



July 16, 2024

Via electronic submission

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

Re: **Docket No. CFPB-2023-0052 – Comments on Notice of Proposed Rulemaking on Personal Financial Data Rights**

Dear Director Chopra:

The Bank Policy Institute,¹ The Clearing House Association,² the Consumer Bankers Association,³ and the American Bankers Association⁴ are writing to provide additional information relevant to the Bureau's Proposed Required Rulemaking on Personal Financial Data Rights⁵ issued pursuant to section 1033 of the Dodd-Frank Act and the proposed compliance dates set forth therein in light of more recent implementation planning efforts of our members and the CFPB's recent issuance of a final rule setting forth the procedures under which a standard-setting body may apply for and obtain CFPB recognition.

Our members are already engaged in planning and preparation to comply with the final rule, but given the novelty of the regulation and complexity of the proposed regime, we would like to

¹ The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's bank-originated small business loans, and are an engine for financial innovation and economic growth.

² The Clearing House Association L.L.C., the country's oldest banking trade association, is a nonpartisan organization that provides informed advocacy and thought leadership on critical payments-related issues. Its sister company, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States, clearing and settling more than \$2 trillion each business day.

³ The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

⁴ The American Bankers Association is the voice of the nation's \$24 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$19 trillion in deposits and extend \$12.4 trillion in loans.

⁵ "Required Rulemaking on Personal Financial Data Rights," Consumer Financial Protection Bureau, 88 Fed. Reg. 74796 (October 31, 2023).

reemphasize our comments that a compliance date of at least 2 years from the issuance of a final rule would be most appropriate to enable even the most sophisticated data providers to be fully compliant and to minimize any customer disruption. As the associations and their members have continued to review and analyze the proposal to plan and prepare for implementation, it has become even more clear than we had previously articulated in our comment letters that, once a final rule is issued, banks likely will have to make complex and time-intensive changes to their systems and processes to implement, and create associated controls to ensure ongoing compliance with, the requirements of a final rule.

For example, our members likely will have to:

- Update public-facing websites to meet the final rule’s public disclosure requirements;
- Generate and publish performance metrics to align with the CFPB’s new definitions;
- Ensure data is provided in a (currently unknown) standardized format;
- Enable support for required data elements not currently shared (such as, for example, bill payment data, certain terms and conditions);
- Develop and operationalize the policies, procedures and processes required under the rule;
- Upgrade underlying technology infrastructure to meet API performance standards;
- Build new functionality pertaining to “machine readable” files accessible by consumers;
- Manage new maximum access duration requirements;
- Build and operationalize processes to notify third parties of developer interface denials and consumer access revocations;
- Update customer service operations to account for the new scope of activities and functionality;
- Perform robust testing to ensure safe and resilient implementation of new functionality; and
- Adapt current data access agreements and third party oversight processes, among numerous other requirements likely to be included in a final rule.

Importantly, implementation of the final rule will require extensive work and coordination between different private entities to amend existing agreements or put in place new or revised technology protocols. This process, too, will take time.⁶

In addition, entities subject to the rule will likely have numerous questions about its requirements and parameters, which will likely result in ongoing dialogue with the CFPB as these entities prepare for implementation.⁷ We respectfully ask that the CFPB work collaboratively with industry after a final rule is published to respond to industry questions to help facilitate compliance.

⁶ We note that the request for more time to comply has also been conveyed to the CFPB by data aggregators and other third parties, which will need to time to test and integrate with the developer interfaces required by the rule. See, e.g., Plaid, comment response to “Required Rulemaking on Personal Financial Data Rights” (Dec. 29 2023) at 14-15, https://downloads.regulations.gov/CFPB-2023-0052-0917/attachment_1.pdf; Financial Technology Association, comment response to “Notice of Proposed Rulemaking - Required Rulemaking on Personal Financial Data Rights (Docket No. CFPB-2023-0052; RIN 3170-AA78)” (Dec. 21, 2023) at 14, https://downloads.regulations.gov/CFPB-2023-0052-0652/attachment_1.pdf, and *ex parte* memorandum (March 26, 2024) at 1-2 https://downloads.regulations.gov/CFPB-2023-0052-11116/attachment_1.pdf.

⁷ Bank Policy Institute and The Clearing House Association, comment to “Docket No. CFPB-2023-0052, Required Rulemaking on Personal Financial Data Rights” (Dec. 29, 2023), [BPI-TCH-combined-1033-comment-letter-2023.12.29.pdf](https://www.federalreserve.gov/foia/2023/12/29/bpi-tch-combined-1033-comment-letter-2023.12.29.pdf).

We respectfully request a meeting with you in the very near future to discuss in greater detail the massive scope of work that our members will have to undertake to come into compliance with a final rule to ensure that there is a mutual understanding of the time this work will require to complete.

Furthermore, in June, the CFPB issued a final rule establishing the procedures for one or more standard-setting bodies to apply for recognition and explaining how the CFPB will evaluate those applications.⁸ In light of the requirements a standard-setting body must meet to be recognized and the process the CFPB has established for recognizing a standard-setting body, it is clear that many steps will have to be taken before a consensus standard can be issued by a standard-setting body.

First, before a standard-setting body would even be able to file an application, it likely would need time to either amend its existing governance process or develop a governance process that meets the criteria established by the CFPB. Second, a standard-setting body would need to file a complete application, and the rule contemplates that the CFPB and an applicant may have multiple rounds of communication before an application would be deemed complete. The CFPB would then engage in a review process to consider whether the standard-setting body meets the criteria the CFPB has determined must be met for recognition. The rule contemplates that this review process may involve the CFPB's publishing the application "so as to enable stakeholders who believe the application is deficient to bring the CFPB's attention to any evidence that might substantiate such claims of deficiency. In this event, the CFPB expects to ask the applicant to provide written responses to any such claims, which the CFPB can then consider as part of its review and assessment of the application." This public notice and comment process could take a significant amount of time.

The standard-setting body also will have to evaluate and interpret the final rule, and its standards will have to be adapted to conform with the requirements of the final rule. The CFPB has promulgated requirements governing the development of standards by a standard-setting body, which must include input, feedback, and appeals by all stakeholders, and this process would likely take months. Finally, the standards must be published, socialized, and implemented by data providers. The product implementation lifecycle involves scoping necessary technology and operational changes and considering knock-on effects of the required changes across organizations, which, in the case of our members, are generally large and complex. This lifecycle generally takes at least several months to complete. Thus, the entire process leading up to a standard-setting body's issuing an industry standard is likely to take many months to complete, in addition to the time required to become a recognized standard-setting body by the CFPB.

If the first group or groups of data providers that must come into compliance with a final rule are required to do so before the aforementioned work has occurred, those data providers would have to implement their APIs to conform with the final rule without waiting for the issuance of a relevant recognized consensus industry standard. It is very likely that they would then need to *rebuild this same functionality* once the standard is issued to conform with that new standard. This would not only unnecessarily consume considerable resources, but it also would lead to considerable disruptions in customer connections, a highly undesirable outcome.

⁸ "Required Rulemaking on Personal Financial Data Rights; Industry Standard-Setting," Consumer Financial Protection Bureau, 89 Fed. Reg. 49084 (June 11, 2024).

For the foregoing reasons, we respectfully request that the CFPB extend the rule's proposed compliance timeframe for the largest financial institutions (as defined in the proposed rule) until a sufficient period of time has passed after issuance of a final rule to allow for the aforementioned series of actions to transpire. Based on our best estimates of the work that will need to be completed, we believe that a period of at least 2 years after the issuance of a final rule would be appropriate. This will allow customers of these institutions (which have already built APIs that enable data sharing with third parties for over 50 million customers) to reliably continue enjoying the benefits of data sharing. A shorter compliance period will require data providers to redeploy operating resources to meet the deadline as firms scramble to fit existing data sharing systems to the new rules, which likely would disrupt services to tens of millions of consumers.

As we have recommended previously, the subsequent compliance deadlines contemplated in the rule also should be extended by a minimum of 18 months; thus, the second group of entities required to comply would have two and a half years after publication of the final rule in the Federal Register to do so; the third group, four years; and the fourth group, five and a half years.

For all of these reasons, as noted previously, we respectfully request a meeting with you and your staff in the very near future to discuss in greater detail the scope of work that implementation will require even for the largest, most sophisticated data providers to help ensure a mutual understanding of the work and time that will be required to comply with a final rule.

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Thank you for your consideration of this request. Please contact Paige Paridon at paige.paridon@bpi.com or (703) 887-5229, Rodney Abele at rodney.abele@theclearinghouse.org or (347) 703-1839, Ryan Miller at rmiller@aba.com or (202) 663-7675, or Brian Fritzsche at bfritzsche@consumerbankers.com or (202) 552-6381 if you have questions or to schedule time to meet with us and our members on the aforementioned topics.

The Bank Policy Institute
The Clearing House Association
The American Bankers Association
The Consumer Bankers Association