



PUERTO RICO BANKERS ASSOCIATION

June 20, 2017

VIA E-MAIL: FederalRegisterComments@cfpb.gov

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

RE: Docket No. CFPB-2017-011

Dear Ms. Jackson:

On May 15, 2017, the Consumer Financial Protection Bureau ("CFPB") issued a Request for Information Regarding the Small Lending Market, in connection with its rulemaking to implement Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").

The Puerto Rico Bankers Association ("PRBA")¹ respectfully submits the following comments in response to the CFPB's request for information regarding the impact of the data collection, record keeping and reporting requirements of Section 1071 for applications made by **minority owned businesses** in Puerto Rico.

1. Introduction:

Section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act ("ECOA") by adding a new Section 704B that requires financial institutions, to compile, maintain and report information concerning credit applications made by women-owned, minority-owned and small businesses.

Section 704B(a) provides that the purpose of the data collection requirements in Section 704(B) is to "facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women owned, minority owned and small businesses".

¹ The Puerto Rico Bankers Association represents the six (6) commercial banks operating in the Commonwealth of Puerto Rico.

In this respect, as mentioned above, Section 704B generally requires that in connection with any application received by a financial institution² for credit to a women-owned, minority-owned, or small business, the financial institutions must: (i) inquire whether the business is a women-owned, minority-owned, or small business; (ii) maintain a record of the response to such inquiry, separate from the application and accompanying information; and (iii) report annually to the CFPB the data so compiled and maintained.

The term "Minority-Owned Business" is defined in Section 704B(h)(5) to mean, a business:

- A. more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and
- B. more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

According to section 704B(h)(4), the term "Minority" has the same meaning as in Section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, where it is defined as "...any Black American, Native American, **Hispanic American**, or an Asian American". (Emphasis ours)

2. Discussion:

According to the 2010 US Census Bureau, 99% of the population of Puerto Rico is Hispanic. On the other hand, Puerto Rico born individuals are American citizens due to the unique political relationship existing between Puerto Rico and the United States. Based on the foregoing, at least 99% of the population of Puerto Rico may be regarded as "Hispanic American" and, therefore, would qualify as "Minority Individuals" in accordance with the definition of such term in section 704B(4) under the category of "Hispanic Americans". Consequently, practically all businesses owned by individuals who are Puerto Ricans would qualify as a "Minority-Owned Business" for purposes of the data collection requirements in Section 704B of ECOA.

The direct and evident effect of Section 704B of ECOA for the financial institutions in Puerto Rico will inevitably be the collection, recordkeeping and reporting of virtually all commercial loan applications received within the Puerto Rico marketplace, since most of such applicants would be regarded as "Minority Owned Business", in accordance with Section 704B.

² The eight (8) commercial banks that are the members of the PRBA are considered to be "financial institutions" for purposes of Section 704B.

The PRBA believes that this absurd and unreasonable result must not have been intended by Congress when it enacted Section 1071 of the Dodd-Frank Act. The data so collected, maintained and reported will not serve the purposes for which Section 1071 was enacted since, for the reasons set forth above, it will be completely inaccurate and unreliable. The potential complexity and cost of compliance with the minority-owned businesses data collection and reporting requirements of Section 704(B), will impose on our banks an unintended and unreasonable burden.

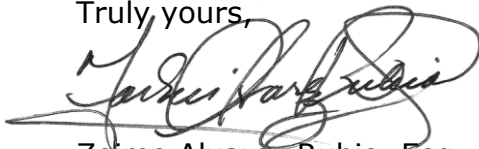
3. PRBA Request:

Section 704B(g)(2) of the Dodd-Frank Act authorizes the CFPB, by rule or order, to adopt exceptions to any requirements of Section 704B and to, conditionally or unconditionally, exempt any financial institutions or class of financial institutions, from the requirements of Section 704B, as the CFPB deems necessary or appropriate to carry out the purposes of such section.

Based on this authority given to the CFPB under section 704B(g)(2), the PRBA respectfully requests that in the drafting of the regulations to put in effect Section 704B of ECOA, the CFPB should exempt financial institutions operating in Puerto Rico from the collection, recordkeeping and reporting requirements of Section 704B of ECOA, in relation to credit applications received from **Minority-Owned Businesses** in Puerto Rico, that qualify as such under the definitions in Section 704B of ECOA by reason of ownership by or financial relationship with, a Hispanic American. However, our financial institutions will remain subject to all requirements of Section 704B of ECOA with respect to businesses that are owned by other minority categories in Section 704B(h)(4), e.g. Black American, Native American or Asian American; or by women-owned small businesses, as such terms are defined therein.

Do not hesitate to contact the undersigned should you need additional information regarding the matters discussed above.

Truly yours,



Zoime Alvarez Rubio, Esq.

ZAR/lmr