

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

REVENUE BASED FINANCE
COALITION,

Plaintiff,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU; and ROHIT CHOPRA, in his
official capacity as Director of the Consumer
Financial Protection Bureau,

Defendants.

Civil Action No. 1:23-cv-24882-DSL

Judge David S. Leibowitz
Magistrate Judge Eduardo I. Sanchez

**DEFENDANTS' RESPONSE TO PLAINTIFF'S UNOPPOSED MOTION TO STAY
THE SECTION 1071 RULE AND HOLD PROCEEDINGS IN ABEYANCE**

Defendants the Consumer Financial Protection Bureau (CFPB) and Russell Vought, in his official capacity as the Acting Director of the CFPB,¹ respectfully submit this response to Plaintiff's unopposed motion to stay and hold proceedings in abeyance, ECF No. 71, pursuant to the Court's order, ECF No. 72. Defendants agree with the relief sought by the Plaintiffs. At issue here is the Bureau's final rule titled Small Business Lending Under the Equal Opportunity Act, 88 Fed. Reg. 35150 (May 31, 2023) (1071 Rule or Final Rule), which implements Section 1071 of the Consumer Financial Protection Act. A stay of the compliance date of this Rule is appropriate as several courts have concluded in similar circumstances. Indeed, two other courts have granted such relief in connection with challenges to the Final Rule at issue in this case.

¹ Mr. Vought became the Acting Director of the CFPB effective February 7, 2025. He is automatically substituted as a party in his official capacity. *See* Fed. R. Civ. P. 25(d).

As the Court is aware, new leadership arrived at the CFPB effective January 31, 2025, when Scott Bessent was named Acting Director of the CFPB, and again on February 7, when Russell Vought replaced Scott Bessent as Acting Director. New leadership has been assessing the Final Rule and the issues that this case presents to determine the CFPB's position. CFPB's new leadership has directed staff to initiate a new Section 1071 rulemaking. The CFPB anticipates issuing a Notice of Proposed Rulemaking as expeditiously as reasonably possible. Because the anticipated rulemaking process may moot or otherwise resolve this litigation, holding this matter in abeyance would conserve the Court's resources.

Several courts have stayed the compliance dates of CFPB rules under these circumstances. *See* Order granting motion for stay, *Texas Bankers Assoc. v. CFPB*, No. 24-40705 (5th Cir. Feb. 7, 2025), ECF No. 134; Order granting unopposed motion to stay, *Cornerstone Credit Union League v. CFPB*, No. 4:25-cv-00016-SDJ (E.D. Tex. Feb. 4, 2025), ECF No. 24; Order granting joint motion to stay, *Forcht Bank v. CFPB*, No. 5:24-cv-00304-DCR (E.D. Ky. Feb. 25, 2025), ECF No. 41; Order granting motion for extension, *Monticello Banking Co. v. CFPB*, No. 6:23-cv-148 (E.D. Ky. Mar. 11, 2025), ECF No. 48.

Two of these cases—*Texas Bankers Association* and *Monticello Banking Company*—concern other challenges to the Final Rule at issue here, and other entities facing compliance deadlines under the Rule have had those obligations stayed accordingly. In light of those stays, there is even more reason for the Court to grant Plaintiff the same relief, as subjecting similarly situated entities to different compliance dates for Section 1071's data collection requirements would not serve the public interest.

Finally, staying the Final Rule's effective date and holding the litigation in abeyance would not prejudice any party, as Defendants agree with Plaintiff's request for relief here.

The CFPB respectfully proposes submitting periodic status reports every 90 days during the pendency of the rulemaking and will promptly inform the Court when the rulemaking process is complete. Within 30 days of the issuance of a final rule, the CFPB proposes that the parties confer and notify the Court of whether and how they wish to proceed.

April 3, 2025

Respectfully submitted,

/s/ Andrea J. Matthews

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CERTIFICATE OF SERVICE

I hereby certify that, on April 3, 2025, I electronically filed the foregoing response with the Clerk of the Court of the United States District Court for the Southern District of Florida using the Court's CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

April 3, 2025

/s/ Andrea J. Matthews

Andrea J. Matthews

Counsel for Defendants