



December 20, 2023

Director Rohit Chopra  
Consumer Financial Protection Bureau  
1700 G Street, N.W.  
Washington, DC 20552

Re: Proposed Rule on personal financial data rights under the Consumer Financial Protection Act of 2010 (CFPA).  
Docket No. CFPB–2023–0052; RIN 3170–AA78

Dear Director Chopra:

On behalf of the National Creditors Bar Association (“NCBA”), I write to share our comments with respect to the above-referenced Consumer Financial Protection Bureau (“CFPB” or “Bureau”) proposed Rule on personal financial data rights (the “Rule”).

NCBA appreciates the CFPB’s proposal to require certain entities to make account data readily available to consumers and authorized third parties as well as impose privacy and information security obligations on entities authorized to collect that data. NCBA requests clarification to ensure that the Rule’s requirements reduce confusion for both consumers and third parties.

While attorneys practicing debt collection litigation do not appear to be the primary focus of the proposed Rule, we believe in order to reduce confusion the CFPB should clarify the definitions of “data providers,” “data aggregators,” or “authorized third parties” within the meaning of the Rule.

Should the proposed rule apply to attorneys in the future or if the requirements are passed from NCBA’s members’ clients (the creditors) to NCBA members, we want to ensure that the Rule exempts the disclosure of “information required to be kept confidential by any other provision of law.” This exception should not only specifically include attorney-client privileged or confidential information, but also include clarifying language that the Rule does not supersede or conflict with the obligations set forth in either the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*, or the CFPB’s Regulation F, 12 C.F.R. § 1006, *et seq.*

The preamble to the proposed Rule notes,

that, subject to rules prescribed by the CFPB, 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 that the consumer obtained from

such covered person, subject to certain exceptions. The information must be made available in an electronic form usable by consumers.

88 Fed. Reg. 74796, 74802

We understand that the CFPB is concerned about consumers' access to their account data, how long it takes, and the way it is received. NCBA members are already required to provide consumers with information about their accounts (account numbers, original creditor, charge-off date, current balance, etc.). See 15 U.S.C. § 1692g; 12 C.F.R. §§ 1006.34, 1006.38. Thus, it would make sense that any rule made under § 1033 should provide that those regulated entities who comply with 15 U.S.C. § 1692g or 12 C.F.R. § 1006.34 are also in compliance with such Rule.

To reduce consumer confusion, we believe the information required by the Rule should mirror the information already required by the validation notice under 15 U.S.C. § 1692g and 12 C.F.R. § 1006.34. Section 1692g of the FDCPA addresses consumer requests for information from a debt collector and delineates how and when consumers may request such information. In addition to offering clarity to the consumer, such a standard supports the model rules of professional conduct that govern NCBA's members' responsibility as attorneys not to disclose the privileged or confidential contents of their clients' files. For these reasons, we believe Congress did not intend to include creditors' rights attorneys within the scope of § 1033.

Thank you for considering the views of NCBA on these important issues. If you have any questions regarding any of our comments or suggested amendments, please contact NCBA's Vice President of Government Affairs, Nathan Willner at 410-382-7588 or [Nathan@creditorsbar.org](mailto:Nathan@creditorsbar.org).

Sincerely,



Liz Terry

Executive Director

National Creditors Bar Association

**About NCBA** | NCBA is the only bar association in the country dedicated to promoting and protecting all creditors' rights attorneys, including attorneys who collect consumer debt. NCBA member firms practice law in a manner consistent with their responsibilities as officers of the court and must adhere to rules of state civil procedure, state bar association licensing, certification requirements, and the rules of professional conduct of each state in which they practice.

NCBA's values are: Professional, Ethical, Responsible.

Important facts about NCBA member firms are:

- Over 2,500 creditors' rights attorneys from almost 400 law firms and other creditors' rights practices across the United States.
- The majority of NCBA law firms are considered small businesses pursuant to the Small Business Administration classification.
- 45% practice creditors' right law across multiple state jurisdictions.
- NCBA member law firms are subject to audits on a regular basis by their clients, many of whom are national banks, and devote significant time and resources on compliance and preparing for those audits; and
- NCBA member firms practice various subsets of creditors' rights law.