

To: Chief Executive Officers of Financial Institutions under Section 1071 of the Dodd-Frank Act

Re: Section 1071 of the Dodd-Frank Act

Date: April 11, 2011

This letter is being issued in response to multiple inquiries the Consumer Financial Protection Bureau (“CFPB” or “Bureau”) has received regarding the timing of financial institutions’ obligations under section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). Section 1071 amends the Equal Credit Opportunity Act to require that financial institutions collect and report information concerning credit applications made by women- or minority-owned businesses and by small businesses.

As explained below, financial institutions’ obligations under section 1071 do not go into effect until the Bureau issues necessary implementing regulations. The Bureau will 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. Toward that end, we will gather input from interested parties, including nonprofit organizations, small business groups, and financial institutions. This rulemaking will be subject to notice-and-comment procedures, ensuring that the public will have a full opportunity to comment on the Bureau’s proposed regulations.

Developing effective implementing regulations will be crucial to achieving Congress’s objectives. Congress intended section 1071 to produce reliable and consistent data that can be analyzed by the Bureau, other government agencies, and members of the public to facilitate enforcement of fair lending laws and identify business and community development needs. Under an analogous regime established by the Home Mortgage Disclosure Act, the Board of Governors of the Federal Reserve System has issued detailed regulations and supporting materials that establish consistent definitions of terms; procedures for requesting information regarding race, ethnicity, and gender; information data fields to be collected; data coding protocols; and procedures for report formatting and transmittal.

Section 1071 becomes effective on the designated transfer date, which is July 21, 2011, and assigns the Bureau the responsibility to issue implementing regulations. In light of inquiries we have received regarding the timing of financial institutions’ obligations under section 1071, we have reviewed the statutory text, purpose, and legislative history and conclude that that their obligations, including for information collection and reporting, do not arise until the Bureau issues implementing

regulations and those regulations take effect. Given the sensitivity of the data at issue, we believe Congress intended that the Bureau first provide guidance regarding appropriate procedures, information safeguards, and privacy protections. Waiting to commence information collection until implementing regulations are in place will also ensure that data is collected in a consistent, standardized fashion that allows for sound analysis by the Bureau and other users of the data. Moreover, this approach will conserve the resources of both the users of the data and of financial institutions, which would otherwise have to reprogram their systems needlessly.

In closing, this interpretation is dependent on the unique text, purpose, and legislative history of section 1071 and is therefore not necessarily applicable to any other provision of the Dodd-Frank Act or other Federal consumer financial law.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard J. Kennedy". The signature is fluid and cursive, with a long horizontal stroke at the end.

Leonard J. Kennedy
General Counsel
Consumer Financial Protection Bureau