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Intersection of Section 1071  
and proposed Community  
Reinvestment Act (CRA)  
modernization data collection  
and reporting requirements

Center for  
**Regulatory  
Strategy**  
**US**

# Introduction

The current regulatory agenda has left no doubt about the focus for the next few years: More data. Better data. Now. Although data collection and reporting capabilities are not new concepts in the banking world, the finalization of Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1071) and the proposed updates to the Community Reinvestment Act (CRA) demonstrate the increase and significance of data expectations across products and services. While updates to the CRA have yet to be finalized, banks' compliance with 1071 and CRA will require not only a major transformation effort across the three lines but also a coordinated effort due to the overlapping and complex considerations across requirements.

In a joint notice issued May 5, 2022, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) proposed modernizing and adapting the CRA to changes in the banking industry, including the acceleration of digital banking, and fostering a more consistent regulatory approach across the agencies<sup>1</sup>. The proposed changes will have a significant impact on how banks collect and report on data as well as prioritize community development investments and financing activities. Key aspects of the proposed rulemaking include an increased scope of assessment areas, expanded scope of products and services beyond only traditional credit products, new criteria and guidance on community-related investments and services, and enhanced data collection and reporting requirements. The proposed rule also includes an updated CRA evaluation framework based on bank asset size, including four new performance tests: (1) Retail Lending Test, (2) Retail Services & Products Test, (3) Community Development Financing Test, and (4) Community Development Services Test.

In March 2023, the Consumer Financial Protection Bureau (CFPB) finalized Section 1071 making the collection and reporting of certain small business lending data mandatory for "covered financial institutions,"<sup>2</sup> including banks and nonbanks.<sup>3</sup> Requirements in the CFPB's final rule represent a significant modification in credit life cycle management for small business lending, and while the final rule implemented tiered compliance dates dependent on the number of covered credit transactions<sup>4</sup> originated in 2022 and 2023, the expanded data fields require detailed analysis to identify impacts. Specifically, the demographic data points related to the applicant's ownership have been extended to include minority-, women-, and LGBTQI+-owned businesses and the ethnicity, race, sex, and gender of the applicant's principal owners.

Although it may appear there is significant time before banks must adhere to these final and proposed data collection and reporting requirements, many organizations have already begun to identify the impact and required changes driven by the complex cross-regulation intersections. While the final Section 1071 rule reduced duplicative data collection and reporting by excluding Home Mortgage Disclosure Act (HMDA) reportable transactions as covered credit transactions, the linkage with the forthcoming CRA modernization creates a scenario where banks will need to understand and consider the intricacies of the various data requirements and their impacts to respective technology systems; data repositories; and supporting processes, controls, and documentation.

## Summary of key regulatory requirement intersections

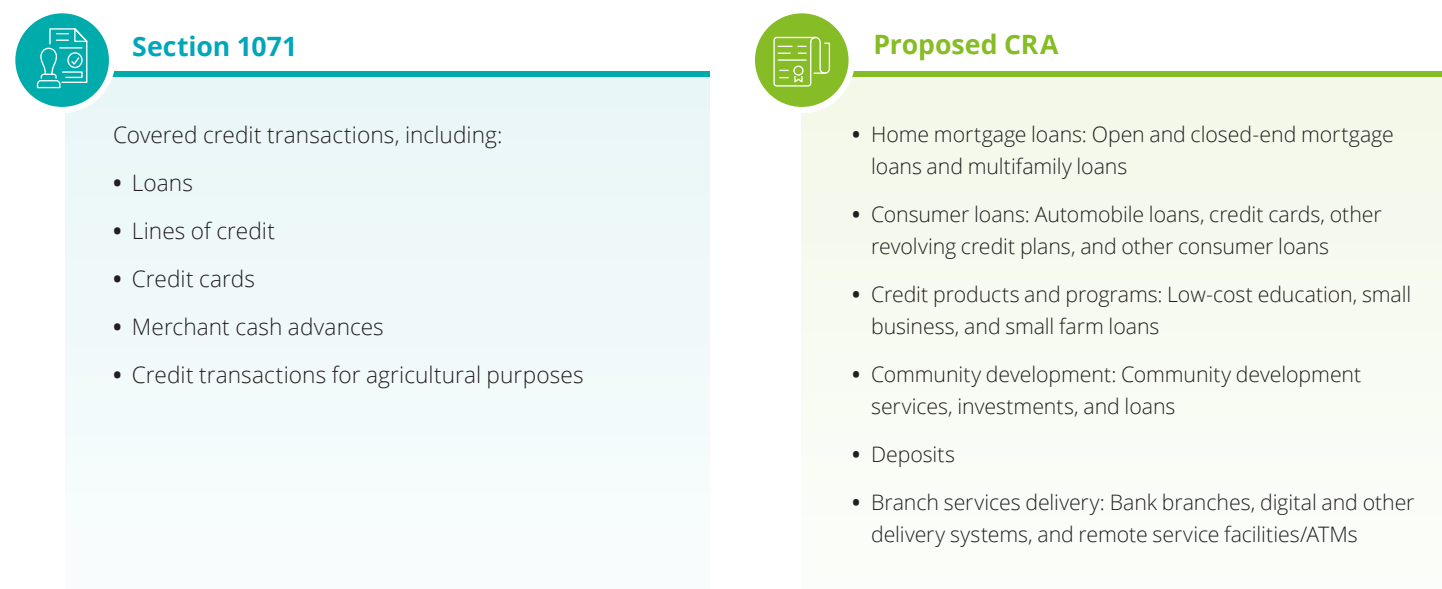
There are key considerations that banks should evaluate as they begin to implement changes to demonstrate regulatory adherence to these rules, including:

- Both Section 1071 and the proposed CRA requirements consistently define a small business as one with gross annual revenues for its preceding fiscal year of \$5 million or less.
- The scope of products and services differ across final Section

1071 and proposed CRA (see figure 1 for a detailed breakdown).

- Proposed CRA requirements include collection and reporting of purchases, while Section 1071 requirements do not.
- Proposed CRA requirements include reporting of loan data by ranges of amount at origination and gross revenues of \$1 million or less, while Section 1071 requirements do not.
- Overlapping data elements are required to be collected and reported in both Section 1071 and the proposed CRA requirements (see the Transactional data points and Business information sections below for further detail).

**Figure 1: Scope of products and services**



Section 1071 outlines the various data points that must be compiled and maintained regarding covered applications from small businesses. Data points for collection include data points that the bank generates, information that could be collected from the applicant or an appropriate third-party source, and data points based solely on the demographic information collected from an applicant. While commentary in the Section 1071 rule indicates coordination across agencies as it relates to small business and small farm definitions to reduce the burden related

to data collection and reporting, with CRA modernization still in a proposed state, banks may need to prepare for several scenarios given the various rulemaking finalization timelines.

As banks conduct detailed product-level impact analysis across first-line processes, technology, data infrastructure, and data quality controls for Section 1071 data points, it is essential to understand the proposed CRA intersections and associated considerations for applicable data elements.

## Intersection of Section 1071 and proposed Community Reinvestment Act (CRA) modernization data collection and reporting requirements

**Transactional data points:** The Section 1071 requirements include various transactional data points, including unique identifier, application date, application method, application recipient, action taken, action taken date, denial reasons (if applicable), amount approved or originated, credit type, credit purpose, amount applied for, and pricing information.<sup>5</sup>

- Both proposed CRA and Section 1071 require a unique identifier for the loan. Section 1071 includes specific guidance for reporting an alphanumeric identifier, starting with the legal entity identifier (LEI) of the bank, which is unique within the institution to the specific covered application, and the current proposed CRA requirements do not provide this level of specificity.
- The Section 1071 requirements for credit type include three required subcategories (credit product, guarantees, and loan term), while the proposed CRA requirements only note an indicator for the loan type as reported on the bank's or savings association's call report.
- The proposed CRA requirements include the date of loan origination or purchase, while final Section 1071 requirements only include the loan application date and does not include purchase data.
- The Section 1071 requirements include collecting and reporting of the loan amount applied for and the amount approved or originated, while proposed CRA requirements only include the loan amount at origination or purchase.
- While the Section 1071 requirements include data points related to action taken, the proposed CRA requirements only include an indicator for whether the loan was originated or purchased by the bank.

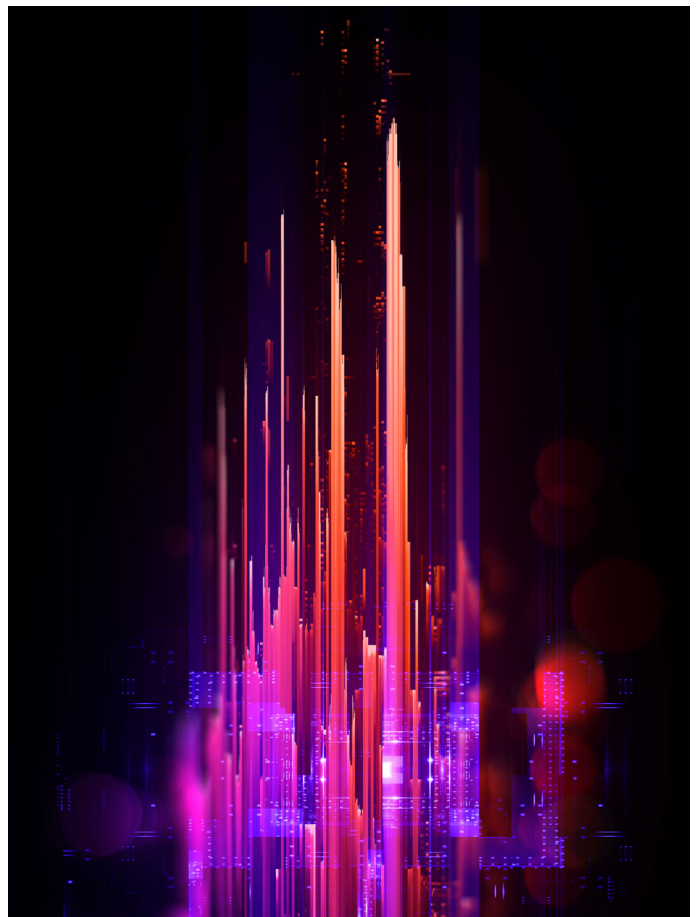
**Demographic data:** In alignment with the objective to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses, the final Section 1071 requirements include collection and reporting of minority-, women-, and LGBTQI+-owned business status and the ethnicity, race, and sex of principal owners.

- The proposed CRA requirements do not require banks to collect and report demographic data.

**Business information:** In order to gather the applicable business-related information for small businesses, the final Section 1071 requirements include data points to be collected,

including census tract, gross annual revenue, three-digit North American Industry Classification System (NAICS) code, number of workers, time in business, and number of principal owners.

- The Section 1071 requirements require banks to utilize the "waterfall" approach for reporting census tract information, while proposed CRA requirements have yet to provide specific requirements related to approach for capturing loan location information, including state, county, and census tract.
- While the Section 1071 requirements include reporting the applicant's gross annual revenue for its preceding fiscal year when the information was collected, the proposed CRA requirements specifically outline an indicator for whether the loan was provided to a small business or small farm with gross annual revenues of \$1 million or less.



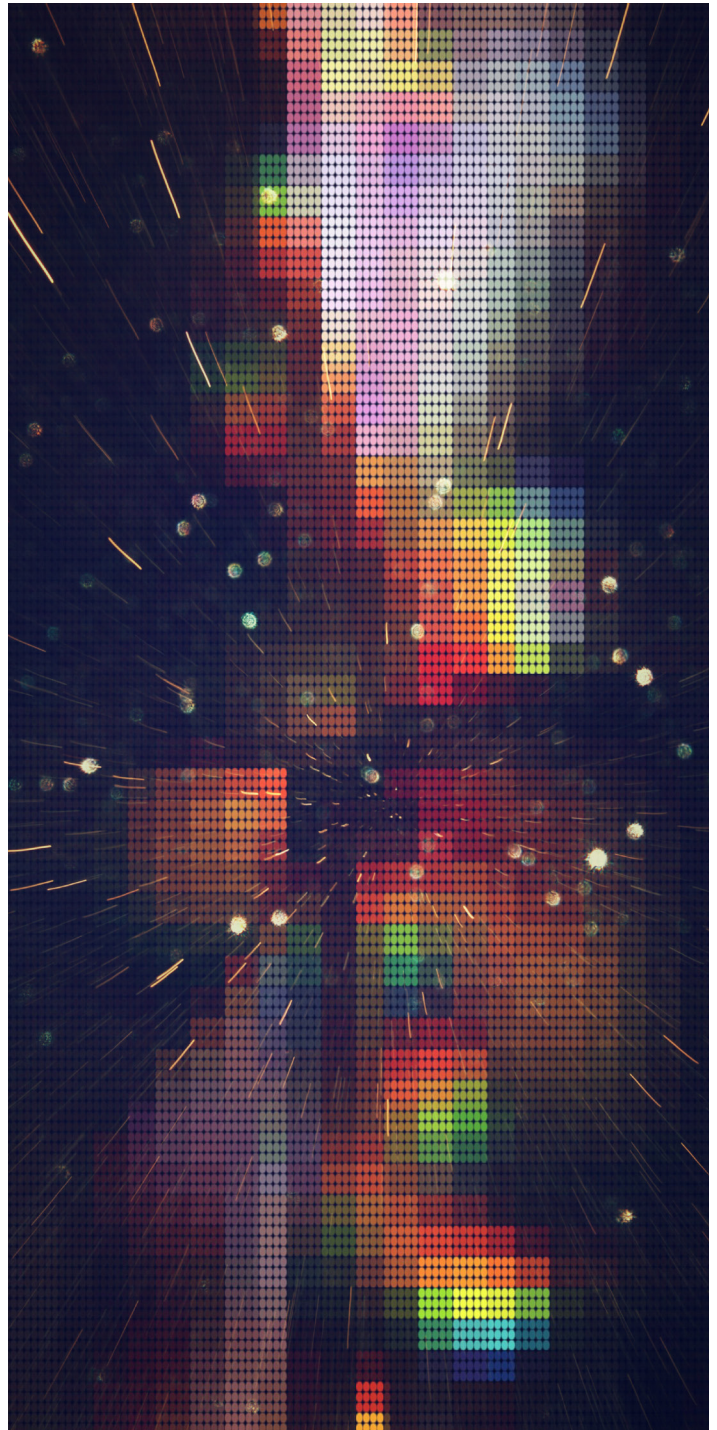


## Key considerations

While many banks in the Tier 1 compliance date for Section 1071 are likely close to completing the detailed impact analysis of the final rule, it is critical to consider the cross-regulation intersections prior to developing and deploying action plans to address identified gaps as the industry awaits the final CRA rule. Banks can begin taking tactical next steps to prepare for proper adherence with both of these regulatory changes focused on:

- **Data point intersection:** Banks should complete a detailed product-level impact analysis across first-line processes, technology, data infrastructure, and data quality controls along with recalibration of risk and compliance oversight for final Section 1071 and/or proposed CRA requirements. Banks should closely identify and flag the intersecting data points associated with small business and small farm loans. This will be critical to enabling the ability to quickly target and update potential action plans when the CRA rule is final.
- **Data element mapping and reporting capabilities:** Banks should begin to conduct deep dives into identified data and technology impacts, including data element mapping. It will be essential to determine the impacts of Section 1071 data elements to not only existing and future-state CRA reporting, but also broader reporting such as call and regulatory reporting. Banks should consider aligning the different data points across various products and accounting for various reporting audiences as master and reference data sources are enhanced.
- **Program management flexibility:** As the timelines for the rules remain in flux, program management functions should remain agile in case of pending changes and to quickly assess impacts and implement necessary adjustments to action plans when a final rule is published.
- **Third-party coordination:** For any banks that are closely working with third-party vendors to address Section 1071 requirements (including data capture within applicable tools) it will be important to analyze the impacts of a final CRA on vendor-supported applications and related enhancements.

While the industry awaits the final CRA rule and clarification on the connectivity or discrepancies with the Section 1071 requirements, banks are beginning to outline and execute their Section 1071 action plans and related activities and adjust accordingly.



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# Endnotes

1. Office of the Comptroller of the Currency (OCC), [“Agencies issue joint proposal to strengthen and modernize Community Reinvestment Act regulations,”](#) press release, May 5, 2022.
2. Includes any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activities that originated at least 100 covered credit transactions for small businesses in each of the two preceding calendar years.
3. Consumer Financial Protection Bureau (CFPB), [“Small Business Lending under the Equal Credit Opportunity Act \(Regulation B\),”](#) 12 CFR Part 1002, March 30, 2023.
4. Includes loans, lines of credit, credit cards, merchant cash advances, and credit transactions for agricultural purposes.
5. Pricing information is applicable for approved applications/originated transactions and includes additional applicable data points such as interest rate, total origination charges, broker fees, initial annual charges, additional cost for merchant cash advances and other sales-based financing, and prepayment penalties.

# Center for Regulatory Strategy US

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