



MORTGAGE BANKERS ASSOCIATION

December 15, 2025

1071 Reconsideration NPRM
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
via regulations.gov

Re: Docket No. CFPB–2025– 0040 or RIN 3170–AB40

The Mortgage Bankers Association¹ (MBA), submits the following comments in response to the notice of proposed rulemaking (NPRM) issued by the Consumer Financial Protection Bureau (Bureau) captioned Reconsideration of Small Business Lending Under the Equal Credit Opportunity Act (Regulation B).

We fully support the joint comments submitted by MBA and other organizations representing income-producing investment real estate properties. We will reiterate the significant points here, and also would urge the Bureau to make similar improvements to the Home Mortgage Disclosure Act (HMDA) (Regulation C).

We strongly support the recommendations in the reconsideration proposal. Specifically:

- Increasing the transactional threshold,
- Updating the definition of a small business, and
- Revising the implementation period.

In addition, we recommend the following updates to the requirements.

Investment Properties

Section 1071 of the Dodd-Frank Act requires lenders to collect and report data on small business lending to facilitate fair-lending oversight and understand credit access for small

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

businesses. Investment real estate, however, is fundamentally different from operating-business lending. Exempting it avoids distortions, protects data quality, and aligns the rule with its original purpose.

Loans for income-producing real estate are generally made to special-purpose entities created solely to hold property, rather than to operating businesses that produce goods, provide services, or employ workers. Underwriting in this market is driven by property-level cash flow, collateral value, and market fundamentals—not by the size, demographics, or financial characteristics of the borrower’s business operations. As a result, applying 1071 to this sector produces data that is irrelevant to credit decisions, misclassifies many sophisticated real estate investors as “small businesses,” and clouds the dataset that regulators rely on to evaluate credit access for true small firms.

We urge the Bureau to exempt loans to income-producing commercial investment properties from the reporting requirements of Regulation C.

Treatment of Special Purpose Entities

Something that sets commercial (including multifamily) real estate lending apart from many other types of lending is that the applicant for a commercial real estate loan is generally a single-purpose entity (SPE) rather than a business entity with broad purposes or a natural person.

An SPE is a legal entity created solely to own commercial real estate securing a loan. Because SPEs are usually newly formed to acquire property, they have no operating history and report zero gross annual revenue. This can make them appear to qualify as “small businesses” under a strict revenue test, even when the underlying property is expected to generate substantial income.

To address newly formed SPE applicants, we propose the rule clarify that lenders may use the entity’s projected gross annual revenue when applying the revenue test.

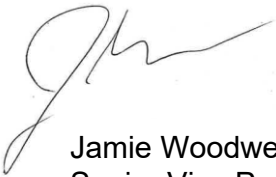
HMDA

HMDA requires mortgage lenders to collect and report information on specific data points pertaining to their lending practices. Business-to-business loans secured by multifamily property do not involve consumer transactions. Investment real estate lending should be exempt from HMDA because it does not advance HMDA’s core purpose, which is monitoring access to consumer mortgage credit and detecting potential discrimination in home purchase, home improvement, and refinancing markets. HMDA is fundamentally a consumer protection reporting regime tied to housing finance for individuals and families. Loans for income-producing or business-purpose investment properties, by contrast, are commercial transactions driven by property cash flow and investment return—not by consumer credit needs or household characteristics. Including these loans in HMDA mixes commercial-purpose lending with retail mortgage activity, distorts the dataset, and obscures the very patterns in consumer mortgage access that HMDA was designed to inform.

We urge the Bureau to initiate rulemaking to remove multifamily commercial loans from the reporting requirements of HMDA.

We commend the Bureau for this reconsideration and the proposed changes to 1071 small business reporting requirements. These changes will reduce regulatory burden and enhance appropriate record keeping. MBA urges the Bureau to consider our recommendations, to ensure both 1071 and HMDA collect appropriate information to inform future policy recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read 'JW', is positioned to the left of the typed name.

Jamie Woodwell
Senior Vice President
Commercial Real Estate Finance Policy &
Strategic Industry Engagement
Mortgage Bankers Association