

DFA 1071 small business lending rule FAQ

1 What is the Section 1071 small business lending rule?

The small business lending rule implements the small business lending data collection requirements set forth in Section 1071 of the Dodd-Frank Act. It requires financial institutions to compile, maintain, and submit annual reports to the Consumer Financial Protection Bureau (CFPB) on credit applications from small businesses.

2 What is the purpose of the Section 1071 small business lending rule?

Provide the CFPB with information about lending to small businesses to assist in developing and enforcing fair lending laws, and to enable creditors to better identify and support the business needs of small businesses.

3 Which financial institutions must comply with the rule?

The small business lending rule applies an institutional coverage test that subjects financial institutions to mandatory collection and reporting requirements if they originated at least 100 covered credit transactions for small businesses in each of the two previous calendar years.

Financial institutions subject to the rule include "any partnership, company, corporation, association, trust, estate, cooperative organization or other entity that engages in financial activity."

This covers depository institutions, online lenders, platform lenders, community development financial institutions (CDFIs), lenders involved in equipment and vehicle financing (both captive financing and independent financing companies), commercial finance companies, government lending entities, and nonprofit non-depository lenders.

Motor vehicle dealers are excluded from coverage of the small business lending rule.

4 When was the rule finalized?

The CFPB finalized the small business lending rule on March 30, 2023.

5 What are the significant dates, including the mandatory compliance dates?

The small business lending rule establishes several different tiered effective dates based on the number of covered originations that a financial institution has originated. For assistance determining if and when your financial institution may be subject to rule, please review Finastra's ["Will Section 1071 small business lending rule apply to me?"](#) workflow.

Optional collection of the minority-owned business, women-owned business and LGBTQI+-owned business status, as well as the race, ethnicity and sex of the applicant principal owners may begin 12 months prior to the above required compliance effective dates.

6 How does the CFPB define a small business?

"Small business" has the same meaning as the term "small business concern" as defined by Small Business Administration (SBA) regulations. (15 U.S.C. 632(a) as implemented in 13 CFR 121.101 through 121.107) The following general criteria relating to the definition of small business must be met:

- Organized for profit
- Independently owned and operated and not dominant in its field of operation
- Has a place of business in the United States
- Operates primarily within the United States or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.

However, in lieu of using the SBA's extensive size standards as part of this definition, the small business lending rule instead applies to a small business that had gross annual revenue of \$5 million or less for its preceding fiscal year. If a small business had more than \$5 million in gross annual revenue for its preceding fiscal year, it is therefore not a small business pursuant to the CFPB's small business lending rule.

Note that non-profit organizations and governmental entities are not small businesses pursuant to the small business lending rule because they do not satisfy the SBA's definition of small business concern.

7 What transactions are covered by the small business data rule?

The rule applies to requests from small businesses for credit for business or commercial (including agricultural) purposes. This includes loans, lines of credit, credit cards, and merchant cash advances (MCAs).

8 What transactions are excluded?

The rule excludes transactions reportable under the federal Home Mortgage Disclosure Act (HMDA), trade credit, insurance premium financing, public utilities credit, securities credit, government credit, and incidental credit transactions. Additional exclusions include factoring, leases, consumer-designated credit, credit transaction purchases and purchases of an interest in a pool of credit transactions, and purchases of a partial interest in a credit transaction. Additionally, reevaluations, extensions, or renewal requests on existing business credit accounts are also excluded from coverage unless the applicant is seeking additional credit.

9 What data must be collected?

Each small business covered credit transaction requires the collection of 20+ data points. Some of the data is already collected during the credit application and decisioning process, however, a large portion of the data requirements introduce new data points, increasing the overall data collection on a small business transaction.

10 What is the "Firewall" requirement included in the small business data collection rule?

The rule has a unique "firewall" requirement that is intended to prohibit anyone involved in making any determination concerning a small business credit application from having access to certain protected data about the applicant. This protected data includes whether a business is minority-owned business, a women-owned business, an LGBTQI+-owned business, and the applicant's principal owners' demographic information.

11 How frequently must lenders report to the CFPB?

Data must be collected and aggregated for each annual calendar year and reported to the CFPB by June 1 of the following year. For example, data collected January 1 through December 31, 2025, must be reported by June 1, 2026.

12 How will lenders submit their CFPB reporting?

Like HMDA reporting, the CFPB has provided a standard report format, data validation requirements, and an online submission platform.

13 Will Finastra retail lending products support the rule?

Finastra retail lending products will be integrated with a single Finastra solution. We are developing a cloud-based solution that will provide a single, uniform user experience across all impacted products to support our Finastra retail lending workflows and products.

14 When will the Finastra solution be available?

Q4 2023 – Finastra Essential and Premium solutions will be available to contract and demo.

The Premium package, an additional purchase, will include all the bells and whistles to support a compliant real-time, efficient data collection workflow. It will include covered transaction guidance, structured data collection, data validation to the CFPB Filing Instructions Guide (FIG) requirements, assistance in firewalling of select data, the ability to email or SMS a request to an applicant to complete questions relating to women-owned, minority-owned, LGBTQI+-owned business status and principal owner demographic information online. In addition, the service will support aggregated annual reporting and data analysis.

The Essential package will include transaction-based data collection and aggregated annual reporting.

January 2024 – Finastra Premium and Essential solutions will go live, fully integrated with Finastra lending products.