

# CFPB Proposes New Regulation on Consumer Data Rights

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On October 31, 2023, the [Consumer Financial Protection Bureau \(CFPB\)](#) proposed a [new regulation](#), referred to as the Personal Financial Data Rights rule, to implement Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ([P.L. 111-203](#)). The law provides consumers with a right of access to their financial information, and the proposal would clarify the standards to support this data right. The proposed standards include online data interface requirements, the types of financial data covered, obligations for third-party financial institutions accessing consumer data, and data privacy and security.

The goal of the CFPB's proposal is to give consumers control of their bank account and credit card information and make data sharing safe, secure, and reliable. [The CFPB director argues](#) that if consumers can more easily share their financial information in electronic formats, they will find it easier to switch financial institutions, access credit, and use innovative new financial products and services, increasing competition in [consumer financial services](#). For example, the proposal could allow a consumer to more easily share (1) bill pay information with another financial institution to switch to another bank, (2) bank account transaction information with a lender to qualify for a loan, or (3) credit card transaction information with a financial technology provider that analyzes spending behavior to help spend less.

## Data Sharing Background

[Financial technology](#) has resulted in greater usage of [digitized consumer financial data](#). For example, most consumers currently access bank account information digitally through either [mobile or online banking](#).

The CFPB finds that consumer data sharing has been growing in recent years and estimates that at least 100 million consumers have authorized third-party financial institutions, such as a data aggregator or data intermediary, to access their account data. Third-party financial service applications include personal financial management tools, payment tools, digital wallets, credit underwriting, and identity verification tools.

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## Web Scraping and APIs

One technology commonly used to collect account data is *web scraping*, a technique that scans websites to extract data from them. When consumers want to share their information with other financial institutions, they usually share credentials—such as usernames or passwords—which allow third-party financial service providers to access their financial account information. This process can create security risks for consumers who have disclosed their credentials.

As an alternative, financial institutions may provide customer account information through a structured data feed or application program interface (API) accessed by other financial institutions for consumer-authorized data sharing without relying upon consumers' credentials. Using API banking standards to facilitate data sharing among financial firms is also known as *open banking*.

While in the past, most access was through web scraping, the CFPB estimates that today about half of third-party data access is through APIs. The CFPB asserts that “there is nearly universal consensus” that APIs are safer and more accurate than web scraping.

## CFPB's Proposal

### Data Interface Requirements

The rule would require financial institutions to establish and maintain an interface for consumers and authorized third parties to easily access consumer-authorized data for free. The data would need to be made available in a standardized, electronic format that is both human- and machine-readable. A goal of this data interface requirement is to transition away from web scraping to APIs, resulting in more secure data sharing by reducing the risk of fraud and unauthorized access for consumers. The CFPB believes that establishing and maintaining this data interface will be the largest *cost of compliance* to financial institutions of this rulemaking.

### Covered Financial Institutions and Consumer Data

The rule would generally cover data pertaining to financial products such as bank accounts and credit cards. Data would include consumer transaction and account balance information; payment initiation information; and financial product prices, terms, and conditions for the past two years. The CFPB states that it aimed to include data most valuable for consumers and third parties for purposes such as credit underwriting, financial account switching, and comparison shopping for financial products and services.

The rule would cover both banks and nonbanks offering these types of products to consumers. Small financial institutions that do not have online or mobile consumer interfaces are excluded from the rule. The proposal includes staggered compliance dates for institutions of different sizes.

### Third-Party Responsibilities

To access consumers' financial data, third parties would need to provide a disclosure to consumers describing the data they are accessing and use of the data. They would be permitted only to collect and retain consumer data that is reasonably necessary to provide the consumers' products or services and not for other purposes such as marketing.

Third parties would need to reauthorize a consumer's permission for the data annually or delete the data. Consumers would be able to revoke third-party authorization at any time.

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## Consumer Privacy and Security Risks

Data providers and third-party financial institutions would be required to adhere to existing [data security standards](#) for consumer financial data. Data providers would be able to confirm third-party authorization requests with the consumer, and data access could be denied for legitimate risk management concerns.

## Views on the Proposal

There has been [support](#) for the proposal's aim of allowing consumers to have more control over their financial data and making data sharing safer and more reliable. However, some stakeholders have raised concerns about parts of the proposal.

Many [financial technology companies](#) support this proposal, as they may be able to attract new consumers by making it easier and more secure for consumers to share their financial data. While [banking groups](#) support parts of the proposal, they also express concerns around the cost to maintain the data interface. [Chairman McHenry](#) of the House Financial Services Committee expressed concerns about the proposal's restriction of consumer data use to improve or create new consumer financial products and services. He argues that this part of the proposal could limit innovation in consumer financial markets. In addition, some stakeholders argue that covered data should include other financial accounts, such as [mortgages](#) or [electronic benefit transfer \(EBT\) accounts](#) related to the Supplemental Nutrition Assistance Program (SNAP).

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