



December 14, 2020
The Consumer Financial Protection Bureau
Washington DC.

Via Email to 2020-SBREFEA-1071@cfpb.gov

Re: Outline of Proposals Under Consideration and Alternatives Considered for Section 1071 of the Dodd-Frank Act

To: The Consumer Financial Protection Bureau (Bureau),

The National Association of Industrial Bankers (NAIB)¹ and the Utah Bankers Association (UBA)² appreciate the opportunity to comment on the important topic of the Outline of Proposals Under Consideration and Alternatives Considered for Section 1071 of the Dodd-Frank Act released by the Bureau.

We acknowledge that several important organizations, companies, and individuals will be responding with detailed information regarding these proposals.

Without unduly repeating many of the concerns and recommendations others will provide, we wish to emphasize the following general observations.

¹NAIB is a trade association comprising of state-chartered Industrial Loan Corporations (ILCs). First chartered in 1910, industrial banks operate under a number of titles including industrial loan banks and industrial loan corporations. These banks engage in consumer and commercial lending on both a secured and unsecured basis. They do not offer demand checking accounts but do accept time deposits, savings deposit money market accounts and NOW accounts. Industrial banks provide a broad array of products and services to customers and small businesses nationwide, including some of the most underserved segments of the US economy. Our members are chartered in California, Nevada and Utah.

² The UBA is the professional trade association for Utah's commercial banks, savings banks and industrial banks. Established in 1908, the UBA serves, represents and advocates for the interests of its members, enhancing their ability to be preeminent providers of financial services.

Simplicity

Overall, we respectfully request that the Bureau make every effort to refine and adopt proposals that are simple and easily understood by all. Simplicity is in the best interests of consumers, lenders, regulators, advocacy organizations, and others who share a deep commitment to transparency and fairness. Unneeded complexity defeats the purpose of the Bureau in its endeavor to help consumers.

A classic example of an unnecessary burden that does little to help consumers or lenders is the Home Mortgage Disclosure Act (HMDA). There is a strong recognition that oversight of financial service institutions through HMDA is extremely burdensome to financial institutions without conveying a nearly commensurate benefit to the consumers. Thus, it would be unfortunate for all Americans if the Section 1071 proposals were structured and enforced similar to HMDA.

Our association strongly recommends that the Bureau adopt only what is clearly mandated by the Dodd-Frank Act, without adding any additional cumbersome requirements. The Bureau should be sensitive to the fact that regulations that go beyond Dodd-Frank will promote adverse consequences. Unnecessary complexity increases the cost of credit and imposes additional obstacles on Americans seeking to access financial resources for their business operations, especially the women-owned and minority-owned small businesses that are the subject of these proposals. For instance, one of our members who process over 10,000 applications per month experienced a sustained abandonment increase of 11% in small business applications after the data gathering requirements of Beneficial Owner Customer Due Diligence (BOCDD) were implemented.

The members of our association do not discriminate on the basis of gender, race, creed, ethnic origin, sexual orientation, or any other personal characteristics. We wish to work as partners with the Bureau and other government agencies to ensure that Americans have equal access to credit that is determined by appropriate financing and underwriting requirements.

We believe that the Bureau can achieve this important goal by providing clear and transparent guidance in the standards for small business loans. In finalizing these proposals, we hope the Bureau undertakes a practical understanding of the loan application process. Simply knowing your customers' requirements and requesting needed documents themselves may reveal the personal characteristics of the applicant making additional data collection requirements unnecessary.

Also, asking customers to share sensitive data regarding their personal characteristics creates risks of perception that such information will be considered in credit decisions. Consumers should be advised that although said information would not be used in credit decisions, collecting it cannot be separated from the underwriting process. Therefore, applicants must be given the ability to decline the provision of this information.

Another aspect needed in the deliberations of the proposals is sensitivity to operational costs involved in compliance. Dodd-Frank dramatically increased compliance costs for all financial institutions. Large organizations easily absorbed such expenses, but smaller entities are still struggling with these costs. The American economy needs middle size

and smaller financial institutions in our communities - especially those that support women and minority-owned small businesses. NAIB cannot overemphasize the necessity of the Bureau to recognize and respond to these dynamics in deliberations on the proposals.

Simplicity in rulemaking

NAIB supports the Bureau proposing that the requirements mandated by Section 1071 of the Dodd-Frank Act apply only to small businesses; however, we respectfully request that the definition of a “small business” be those businesses that have annual revenues of \$1 million or less and that the lender be allowed to rely upon information self-reported by the applicant without independent verification. This would eliminate the need for financial institutions to collect data regarding applications made by women- and minority-owned businesses that do not qualify as small businesses while serving the goals of simplicity and practicality. Similarly, the Bureau should establish a simple rule for the definition of “ownership”. The NAIB recommends that ownership be defined as 51% or greater ownership of the applicant and that lenders be allowed to rely on this information as self-reported by the applicant without independent verification.

Simplicity in data collection

NAIB supports the proposal that the sole source of data regarding an applicant’s status and personal characteristics would be self-reporting by the applicant. This would eliminate the responsibility of the financial institution to independently verify this information and thereby enhancing simplicity and reducing expenses.

Small business applicants self-reporting revenue data should be more than sufficient, and the Bureau should allow financing providers to rely on such data when extending credit. Requiring lenders to independently verify such information by lenders expensive and overly burdensome

We respectfully request the Bureau considers that data collection increases costs and unfairly and creates additional burdens for financial institutions in the process of extending loans to small business customers. Accordingly, we recommend the Bureau limit data collection to only those items expressly identified in Section 1071.

Indirect Lending/Third-Party Agents

NAIB recommends a commonsense approach towards the reporting of this information. Many institutions contract with agents to take applications on behalf of the lender. The Bureau should allow these third-party agents of the lender to provide reporting of this information directly to the Bureau. Compounding reporting requirements of this information on both third-party agency and the lender is an unnecessary burden.

Conclusion

NAIB appreciates the Bureau soliciting input from organizations that have deep experience in providing safe and affordable credit to America's small businesses. Our members are committed to the best practices in the approval and administration of these loans. An approach of simplicity and consistency by the Bureau in finalizing these proposals will further assist in achieving these goals. Thus, our recommendations serve to benefit the consumers and the economy.

Thank you for the opportunity to respond.

Sincerely,



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