

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION**

FORCHT BANK, N.A., KENTUCKY
BANKERS ASSOCIATION, and
BANK POLICY INSTITUTE,

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU and RUSSELL VOUGHT, in his
official capacity as Acting Director of the
Consumer Financial Protection Bureau,

Defendants,

FINANCIAL TECHNOLOGY
ASSOCIATION,

Intervenor-Defendant.

Case No. 5:24-cv-00304-DCR

Hon. Danny C. Reeves

**INTERVENOR-DEFENDANT FINANCIAL TECHNOLOGY ASSOCIATION'S
RESPONSE TO DEFENDANTS' MOTION TO STAY**

The CFPB has moved for a stay of this litigation while it conducts a new rulemaking for purposes of promulgating a new rule implementing Section 1033 of Dodd-Frank. Out of deference to the CFPB's desire for an orderly process, FTA does not object to the CFPB's requested stay of this litigation on the understanding that the CFPB does not request that this Court toll any existing compliance deadlines for the current rule. FTA also reserves the right to move to reopen proceedings if, based on the CFPB's status reports, it no longer appears that the CFPB is moving quickly towards promulgating a new rule.

As the Court is aware, the Court previously stayed this litigation and tolled compliance deadlines while the CFPB assessed its position in this litigation. On April 21, 2025, FTA filed a motion to lift the stay for purposes of resolving FTA's motion to intervene and a motion to expedite consideration of that motion. FTA's motion argued that "the parties' joint motions do not satisfy the APA's standards for staying agency action and undermine the principle that notice-and-comment rulemaking is needed to amend a rule," and further argued that "delaying compliance deadlines creates business impact considerations for third party stakeholders." Dkt. #47 at 6. The Court swiftly lifted the stay and granted FTA's motion to intervene. Dkt. #52, 56. FTA appreciates the Court's prompt ruling and respects this Court's goal of resolving this case expeditiously.

FTA adheres to its position, expressed in its brief filed on June 29, 2025, that the existing Open Banking Rule does not violate the Administrative Procedure Act. Nevertheless, FTA has also consistently maintained that there are areas of potential improvement for the Rule and that this Court may stay this litigation pursuant to its authority to manage its own docket. Dkt. #43 at 21 n.4 ("FTA has no objection to the parties agreeing to stay this *litigation* pending further developments at the CFPB, as long as the Rule's compliance deadlines are not further tolled."). FTA intends to participate in the rulemaking in good faith in the hopes of achieving a solution that

protects consumers' right to their information while being fair to all stakeholders. Out of respect for the regulatory process, FTA will not take issue with the CFPB's conclusion that a stay of this litigation will allow the regulatory process to proceed more smoothly. As previously expressed, however, FTA maintains its view that the existing compliance deadlines should not be postponed, and therefore FTA's position on the CFPB's motion is on the understanding that the CFPB is not requesting that this Court postpone any of the rule's existing compliance deadlines. FTA reserves all rights to challenge any postponement of those compliance deadlines.

Dated: July 29, 2025

Michael P. Abate
KAPLAN JOHNSON ABATE & BIRD LLP
710 W. Main Street, 4th Floor
Louisville, KY 40202
(502) 540-8280
mabate@kaplanjohnsonlaw.com

Respectfully submitted,

/s/ Adam G. Unikowsky
Adam G. Unikowsky (*pro hac vice*)
Arjun R. Ramamurti (*pro hac vice*)
Jonathan J. Marshall (*pro hac vice*)
JENNER & BLOCK LLP
1099 New York Avenue, NW, Suite 900
Washington, DC 20001
(202) 639-6000
aunikowsky@jenner.com
aramamurti@jenner.com
jmarshall@jenner.com

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of Kentucky, Lexington Division, using the CM/ECF system, which will send a notice of filing to all counsel of record who have consented to service by electronic means.

Dated: July 29, 2025

/s/ Adam G. Unikowsky
Adam G. Unikowsky