PARTNERS FOR RURAL TRANSFORMATION

Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552.

January 6, 2021

Re: Section 1071 Small Business Lending Data Collection, Docket No. CFPB-2021-0015

To whom it may concern:

Partners for Rural Transformation (PRT) appreciates this opportunity to comment on the proposed rule for collecting lending data from financial institutions required by Section 1071 of the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010. Small businesses are key to the economic prosperity of rural communities, in particularly ones that have been in deep poverty for decades. Ensuring fair, equitable access to capital for these small businesses will be furthered by the data that Section 1071 will provide, advancing both fair lending and community development goals for the communities we serve.

PRT represents six Community Development Financial Institutions (CDFIs) that serve three-quarters of the country's persistent poverty counties, communities that are overwhelmingly rural and people of color. With headquarters in the Mississippi Delta, Appalachia, Native American communities, the Deep South, the Rio Grande Valley and regions in the Rural West, the Partners for Rural Transformation has a unique lens on the range of challenges these communities face, solutions to them, and deep connections with diverse local leaders who are dedicated to creating change.

PRT makes the recommendations included here rooted in decades of experience, reaching over 15 million people across its collective footprint. From 2016 to 2020, Partners for Rural Transformation generated $366.9 million in small business lending, with the majority of the 3,100 loans directed to businesses owned/led by people of color (65%) and a significant portion owned/led by women (41%). By geography, 56% of loans were to businesses located in counties with a majority of persons of color, over one third ($122.3 million) to persistent poverty communities, and 72% to low-income communities. Nearly 30% of small business capital during that time went to businesses in rural communities.

PRT members' provision of Paycheck Protection Program (PPP) loans to communities hardest hit by COVID-19 demonstrates their ability to quickly deploy capital to small businesses least likely to have access to it. A constant refrain from rural businesses in the initial year of PPP funding were stories of banks' under service, or absence, in meeting their PPP needs. Through their individual PPP lending programs, three PRT CDFIs have collectively saved more than 16,000 jobs, deployed $160 million in capital through more than 5,641 PPP loans. Most of these loans went to small businesses owned by people of color. One-third of HOPE's PPP loan volume flowed to persistent poverty counties, as did more than a third of each of RCAC's and CU's PPP loans.

Robust small business data collection through the Section 1071 rule will result in enhanced transparency, more responsible lending practices, targeted enforcement of fair lending laws, informed policymaking, healthier markets, and reduced racial and gender wealth gaps.

Collectively we are concerned about historic redlining, lack of access to bank loans, and the resulting proliferation of high-cost credit, which have devastated and damaged business owners who are women, people of color and those operating their small businesses in areas of persistent poverty. The CFPB's proposed rule has the potential to provide the necessary accountability and transparency to understand how well – or not well – persistent poverty communities are served, and importantly whether there is difference by race, gender, or other demographics within these incredibly diverse communities. We are confident this proposal will impact our communities in a positive manner if properly implemented, and

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importantly it can help shine a light on capital gaps that need to be addressed not only by PRT but other lenders as well.

For Section 1071 to effectively address lending disparities in persistent poverty areas, the CFpB must ensure:

- Comprehensive coverage of the small business lending marketplace,
- Collection of the right data points to accurately reflect the reality of small businesses' experiences in rural, Tribal and/or persistently poverty areas, and
- Robust, meaningful, and accessible publication of the data collected.

Comprehensive Coverage of the Small Business Lending Marketplace

Currently, the CFPB correctly proposes to cover all lenders except for those making fewer than 25 loans over the course of two years. This exemption should not be expanded. Rural communities, particularly in persistent poverty areas, are more likely to be served by smaller banks that individually may have smaller loan volumes but may disproportionately account for a significant amount of lending in their local community. CFPB also correctly ensures that credit unions, online lenders, government-lending entities, community development financial institutions, and others are required to report their small business lending activities. Increasing the lending volume threshold will disproportionately harm many small business owners, rural communities, banking deserts and redlined areas that may find that "small" lenders makes up a significant portion of the local lending market. It will also frustrate effective oversight and enforcement of the Community Reinvestment Act.

The CFPB is correct to include coverage of a broad range of credit products that reflects the variety of ways in which small businesses seek credit. We agree the CFPB should ensure traditional forms of credit, such as small business loans, credit cards, and lines of credit, be documented under the rule, as well as non-traditional forms that tend to be higher cost and predatory, such as merchant cash advances. The CFPB made the correct decision to include farm loans in the scope of loans for which lenders must report under this rulemaking. Accurate reporting that covers the outcomes of loan applications across a broad type of products will provide concrete data, giving light to – and hopefully preventing – the devastating disparities that many of our small businesses owners and farmers have lived through over the years.

Collection of the Right Data Points

While providing for broad coverage, the rule must also collect disaggregated and detailed data to further rigorous analysis that will help determine whether discrimination is occurring and how community development needs can be met. We applaud the Bureau's continuing efforts to ensure that data collection unmasks discrimination that occurs across and within racial, ethnic, and other demographic groupings.

Determining where the loan was "made" is important to address redlining. As the race, ethnicity and sex/gender of small business loan applicants are important, so too is the location of the loan. Persistent poverty communities have historically been marginalized by segregation of race and class. Public policy choices guided by systemic racism and the continued spatial disparities in financial investment and credit availability show that geography is a crucial component of financial inequity in persistent poverty communities. As result, persistent poverty communities face several systemic challenges, such as higher rates of unbanked/underbanked populations, health concerns, and lower employment and educational outcomes. Another consequence of this disinvestment is the absence of bank branches, a gap often filled by CDFIs with a long history of reaching these communities.[1]

[1] For more information on the context of persistent poverty communities, see PRT's report, "Transforming Persistent Poverty in America: How Community Development Financial Institutions Drive Economic Opportunity," available at https://www.ruraltransformation.org/wp-content/uploads/2020/03/Transforming_Persistent_Poverty_in_America_-_Policy-Paper-PRT-_FINAL.pdf

The collected data must be able to illuminate who lenders are serving and who they are excluding. To this end, the CFPB is correct to gather several proposed data points beyond what is required by statute. In addition to knowing whether the business is owned by people of color and/or women, data points such as amount of time in business, industry type, number of employees, and pricing are necessary to capture.

To a large extent, credit score continues to define availability of credit. The CFPB proposes not to require the reporting of credit score data even though many if not most loan decisions are made using credit score data. Inevitably, lenders will argue that any future analysis of 1071 data lacks credibility if it does not account for credit score data. The CFPB must strengthen its rule by also requiring lenders to report the personal credit scores of those to whom they lend, as well as the structure of the business, such as whether the business is a sole proprietorship or a corporation. Without gathering and reporting credit scores, it will not be possible to determine if Black-owned businesses and other businesses owned by people of color are receiving credit on the same or different terms than similar white-owned businesses. If the CFPB fails to document the credit scores and business types of lenders' small business lending activities, it is not able to effectively root out patterns of discriminatory or exclusionary lending practices within persistent poverty communities.

Robust, Meaningful and Accessible Publication of the Data Collected
Even if all the right data is collected, it will not be meaningful if there is not a transparent and efficient way to review and analyze the data. There are sufficient protections in place to guard against the release of individual borrower data, while providing robust information about the lending activities of specific financial institutions. By making the data accessible, the CFPB will ensure a fairer and more transparent marketplace, benefitting small businesses, lenders, and our communities.

The CFPB should coordinate data collection and reporting requirements to ensure Section 1071 reporting aligns with CDFI Fund reporting. CDFIs receiving awards through the CDFI Fund Financial Assistance program are required to report for a three-year period through the CDFI Fund's Transaction Level Reporting (TLR) data points well beyond the scope of Section 1071, including interest rates, origination, points and fees, amortization type, the term of the loan, and payment dates. Some CDFIs also report on lending activity to the: SBA, CRA reporting to banks, OFN's annual member survey, and credit reporting agencies.

Furthermore, new requirements from the CDFI Fund will likely expand transaction level reporting requirements to all certified CDFIs. To the extent possible, the CFPB should standardize data formats to match those used in reporting to the Treasury Department's CDFI Fund. There should be interagency coordination to streamline data collection and reporting requirements across agencies to minimize the burden on CDFIs as new requirements are implemented.

Because smaller businesses have the most difficulty accessing credit and understanding requirements for loans and reasons for denial, public reporting that does not sufficiently allow for disaggregation of data by revenue size will limit the usefulness of the data to all stakeholders, including technical assistance providers who can help small businesses apply for loans, community banks and CDFIs looking to lend to underserved businesses, and public and private parties seeking to identify and respond to discriminatory lending patterns.

Finally, we appreciate CFPB's comprehensive survey on the variable costs associated with data collection. To the extent there is a cost of collecting this data, the benefits of this robust data collection outweigh any those costs. We believe the benefits of robust and fair access to capital outweigh any fee associated with the service.

As noted above, nonprofit CDFIs and mission-driven lenders who will need to comply with the regulation already collect the data and view the regulatory costs as reasonable and well worth the benefits of transparency to small businesses. Additionally, bank regulators, the SBA, and the CDFI Fund require participants in their programs to collect data that is reported. The benefits of this proposed rule, particularly if further strengthened, far outweigh any costs claimed by opponents.

Persistent poverty communities have been deliberately kept from accessing their communities' wealth and economic opportunities and they continue to be marginalized today. As we continue to rebuild and recover from COVID-19 we cannot forget that these communities started the pandemic with high unemployment, a lack of access to bank services, lack of clean drinking water and sanitary services, and a scarcity of affordable housing. However, with robust small business data collection through the Section 1071 rule the CFPB can help rural communities in persistent poverty areas advance into places of persistent *prosperity* instead.

Sincerely,

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