No. 24-40705

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

Texas Bankers Association; Rio Bank, McAllen, Texas; American Bankers Association; Texas First Bank; Independent Bankers Association of Texas; Independent Community Bankers of America,
Plaintiffs-Appellants

v.

Consumer Financial Protection Bureau; Russell Vought, in his official capacity as Acting Director of the Consumer Financial Protection Bureau,
Defendants-Appellees

v.

Texas Farm Credit; Farm Credit Council; Capital Farm Credit,
Intervenor Plaintiffs-Appellants

v.

XL Funding, L.L.C.; Equipment Leasing and Finance Association; Rally Credit Union; Credit Union National Association; Cornerstone Credit Union League
Intervenors-Appellants

On Appeal from the United States District Court
for the Southern District of Texas, Case No. 7:23-cv-144

STATUS REPORT

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STATUS REPORT

Defendants-Appellees the Consumer Financial Protection Bureau (CFPB) and Russell Vought, in his official capacity as the Acting Director of the CFPB,[1] respectfully submit this Status Report to inform the Court of developments related to this case and ongoing agency proceedings regarding the CFPB's Small Business Lending Rule ("the Rule" or "2023 Rule") issued on Mach 30, 2023.

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.

During this transition period, this Court was scheduled to hear arguments in this case on February 3. Under the direction of new leadership, counsel for the CFPB appeared at the hearing but was not authorized to present argument other than to request a pause in proceedings. This Court requested that both parties submit in writing their posture regarding the current status of the case, and on February 7, this Court entered an order granting Plaintiffs' motion for a stay pending appeal, subject to modification at any time, as circumstances may warrant. This Court also tolled the Rule's compliance dates for Plaintiffs and intervenors in this case, pending further order.

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[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. App. P. 43(c)(2).

The CFPB now respectfully submits this Status Report to inform the Court that the agency'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.

As an initial step, the Bureau has taken action to extend the Rule's deadlines for all regulated entities in order to ensure even treatment for all market participants and to provide time for the Bureau to consider and propose a new Section 1071 rule. *See* 90 Fed. Reg. 25874. As a result, the compliances dates will be postponed for all regulated parties by approximately one year, with the earliest initial compliance date for the highest-volume lenders set for July 1, 2026. *Id.* at 25875. In light of that action, regulated parties, including Plaintiffs and Intervenors and their members, will not be subject to compliance obligations while the Bureau works to issue a new proposal to reconsider aspects of the 2023 Rule. The Bureau also previously announced that it will not prioritize enforcement or supervision under the 2023 Rule. *See CFPB Keeps Its Enforcement and Supervision Resources Focused on Pressing Threats to Consumers*, CFPB (April 30, 2025), https://www.consumerfinance.gov/about-us/newsroom/cfpb-keeps-its-enforcement-and-supervision-resources-focused-on-pressing-threats-to-consumers.

Because the anticipated rulemaking process may moot or otherwise resolve this litigation, the CFPB believes it would be appropriate to maintain the existing stay and tolling of the Rule's compliance dates for the Plaintiffs and Intervenors in this case until the CFPB completes the final substantive rulemaking process referenced in the interim final rule.

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.

Counsel for Defendants conferred with counsel for Plaintiffs and Intervenors, and they indicated that they consent to the CFPB's proposals.

Dated: July 2, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify on July 2, 2025, a true and correct copy of this document was served electronically by the Court's CM/ECF system to all counsel of record.

Dated: July 2, 2025

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