

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

July 8, 2015

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1275 First Street NE
Washington, DC 20002

The Honorable Janet Yellen
Chair
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW
Washington, DC 20551

Dear Director Cordray and Chair Yellen:

We are writing to urge the Consumer Financial Protection Bureau (CFPB or the Bureau) and the Board of Governors of the Federal Reserve (Federal Reserve) to start the rulemaking process immediately to implement section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act.

Section 1071 amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to collect and publicly report certain loan and personal characteristic data on credit applications for women-owned, minority-owned, and small businesses. Although the Bureau has general authority to revise Regulation B, which implements ECOA, to issue regulations under this matter, the Federal Reserve retains rulemaking authority in the application of the data collection and publicly reporting requirements for motor vehicles dealers.

In April 2011, the Bureau released a letter, in response to multiple inquiries about the timing of financial institutions' obligations under section 1071, announcing that it would not enforce entities' obligations, until the Bureau issued implementing regulations.

However, in this same letter, the Bureau promised to "act expeditiously to develop such rules in recognition that section 1071 is an important tool that will significantly bolster both fair lending oversight and a broader understanding of the credit needs of small businesses." Unfortunately, almost four years since that letter was released, the Bureau has yet to issue a proposed rule implementing section 1071. We were disappointed to learn in the Bureau's April 2015 fair lending report that the CFPB has only begun to explore the issues this rulemaking will need to address.

Like the Bureau's 2011 decision, the Federal Reserve issued a final rule under Regulation B in September 2011, clarifying that it would not enforce the data collection and publicly reporting requirements under section 1071 for motor vehicle dealers, until the Federal Reserve issued final rules implementing these statutory requirements.

We believe that the Bureau and the Federal Reserve's unwillingness to prioritize amending Regulation B, to implement section 1071, is unacceptable, particularly given Congressional intent of the importance of this provision.

As you may know, before authority of the ECOA was transferred primarily to the Bureau under the Dodd-Frank Act, several Democratic Members of the House Financial Services Committee wrote to the Federal Reserve, on two separate occasions, urging it to exercise its regulatory discretion under Regulation B, to remove the existing general prohibition on the collection and public dissemination of race and gender data on small business loans.

Both Congressional requests were rejected. On March 8, 2004, former Chairman Greenspan noted that "Congress could, of course, require mandatory collection and public reporting of small-business lending to address concerns about potential discrimination." On March 13, 2007, former Chairman Bernanke raised concerns about the usefulness of voluntarily collected personal characteristic data, noting that "[t]he reliability of data also could not be assured without prescriptive standards, criteria, and methods of data collection."

Given the Federal Reserve's unwillingness to exercise its regulatory discretion under Regulation B, Congress amended ECOA, under section 1071 of the Dodd-Frank Act, explicitly requiring creditors to collect and publicly report certain personal and loan characteristic data on credit applications for women-owned, minority-owned, and small businesses.

Awareness about the need to develop better data in this area, and support for section 1071, was not limited to the Democratic Members of the House Financial Services Committee. In June 2010, during consideration of the Dodd-Frank Act, Representatives Michael Honda, Judy Chu, and Barbara Lee, in their capacity as then leaders of the Congressional Asian Pacific American Caucus and the Congressional Black Caucus, wrote to Chairman Frank, Ranking Member Bachus, Chairman Baucus, and Ranking Member Grassley supporting the inclusion of the small business data collection provision in the final conference report. In the letter, the Members cited a Government Accountability Office report, entitled "Fair Lending: Race and Gender Data Are Limited for Nonmortgage Lending," that found research suggests possible discrimination exists in small business lending, but the data used has limited the analysis.

Finally, we appreciate that implementation of section 1071 of the Dodd-Frank Act may be difficult, necessitating that the agencies develop a deep understanding of small business lending and fair lending practices to execute this provision properly. We, therefore, urge your agencies to conduct extensive outreach with a wide range of external stakeholders that engage in small business lending and that monitor small business lending to women-owned, minority-owned and small businesses to ensure a robust discussion concerning implementation of this provision. In some cases, this outreach may require the agencies to develop and foster contacts with organizations and sectors that they may not already have well-developed, established

relationships with, such as the equipment leasing and finance industry and minority trade association and organizations that represent traditionally underserved populations and communities such as the Black and Hispanic Chambers of Commerce, the U.S. Women's Chamber of Commerce, the National Association of Minority Automobile Dealers, the National Bankers Association, New America Alliance, and the African-American Credit Union Coalition.

We look forward to working with your agencies to ensure effective implementation of section 1071 of the Dodd-Frank Act.

Sincerely,

Markus Waters

Nydia H. Velazquez

Carolyn B. Moloney

Erann Pinn

Wm. Lacy Clay

Gregory White

Bob Turner

Gene Murre

Keith Elton

Michael E. Cunniff

Juan Vargas

Joyce Beatty

[Signature]

**SIGNATURES ON LETTER TO
The Honorable Richard Cordray and The Honorable Janet Yellen
July 8, 2015**

- 1) The Honorable Maxine Waters
- 2) The Honorable Nydia M. Velázquez
- 3) The Honorable Carolyn Maloney
- 4) The Honorable Emanuel Cleaver
- 5) The Honorable William Lacy Clay
- 6) The Honorable Gregory W. Meeks
- 7) The Honorable Brad Sherman
- 8) The Honorable Gwen Moore
- 9) The Honorable Keith Ellison
- 10) The Honorable Michael E. Capuano
- 11) The Honorable Juan Vargas
- 12) The Honorable Joyce Beatty
- 13) The Honorable Al Green