



# FORVIS<sup>TM</sup>

## 1071 Discussion and Q&A

### 2023 ABA Mega Conference

FORVIS is a trademark of FORVIS, LLP, registration of which is pending with the U.S. Patent and Trademark Office.

## Financial Services Advisory



## Shaun Harms – CRCM

Principal, Small/Middle Market Compliance Consulting

### Education

- Master of Business Administration, International Business
- Bachelor of Science, Finance

### Selected Skill Areas

- Compliance Management Systems
- Regulatory Enforcement Actions
- Compliance Training
- Lending Compliance Reviews
- Deposit Compliance Reviews
- RESPA Section 8
- Fair Lending/Community Reinvestment Act
- Home Mortgage Disclosure Act
- Bank Secrecy Act
- Risk Assessments

# FORVIS

## Overview

Shaun Harms has worked in the financial services industry for approximately 20 years. He possesses vital knowledge that spans throughout the regulatory, compliance and operational risk sectors of the financial services industry.

## Career Highlights

- Assisted in the development of compliance management systems for financial institutions, including risk assessments, policies, structure, audit planning, etc.
- Provided compliance officers in financial institutions with resources to manage compliance programs
- Performed consumer compliance, fair lending, and BSA review services for community and mid-size banks for over 17 years.
- Conducted hundreds of training sessions for bank personnel, board of directors, examiners, and trade associations
- Analyzed data for community and mid-size banks to identify lending opportunities to improve outreach in LMI or MMCT areas.
- Composed action and/or restitution plans for financial institutions under regulatory enforcement actions or examination criticism.
- Performed targeted reviews or lookbacks as a result of audit or exam findings.

Before joining FORVIS, Shaun was the Founder and Executive Director of Bankers Assurance, LLC which was a consulting firm specializing in compliance related reviews and assistance for community and mid-size financial institutions.

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# Section 1071



# Commercial Lending

- It's here.....
  - Part of original Dodd-Frank rule (Section 1071)
  - No more delays??? Maybe???
  - Did set up a tiered implementation period
  - What is covered?
    - + Commercial loans to “small businesses”
    - + All covered loans that are not HMDA reportable
    - + Excludes – modifications/renewals **unless new money is provided**

# Compliance Timeline

- Begin collection on October 1, 2024 if it originated at least 2,500 covered originations in both 2022 and 2023.
- Begin collecting data and otherwise complying with the final rule on April 1, 2025 if it:
  - Originated at least 500 covered originations in both 2022 and 2023;
  - Did not originate 2,500 or more covered originations in both 2022 and 2023; and
  - Originated at least 100 covered originations in 2024.
- Begin collecting data and otherwise complying with the final rule on January 1, 2026 if it originated at least 100 covered originations in both 2024 and 2025, but did not originate at least 500 covered originations in both 2022 and 2023.

# Compliance Timeline Simplified

- Last 2 year test (must meet in BOTH years 2022/2023)

Number of Covered Loans	Collection Date	Reporting Date
Greater than 2,500	October 1, 2024	June 1, 2025
Less than 2,500 but more that 500	April 1, 2025	June 1, 2025
More than 100 but less than 500	January 1, 2026	June 1, 2026
Less than 100	Exempt	NA

# Section 1071

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- What is a small business???
  - Revenues of less than \$5 million
- Think about the impact on your bank!
- What about other rules?



# Firewall

- Employees and officers of a covered financial institution or its affiliate are prohibited from accessing an applicant's responses to the final rule's required inquiries **if that employee or officer is involved in making any determination concerning the applicant's covered application**
- This prohibition does not apply to an employee or officer if the covered financial institution determines that the employee or officer **should have access** to one or more applicants' responses to these inquiries, and the covered financial institution provides a notice to the applicants whose responses will be accessed.



# Firewall

- What does this mean for us?
- What are the challenges?
- Do we have any comparisons?

# Section 1071 – What do we do?

## Planning



What changes will have to be made



Get training ready



Inform management about what's happening



Potential budgets and/or vendors needed



Find out your tier and starting date

## Section 1071

- Can we test or start early?
  - We are afforded a 12-month safe harbor to collect info with no repercussions

# Section 1071

## Pitfalls

- Potential of putting commercial loans in a “box”
- Public data and scrutiny by consumer groups and regulators
- Similar to HMDA expect fines and violations for incorrect data
- Another submission and reporting process
- Will other competitors know about your business customers and terms you offer (still in process)?

# Discussion



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WEBINAR

# Thank you!

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