CFPB releases historic rule curbing banks' use of consumer data

Traditional banks and fintech startups have been locked in a yearslong power struggle over the way consumer data is shared with third parties.

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The Consumer Financial Protection Bureau on Tuesday released a landmark regulation restricting how financial institutions handle consumer information in a bid to set rules of the road for banks and fintechs on data access.

The long-awaited rule — which aims to make it easier for consumers to switch banks and requires greater data security from fintechs — is an attempt to level the playing field between the rival businesses and to give people more control over their own information. Traditional banks and fintech startups have been locked in a yearslong power struggle over the way data is shared as more consumers use apps providing payment and budgeting services.

“With more digital technologies at our disposal, we must ensure that this does not result in greater consolidation, rather than openness and decentralization,” CFPB Director Rohit Chopra said at the Federal Reserve Bank of Philadelphia on Tuesday, according to prepared remarks.

“For the U.S. to ensure that our financial system is advancing opportunities for households, businesses, and the economy, our policies and regulations must create more power for individuals to avoid being captive and instead exercise their liberty to do business with someone new,” he said.

The rule requires companies to heed customers’ requests to share information with other businesses offering competing products, and banks will be required to make personal financial data freely available to consumers. Companies that access a person’s data will not be able to use it for targeted advertising, and consumers must reauthorize access to their data annually, with the right to revoke access at any time.

The rule exempts banks and credit unions with less than $850 million in assets, but it applies to non-depository institutions of any size. Implementation and compliance will take place in stages: The largest institutions will have to comply by April 2026, while the smallest data providers will have until April 2030.

“Today, the Biden-Harris Administration is ensuring that consumers are in control of their own financial data,” National Economic Adviser Lael Brainard said in a statement. “The new rule will make it easier for consumers to switch banks and use financial services that better fit their needs, provide greater opportunity for innovative new businesses to compete, and lower costs for consumers.”

House Financial Services Chair Patrick McHenry (R-N.C.) — normally an outspoken CFPB foe — lauded the rule.

"The CFPB’s final 1033 rule is a promising step forward to protect Americans’ financial data privacy,” McHenry said. “As Republicans have said for years, Americans should have greater control over their sensitive financial data.

“Director Chopra also listened to some of our concerns regarding unreasonable restrictions on the secondary use of consumer data,” he added. “This is progress for American innovation and consumers, but we can’t stop here. Congress must build on the bipartisan consensus regarding financial data privacy.”

In response to industry feedback on the version of the rule the CFPB proposed a year ago, the bureau added a clarification to the final rule stipulating that authorized third parties can use consumer-authorized data to improve the product or service the consumer requested without obtaining a separate authorization. The agency also lengthened the timeline for implementation.

Banking groups acknowledged the changes but said the bureau ignored their other concerns about data security and questioned the agency's authority to craft the sweeping rule under the 2010 Dodd-Frank law.

"We appreciate the extent to which today's final rule acknowledges and incorporates the efforts of industry-led bodies," said Rob Nichols, president and CEO of the American Bankers Association.

"Unfortunately, what began two administrations ago as a collaborative exercise in securing consumers' personal financial data has devolved into a press-release driven, political exercise," Nichols added. "While we are still evaluating the details of the final rule, it is clear that our longstanding concerns about scope, liability, and cost remain largely unaddressed."

Consumer Bankers Association President and CEO Lindsey Johnson said the CFPB exceeded its statutory authority with the rule.

"CBA fully supports consumers having access to their own personal financial information, as required under Section 1033 of the Dodd-Frank Act," she said. "The CFPB, though, has contorted this very clear and limited statute into enabling thousands of third parties to access consumers' data."

Bank Policy Institute President and CEO Greg Baer said the rule appeared to retain "many of the deficiencies and omissions that plagued" the proposed version.

"Banks have worked for years to establish secure ways to share customer data whenever the customer asks," Baer said. "The CFPB's rule disrupts this established process, requiring banks to share financial data with any third party without adequate safeguards to ensure the data is protected from fraud, misuse and abuse."

Banks have pushed for fintechs to be held to the same security standards they have and called on the CFPB to phase out "screen scraping," when a third party that has been given access to a customer's account uses it to indiscriminately extract and collect data through online banking portals. The agency on Tuesday said the new rule "helps move the industry away from" the practice.

Fintechs, meanwhile, have also said they support leveling the playing field — a small startup will be able to negotiate with a big bank to get access to data under the rule, just as smaller banks will be able to negotiate with the likes of Apple Wallet.

John Pitts, global head of policy at Plaid, cheered the new rule, saying it would protect consumers.

By ensuring that consumers can securely share payment information, the rule will likely lead to a rise in "pay-by-bank," where a consumer can transfer their money directly from their bank account to a merchant account, skipping the credit card middleman.

"This rule will ensure more people have secure, reliable access to their financial information and accelerate innovations that benefit consumers, including secure pay-by-bank options, expanded access to cash flow-based underwriting that can broaden financial inclusion, and advanced anti-fraud solutions for companies across the ecosystem," Pitts said.

Penny Lee, president and CEO of the Financial Technology Association, said the rule would increase competition and called on the CFPB to pursue additional rules.

"While today's final rule covers account and transaction data, we are hopeful that future rulemakings will allow consumers to unlock more benefits by tapping into other aspects of their financial lives, such as payroll, student loan, investment, and mortgage accounts," she said.

The CFPB will allow "industry standard-setters" to shape new technical standards around data sharing. The agency in June finalized a rule stipulating that industry standard-setting bodies must include consumer advocates and smaller firms. The CFPB will recognize standard setters for five years, after which they will need to reapply.

The agency last month published the first application to become a standard setter, from Financial Data Exchange, for public comment.

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