

Congress of the United States
Washington, DC 20515

July 31, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Dear Director Chopra,

We write regarding the Consumer Financial Protection Bureau’s (CFPB or “the Bureau”) proposed rule to implement Section 1033 of the Dodd-Frank Act (the “Personal Financial Data Rights” rule or simply the “proposed rule”).¹ We agree that our financial services system should put the consumer in charge of how their data is used, and we seek to empower consumers to safely share their financial data with the providers of their choice. Additionally, we support the proposed rule’s efforts toward data privacy, data minimization, and its prohibition on third parties selling consumer data.

That said, we respectfully urge you to revise provisions of the proposed rule which we believe could hinder the Bureau’s efforts to enhance consumers’ control of their financial lives and promote competition in financial services. Specifically, we are concerned significant restrictions on the secondary use of data could discourage the advancement of innovations that benefit consumers and small businesses by curbing basic product improvements and the development of tools to fight fraud.

The proposed rule would limit the “collection, use, and retention of consumer-permissioned data to what is reasonably necessary to provide the consumer’s requested product or service.”² We understand and support the principle behind this limitation—consumers should be in control of how their data is used and shared, not have it packaged and sold by data brokers in ways that are beyond their control and do not benefit them. However, the strict limitation on data use within a single product selected by the consumer could severely limit the benefits of those products to consumers, and it could hinder the development of healthy competition for the benefit of consumers. If consumer privacy can be preserved through practices like data minimization, deidentification, or pseudonymization, certain secondary uses of data have significant consumer benefits and should be maintained. Below are various consumer benefits that we urge you to protect in the final rule along with strong safeguards that promote data privacy and ensure consumers retain control of their own data.

¹ Consumer Financial Protection Bureau, [Required Rulemaking on Personal Financial Data Rights](#). Proposed Rule, RIN 3170-AA78 (Oct. 19, 2023)

² Id.

Fraud Protection

Fraudsters are always changing their behavior and leveraging new technology to separate consumers from their money. It is imperative that financial services companies be able to continue improving their protections against scams and fraud. While the proposed rule permits data “uses that are reasonably necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability,” we understand that restrictions on use of data for product improvements, as drafted, could limit the use of data to improve existing anti-fraud tools or develop new ones.³ We are concerned that the data use limitations in the rule could hinder fraud-prevention efforts that protect consumers, their financial providers and the merchants they interact with.

Product Improvement and Helping Low Income Consumers

The proposed rule’s limitation on use of data to the product the consumer requested would prohibit some companies from leveraging data to improve a product or from using data to develop other innovative products. We encourage you to permit the use of data to develop and improve products. Entrepreneurs depend upon existing data sets to build and test new products, and consumers benefit from having access to those new products in a competitive marketplace.⁴

One example of a product that could be affected by this limitation is cash flow underwriting. Cash flow underwriting shows tremendous promise to improve access to consumer credit, especially for the 50 million Americans deemed unscorable or credit-invisible.⁵ However, we understand that, as drafted, the proposed rule could prohibit lenders from using consumer-permissioned data to design and improve their underwriting models. Without the benefit of real-world data, the rule could make building these models—and others—more challenging.

* * *

The Personal Financial Data Rights rule will be most powerful if consumers enjoy a competitive marketplace where providers compete fiercely to meet their needs, not one that empowers incumbent players. Our hope is that the final rule will protect consumer data while also promoting competition among financial services players. We hope you will take these views—and the opinions of the diverse group of industry associations, consumer groups, businesses, academics, and others who have already submitted comments and letters—into consideration as you finalize the rule. We appreciate your continued work on this issue and look forward to a thoughtful response.

Sincerely,

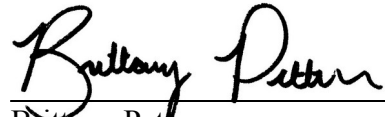
³ Financial Technology Association, [Fraud will be harder to stop without changes to open banking rules](#). Op-ed, *American Banker* (April 4, 2024)

⁴ National Community Reinvestment Coalition, [Joint Statement in Support of CFPB 1033 Rulemaking](#). Ex-parte submission to CFPB (March 14, 2024)

⁵ Oliver Wyman, [Financial Inclusion and Access to Credit](#). (2023)



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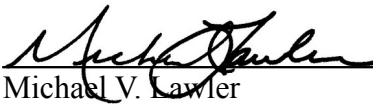
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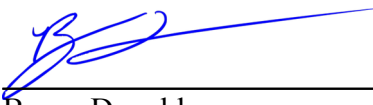
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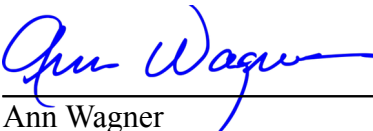
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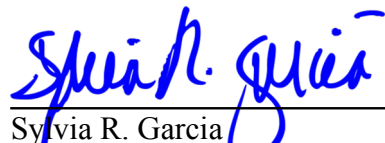
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