

CFPB Formally Extends Compliance Dates for Section 1071 Rule (Again!)*

As the law firm previously reported to BCG Members, the Section 1071 Small Business Lending Data Collection (SBLDC) Rule (codified in 12 FR Part 1002, Subpart B) has survived various legal challenges by trade associations and lenders. However, the SBLDC Rule came under fire again in 2025, this time from the CFPB itself (the agency that originally issued the rule). And as discussed below, the compliance dates for the SBLDC Rule have again been delayed.

To briefly recap the general requirements of the SBLDC Rule: once a covered financial institution's compliance date is triggered (with the earliest compliance date being July 18, 2025, for lenders in the highest tier based on number of originations), the institution must begin collecting and reporting certain data to the CFPB in connection with applications for business loans to small businesses (*i.e.*, those with gross annual revenues of \$5 million or less in the preceding fiscal year). The CFPB would then make some of the reported information public.

The SBLDC Rule's compliance dates were initially delayed as a result of preliminary injunctions issued in two notable court cases: *Tex. Bankers Ass'n, et al. v. CFPB, et al.*, 685 F. Supp. 3d 445 (S.D. Tex. 2023) and *The Monticello Banking Company et al. v. Consumer Financial Protection Bureau et al.*, No. 6:23-cv- 00148-KKC (E.D. Ky. filed Sept. 14, 2023). The injunctions in both cases were lifted after the courts upheld the validity of the SBLDC Rule and ruled in favor of the CFPB, which had argued in support of enforcing the SBLDC. However, on June 25, 2024, the CFPB issued an interim final rule which extended the compliance dates for the SBLDC Rule to compensate for the 290-day period that elapsed from the issuance of the preliminary injunction and the U.S. Supreme Court's decision in *Cmt'y Fin. Servs. Ass'n of Am* (which resulted in the injunctions being lifted).

However, after the Trump administration took office, the CFPB began shifting its position in both cases. Notably, on May 28, 2025, the CFPB filed a motion to stay proceedings in the *Monticello* case to allow the CFPB time to conduct a new rulemaking under Section 1071 and to reconsider the SBLDC Rule. In its motion, the CFPB expressly stated its intention to extend the current deadlines under the SBLDC Rule, postponing the earliest compliance date for all regulated parties, likely by one year, while it considers the Section 1071 rule.

On June 18, 2025, the CFPB issued the interim final rule officially extending the compliance dates for the SBLDC Rule (the "New SBLDC IFR"). 90 FR 25874. In the New SBLDC IFR, the CFPB extends the existing compliance dates for Tier 1, Tier 2, and Tier 3 lenders by about one year, as discussed below. Additionally, the New SBLDC IFR also clarifies which calendar years

* Janet Bonnefin is retired from the firm.

institutions can use to measure the amount of covered credit transactions they originated to determine their compliance tiers.

Compliance Dates.

- **Tier 1.** A covered financial institution that originates at least 2,500 covered credit transactions for small businesses.
 - **Extended compliance date.** Pursuant to the New SBLDC IFR, covered financial institutions in Tier 1 will have until July 1, 2026 to comply with the SBLDC Rule. The previous compliance deadline for Tier 1 lenders was July 18, 2025.
 - **First filing deadline.** A Tier 1 covered financial institution is required to begin collecting data for covered applications from July 1, 2026 to December 31, 2026. The information collected during this period must then be reported to the CFPB by June 1, 2027.
- **Tier 2.** A covered financial institution that originates at least 500 covered credit transactions (but less than 2,500) for small businesses.
 - **Extended compliance date.** Pursuant to the New SBLDC IFR, institutions in Tier 2 will have until January 1, 2027 to comply with the SBLDC Rule. The previous compliance deadline for Tier 2 institutions was January 16, 2026.
 - **First filing deadline.** A Tier 2 covered financial institution is required to begin collecting data for covered applications from January 1, 2027 to December 31, 2027. The information collected during this period must be reported to the CFPB by June 1, 2028.
- **Tier 3.** A covered financial institution that originates at least 100 covered credit transactions.
 - **Extended compliance date.** Pursuant to the New SBLDC IFR, institutions in Tier 3 will have until October 1, 2027 to comply with the SBLDC Rule. The previous compliance deadline for Tier 3 institutions was October 18, 2026.
 - **First filing deadline.** A Tier 3 covered financial institution is required to begin collecting data for covered applications from October 1, 2027 to December 31, 2027. The information collected during this period must be reported to the CFPB by June 1, 2028.

Period for Determining Initial Compliance Dates.

As discussed above, the SBLDC Rule establishes tiered initial compliance dates that are based on the number of covered credit transactions a financial institution originates in two consecutive calendar year periods. Prior to the issuance of the New SBLDC IFR, a financial institution would determine its initial compliance date by calculating the number of covered originations it made in either of the two-year consecutive periods: (i) 2022 and 2023; or (ii) 2023 and 2024. The SBLDC Rule also expressly allows an institution to choose either consecutive year period, even if the chosen period results in the institution qualifying under a lower compliance tier.

The New SBLDC IFR amends this requirement by giving institutions an additional two-year consecutive period to determine its initial compliance date. Under the New SBLDC IFR, a financial institution is permitted to calculate its total originations of covered credit transactions for any of the following calendar year periods: (i) 2022 and 2023; (ii) 2023 and 2024; and (iii) 2024 and 2025.]

The New SBLDC IFR will become effective on July 18, 2025. It should also be noted that in the supplementary information to the New SBLDC IFR, the CFPB states that it intends to initiate a new Section 1071 rulemaking and anticipates issuing a notice of proposed rulemaking as expeditiously as reasonably possible. Therefore, it seems additional changes to the SBLDC Rule are likely going to be coming at some point in the future. Institutions should stay tuned for future updates on the SBLDC Rule.

For more information, contact Joel Cook at JCook@ABLawyers.com or John Davis at JDavis@ABLawyers.com.