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The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20220

Dear Director Chopra:

I write to request the Consumer Financial Protection Bureau (CFPB) immediately rescind the final rule that implements Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As the chief legal officer of Georgia, one of my fundamental functions is to maintain a stable, reliable, and predictable legal and regulatory environment. The burdensome 1071 rule requires financial institutions in our state to unnecessarily collect and report data regarding applications for credit for small businesses.[1] Such data must include whether the applicant is a "Minority-Owned, Women-Owned, and/or LGBTQI+-Owned" business.[2] Financial institutions must also prompt the principal business owners to disclose their "ethnicity, race, and sex," which the lender must then report to the CFPB.

I write to express concern with this rule because, in addition to being gratuitous, the rule is also extremely burdensome and expensive according to the CFPB itself. Estimates from your own agency predict this rule will cost lenders tens of thousands of dollars and divert hundreds of staff hours.[3] Government is supposed to support fair business practices and protect a fair, free market system. Apparently, neither you nor the current administration share this view because this rule is a political hammer in search of a nail, and the impact on our community banks will be devastating. With the current uneasiness in the market and a plethora of other challenges facing community banks, now is not the time to require them to gather more information that has absolutely nothing to do with the process of evaluating which applicants are the strongest and most deserving of capital.

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[1] https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf (Page 2).
[2] *Id.* at page 5;
https://files.consumerfinance.gov/f/documents/cfpb_small-business-lending-data-points-chart.pdf (Page 30)
[3] https://files.consumerfinance.gov/f/documents/cfpb_1071-final-rule.pdf (pages 752-754).

While it is not immediately clear to me why the CFPB decided to implement this rule at this moment in time, I can only assume that it is due to a belief at the federal level that community banks are making loan decisions based on personal characteristics rather than fulfilling their fiduciary duty. If discrimination in lending is a rampant problem, we would direct you to the proper channels already in place to remedy this issue. States already have their own consumer protection and anti-discrimination statutes.[4] Additionally, federal fair lending laws already prohibit lenders from discriminating on the basis of race and other characteristics.[5] While this rule purports to implement changes to the Equal Credit Opportunity Act made by Dodd-Frank, it simply imposes more administrative costs on lenders that may be passed onto borrowers who will receive no additional protections or remedies in exchange. This rule purports to ensure our financial institutions follow the laws that prevent discriminatory practices, but it does nothing to accomplish that aim. Instead, this collection of data redundantly saddles our community banks with additional compliance requirements. The constraints involved will cost small businesses precious resources - people, time, and money, resulting in business closures and job losses.

If this rule is not immediately withdrawn, both communities and consumers will face perilous consequences, such as vanishing capital and an uncertain loan environment. This CFPB action is yet another abuse to the wallets of hardworking Georgians. At a time when access to capital is already difficult, this rule will handcuff lenders and paralyze segments of the economy reliant upon community banks to stay afloat. Such a chilling effect comes from an inability to dedicate the time and resources needed to comply with this onerous requirement and a fear that the federal government will possess data that can be used to pressure financial institutions to extend reckless loans in the name of social activism. I ask that this rule be rescinded and federal agencies allow states to continue to address lending issues as they occur, rather than saddling small businesses with burdensome regulations.

I appreciate your immediate attention to this matter.

Sincerely,

Christopher M. Carr
Georgia Attorney General

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[4] See, e.g., Ga. Code Ann. § 7-6-1(a); Ariz. Rev. Stat. Ann. § 41-1491.20; Ark. Code Ann. §§ 4-87-104; 16-123-107(a)(4); Ind. Code Ann. § 24-9-3-9; La. Stat. Ann. § 51:2255; Miss. Code Ann. § 43-33-723; Ohio Rev. Code Ann. § 4112.021; S.C. Code Ann. § 31-21-60(B)(1); Tenn. Code Ann. § 47-18-802; Tex. Prop Code Ann. § 301.026; Utah Code Ann. § 57-21-6(1)(b)(i).

[5] https://www.gao.gov/products/gao-22-104717; see Fair Housing Act (FHA) and, for banks with $10 billion or less in assets, the Equal Credit Opportunity Act (ECOA).