

CFPB Hits Back on Trade Groups' Challenge to Small Business Lending Rule (Section 1071)

Alert

04.22.2024

By Anastasia D. Stull

On April 12, 2024, the Consumer Financial Protection Bureau (CFPB) and its director Rohit Chopra asked U.S. District Judge Randy Crane to grant summary judgment and dispense with an industry-backed challenge to the requirement that small business lenders collect and report loan data. The American Bankers Association (ABA) and other lender trade groups [took aim at the final rule](#) mandated under Section 1071 of the Dodd-Frank Act in the 5th U.S. Circuit Court of Appeals almost a year ago, and had also [filed their own request](#) for summary judgment approximately one month ago.

The rule would require a broad range of banks, FinTechs and other small business lenders to report on certain applicant demographics, pricing and approvals. The ABA and other trade groups opposed the rule and claimed that the CFPB is asking for far more data than the law allows – 81 data points versus the 13 mandated – in addition to asserting that the obligations will overburden lenders. The plaintiffs and several other trade groups in the auto finance industry have also expressed their view that the rule presents significant privacy concerns by virtue of requirements to collect and publish non-public applicant data. In its brief, the agency claims the trade groups are exaggerating the amount of data requested and points back to Congress as the party responsible for enacting the rule.

The implementation of the final rule has been halted pending a decision in *CFPB v. Community Financial Services Association of America et al.* concerning the constitutionality of the agency's method of funding, which could come as early as this week.

For more information on the small business lending rule, please contact [Anastasia D. Stull](#), [Michelle A. Fox](#), [Thomas C. Witherspoon](#) or one of the attorneys listed below or the Stinson LLP contact with whom you regularly work.

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