

# Regulation B – Section 1071 Small Business Data Reporting

**Final Regulation – What Board of Directors and Senior  
Management Needs to Know**



**COMPLIANCE  
RESOURCE**

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EVP and Director of Risk and Compliance at Compliance Resource, LLC, Kimberly Boatwright has more than a two decades of experience working in the financial services industry.

Ms. Boatwright is a well-regarded financial industry risk and compliance professional with a strong background in program development and implementation. She is a thought leader who specializes in Fair Lending, Anti-Money Laundering, OFAC and consumer compliance. During her career she has worked for and consulted with all types of financial institutions helping to establish and evolve compliance and risk programs. She is a frequent public speaker, trainer, and author on compliance and risk management topics. Kimberly is a Certified Regulatory Compliance Manager and a Certified Anti-Money Laundering Specialist.

# Overview

- **Introduction**
- **Small Business Data Collection the Definitions**
- **Small Business Data Collection Fields and Requirements**
- **Small Business Data Collection the Data Management Requirements**
- **Five Things Your Financial Institution Needs to do Today**

# Introduction

# Description and Purpose

- **Introduction**
- **Purpose/Goals**
- **Resource Materials**



# Facilitating Enforcement of Fair Lending Laws

- **Mission**
- **ECOA**
- **HMDA**
- **Fair Housing Act**
- **Other Fair Lending Laws**
- **Facilitating Enforcement**



# Identifying Business and Community Development Needs and Opportunities

- **Mission**
- **CRA**
- **CDFI**



# Resource Materials

## Key Date for Collecting and Reporting

Compliance Date Tier	2024	2025	2026	2027
<b>Tier 1</b>	<p><b>10/1 to 12/31</b> Covered financial institutions collect 2024 data</p> <p>No data to report this year</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2025 data</p> <p><b>6/1</b> Deadline to report data collected in 2024</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2026 data</p> <p><b>6/1</b> Deadline to report data collected in 2025</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2027 data</p> <p><b>6/1</b> Deadline to report data collected in 2026</p>
<b>Tier 2</b>	<p>Not required to collect data or report data</p>	<p><b>4/1 to 12/31</b> Covered financial institutions collect 2025 data</p> <p>No data to report this year</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2026 data</p> <p><b>6/1</b> Deadline to report data collected in 2025</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2027 data</p> <p><b>6/1</b> Deadline to report data collected in 2026</p>
<b>Tier 3</b>	<p>Not required to collect data or report data</p>	<p>Not required to collect data or report data</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2026 data</p> <p>No data to report this year</p>	<p><b>1/1 to 12/31</b> Covered financial institutions collect 2027 data</p> <p><b>6/1</b> Deadline to report data collected in 2026</p>



# Resource Materials

## Statement on Enforcement and Supervisory Practices

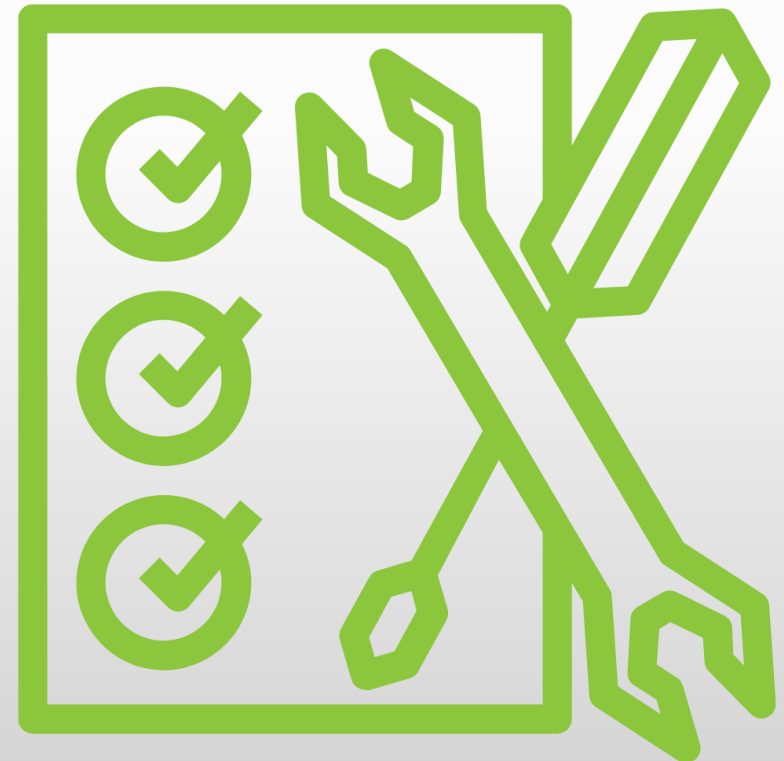
- Statutorily mandated small business lending rule concurrently with enforcement policy
- Enforceable 90 days after Publication
- Data request MUST be prominent to the applicant
- Required to address low response rates
- Enforcement and supervisory authority is a focus
- Exempt from notice and rulemaking comment.

# **Small Business Data Collection Definitions**

# SBDC – Definitions

## Changes from the proposal

- Dwelling – no longer included
- LGBTQI+ - added
- Collection of Sex



# SBDC – Definitions

- **LGBTQI+ ,Minority, Women - Owned Business**
  - Singular definition/Form (streamline rule)
  - Purpose
  - Ownership – (clarification)
  - Control
  - Accrual of Profits and Losses

# SBDC – Definitions

- **Principal Owner**
  - Individual
  - 25% or more
  - Indirect ownership
  - Trustee
- **Sex**

# Appendix E - Sample Data Collection Form

## Business ownership status

Please indicate the business ownership status of your small business. For the purposes of this form, your business is a minority-owned, women-owned, or LGBTQI+-owned business if one or more minorities,\* women, or LGBTQI+ individuals (i) directly or indirectly own or control more than 50 percent of the business AND (ii) receive more than 50 percent of the net profits/losses of the business.

### What is your business ownership status?

*(Check one or more of the options below)*

- Minority-owned business**
- Women-owned business**
- LGBTQI+-owned business**
- or –
- None of these apply**
- or –
- I do not wish to provide this information**

\*Minority means Hispanic or Latino, American Indian or Alaska Native, Asian, Black or African American, or Native Hawaiian or Other Pacific Islander. A multi-racial or multi-ethnic individual is a minority for this purpose.

## Number of principal owners

For purposes of this form, a principal owner is any individual who owns 25 percent or more of the equity interest of a business. A business might not have any principal owners if, for example, it is not directly owned by any individuals (i.e., if it is owned by another entity or entities) or if no individual directly owns at least 25 percent of the business.

### How many principal owners does your business have? *(Check one)*

- 0**
- 1**
- 2**
- 3**
- 4**

# Appendix E - Sample Data Collection Form

## Demographic information about principal owners

As a reminder, applicants are not required to provide this information but are encouraged to do so. We cannot discriminate on the basis of any person's ethnicity, race, or sex/gender. Additionally, we cannot discriminate on the basis of whether you provide this information.

Please fill out one sheet for each principal owner.

### 1 Are you Hispanic or Latino?

*i.e., What's your ethnicity? (Check one or more)*

**Hispanic or Latino**

- Cuban
- Mexican
- Puerto Rican
- Other Hispanic or Latino *(Please specify your origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on):*

**Not Hispanic or Latino**

– or –

**I do not wish to provide my ethnicity**

### 2 What is your sex/gender?

*(Please specify):*

– or –

**I do not wish to provide my sex/gender**

### 3 What is your race?

*(Check one or more)*

**American Indian or Alaska Native** *(Please specify the name of your enrolled or principal tribe):*

**Asian**

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian *(Please specify your race, for example, Cambodian, Hmong, Laotian, Pakistani, Thai, and so on):*

**Black or African American**

- African American
- Ethiopian
- Haitian
- Jamaican
- Nigerian
- Somali
- Other Black or African American *(Please specify your race, for example, Barbadian, Ghanaian, South African, and so on):*

# SBDC – Covered Applications

- **Definition**

- In General
- Procedures Used
- Consistency





# SBDC – Covered Applications

- **Not Covered Applications**
  - Reevaluation, Extension, or Renewal
    - Additional Credit
  - Reviews or Evaluations
  - Inquiries and Prequalification's

# SBDC – Covered Credit Transactions

- **Covered Credit Transactions**
- **Excluded Transactions (New)**
  - HMDA
  - Insurance premium financing



# SBDC – Covered Financial Institutions

- **Financial Institution**
- **Covered Financial Institution**
  - Originated at least 100 covered credit transactions for small businesses in each of the two preceding calendar years.
  - Mergers/Acquisitions

# SBDC – Small Business

- **Definition**

- Gross annual revenue for its preceding fiscal year is \$5 million or less.
- rely on an applicant's representations regarding gross annual revenue (which may or may not include an affiliate's revenue)
- Provide by Applicant vs Verified

- **Inflation Adjustment**

# Inflation/Deflation Adjustment Schedule

Date	Inflation/Deflation Adjustment Schedule
January 2025	Base month/year for computing each adjustment.
January 2030	Reference month/year for the first five-year inflation adjustment.
Spring – Summer 2030	Calculation performed to determine changes in the CPI-U between January 2025 and January 2030.
January 2031	If necessary, effective date for the adjusted gross annual revenue threshold amount.
January 2035	Reference month/year for the second five-year inflation adjustment.
Spring – Summer 2035	Calculation performed to determine changes in the CPI-U between January 2025 and January 2035.

# **Small Business Data Collection Fields and Reporting Requirements**

# SBDC – Compilation of Reported Data

P

- **Data Format**

- General
- Filing Instructions Guide



# SBDC – Compilation of Reported Data

## 20+ Data Fields

1. Unique Identifier
2. Application Date
3. Application Method
4. Application Recipient
5. Credit Type (3 extra)
6. Credit Purpose
7. Amount Applied For
8. Amount Approved and/or Originated
9. Action Taken
10. Action Taken Date
11. Denial Reason (up to 4 extra)
12. Pricing Information (up to 9 extra)
13. Census Track
14. Gross Annual Revenue
15. NAICS Code
16. Number of Workers
17. Time in Business
18. Minority, Women, and/or LGBTQI+ Business Status
19. Ethnicity, Race and Sex (unlimited)
20. Number of Principle Owners



# Appendix E - Sample Data Collection Form

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- Ethiopian
- Haitian
- Jamaican
- Nigerian
- Somali
- Other Black or African American *(Please specify your race, for example, Barbadian, Ghanaian, South African, and so on):*

# SBDC – Compilation of Reported Data

Borrower Provided - 105

- ✓ credit type
- ✓ credit purpose
- ✓ amount applied for
- ✓ address or location for purposes of determining census tract
- ✓ gross annual revenue
- ✓ NAICS code, or information about the business such that the financial institution can determine the applicant's NAICS code
- ✓ number of workers
- ✓ time in business),
- ✓ minority-owned business status, women-owned business status, and LGBTQI+-owned business status
- ✓ ethnicity, race, and sex of the applicant's principal owners
- ✓ number of principal owners

# SBDC – Compilation of Reported Data

106 - 116

- **Establishment of Procedures**
  - At application
  - Time and manner of collection
  - Monitoring and Testing
- **Previously collected data**
  - Minority, Women, and/or LGBTQI owned – data.
- **Verification of Applicant-Provided Information**

# **Small Business Data Collection Data Management Requirements**

# SBDC – Firewall

- **Definitions**
- **Prohibitions on Access to Certain Information**
- **Exceptions to Prohibition**

Employees and officers making determinations concerning an application, such as loan officers and underwriters, may have access to the information provided on this form. However, we cannot discriminate on the basis of minority-owned business status, women-owned business status, or a principal owner's ethnicity, race, or sex. Additionally, we cannot discriminate on the basis of whether an applicant provides this information.

# SBDC – Firewall

- **Notice**

- Content
- Timing

If the institution provides the notice...	Then the notice must use language substantially similar to the following...
On an electronic or paper data collection form,	“Employees and officers making determinations concerning an application, such as loan officers and underwriters, may have access to the information provided on this form.”
Orally,	“Employees and officers making determinations concerning your application, such as loan officers and underwriters, may have access to your responses regarding your minority-owned business status, your women-owned business status, and your principal owners’ ethnicity, race, or sex.”

If the notice is provided...	Then the notice must ...
Orally,	Be provided prior to asking the applicant if it is a minority-owned business or women-owned business and prior to asking for a principal owner’s ethnicity, race, or sex.
On the same paper or electronic data collection form as the inquiries about minority-owned business status, women-owned business status, and the principal owners’ ethnicity, race, or sex,	Appear at the top of the form.
In an electronic or paper document that is separate from the data collection form,	Be provided at the same time as the data collection form or prior to providing data collection form.

# SBDC – Reporting the Data

- **Annual Reporting**
- Subsidiaries
- Multiple Financial Institutions
  - Only one reports
  - Originate or Not Originate
- Agents

June 1st



# SBDC – Reporting the Data

- **Financial Institution Identifying Information**
  - Changes
  - LEI
  - RSSD
  - Parents
  - FI Type
- **Procedures for Submission**
- **Filing Instructions Guide**

# SBDC – Publishing the SBLA Registers

- **Publication**
- Aggregate Data
- **Statement of Availability**
- Website

#### ***Small Business Lending Data Notice***

*Data about our small business lending are available online for review at the Consumer Financial Protection Bureau’s website at [a designated Bureau website]. The data show the geographic distribution of our small business lending applications; information about our loan approvals and denials; and demographic information about the principal owners of our small business applicants. The Bureau may delete or modify portions of our data prior to posting it if the Bureau determines that doing so would advance a privacy interest. Small business lending data for many other financial institutions are also available at this website.*

# SBDC – Recordkeeping

- **Record Retention**
  - Evidence of Compliance
  - Voluntary Collectors
- **Information Kept Separate**
  - From application
  - LAR
  - Personally identifiable

Three years

# SBDC – Administrative Enforcement and Civil Liability

- **Overview**
- **Enforcement**
  - Bona Fide Errors
  - Tolerances
  - Safe Harbors
  - Incorrect Determination of Small Business Status

# Appendix F – Tolerances for Bona Fide Errors

- Tolerances

Table 1 to Appendix F—Tolerance Thresholds for Bona Fide Errors

Small Business Lending Application Register Count (A)	Random Sample Size <sup>986</sup> (B)	Threshold (#) (C)	Threshold (%) (D)
100 – 130	47	3	6.4
131 – 190	56	3	5.4
191 – 500	59	3	5.1
501 – 100,000	79	4	5.1
100,001+	159	4	2.5

# SBDC – Dates and Transition Rules

- **Effective Date**
  - 90 Days
- **Compliance Date**
  - Tiered
    - **2500+ = 10/1/2024**
    - **500 – 2499 = 4/1/2025**
    - **100 – 499 = 1/1/2026**
- **Special Transition Rules**
  - Initial Partial Year Collections
  - Grace periods
  - Collection prior to Compliance Date
  - Method to determine Originations

# **Five Things Your Financial Institution Needs to do Today**

# Five Critical Steps Needed Now

Pages 166 - 180

- 1. Determining covered financial institution status/tier.**
- 2. Conduct a Gap Analysis to understand products, delivery channels and lending life cycle.**
- 3. Raise the Board and senior management awareness of issues related to implementation of Section 1071.**
- 4. Commercial Lending Challenges that need focus, training, and action.**
- 5. Budget**





**Questions?**

# Thank you!

Additional questions?

Please get in touch with us at [support@mycomplianceresource.com](mailto:support@mycomplianceresource.com)

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