



January 25, 2023

Consumer Financial Protection Bureau

Re: Consumer Access to Financial Records under Section 1033
Outline of Proposals and Alternatives under Consideration.

Submitted via email to Financial_Data_Rights_SBREFA@cfpb.gov

The Consumer Relations Consortium (CRC) is an organization comprised of more than 60 national companies representing creditors, data/technology providers and compliance-oriented debt collectors that are larger market participants. Established in 2013, CRC is dedicated to a consumer-centric shift in the debt collection paradigm. It engages with all stakeholders—including consumer advocates, federal and state regulators, academic and industry thought leaders, creditors and debt collectors—and challenges them to move beyond talking points. The CRC’s focus is on fashioning real world solutions that seek to improve the consumer’s experience during debt collection. CRC’s collaborative and candid approach is unique in the market.

CRC members exert substantial positive impact in the consumer debt space, servicing the largest U.S. financial institutions and consumer lenders, major healthcare organizations, telecom providers, government entities, hospitality, utilities and other creditors. CRC members engage in millions of compliant and consumer-centric interactions every month at all stages of the revenue cycle. Our members subscribe to the following core principle:

“Collect the Right Debt, from the Right Person, in the Right Way.”

We appreciate the opportunity to respond to the Advanced Notice of Proposed Rulemaking re: Consumer Access to Financial Records under Section 1033. The CRC supports the goals and objectives articulated but, as explained in the enclosed comments, is concerned with the potential scope and unintended impact of the proposed rule as outlined.

Sincerely,

A handwritten signature in black ink that reads 'Missy Meggison'.

Missy Meggison
Co-Executive Director, Consumer Relations Consortium

COMMENTS TO OUTLINE OF PROPOSALS AND ALTERNATIVES UNDER CONSIDERATION REGARDING CONSUMER ACCESS TO FINANCIAL RECORDS UNDER SECTION 1033 OF THE DODD-FRANK ACT.

The Consumer Relations Consortium (CRC) is submitting its comments and feedback to the Consumer Financial Protection Bureau's (CFPB) Outline of Proposals and Alternatives under Consideration regarding Consumer Access to Financial Records under Section 1033 of the Dodd-Frank Act issued October 27, 2022 (Outline).

The CRC's Interest in the CFPB's Rulemaking

Although not all CRC Members are covered data providers as defined in the Outline, many data providers are clients of CRC members. While a defined subset of data providers would be required to make consumer financial information available to consumer or third parties, CRC members would also be required to update and ensure the accuracy of that data on behalf of their data provider clients. Thus, the impact of the CFPB's proposals goes well beyond the subset of data providers that meet the definition of a "financial institution". While many CRC members have made great investments in data security, the Outline anticipates additional requirements that may fall upon CRC members when servicing their financial institution clients. The concern here is how and to what extent CRC members, will be provided with the information necessary to respond to a consumer's request for their data and whether transferring this data to the consumer is safe and secure. Additional concerns include how these data requests will interrupt the servicing process. For instance, the placement of accounts may become contingent upon whether the service provider can meet the data request of a consumer or could cause financial institutions to refrain from outsourcing accounts altogether. CRC does not believe that this Outline and the rulemaking around Section 1033 will foster greater competition because the barrier to entry is simply too great. The Outline and Section 1033 would be better served if the proposals outlined were better tested or laid the groundwork for prioritized supervision or assessment to fully understand the impact of the proposals.

Regulatory Partnership

In the Outline, the CFPB articulates a broad goal of providing expanded "access rights" to consumers concerning their financial record by implementing Section 1033 of the Dodd-Frank Act. Section 1033 provides that 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" in an "electronic form usable by consumers." In other words, covered entities must be able to gather and provide sensitive financial information to consumers in an electronically portable manner.

The scope of this proposed rulemaking is expansive and will significantly impact all aspects of the financial services industries. This industry is already significantly regulated by a myriad of

regulations and laws implemented by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Trade Commission. In addition, the same financial entities have contractual agreements in place between themselves and the consumer, setting forth the respective obligations of the parties. Simply put, the proposed rule will be implemented in a legal and regulatory framework that is already complex. In order to best serve the consumers and respective stakeholders, the CFPB should partner with the regulatory agencies already tasked with this oversight to devise, vet, and implement a broad set of principles that can work in tandem rather than taking a siloed approach that will ultimately be unworkable.

Security of Consumer Data

The Outline does not clearly address the process or procedure for how the personal financial data described will be delivered to the consumer. The implication is that covered entities will be obligated to gather and deliver such data in an electronic and portable manner *directly* to the consumer. To the extent the Outline contemplates such direct delivery, the security and protection of a consumer's data will be jeopardized.

Most consumers do not have the infrastructure or wherewithal to implement the safety precautions necessary to maintain the privacy of their own data. Sensitive consumer information will be put at greater risk of exposure and theft.

Likewise, small businesses may lack the resources necessary to enact the procedures described. The cost to comply will be high and is likely to drive many small businesses out of the market. Rather than increase competition among businesses, the number of businesses providing such services will inevitably decline – giving the consumer fewer choices in the market.

The CRC requests that any proposed rule focus on enhancing the authorization process for the maintenance, access, and delivery of such data either with the entity itself or through an authorized third-party intermediary – rather than on ensuring direct delivery of such data to the consumer.

Postpone Rulemaking

On October 18, 2017, the CFPB issued “Consumer Protection Principles: Consumer-Authorized Financial Data Sharing and Aggregation.” The purpose of issuing these principles was to “reiterate the importance of consumer interests to all stakeholders” while acknowledging that “[c]onsumer-authorized access and use of consumer financial account data may enable the development of innovative and improved financial products and services[.]” Specifically, the principles included:

- **Access.** A consumer's ability to obtain information about their product or service upon request, specifically acknowledging that financial account agreements supported such a goal.
- **Data Scope and Usability.** A consumer's ability to authorize access to financial data.

- **Control and Informed Consent.** A consumer’s ability to control information regarding their accounts.
- **Authorizing Payments.** There is a distinction between authorizing data access and a payment authorization.
- **Security.** A consumer’s data must be accessed, stored, and distributed securely.
- **Access Transparency.** A consumer is informed (or may obtain information) regarding which third parties have access to or use their data.
- **Accuracy.** Consumer can expect accurate data.
- **Ability to Dispute and Resolve Unauthorized Access.** There is a reasonable and practical means to dispute and resolve unauthorized access of data.
- **Efficient and Effective Accountability Mechanisms.** The goals of parties that grant access to access, use, store, redistribute and dispute of consumer data are aligned for consumer safety.

In issuing the above principles, the CFPB expressly acknowledged that many statutes and regulations governing financial institutions already existed aimed at protecting consumers and that the information included was intended to alter existing law. The CFPB articulated a desire to better understand and monitor the market to determine whether gaps existed within an already highly regulated industry without diminishing fair competition in financial markets. Within the framework of the principles, the CFPB believed that consumer interests could be safeguarded while encouraging innovation and competition. The CFPB noted that it would continue to monitor the market and aggregate information pertaining to consumer data protection and would “stand ready to facilitate constructive efforts to take other appropriate action to protect consumers.”

The Outline contains many proposed rules that do not facilitate the goals of the principles previously outlined by the CFPB. There is not yet enough information or aggregate data regarding how increasing access in the ways described by the CFPB would address the consumer data privacy concerns raised in support. Indeed, many of the proposed rules may have the unintended effect of increasing threats to consumer data and decreasing fair market participation and competition. In order to reasonably implement such expansive rules on an industry that is critical to the economy, the CFPB should postpone the rulemaking to gather further information.