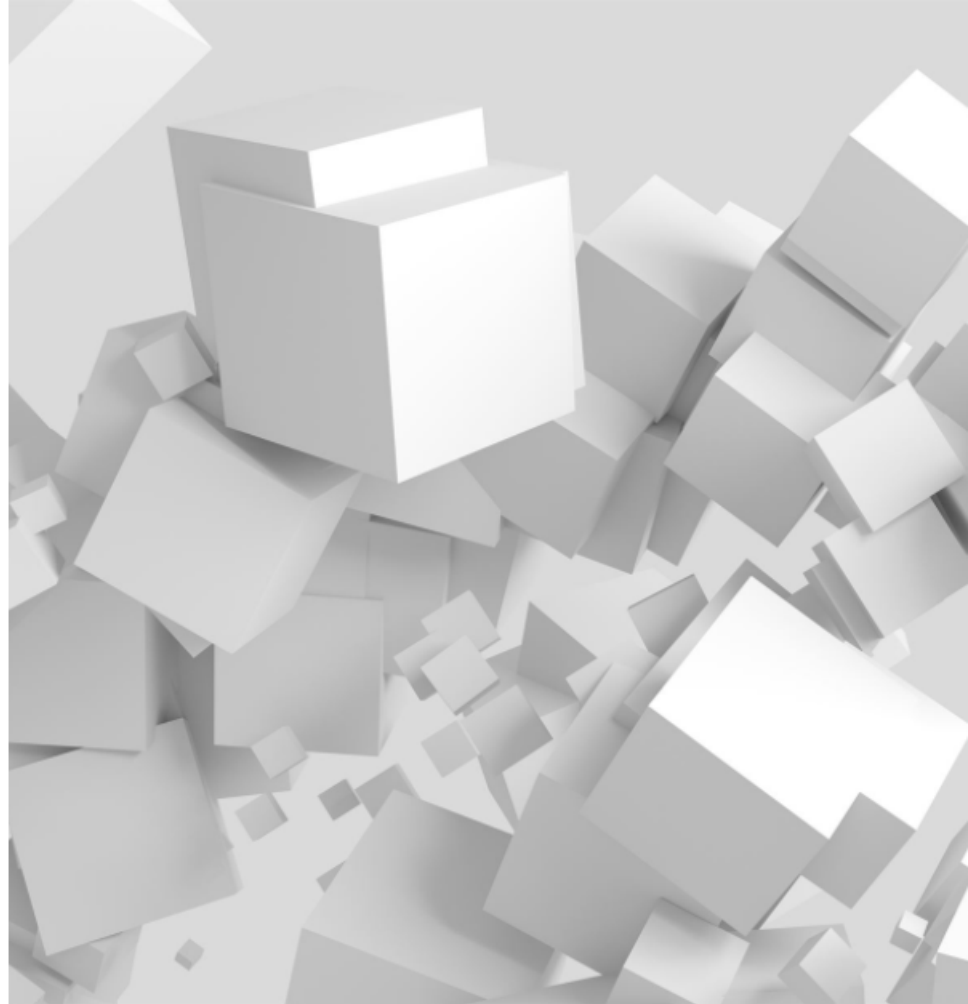


Section 1071: It WILL Affect Your Operation

**Here's How
And
*What You Can Do To Prepare***

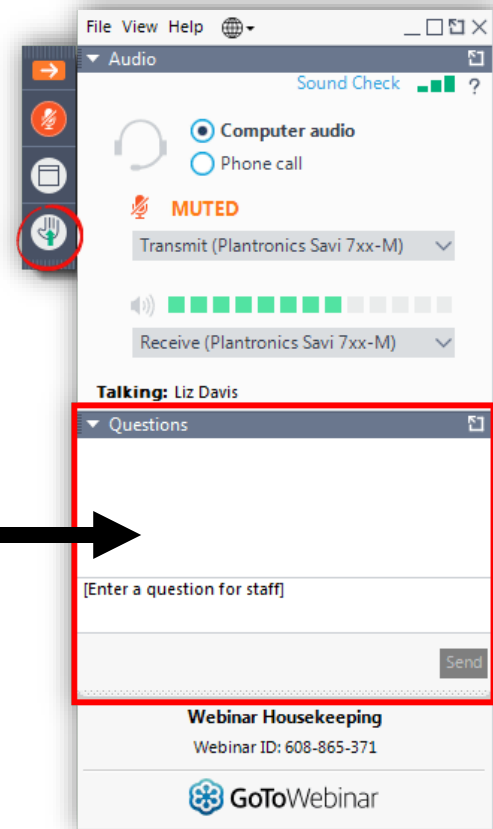


Housekeeping



Today's web seminar is being recorded.

All questions should be submitted via the Questions Panel.



PRESENTERS



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Jeffrey Bilbrey



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Disclaimer

- This presentation is being made by volunteer presenters.
- It does not constitute legal interpretation, guidance, or advice of the presenters' company(s) or of ELFA.
- All information is subject to final rule interpretation by the  Consumer Financial Protection Bureau.
- Any opinions or views stated by the presenters are the presenter's own.

WHY ARE WE ALL HERE?



Consumer Financial
Protection Bureau



The **CFPB** rule finalized on March 30, 2023 amends Regulation B and implements changes to the Equal Credit Opportunity Act (ECOA) as required by **Section 1071** of the original Dodd-Frank act of 2010.

Full Final Rule:

<https://www.consumerfinance.gov/1071-rule/>



The March 30, 2023, **final rule** prescribes how affected financial services organizations should collect and report covered data.

Executive Summary:

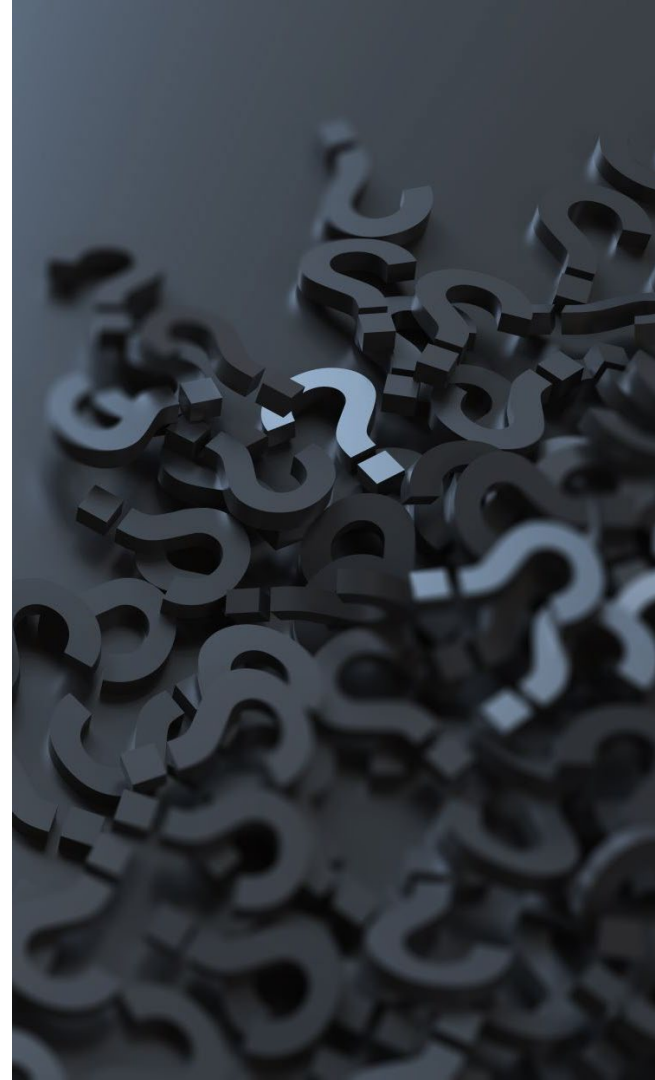
https://files.consumerfinance.gov/f/documents/cfpb_sbl_executive-summary.pdf



I visited the CFPB with a list of questions.... They didn't let me in. (but it *was* after hours)

Here's what you can expect today

1. **What is Section 1071 as it relates to ELFA members**
2. **What are the data collection & reporting requirements**
3. **A candid discussion on S.1071 in our operations**
4. **Q&A**



1

What is Section 1071 as it relates to ELFA members

Basics of 1071



Financial institutions must inquire of all small business customers (annual revenue < \$5M) who apply for credit whether they are a:

Timeline for Compliance is in Stages

Small Business Covered Transaction Originated	Begin Collecting Data	Initial Filing Date
2,500 or more	October 1, 2024	June 1, 2025
500-2,499	April 1, 2025	June 1, 2026
100-499	January 1, 2026	June 1, 2027

Basics of 1071

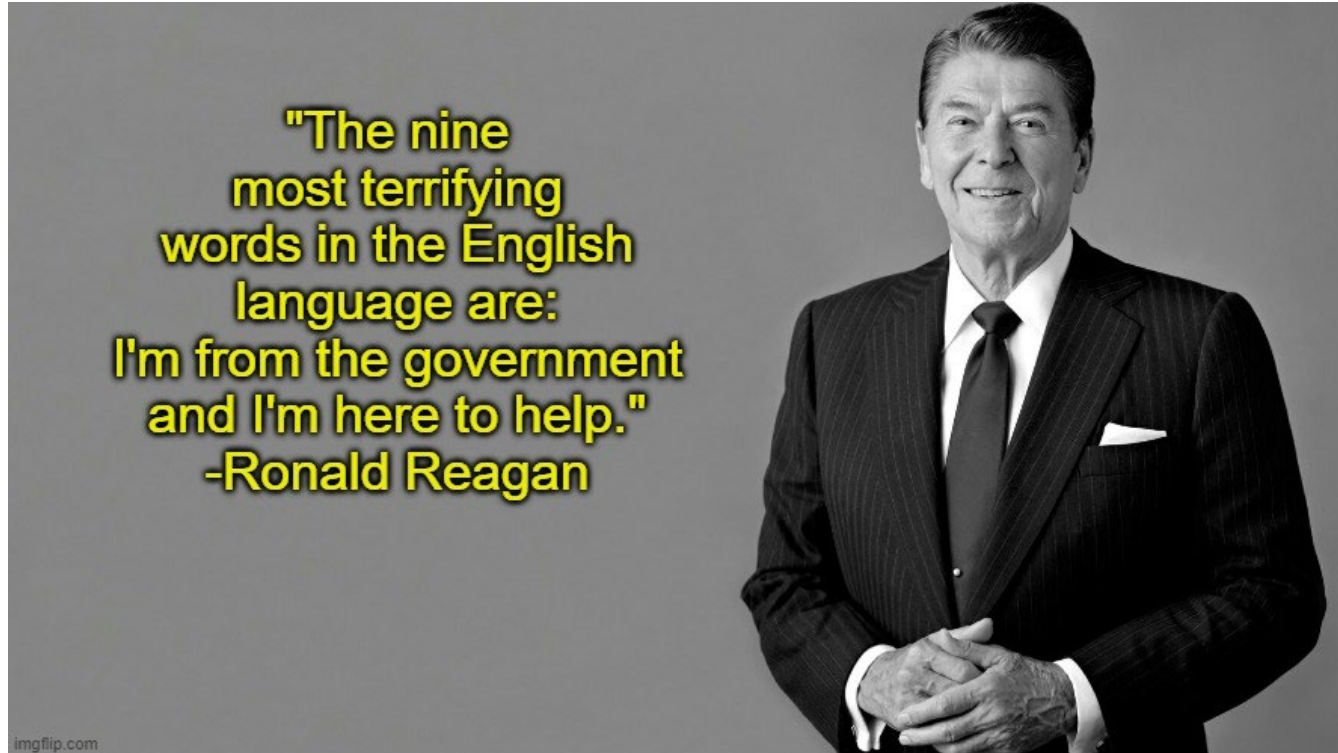


Picture: Marie Todd Lincoln
(First Lady from 1861-1866)

Wins from ELFA Advocacy

- Staged Implementation
- Covered Entities are Larger
 - From 25 → 100 transactions per year
- Only covers “small businesses”
- “Easy” definition of small business
- Ability to rely upon *applicant provided* info
- No need to make 1071 information available upon request
- No ethnicity surmising

CFPB Resource Center



Cross Cutting Pressure Points

Lack of formal application procedures

Lack of rate sheets or pricing guidelines

Broad loan officer discretion

Failure to clearly document the reasons for pricing decisions

High underwriting and pricing exception rates

No fair lending testing and monitoring

Resources

ELFA Industry Topics Page on 1071

Legal Forum session on Industry Topics Page

CFPB Small Entity Compliance Guide

CFPB Executive Summary

2

What are the data collection & reporting requirements

You will need to collect data for Section 1071 reporting

- 1071: Data points (in general)
 - FIs would be required to compile and maintain the **data points** enumerated in the rule regarding covered applications from small businesses.
 - FIs would be required to **maintain procedures** to collect applicant-provided data at a time and in a manner reasonably designed to obtain a response.
 - FIs would be permitted to **rely on statements made or information provided by an applicant** when collecting and reporting 1071 data, although for most data points if the FI verifies information, it must report the verified information.
 - FIs would be permitted, but not required, to **reuse certain previously collected data** in certain circumstances
 - Business size: Collect once per calendar year
 - Demographic information: Collect once each 36 months

Filing Instructions

The Good News:

CFPB Filing Instructions are available. 2024 filing instructions guide for small business lending data:

- <https://www.consumerfinance.gov/data-research/small-business-lending/filing-instructions-guide/2024-guide/#3>

The Bad News...

The Data Reporting Specification looks like this:

← ↻ 🔒 <https://raw.githubusercontent.com/cfpb/sbl-content/2024-v1/fig-files/file-spec/2024-data-points.csv> ⚙️ ☆

```
field_number,data_point,data_field_title,column_name,data_type,valid_value_codes,valid_value_descriptions,conditionality,instructions,rule_section,examples,validations
1,Unique identifier,Unique identifier,uid,Text (width 21 to 45 characters),,,Required for all application records,"Enter a unique identifier for each application or extension of credit that:


<li>Begins with the financial institution's Legal Entity Identifier as defined in comment 1002.109(b)(6)-1</li><li>Follows the Legal Entity Identifier with up to 25 additional characters to identify the covered loan or application, which:


<li>May be uppercase letters, numerals, or a combination of uppercase letters and numerals (cannot contain dashes, other special characters, or characters with diacritics)</li><li>Must be unique within the financial institution</li><li>Must not include any information that could be used to directly identify the applicant or borrower</li></ul></li></ul>",12 CFR 1002.107(a)(1),10BX939C5543TQA1144M999143938,"Must be at least 21 characters in length and at most 45 characters in length; May contain any combination of numbers and/or uppercase letters (i.e., 0-9 and A-Z), and must not contain any other characters; May not be used in more than one record within a small business lending application register; The first 20 characters should match the Legal Entity Identifier (LEI) for the financial institution"
2,Application date,Application date,app_date,Date,,,Required for all application records,"Enter, in numeral form, the date the application was received or the date shown on the application form by year, month, and day, using YYYYMMDD format.",12 CFR 1002.107(a)(2),"For October 1, 2024, enter 20241001",Must be a real calendar date using YYYYMMDD format
3,Application method,Application method,app_method,Single response,1;2;3;4,Code 1 - In-person; Code 2 - Telephone; Code 3 - Online; Code 4 - Mail,Required for all application records,Indicate the means by which the applicant submitted the application by entering one of the specified codes.,12 CFR 1002.107(a)(3),"Must equal 1, 2, 3 or 4"
4,Application recipient,Application recipient,app_recipient,Single response,1;2,Code 1 - The applicant submitted the application directly to the financial institution or its affiliate; Code 2 - The applicant submitted the application indirectly to the financial institution via a third party,Required for all application records,Indicate the application recipient by entering one of the specified codes.,12 CFR 1002.107(a)(4),"Must equal 1 or 2"
5,Credit type,Credit product,ct_credit_product,Single response,1;2;3;4;5;6;7;8;977;988,"Code 1 - Term loan - unsecured; Code 2 - Term loan - secured; Code 3 - Line of credit - unsecured; Code 4 - Line of credit - secured; Code 5 - Credit card account, not private-label; Code 6 - Private-label credit card account; Code 7 - Merchant cash advance; Code 8 - Other sales-based financing transaction; Code 977 - Other; Code 988 - Not provided by applicant and otherwise undetermined",Required for all application records,Indicate the credit product by entering one of the specified codes.,12 CFR 1002.107(a)(5)(i),"Must equal 1, 2, 3, 4, 5, 6, 7, 8, 977, or 988"
6,Credit type,Free-form text field for other credit products,ct_credit_product_ff,Text (width up to 300 characters),,,Conditionally required if 'credit product' is code 977. Leave blank if code 977 is not entered.,Specify in text the other credit product if code 977 is entered.,12 CFR 1002.107(a)(5)(ii),"Must not exceed 300 characters in length"
7,Credit type,Type of guarantee,ct_guarantee,Multiple response,1;2;3;4;5;6;7;8;9;10;11;977;999,Code 1 - Personal guarantee - owner(s); Code 2 - Personal guarantee - non-owner(s); Code 3 - SBA guarantee - 7(a) program; Code 4 - SBA guarantee - 504 program; Code 5 - SBA guarantee - other; Code 6 - USDA guarantee - other; Code 7 - FHA insurance; Code 8 - Bureau of Indian Affairs guarantee; Code 9 - Other Federal guarantee; Code 10 - State government guarantee; Code 11 - Local government guarantee; Code 977 - Other; Code 999 - No guarantee,Required for all application records,Indicate the type or types of guarantees by entering up to five of the specified codes. If there is more than one type of guarantee, enter each, in any order, separated by a semicolon. A maximum of five types of guarantees, including any 'other' guarantee(s) specified in the free-form text field, may be entered.,12 CFR 1002.107(a)(5)(ii),"Each value (separated by semicolons) must equal 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 977, or 999; Must contain at least one and at most five values, separated by semicolons; When code 999 is reported, should not contain any other values; Should not contain duplicated values"
8,Credit type,Free-form text field for other guarantee,ct_guarantee_ff,Text (width up to 300 characters),,,Conditionally required if 'type of guarantee' contains code 977. Leave blank if code 977 is not entered.,Specify in text the other guarantee if code 977 is entered. If there is more than one other guarantee, separate each with a semicolon.,12 CFR 1002.107(a)(5)(ii),"Must not exceed 300 characters in length"
9,Credit type,Loan term: NA/NP flag,ct_loan_term_flag,Single response,900;988;999,Code 900 - Applicable and reported; Code 988 - Applicable but not provided by applicant and otherwise undetermined; Code 999 - Not applicable,Required for all application records,Indicate whether 'loan term' is applicable for this application for credit by entering one of the specified codes.,12 CFR 1002.107(a)(5)(iii),"Must equal 900, 988, or 999"
10,Credit type,Loan term,ct_loan_term,Numeric,,,Conditionally required if 'credit type: loan term: NA/NP flag' is code 900. Leave blank if code 900 is not entered.,"Enter, in numerical form, the number of months in the loan term for products that have a loan term. If the product has a loan term of less than 1 month, enter 1.",12 CFR 1002.107(a)(5)(iii),"For a loan term of 36 months, enter 36; For a loan term of less than 1 month, enter 1",When present, must be a whole number; When present, must be greater than or equal to 1; When present, should be less than 1200 (100 years)"
11,Credit purpose,Credit purpose,credit_purpose,Multiple response,1;2;3;4;5;6;7;8;9;10;11;977;988;999,Code 1 - Purchase, construction/improvement, or refinance of owner-occupied real property; Code 2 - Purchase, construction/improvement, or refinance of owner-occupied real property; Code 3 - Purchase, refinance, or rehabilitation/repair of motor vehicle(s) (including light and heavy trucks); Code 4 - Purchase, refinance, or rehabilitation/repair of equipment; Code 5 - Working capital (includes inventory or floor planning); Code 6 - Business start-up; Code 7 - Business expansion; Code 8 - Business acquisition; Code 9 - Refinance existing debt (other than refinancings listed above); Code 10 - Line increase; Code 11 - Overdraft; Code 977 - Other; Code 988 - Not provided by applicant and otherwise undetermined; Code 999 - Not applicable",Required for all application records,Indicate the credit purpose(s) by entering up to three of the specified codes. If there is more than one credit purpose, enter each, in any order, separated by a semicolon.,12 CFR 1002.107(a)(6),"Each value (separated by semicolons) must equal 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 977, 988, or 999; Must contain at least one and at most three values, separated by semicolons; When code 988 or 999 is reported, should not contain any other values; Should not contain duplicated values"
12,Credit purpose,Free-form text field for other credit purpose,credit_purpose_ff,Text (width up to 300 characters),,,Conditionally required if 'credit purpose' contains code 977. Leave blank if code 977 is not entered.,Specify in text the other credit purpose if code 977 is entered. Do not enter more than one other credit purpose.,12 CFR 1002.107(a)(6),"Must not exceed 300 characters in length"
13,Amount applied for,Amount applied for: NA/NP flag,amount_applied_for_flag,Single response,900;988;999,Code 900 - Applicable and reported; Code 988 - Applicable but not provided by applicant and
```

Here it is
again... a little
easier

- 3. Data points

- 3.1. Unique identifier
- 3.2. Application date
- 3.3. Application method
- 3.4. Application recipient
- 3.5. Credit type
- 3.6. Credit purpose
- 3.7. Amount applied for
- 3.8. Amount approved or originated
- 3.9. Action taken
- 3.10. Action taken date
- 3.11. Denial reasons
- 3.12. Pricing information
- 3.13. Census tract
- 3.14. Gross annual revenue
- 3.15. North American Industry Classification System (NAICS) code
- 3.16. Number of workers
- 3.17. Time in business
- 3.18. Minority-owned, women-owned, and LGBTQI+-owned business statuses
- 3.19. Number of principal owners
- 3.20. Demographic information of principal owner 1
- 3.21. Demographic information of principal owner 2
- 3.22. Demographic information of principal owner 3
- 3.23. Demographic information of principal owner 4

Credit Applied For

The Applicant's Business

Demographics of Ownership

What Data will you need to collect? (1)

❖ Certain data points are, or could be, provided by the applicant

- Data points related to **the credit applied for**:
 - Credit type (credit product, types of guarantees, loan term)
 - Credit purpose
 - Amount applied for
- Data points related to **the applicant's business**:
 - Census tract based on location provided by the applicant
 - Gross annual revenue for the applicant's preceding full fiscal year
 - 6-digit NAICS code appropriate for the applicant
 - Number of workers
 - Applicant's time in business
 - Number of principal owners of the applicant

What Data will you need to collect? (2)

- Data points addressing **demographics of ownership**:
 - Whether the applicant is a minority-owned or women-owned business
 - Ethnicity, race, and sex of the applicant's principal owners
- NPRM includes a sample form FIs could use in collecting this info
- Principal owners' ethnicity and race would be collected using aggregate categories and disaggregated subcategories
- Principal owners would have the option to self-describe their sex (instead of or in addition to choosing male and/or female)

What Data will you need to collect? (3)

❖ Certain data points are generated or supplied solely by the FI

- For all applications:

- Unique identifier for each application/extension of credit.
- Application date.
- Application method (i.e., how the application was submitted).
- Application recipient (that is, whether the FI received the application directly or via a third party).
- Action taken by the FI on the application.
- Action taken date.

- For denied applications:

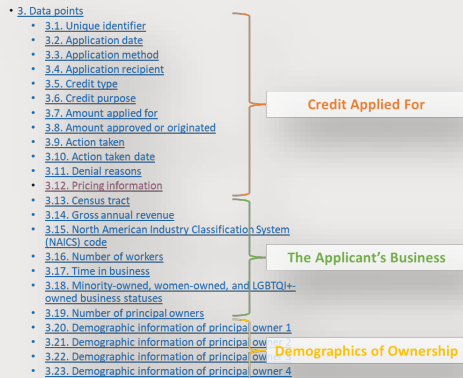
- Denial reasons.

- For applications that are originated or approved but not accepted:

- Amount originated or approved.
- Pricing information (including, as applicable, interest rate, total origination charges, broker fees, initial annual charges, additional cost for MCAs or other sales-based financing, and prepayment penalties).

Data Point 23: Margin

- Here's an example of one of the 81 data points you will be reporting to CFPB.



Field 23: Variable rate transaction: margin

Rule section: 12 CFR 1002.107(a)(12)(i)(B)

Column name

pricing_var_margin

Instructions

- Field type: Numeric
- Conditionally required if 'interest rate type' is code 1, 3, or 5. Leave blank if codes 1, 3, or 5 are not entered.

For originated credit and credit that is approved but not accepted, that has a covered variable rate component, enter the margin rate, as a percentage, to at least three (3) decimal places. Numbers calculated to beyond three (3) decimal places may either be reported beyond three (3) decimal places or rounded or truncated to three (3) decimal places. Decimal place trailing zeros may be either included or omitted.

Examples

- If 2.525%, enter 2.525
- If 2.500%, enter 2.5, 2.50, or 2.500

Validations

- When present, must be a numeric value
- When present, should generally be greater than 0.1

Data Points 18 & 19: Denial Reason(s)

- This is another example, with a bit more complexity.
- Note: This one begins to codify a standard in our industry around the granularity we can have for such business decisions.

Easier to view this one online:

https://www.consumerfinance.gov/data-research/small-business-lending/filing-instructions-guide/2024-guide/#denial_reasons

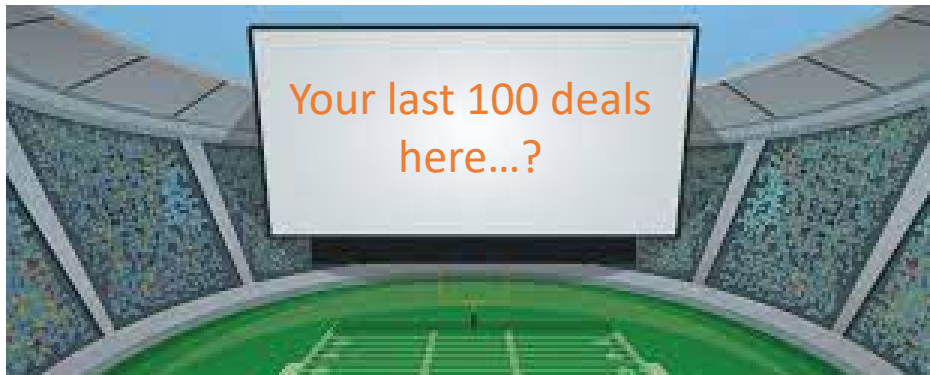
NOTE THIS

*Financial Data Elements are required to be reported
even if customer declines to provide
demographic information

Your reported data will become public information

The Bureau would make [available to public](#), on an annual basis and on its website, the data submitted to it by FIs.

- These data would be made available subject to deletions or modifications made by the Bureau, at its discretion, if the Bureau determines that such deletions or modifications would advance a privacy interest.
- The Bureau would make its aggregation, deletion and modification decisions using a balancing test.



3

Candid discussion on S.1071 in our operations

Sticky Wickets



Conversations
Started?

Delay Again?

Vendor /
Dealer /
Brokers

Firewall
Choices

Collect How
Often?

OpEx and
Software Costs

Compliance
Testing

Mystery
Shoppers

BBB Rating
Impacts?

4

Section 1071 Q&A

Thank You!



For previously-recorded web seminars go to:

www.elfaonline.org/events/elearning/web-seminars