



Community Bankers of Michigan Regulatory Dispatch

August 27, 2025

Timely news and resources community bankers can use

CFPB Reopens Data Rights Debate with New 1033 Rulemaking

On August 21, the Consumer Financial Protection Bureau published an advance notice of proposed rulemaking (ANPR) in the Federal Register to reconsider its Personal Financial Data Rights Rule under Section 1033 of the Dodd-Frank Act. The Bureau stated that it is reopening the rule in light of policy changes under new leadership and a court-ordered stay in ongoing litigation challenging the 2024 final rule.

The rule (previously discussed here and here), which is currently being challenged by banking trade associations, requires financial institutions and other covered persons to make transaction and account data available to consumers and their authorized third-party representatives. The Bureau is now seeking comment on four central issues:

- Scope of representatives. Whether the term “representative” under Section 1033 should be limited to fiduciaries or extend to third-party FinTech’s.
- Defrayment of costs. Whether data providers should be permitted to charge fees to offset compliance and operational expenses.
- Data security. Whether the rule’s existing Gramm-Leach-Bliley Act–based standards and screen scraping restrictions are adequate.
- Privacy concerns. The risks associated with licensing, sale, and third-party use of sensitive consumer financial data.

Comment: The ANPR attempts to gather public input on the following four pivotal issues: 1) who exactly is a ‘representative’ that can request data of behalf of consumers; 2) the reconsideration on prohibiting fees for data access and input on cost-sharing mechanisms; 3) does the rule have reasonable information security standards and controls in place to guard against malicious actors; and 4) considerations around a consumer’s express informed consent to access covered data on behalf of the consumer, what a third party must disclose to a consumer, and limits on a third party’s collection, use, and disclosure of covered data.

CBM Insights

Q: It has been brought to our attention that several are on different pages when it comes to land/unimproved land loans. Please see the questions below.

1. If the applicant states they are purchasing lot/unimproved land to be used in the future for home construction and it is in the flood zone, are any disclosures required?
2. If the loan is secured by real estate and is consumer purpose loan (not investment/business) is the loan subject TRID?
3. Is the lot/unimproved loan HMDA reportable even if we know they are going to construct a home in the future? We would basically roll the lot loan into the interim construction loan so it would be a new application and new loan.

A: Let's take those questions one at a time, just like they are laid out.

1. If the applicant states they are purchasing lot/unimproved land to be used in the future for home construction and it is in the flood zone, are any disclosures required?

A: No. At least not under the Flood Disaster Protection Act. Notice the underlined passages below (added for emphasis) from 2022 Flood FAQs, Construction #1. Many banks will pull and provide a SFHD to the applicant on a lot loan as a way of letting them know that if in fact they develop or build upon the land, flood insurance would be required.

CONSTRUCTION 1. Is a loan secured only by land, which is located in an SFHA in which flood insurance is available under the Act and that will be developed into buildable lot(s), a designated loan that requires flood insurance?

No. A designated loan is a loan secured by a building or mobile home that is located or to be located in an SFHA in which flood insurance is available under the Act.⁸⁹ Any loan secured only by land that is located in an SFHA in which flood insurance is available is not a designated loan since it is not secured by a building or mobile home.

2. If the loan is secured by real estate and is consumer purpose loan (not investment/business) is the loan subject TRID?

A: Yes. TRID applies to any consumer credit transaction (made to a natural person - and some trust - for personal family or household purposes) that is a closed end loan and is secured by 'dirt.' And 'dirt' means any 'dirt' and it does not have to include a 'dwelling' or be a 'residential mortgage.' See below:

(1) Provision of disclosures

(i) Creditor. *In a closed-end consumer credit transaction secured by real property or a cooperative unit, other than a reverse mortgage subject to § 1026.33, the creditor shall provide the consumer with good faith estimates of the disclosures in § 1026.37.*

3. Is the lot/unimproved loan HMDA reportable even if we know they are going to construct a home in the future? We would basically roll the lot loan into the interim construction loan so it would be a new application and new loan.

A: NO. At least to the extent the loan proceeds are used solely to purchase the lot. See the 'Definitions' at §1003.2 below, again the underline is added for emphasis.

(c) Excluded transactions. The requirements of this part do not apply to:

Official interpretation of 3(c) Excluded Transactions

(1) *A closed-end mortgage loan or open-end line of credit originated or purchased by a financial institution acting in a fiduciary capacity;*

Official interpretation of Paragraph 3(c)(1)

(2) A closed-end mortgage loan or open-end line of credit secured by a lien on unimproved land;

And here is the important caveat to that. Official interpretation of Paragraph 3(c)(2)

1. Loan or line of credit secured by a lien on unimproved land. *Section 1003.3(c)(2) provides that a closed-end mortgage loan or an open-end line of credit secured by a lien on unimproved land is an excluded transaction. A loan or line of credit*

is secured by a lien on unimproved land if the loan or line of credit is secured by vacant or unimproved property, unless the institution knows, based on information that it receives from the applicant or borrower at the time the application is received or the credit decision is made, that the proceeds of that loan or credit line will be used within two years after closing or account opening to construct a dwelling on, or to purchase a dwelling to be placed on, the land. A loan or line of credit that is not excludable under § 1003.3(c)(2) nevertheless may be excluded, for example, as temporary financing under § 1003.3(c)(3).

Bank Management

	FRB Technological Advancements in Payments - Governor Christopher J. Waller (08/19/2025) – Thank you for inviting me to speak today on payments innovation. It is an exciting time to work in payments. While I have always been interested in the topic, I would have never imagined decades ago that payments would generate this amount of enthusiasm, where now some of the coolest jobs in tech are working in this area. The payment system is experiencing what I have called a "technology-driven revolution," where the latest advances in computing power, data processing, and distributed networks have fueled growth in innovative new payment services. This includes 24/7 instant payments, user-friendly digital wallets and mobile payment apps, and stablecoins and other digital assets. Alongside these new services sits enabling technology, such as artificial intelligence (AI), that has the potential to improve the precision and efficiency of the underlying payment products even further. While there has been a lot of excitement, and admittedly sometimes hype, around the possibilities of these new technologies, there have also been some who have been fearful or skeptical of innovation in this space. But we only have to look to history to see that the evolution of the payment system has long been a story of technological advancement. In any payment transaction, three things happen. First, an object is bought and paid for with another object. Second, there is a technology for conducting this transaction. Finally, there is a technology for recording the history of the transaction and ownership of the objects. For example, I can go to the grocery store and buy an apple and use a digital dollar in my checking account to pay for it. I tap my debit card on a card reader to conduct the transaction. Finally, the machine prints out a receipt, which is the record of the transaction. The same process applies to the crypto world. I buy a meme coin and use a stablecoin as the means of payment. The transaction takes place using a smart contract. Finally, the transaction is recorded on a distributed ledger. There is nothing scary about this just because it occurs in the decentralized finance or defi world—this is simply new technology to transfer objects and record transactions. There is nothing to be afraid of when thinking about using smart contracts, tokenization, or distributed ledgers in everyday transactions.
	FRB Embracing Innovation - Vice Chair for Supervision Michelle W. Bowman (08/19/2025) – Building a Tailored and Proportional Regulatory Framework - Going forward it will be necessary to continue to implement a tailored approach to these new technologies in our supervisory activities, an approach that balances the supervisory and regulatory expectations in a way that is commensurate with risk. What would this look like in practice? It needs to include regulatory certainty, tailoring, safety and soundness, consumer protection, and maintaining America's reputation for providing an open environment for innovation. Regulators should abide by these principles in developing this framework. The first principle is essential. That is regulatory certainty. Justifying investing in new blockchain development specifically for the banking industry or even repurposing existing blockchain technologies for this sector, requires significant investment. Why would you make that investment without a clear understanding about how regulators will evaluate new use cases in a highly regulated industry? Would you choose to partner with banks, knowing that this will bring regulatory scrutiny and uncertainty, or would you develop alternatives outside of the banking system? Your industry has already experienced

significant frictions with bank regulators applying unclear standards, conflicting guidance, and inconsistent regulatory interpretations. We need a clear, strategic regulatory framework that will facilitate the adoption of new technology, recognizing that in some cases, it may be inadequate and inappropriate to apply existing regulatory guidance to address emerging tech.

Having clear and transparent rules is not effective if these rules are unnecessarily burdensome and restrictive. So, my second principle is that rules must be well-calibrated and tailored to address risks. Well-calibrated regulation promotes responsible innovation while also aligning incentives for long-term growth and stability. Tailoring rules and supervision requires regulators to approach each use case based on particular facts and circumstances, rather than applying expectations designed for an imaginary "worst-case" scenario that differs from the actual use case. We cannot adopt a one-size-fits-all approach. Regulators must recognize the unique features of these new assets and distinguish them from traditional financial instruments or banking products.

A third principle is that frameworks must be consistent with generally applicable rules and requirements. Customer-facing products must comply with consumer protection laws, including those prohibiting unfair, deceptive, or abusive acts or practices. We must think carefully about appropriate regulations to protect consumers and investors, maintain bank safety and soundness, and preserve the stability of the financial system. Any legal framework must also include appropriate Bank Secrecy Act and anti-money-laundering requirements, to fulfill the important policy objectives of these requirements.

Finally, we need to build a framework that allows the United States to continue to be the best place in the world to innovate. Failing to do so could jeopardize American competitiveness over the long run. Regulators have taken preliminary steps to support blockchain technology within the banking system, as well as to eliminate deterrents for banks to provide services to the digital asset industry. I am confident that with the benefit of ongoing outreach and education we will build a framework that is fair, efficient, and transparent.

BSA / AML

Treasury [Extends Effective Dates of Orders Issued Under New Authority to Counter Fentanyl](#) (08/19/2025)
– The Financial Crimes Enforcement Network (FinCEN) extended the effective dates for orders issued on June 25, 2025, prohibiting certain transmittal of funds involving three Mexico-based financial institutions. Covered financial institutions will now have until October 20, 2025, to implement the orders prohibiting certain transmittal of funds involving **CIBanco S.A., Institución de Banca Múltiple (CIBanco), Intercam Banco S.A., Institución de Banca Múltiple (Intercam),** and **Vector Casa de Bolsa, S.A. de C.V. (Vector)**, each of which FinCEN found to be of primary money laundering concern in connection with illicit opioid trafficking pursuant to the Fentanyl Sanctions Act and the FEND Off Fentanyl Act.

News release: <https://www.fincen.gov/news/news-releases/treasury-extends-effective-dates-orders-issued-under-new-authority-counter-0>

This order: <https://www.federalregister.gov/documents/2025/08/22/2025-16080/imposition-of-special-measures-prohibiting-certain-transmittals-of-funds-involving-cibanco-sa>

Original orders: <https://www.fincen.gov/news/news-releases/treasury-issues-unprecedented-orders-under-powerful-new-authority-counter>

FAQs: <https://www.fincen.gov/sites/default/files/shared/Final-FAQs.pdf>

Comment: On July 11, 2025, FinCEN extended the effective date for all three orders by 45 days, from July 21, 2025, to September 4, 2025. With this order, FinCEN is extending the effective date for all three orders from September 4, 2025, to October 20, 2025.

Deposit / Retail Operations

FRB [Payments Study Gathering Data from Thousands of Institutions](#) (08/20/2025) – This every-three-years survey is an essential component of the Federal Reserve Payments Study (FRPS), which estimates the number and value of noncash payments in the US. Approximately 3,800 depository institutions—from the smallest to the largest, including commercial banks, savings institutions, and credit unions—have been invited to submit data for calendar year 2024.

New this year: the FRPS is collecting data on the number and value of instant payments, encompassing real-time payments and FedNow.

We're asking institutions to report if they send and receive instant payments, including the number and value of those payments. I expect this to be an important benchmark for understanding the evolution of a new payments technology and how it could possibly replace older ways to pay.

This is just one example of how, through robust participation in DFIPS, institutions support the Fed's ability to track and report important trends and industry participants' ability to use quantitative data to prepare for the future.

The depository institutions survey is delivered to respondents in an Excel workbook, with tabs for instant, automated clearing house, wire, check, and card payments as well as cash withdrawals and alternative payment initiation methods like mobile and person-to-person (p2p) payments. Institutions submit data via the Fed's secure encrypted data portal.

Data submissions are carefully guarded. No data from individual institutions is ever reported or used for anything aside from estimating national totals. The result: data that is hugely valuable to the payments industry, to policy makers, and to the public.

Institutions that respond to this survey receive an anonymized peer report that can help them benchmark their performance to that of similarly sized institutions. If your institution is invited, you can learn more at paymentsstudy.com.

Comment: Data collected from the payments study could be very helpful for banks wishing to develop a 'payments strategy.'

FDIC [Board Approves Proposal to Amend Official Signs and Advertising Requirements](#) (08/19/2025) – By notational vote, the Board approved a Proposed Rule regarding FDIC Official Sign and Advertising Statement Requirements.

A notational vote is an action by the Board of Directors taken without a meeting. The Executive Secretary distributes written materials to all members of the Board. Board members then vote or indicate their abstention in writing. The vote of the majority of the members of the Board on each item of business is the act of the Board, provided that a majority of members then in office vote or indicate their abstention on such item(s).

The following items were notationally approved:

	Proposed Rule Regarding FDIC Official Sign and Advertising Statement Requirements • Memorandum (PDF) • Notice of Proposed Rule (PDF) • Press Release • Financial Institution Letter <i>Comment: The proposed changes would revise the requirements adopted in 2023 to simplify the requirements for banks' display of the FDIC official digital sign and nondeposit signage on digital deposit-taking channels, such as bank websites and mobile applications. "The FDIC believes the proposed amendments would advance the FDIC's policy objectives of helping customers to better understand when they are doing business with an [insured depository institution (IDI)] and when their funds are FDIC-insured," the agency said in its Notice of Proposed Rulemaking.</i>
	Treasury Issues Request for Comment Related to the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act (08/18/2025) – The U.S. Department of the Treasury issued a Request for Comment required by the GENIUS Act, which furthers the Administration's policy of supporting the responsible growth and use of digital assets, as outlined in Executive Order (E.O.) 14178 on "Strengthening American Leadership in Digital Financial Technology." This request for comment offers the opportunity for interested individuals and organizations to provide feedback on innovative or novel methods, techniques, or strategies that regulated financial institutions use, or could potentially use, to detect illicit activity involving digital assets. In particular, Treasury asks commenters about application program interfaces, artificial intelligence, digital identity verification, and use of blockchain technology and monitoring. As required by the GENIUS Act, Treasury will use public comments to inform research on the effectiveness, costs, privacy and cybersecurity risks, and other considerations related to these tools. Treasury News Release: https://home.treasury.gov/news/press-releases/sb0228 Federal Register Notice: https://www.federalregister.gov/documents/2025/08/18/2025-15697/request-for-comment-on-innovative-methods-to-detect-illicit-activity-involving-digital-assets

Human Resources

	No news to report this week.
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Lending

	No news to report this week.
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Technology / Security

	No news to report this week.
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Selected federal rules – proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

08.22.2025 **CFPB** [Personal Financial Data Rights Reconsideration](#) **SUMMARY:** The Consumer Financial Protection Bureau (CFPB or Bureau) is seeking comments and data to inform its consideration of four issues related to implementation of section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

(Dodd-Frank Act). These issues are: the proper understanding of who can serve as a “representative” making a request on behalf of the consumer; the optimal approach to the assessment of fees to defray the costs incurred by a “covered person” in responding to a customer driven request; the threat and cost-benefit pictures for data security associated with section 1033 compliance; and the threat picture for data privacy associated with section 1033 compliance. **DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].**

08.21.2025

FDIC [Official Signs, Advertisement of Membership, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo](#) **SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) is seeking comment on a proposal that would amend signage requirements for insured depository institutions' (IDIs) digital deposit-taking channels and automated teller machines (ATMs) and like devices. The proposed changes are intended to address implementation issues and sources of potential confusion that have arisen following the adoption of current signage requirements for these banking channels. The proposal would provide additional flexibility to IDIs while also enabling consumers to better understand when they are conducting business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage. **DATES: Comments must be received by the FDIC no later than October 20, 2025.**

06.16.2025

Joint [Request for Information on Potential Actions to Address Payments Fraud](#) **SUMMARY:** The Office of the Comptroller of the Currency (OCC), Treasury; the Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC) seek public input on questions related to payments fraud. This request for information (RFI) offers the opportunity for interested stakeholders to identify ways that the OCC, the Federal Reserve System (FRS), and the FDIC could take actions collectively or independently in their varying respective roles to help consumers, businesses, and financial institutions mitigate check, automated clearing house (ACH), wire, and instant payments fraud. **DATES: Comments must be received by September 18, 2025.**