

Congress of the United States
Washington, DC 20515

July 29, 2021

Dave Uejio
Acting Director
Consumer Financial Protection Bureau
1700 G St NW
Washington, D.C. 20552

We write to you today regarding Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1071). In February of this year you issued a memo to the CFPB Division of Research, Markets, and Regulations (RMR), where you “pledged RMR the support it needs to implement section 1071 without delay.”¹ In addition, on June 11 the CFPB published its Spring 2021 Rulemaking Agenda that included section 1071 with a tentative deadline for a Notice of Proposed Rulemaking (NPRM) in September of this year.² As the CFPB continues in the rulemaking process, we urge you to build on the efforts of the previous Director, specifically the Small Business Advocacy Review (SBAR) panel conducted under Director Kraninger and required by the Small Business Regulatory Enforcement Fairness Act (SBREFA).

Section 1071 amended the Equal Credit Opportunity Act (ECOA) to require financial institutions to compile, maintain, and submit certain data to the CFPB on women owned, minority owned, and small businesses. As you know, SBREFA requires certain federal agencies, including the CFPB, to conduct a SBAR before publishing a proposed rule that includes a Regulatory Flexibility Analysis. The SBAR conducted regarding Section 1071 includes representatives from the CFPB, Small Business Administration (SBA), and the Office of Information and Regulatory Affairs (OIRA). The panel held numerous outreach meetings with Small Entity Representatives (SERs) to solicit feedback on how a potential 1071 rulemaking will impact small firms and potential regulatory solutions to ease regulatory burdens, eliminate duplicative reporting, streamline data reporting, and narrow the scope of 1071 applicability.

Considering only three government entities are required to conduct additional outreach to small entities through a SBAR panel, including the CFPB, it is evident the broad range of regulatory authority exhibited by the Bureau has a considerable impact on small businesses. It is critical the CFPB consider the numerous findings of the SBAR and closely follow the recommendations of the panel to eliminate burdens, decrease duplication, and take into account the feedback of SERs when developing a Notice of Proposed Rulemaking. Specifically, we urge you to consider the potential for increased regulatory costs on financial institutions and the potential impact on access to capital for all small businesses.

¹ <https://www.consumerfinance.gov/about-us/blog/the-bureau-is-working-hard-to-address-housing-insecurity-promote-racial-equity-and-protect-small-businesses-access-to-credit/>

² <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=3170-AA09>

When SBREFA was enacted in 1996, Congress intended to enhance and improve the ability of federal agencies to thoroughly understand how their rules impact small firms and concordantly use that information to eliminate unnecessary burdens on those entities. Over time, the SBREFA process has been treated as merely a check-the-box initiative where outreach is made to SERs, but their feedback is not adopted in the final rulemaking. We will closely monitor any NPRM from the Bureau regarding Section 1071 and will expect to see provisions responding to the numerous concerns voiced by SERs in the SBAR, and an overall rule that strives to limit burdens on small entities.

Sincerely,



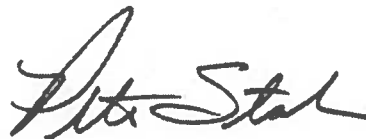
Blaine Luetkemeyer (MO-3)
Member of Congress



Roger Williams (TX-25)
Member of Congress



Bill Posey (FL-08)
Member of Congress



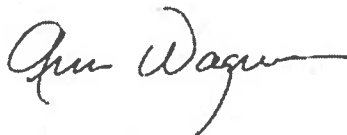
Pete Stauber (MN-8)
Member of Congress



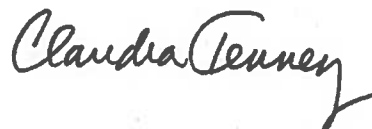
Bill Huizenga (MI-02)
Member of Congress



Dan Meuser (PA-9)
Member of Congress



Ann Wagner (MO-02)
Member of Congress



Claudia Tenney (NY-22)
Member of Congress



Andy Barr (KY-06)
Member of Congress



Andrew Garbarino (NY-2)
Member of Congress



French Hill (AR-02)
Member of Congress



Young Kim (CA-39)
Member of Congress



Tom Emmer (MN-06)
Member of Congress



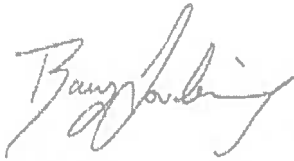
Beth Van Duyne (TX-24)
Member of Congress



Lee M. Zeldin (NY-01)
Member of Congress



Byron Donalds (FL-19)
Member of Congress



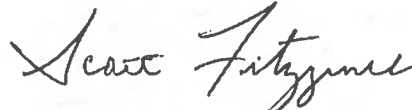
Barry Loudermilk (GA-11)
Member of Congress



Maria Salazar (FL-27)
Member of Congress



Alexander X. Mooney (WV-02)
Member of Congress



Scott Fitzgerald (WI-5)
Member of Congress



Warren Davidson (OH-08)
Member of Congress



David Kustoff (TN-08)
Member of Congress



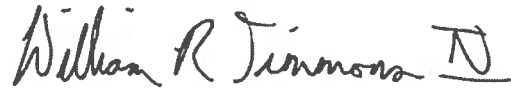
Tedd Budd (NC-13)
Member of Congress



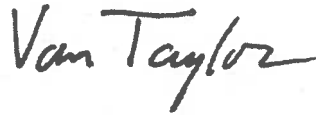
Anthony Gonzalez (OH-16)
Member of Congress



Lance Gooden (TX-05)
Member of Congress



William Timmons (SC-04)
Member of Congress



Van Taylor (TX-03)
Member of Congress



Trey Hollingsworth (IN-09)
Member of Congress