. Once the rule is finalized, you'll already have a committee(s) in place to update compliance policies, procedures, and processes, and to develop necessary training curricula.



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We provide data-driven, technology-enabled advisory, implementation, and staffing solutions to the regulatory compliance, risk, credit, financial crimes, and capital markets functions of our clients.

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