CLFP Recertification | 2025

Dodd-Frank 1071 – Where are we?

In May 2024, the U.S. Supreme Court upheld the constitutionality of the Consumer Financial Protection Bureau (CFPB) funding structure, ending the nationwide injunction staying the implementation of Dodd-Frank Section 1071. The CFPB has extended compliance dates by 290 days to compensate for the injunction with the new compliance dates as follows:

Compliance Tier Loans in 2022 and 2023	Original Date	New Date	First Filing
Tier 1 – 2,500 or more loans	October 1, 2024	July 18, 2025	June 1, 2026
Tier 2 – 500-2,499 loans	April 1, 2025	January 16, 2026	June 1, 2027
Tier 3 – 100-499 loans	January 1, 2026	October 18, 2026	June 1, 2027

As of the implementation dates noted above, all covered financial institutions, defined broadly to include any entity that conducts commercial finance activity, will be required to collect specific data and report to the CFPB annually on all small business applications for credit. (Small business is defined as $5 million or less in gross annual revenue for its preceding fiscal year).

Some key steps in preparation for implementation of Dodd-Frank 1071:

- Identify covered credit transactions and applications.
- Identify data points needed for reporting and ensure they are captured.
- Review systems and applications to identify system enhancements needed prior to implementation.
- Document procedures and process flows.
- Provide adequate training for employees and third parties.
- Managing data from third-party loan originators to ensure completeness and accuracy as well as compliance with requirements.
- Separation firewall for demographic data.
- Data cleanup, review, and reporting.
- Data retention requirements.

Remain up to date by visiting **https://www.consumerfinance.gov/1071-rule/**

Enhanced Finance State Disclosure Laws – Where are we?

State legislators are continuing to introduce consumer-like enhanced finance disclosure requirements for commercial transactions. The primary objective of these proposed regulations is to mandate commercial financing entities furnish transparent and uniform disclosures primarily aimed at safeguarding the interests of small business owners.

The Equipment Leasing and Finance Association (ELFA) has been at the forefront of advocating for exemptions within this ever-evolving state regulatory landscape. Notably, the ELFA has successfully secured exemptions for all equipment true leases in California and New York, as well as comprehensive exemptions in every state that has enacted or proposed disclosure legislation since New York. These exemptions encompass various financing arrangements, including but not limited to, UCC 2A true leases and UCC 9 purchase money obligations.

Currently, among the states that have passed enhanced disclosure legislation, some, such as California, New York, and Connecticut, mandate the disclosure of the annual percentage rate (APR), whereas others, such as Utah, Georgia, Florida, and Virginia, do not. Additionally, disclosure requirements typically include detailing the finance charge, payment schedule, and any third-party agreements involved in the loan.

In summary, the movement towards enhanced finance disclosure underscores a concerted effort by states to promote transparency and protect the interests of small business borrowers. The ELFA's proactive engagement in securing exemptions demonstrates a commitment to balance state regulatory requirements with the needs of the commercial equipment leasing and finance sector. As more states consider similar enhanced disclosure laws, collaboration between industry stakeholders and policymakers remains crucial to crafting regulations that foster economic growth while ensuring fair and transparent lending practices.

Remain up to date by visiting **Lender License and Enhanced Financial Disclosure (elfaonline.org)**

Equipment Valuations

The primary role of Asset Management is to help the lender understand the upfront value of the equipment investment and the value at the end of the lease. The type of Asset Management can vary based on a company's lending activities, but it remains an important factor for all companies.

Determining the upfront value of equipment is critical in preventing fraud, ensuring advance amounts are appropriate, and minimizing any value deficiencies upon default. User-to-user equipment sales (Private Party Transactions) generally involve more risk than manufacturer-to-user or vendor-to-user sales. Used equipment values can be more difficult to accurately determine than new equipment sold by the original manufacturer. Accurately assessing the value of used equipment will require knowledge of the hours/miles, asset condition, and overall remaining useful life (which can differ for the same equipment depending on the industry). Requiring equipment inspections for user-to-user equipment sales and used equipment sales can reduce the risk of advancing more than the equipment's value, resulting in a collateral deficit vs. the net investment, creating a greater risk of loss in the event of default. This can be a balancing act between efficiencies and loss prevention.

Determining the value at the end of the lease is part art, part science. It is nearly impossible to accurately predict equipment values 3, 5, 7, or 10 years from now, and the longer the lease term, the more difficult this becomes. The industry has seen some incredibly high values recently and some quite low values recently, none of which could have been predicted several years ago. Companies providing financing for more specialized equipment face greater valuation challenges.

Consider the 2021 – 2022 time period, when supply chain challenges caused by COVID-19 (which nobody predicted) created a shortage of available equipment, sometimes significant shortages. This supply/demand imbalance resulted in high equipment values—if one wanted new equipment, it was simply unavailable, which drove up used equipment values (provided there was used equipment available).

Consider the current period, where dealers/sellers of equipment are flush with both new and used equipment. This demand/supply imbalance has resulted in reduced equipment values for many new or used assets. When some industries/regions experienced unexpected growth throughout COVID, companies purchased equipment to meet increased business demands. As societal norms returned, some found no need for additional equipment, increasing the availability of used equipment.

During the 2021 – 2022 period, many lenders realized significant gains at maturity due to elevated equipment values (vs. predictions at origination). During the current period, however, some lenders are experiencing losses, especially upon default.

For transactions originated in the 2021 – 2022 period when equipment values were high and costs potentially "elevated," obligors defaulting when values are depressed leads to increased losses by the lender. Additionally, lenders would be prudent to recognize that their value curves throughout the term of the transaction might need to be adjusted compared to "normal times" based on the elevated values/equipment cost at origination.

KYC, AI, and E-Notary

Know Your Customer (KYC)

In the ever-evolving landscape of equipment financing and leasing, Know Your Customer (KYC) technologies play a critical role in safeguarding and preventing money laundering, terrorism, and various types of fraud. As the regulatory landscape for identity verification becomes more complex, KYC technologies continue to adapt and evolve to ensure compliance.

These innovations are vital for Anti-Money Laundering (AML) regulated institutions under the Patriot Act, Customer Identification Program (CIP), and Customer Due Diligence (CDD) requirements. The benefits range from enhancing identity verification to ensuring ongoing monitoring and compliance with evolving regulations.

Some areas in AI and machine learning that are transforming KYC processes include:

Automated Data Analysis and Fraud Detection: AI can analyze large amounts of data to detect and prevent fraud, improving accuracy in risk assessments.

Streamlined Customer Onboarding: AI automates document analysis and verification for faster, cost-effective customer onboarding. Technologies like facial recognition and OCR enable quick, reliable identity verification.

Enhanced Due Diligence and Risk Assessment: AI helps build detailed risk profiles by gathering data from various sources. This is especially useful for enhancing compliance with global regulations.

Continuous Monitoring and Re-KYC: AI systems monitor customer transactions and behavior for potential money laundering or other illegal activities. AI also automates parts of the re-KYC process, ensuring customer information stays up to date without manual re-verification in simple cases.

KYC technologies' integration into equipment financing and leasing will be crucial in digital transformation. Embracing these technologies will better position our industry to meet customer demands and maintain compliance in a changing regulatory environment.

Artificial Intelligence (AI)

Artificial Intelligence (AI) is revolutionizing the equipment finance industry by enhancing efficiency, reducing risk, and improving customer experiences.

Efficiency Enhancement: AI automates routine tasks such as data entry and contract management, freeing up staff for more strategic work. Machine learning algorithms can quickly analyze vast amounts of data, providing insights that humans might miss and speeding up decision-making processes.

Risk Reduction: AI can help identify patterns in data that may indicate fraudulent activity, allowing companies to take preventative measures. Predictive analytics can forecast market trends and customer behavior, helping businesses make informed decisions and mitigate risk.

Improved Customer Experience: AI-powered chatbots provide instant, personalized responses to customer inquiries, improving engagement and satisfaction. AI can also tailor financial products to individual customer needs based on their behavior and preferences.

Predictive Maintenance: IoT (Internet of Things) devices can monitor equipment health in real time, and predictive maintenance can be implemented with AI. This means that equipment can be serviced or replaced just before it's likely to fail, preventing downtime and saving money.

Portfolio Management: AI can analyze a company's portfolio and suggest optimal ways to diversify or when to buy or sell based on patterns and predictions about market conditions and risk factors.
In conclusion, AI's applicability in the equipment finance industry is vast and transformative. It's not just about automating tasks but also about gaining insights, making more accurate predictions, and making better decisions. As technology continues to evolve, its impact on the industry is expected to grow, making it an exciting area to watch.

E-Notarization

E-notarization in the equipment finance industry offers significant benefits, including increased efficiency by reducing the time required, enhanced security through digital verification, cost savings by eliminating paper expenses, and improved customer experience with convenient, remote access to notarization services.