CFPB Survey Seeks Information on Costs of Small Business Finance Data Collection

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The Consumer Financial Protection Bureau (CFPB) is asking providers of small business finance to take a survey on potential up-front costs associated with complying with Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank"). According to the CFPB, the survey will take approximately two hours to complete and will be open until Oct. 1, 2020.

Background on Section 1071

Section 1071 of Dodd-Frank amends the Equal Credit Opportunity Act by requiring financial institutions to compile, maintain, and submit to the Bureau certain information concerning credit applications by women-owned and minority-owned small businesses. In the more than eight years since Dodd-Frank became effective, industry representatives and consumer advocates have debated many aspects of the implementation of Section 1071. Consumer advocates have expressed frustration about the Bureau's failure to jump-start the rulemaking process. In May 2017, the Bureau issued a white paper and a Request for Information on small business lending for the purpose of informing its rulemaking. The Bureau's Fall 2018 agenda reclassified the Section 1071 rulemaking from a "current rulemaking" to a long-term action item, before restoring it to current rulemaking status in its Spring 2019 Agenda. Industry representatives, however, have expressed concerns about the eventual rule, which Director Kathleen Kraninger has echoed by referencing concerns about imposing "unnecessary and undue costs" on lenders that could be borne by women and minority small business owners.

How the CFPB Will Use Survey Responses

Through the survey, the CFPB may collect personally identifiable information such as company name and telephone number to facilitate follow-up questions. The CFPB's website states that it will keep this information private except as required by law. The CFPB's website also states that responses to the surveys will not be used, in any way, for supervision or enforcement purposes or activities. The survey will be the primary opportunity for providers of small business finance to inform the CFPB of potential one-time costs of Section 1071.

Should Providers of Small Business Finance Participate in the Survey?

The short answer is yes, with a note of caution for factors and purchasers of future receipts. The CFPB's survey provides an opportunity to help the CFPB create a data collection system that does not unduly burden industry. As a result, providers of small business finance should consider participating in the survey. However, not all small business finance products are "credit" subject to the Equal Credit

Opportunity Act and Section 1071. A small business financing provider that offers non-recourse factoring and purchase of future receipts financing, but offers no credit products, should use the comment box in the survey's final question to note that participating in the survey is not an admission that these transactions are "credit."

To take the survey click here.

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