



January 25, 2023

Submitted Electronically

Consumer Financial Protection Bureau
1700 G St. NW
Washington, DC 20552
[Financial Data Rights SBREFA@cfpb.gov](mailto:Financial_Data_Rights_SBREFA@cfpb.gov)

Re: Outline of Proposals and Alternatives Under Consideration for Personal Financial Data Rights

Dear Ladies and Gentlemen,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing nearly 200 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) Outline of Proposals and Alternatives Under Consideration (Outline), which describes proposals under consideration that, if finalized, would specify rules requiring certain covered persons that are data providers to make consumer financial information available to a consumer directly and to those third parties the consumer authorizes to access such information on the consumer's behalf.

Introduction

In 2010, Congress passed the Section 1033(a) (section 1033) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) authorizes CFPB to prescribe rules requiring "a covered person [to] make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data." CFPB has issued the Outline as part of its process of writing regulations to implement section 1033. Within the Outline CFPB presents:

- Coverage of data providers who would be subject to the proposals under consideration;
- Recipients of information, including consumers and authorized third parties;
- The types of information that would need to be made available;
- How and when information would need to be made available, including when information made available to consumers directly and to third parties authorized to access information on their behalf;
- Third party obligations;
- Record retention obligations; and
- Implementation period.

CFPB has presented the Outline, along with questions selected to solicit feedback on specific topics, along with general feedback requested on all aspects of the proposals under consideration along with alternatives.

Comments

The nature of data, and data sharing, has evolved since Congress passed section 1033. New technologies have emerged, and with the growth of fintechs, data aggregators, and the applications of financial information between intermediaries and banks, the landscape has changed significantly. During this time, the industry has worked to create standards and best practices to accommodate data sharing while protecting customer information.

The Outline represents a significant mark upon this landscape. Formal rulemaking presents an opportunity to fill gaps, bring uniformity, and enhancements to existing industry standards. CFPB stands in a position to create a set of rules that will continue to foster innovation and bring ease and comfort to consumers. However, WBA offers that CFPB should take a careful approach, to adhere to section 1033, consider the work and relationships of the cross-industry group involved in the sphere of data sharing, and remain mindful of the efforts already in place to avoid setting overly difficult, or otherwise impractical, requirements. For example, in 2017 CFPB issued Consumer Protection Principles: Consumer-Authorized Financial Data Sharing and Aggregation, based upon stakeholder insights. Overall, these principles were based upon the notion that consumer-authorized access to consumer financial account data may enable consumer-friendly innovation, through new products and services, and overall enhance the consumer's financial lives, while balancing the need to ensure data security, privacy, and safeguards against unauthorized access. Much of the current set of standards and best practices have been established under these principles. As such, WBA hopes that CFPB will remain consistent with those principles, and that approach, in any future rulemaking.

In this approach, WBA recommends that CFPB create a principles-based, adaptable framework. An adaptable approach suitable for differing levels of sophistication and resources among businesses, similar to the 2017 approach. While these principles do not go far enough to create the consistent, regulatory framework required by section 1033, at their core, they are useful in identifying the primary issues that stem from access to consumer information and as such can serve as a roadmap for issuing a proposed rule.

CFPB should also seek to involve software providers. Core and other software providers play a significant role in the data aggregation market. These providers create and maintain application programming interfaces (API) on behalf of banks. Within the Outline, CFPB considers aspects of APIs, even alternatives, such as screen scraping consumer credentials. WBA is concerned that such methods would create significant limitations for third parties. Particularly, this could create a serious disadvantage for smaller entities, which rely upon these software providers, where customers would simply select other institutions without limitations. To avoid this result, WBA recommends that CFPB works closely with software providers.

Lastly, CFPB should clarify that business accounts are not covered by any rulemaking.

Conclusion

In recognition of the need to shore up gaps in current principles, and move forward with implementation of section 1033, WBA appreciates the opportunity to comment on the Outline. WBA urges CFPB to remain mindful of the complexities of data rights, and strive to achieve

balance between consumer interests and protections and a workable framework for the industry. Wisconsin banks have stood long for privacy, security, ease, and accommodation for their customers.

WBA appreciates the opportunity to comment on the Outline.

Thank you,

A handwritten signature in black ink, reading "Rose Oswald Poels". The signature is fluid and cursive, with the first name "Rose" being the most prominent.

Rose Oswald Poels
President/CEO