

## Issue Update

Section 1033 of the Dodd-Frank Act gives consumers the right to access and share their financial records in a standardized electronic format, with some exceptions. Such access could be direct by the consumer or by authorized third parties, using entities known as data aggregators as intermediaries. Use cases for data sharing include budgeting tools, income verification, and digital wallets.

The CFPB finalized a rule implementing 1033 during the latter days of the Biden-Harris Administration. It was immediately challenged in a lawsuit filed by a Kentucky community bank, the Kentucky Bankers Association, and the Bank Policy Institute (the case is still pending). The rule applies to Regulation E accounts, Regulation Z credit cards, and digital wallets connecting them. It mandates data providers to build and maintain, at their own cost, an interface for direct consumer access as well as a developer interface for authorized third parties. In addition, data providers must create policies and procedures, disclose certain information, retain records, and more. The rule also contains requirements for authorized third parties and data aggregators, such as managing express informed consent (for a maximum duration of one year subject to renewal and revocation), creating policies and procedures, providing disclosures, and using/sharing/retaining information only as reasonably necessary to provide the consumer's requested product or service (with certain exceptions such as fraud prevention).

Finally, the rule establishes a recognition process for standard-setting organizations to offer evidence of compliance with certain substantive regulatory requirements. The CFPB has recognized the Financial Data Exchange (FDX) as a standard setter for data formats. FDX was formed in 2018 and currently connects over 96 million accounts.

The final rule has several provisions that exceed legal authority or are simply bad policy: the prohibition on data providers to recoup costs; insufficient risk management protections; problematic data fields such as payment initiation (which will accelerate "pay-by-bank" before the market is ready); a lack of a meaningful liability regime in the event of unauthorized activity or data breaches; failure to ban screen scraping (although the preamble does permit it to be blocked as long as there is a compliant developer interface); and a short compliance runway for the largest banks.

## Why it Matters To Your Community

Banks support their customers' ability to access and share their financial data in a secure, transparent manner that gives the customer control. Screen scraping is a dangerous practice that leaves consumers' credentials and account information subject to security risks and fraud, and it is important the industry adopt more secure data sharing methods. The market was solving for these factors; however, the CFPB's flawed 1033 rule puts consumer data at greater risk while imposing significant costs on banks.

## Recommended Action Items

- **Urge the CFPB to suspend or extend the initial compliance dates.** Banks are currently running multiple enterprise-wide projects to implement this significantly flawed rule and relief is needed until the CFPB determines its path forward.
- **Urge the CFPB to supervise data aggregators and the largest fintechs as a condition precedent to enforcing the rule on banks.** These steps are critical to ensure consistent protections and outcomes for consumers of financial products and services.

# Data Aggregation - 1033

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## Compliance Dates for Banks under CFPB's Final 1033 Rule

(<https://www.federalregister.gov/documents/2024/11/18/2024-25079/required-rulemaking-on-personal-financial-data-rights>)

Bank Asset Size*	Initial Compliance Date
At least \$250 billion	April 1, 2026**
At least \$10 billion but less than \$250 billion	April 1, 2027**
At least \$3 billion but less than \$10 billion	April 1, 2028**
At least \$1.5 billion but less than \$3 billion	April 1, 2029**
More than \$850 million but less than \$1.5 billion	April 1, 2030**
\$850 million or less	Data provider requirements do not apply (but third party requirements do if the bank engages in this activity)

\*Total assets are determined by averaging the assets reported on its 2023 third quarter, 2023 fourth quarter, 2024 first quarter, and 2024 second quarter call report submissions to the Federal Financial Institutions Examination Council [there are also provisions for merger or acquisition situations].

\*\*In an order granting a Joint Motion to Stay Proceedings in *Forcht Bank, NA et al v. Consumer Financial Protection Bureau et al*, Judge Danny C. Reeves of the Eastern District of Kentucky [tollled the initial compliance dates in 12 CFR 1033.121\(b\)](#) by 30 days each. Therefore, the relevant deadlines for each tier will now be May 1 of the respective year. It is possible this tolling will be issued in a more formal way by the CFPB.