



August 2, 2024

VIA E-MAIL ONLY

Comment Intake
Small Business Lending Compliance Dates
Docket No. CFPB–2024– 0018
Consumer Financial Protection Bureau,
1700 G Street NW,
Washington, DC 20552

RE: Small Business Lending Under the Equal Credit Opportunity Act Extension of Compliance Dates; Docket No. CFPB–2024– 0018

To Whom It May Concern,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing nearly 200 state and nationally chartered banks, savings banks, and savings and loan associations of all sizes located in Wisconsin, their branches, and over 30,000 employees. WBA appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) interim final rule regarding its amendments to Regulation B to extend the compliance dates set forth in its 2023 small business lending rule (interim final rule).

On July 31, 2023, the United States District Court for the Southern District of Texas issued an order which preliminarily enjoined CFPB from implementing and enforcing its final rule to implement section 1071 of the Dodd-Frank Act (2023 final rule) pending the Supreme Court's decision of *Community Financial Services Association of America, Ltd. v. CFPB*, 51 F.4th 616 (5th Cir. 2022). The court ordered that, in the event of a reversal in the Supreme Court case, CFPB extend the deadlines for compliance with the 2023 final rule to compensate for the stay period. In response to the Supreme Court's reversal, CFPB has issued the interim final rule to extend the compliance dates, among other conforming adjustments.

Consistent with existing court orders, the compliance dates are being extended 290 days to compensate for the period the rule was stayed (July 31, 2023 to May 16, 2024). CFPB has also provided that covered financial institutions are permitted to continue using their small business originations from 2022 and 2023 to determine their compliance tier, or they may use their originations from 2023 and 2024.

While WBA still holds significant concerns regarding the scope and negative impact of the 2023 final rule, WBA appreciates CFPB's prompt issuance of clear time periods outlined in the interim final rule. CFPB has also provided a table of compliance dates and filing deadlines clarifying the original compliance date, new compliance date, and first filing deadlines for all compliance tiers. WBA appreciates the certainty provided by the interim final rule. Furthermore, WBA supports the interim final rule's clarification that covered financial institutions may determine their compliance tier based on their small business originations from 2023 and 2024 or based on originations from 2022 and 2023.

CFPB also discusses in the interim final rule how it intends to exercise its supervisory and enforcement discretion during the grace period, being the time period for the first 12 months of



data collected after a covered financial institution's initial compliance date. WBA appreciates CFPB's commitment to the grace period, and reemphasis that this time is intended to diagnose and address unintentional errors without the prospect of penalties for inadvertent compliance issues, which may lead to further guidance to assist other covered financial institutions, especially those in later compliance tiers, in identifying best practices. WBA would however also offer the recommendation that CFPB should coordinate the grace period with the other prudential federal regulators so that all agencies can take a consistent approach to exams covering initial data collection.

Conclusion

WBA appreciates CFPB's clear implementation of the extension of compliance dates for small business lending data collection. The recent court decisions created a level of uncertainty of implementation expectations, which the interim final rule now dispels. WBA would only recommend that CFPB consider efforts to coordinate initial exam approaches with the other prudential federal regulators in order to maintain clear and consistent expectations.

Once again, WBA appreciates the opportunity to comment.

Respectfully,

A handwritten signature in black ink that reads "Rose Oswald Poels". The signature is written in a cursive, flowing style.

Rose Oswald Poels
President/CEO