



December 29, 2023

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

Re: Required Rulemaking on Personal Financial Data Rights

Document Number: CFPB-2023-0052

RIN: 3170-AA78

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Dear Director Chopra:

CrossState Credit Union Association (CrossState) appreciates the opportunity to share comments on the proposed rule to implement personal financial data rights under the Consumer Financial Protection Act of 2010 (CFPA).

CrossState is a regional trade association that advocates for nearly five hundred credit unions located in the State of New Jersey and Commonwealth of Pennsylvania. Credit unions were formed for the purpose of making credit available to Americans and promoting thrift through a national system of nonprofit, cooperative financial institutions. Credit unions are owned by their members and controlled by a volunteer board of directors elected by the membership of the credit union. Earnings of credit unions are returned to members through fewer and lower fees, higher yields on savings, and lower loan interest rates.

CrossState appreciates the mission of the CFPB to enforce consumer financial law and ensure that the markets for consumer financial products are fair, transparent, and competitive. Credit unions have a similar consumer-focused mission. Credit unions exist to promote the financial well-being of their members by providing financial education and products and services that are lower-cost and provide significant value to members.

This proposed rule is issued to implement Section 1033 of the CFPA which states:

Subject to rules prescribed by the Bureau, a covered person shall 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. The information shall be made available in an electronic form usable by consumers.¹

The proposed rule goes far beyond Section 1033 and introduces concepts of “open banking.” All that Section 1033 requires is that financial institutions be able to provide to consumers, at their request, information about products and services that the consumer obtained from that financial institution and that the information should be in a form the consumer can use. There is no mention of providing the data to third parties, which is what much of the proposed rule is focused on.

CrossState opposes the rule as proposed because it will 1) potentially impose additional unnecessary burdens and costs on credit unions, especially smaller ones; and 2) increase the data privacy risks for consumers.

The majority of the credit unions in Pennsylvania and New Jersey are under \$100 million in asset size. Many of the smallest credit unions do not have consumer interfaces, such as online banking platforms, and while we appreciate the CFPB’s willingness to exempt these institutions from the rule, there will still be extra costs and burdens imposed on those smaller institutions that do have consumer interfaces.

The proposed rule also puts the cost burden on financial institutions and prohibits charging consumers or third-party requestors for the information. This may lead to increased fees in other areas if financial institutions are to bear the full burden of implementing the costs of system changes.

If the rule is implemented, we would recommend that smaller institutions be exempted not just based on not having an existing interface, but also based on other factors, such as asset size or number of deposit accounts. Additionally, the rule proposes a delayed and staggered implementation. Although we generally oppose the rule, we would agree that implementation should be delayed for smaller institutions.

The proposed rule goes beyond the requirements of Section 1033 by providing third-party access to consumer information. One of the primary concerns for financial institutions is safeguarding consumer information. Information held by banks and credit unions is a prime target for fraudsters and other bad actors. The rule does not go far enough in providing for a method for financial institutions to verify that third-party requestors have the consent of the consumer and that the third party will be subject to the same data security measures as financial institutions.

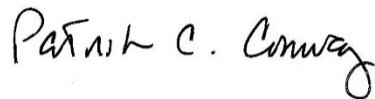
¹ 12 U.S.C. 5333(a).

As we have seen in the past, data security breaches at a third-party data source, such as a credit reporting agency, can damage consumers' trust in the whole financial system. Any rule that is inserting another third party into the financial system needs to prioritize the protection of any consumer data that is being shared and that third party needs to be essential to achieving the goal of the rule. Third-party access to consumer information is not necessary to implement section 1033.

In conclusion, CrossState opposes this proposed rule as the CFPB's concept of "open banking" is not appropriate under this rulemaking and is not necessary to implement section 1033 of the Dodd-Frank Act. At minimum, the CFPB should delay implementation of this proposed rulemaking to further study the effects on smaller financial institutions and correct the flaws inherent in the data sharing provisions of the proposed rule. Should the CFPB choose to proceed, CrossState respectfully recommends the CFPB comply with the requirements of section 1033 and limit the scope of the proposed rulemaking to address the ability of consumers to access their financial information, and to comply with a reasonable interpretation of section 1033.

Thank you for the opportunity to provide comments regarding this important proposed rule.

With best regards,



Patrick C. Conway
President & CEO

cc: CrossState Board
CrossState Government Relations Committee
CrossState Regulatory Review Committee