October 21, 2025

Via E-mail
The Honorable Russell T. Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Personal Financial Data Rights Reconsideration

Dear Acting Director Vought —

The Blockchain Association (the "Association") respectfully submits this letter in response to the Consumer Financial Protection Bureau's ("CFPB" or the "Bureau") request for comment to its advance notice of proposed rulemaking on issues related to implementation of section 1033 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* ("Section 1033" and "Dodd-Frank," respectively).

The Association is the leading nonprofit membership organization dedicated to promoting a pro-innovation policy environment for the digital-asset economy. The Association endeavors to achieve regulatory clarity and to educate policymakers, regulators, courts, and the public about how blockchain technology can pave the way for a more secure, competitive, and consumer-friendly digital marketplace. The Association represents over 130 member companies reflecting the wide range of the dynamic blockchain industry, including software developers, infrastructure providers, exchanges, custodians, investors, and others supporting the public blockchain ecosystem.

Rulemaking and Litigation Background

The history of Section 1033 and its implementing rules is protracted. Enacted on July 21, 2010 as part of Dodd-Frank,[1] interpretations of Section 1033 percolated for over a decade before rulemaking began. On November 6, 2020, during President Trump's first term, the Bureau issued an advance notice of proposed rulemaking titled *Consumer Access to Financial Records*.[2] A number of participants responded to that notice, but the area lay dormant for three years, before the Bureau issued its notice of proposed rulemaking titled *Required Rulemaking on Personal*

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act § 1033, 12 U.S.C. § 5533(a) (2018).
[2] Consumer Access to Financial Records, 85 Fed. Reg. 71,897 (Nov. 12, 2020) (advance notice of proposed rulemaking), available at https://www.federalregister.gov/documents/2020/11/06/2020-23723/consumer-access-to-financial-records

Financial Data Rights on October 31, 2023,[3] drawing over 10,000 more comments.[4] The Bureau finalized the rule, now known as the "Open Banking Rule" on October 22, 2024, and it took effect on January 17, 2025.[5]

Immediately after the rule became final, the Bank Policy Institute and Kentucky Bankers Association filed a lawsuit, *Forcht Bank, NA v. Consumer Financial Protection Bureau*, No. 5:24-cv-00304-DCR in the U.S. District Court for the Eastern District of Kentucky seeking injunctive relief from the rule.[6] That litigation is ongoing.

After President Trump returned for his second term, the administration announced a series of rescissions of Biden-era executive orders. On March 14, 2025, the White House issued Executive Order 14236, *Additional Rescissions of Harmful Executive Orders and Actions*.[7] The accompanying fact sheet signaled a policy approach to "review and repeal [...] harmful Biden administration policies to usher in a new golden age for America."[8] The *Forcht Bank* proceedings were subsequently stayed on March 27, 2025, and on May 23, 2025 the Bureau issued a status report signaling its finding that "the [Open Banking] Rule is unlawful and should be set aside."[9]

Immediately capitalizing on the rulemaking pause, on July 11, 2025 the nation's largest bank, JPMorgan Chase circulated pricing sheets to data aggregators stating it would begin charging for application programming interface ("APIs") access to customer account data.[10] The bank framed

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[3] Required Rulemaking on Personal Financial Data Rights, 88 Fed. Reg. 74,796 (Oct. 31, 2023) (notice of proposed rulemaking), available at https://www.federalregister.gov/documents/2023/10/31/2023-23576/required-rulemaking-on-personal-financial-data-rights

[4] Consumer Financial Protection Bureau, Docket No. CFPB-2023-0052, *Required Rulemaking on Personal Financial Data Rights* (public comments), available at https://www.regulations.gov/document/CFPB-2023-0052-0001/comment

[5] Required Rulemaking on Personal Financial Data Rights, 89 Fed. Reg. 90,838 (Nov. 18, 2024) (final rule), available at https://www.federalregister.gov/documents/2024/11/18/2024-25079/required-rulemaking-on-personal-financial-data-rights

[6] Complaint, *Forcht Bank, N.A. v. Consumer Fin. Prot. Bureau*, No. 5:24-cv-00304 (E.D. Ky. Oct. 22, 2024), available at https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.1.0.pdf.

[7] Additional Rescissions of Harmful Executive Orders and Actions, 90 Fed. Reg. 20,112 (Mar. 20, 2025), available at https://www.federalregister.gov/documents/2025/03/20/2025-04866/additional-rescissions-of-harmful-executive-orders-and-actions.

[8] White House, *Fact Sheet: President Donald J. Trump Rescinds Additional Harmful Biden Executive Actions* (Mar. 20, 2025), https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-rescinds-additional-harmful-biden-executive-actions/.

[9] Status Report, *Forcht Bank, N.A. v. Consumer Fin. Prot. Bureau*, No. 5:24-cv-00304 (E.D. Ky. May 23, 2025), available at https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.57.0_1.pdf.

[10] Lananh Nguyen & Niket Nishant, *JPMorgan plans to charge fintechs for customer data*, Reuters (July 11, 2025), available at

the new fees as reimbursement for the security and infrastructure needed to protect consumer information.[11] This shift challenged Section 1033's anti-fee premise, taking advantage of the moment of regulatory uncertainty.

On July 29, 2025, the Bureau sought to extend the stay to reopen rulemaking[12]; then on August 22, 2025 issued this ANPR, *Personal Financial Data Rights Reconsideration*, seeking comment on issues "related to implementation of [S]ection 1033" including "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 [S]ection 1033 compliance; and the threat picture for data privacy associated with [S]ection 1033 compliance."[13]

The Association is now writing to address the first two of these questions, the scope of representatives who can make requests on behalf of consumers and the assessment of fees.

The Bureau Should Stand Behind Open Banking

On July 23, 2025, The Association joined a consortium of other stakeholders in the fintech and blockchain space in petitioning President Trump to uphold the Open Banking Rule to safeguard "Americans' right to securely connect their bank accounts to the apps and services of their choice – whether a digital asset wallet, a payment app, or an investing tool."[14]

In this comment, the Association formally reiterates this view. The President's Working Group on Digital Asset Markets has entreated "the Federal government to operationalize President Trump's promise to make America the crypto capital of the world."[15] Maintaining the broad permissions and prohibition of fees prescribed by the Open Banking Rule is critical to realizing this goal and sustaining American leadership in fintech and blockchain for the century ahead.

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https://www.reuters.com/business/finance/jpmorgan-plans-charge-fintechs-customer-data-bloomberg-news-reports-2025-07-11/

[11] *Id.*

[12] Def.'s Mot. to Stay Proceedings, *Forcht Bank, N.A. v. Consumer Fin. Prot. Bureau*, No. 5:24-cv-00304 (E.D. Ky. July 29, 2025), available at https://storage.courtlistener.com/recap/gov.uscourts.kyed.106299/gov.uscourts.kyed.106299.80.0.pdf.

[13] Personal Financial Data Rights Reconsideration, 90 Fed. Reg. 58,556 (Aug. 22, 2025) (advance notice of proposed rulemaking), available at https://www.federalregister.gov/documents/2025/08/22/2025-16139/personal-financial-data-rights-reconsideration.

[14] Joint Trades, *Open Banking Letter to President Trump* (July 23, 2025), available at https://cdn.prod.website-files.com/65ffe2c368384b0aaeb608e2/6881d2ce38b2d18f840d6134_Joint%20Trades%20Open%20Banking%20Letter%20to%20POTUS.pdf.

[15] President's Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology* (2025), available at https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf

Open banking allows millions of Americans to securely connect their bank accounts to the apps and services of their choice. The lawsuit, and subsequent advocacy against the rule, is an effort by big banks to return to an era where financial technology meant manually retrieving and emailing PDF bank statements.

This is not just a matter of good policy, it is what the statute demands. A plain reading of Section 1033 makes clear that (i) Congress intended the rule to extend access to third parties including data aggregators, fintechs and decentralized finance ("DeFi"), and (ii) that the CFPB is prohibited by the statute from permitting "covered persons" — meaning, primarily, banks[16] — to charge any fee to access this information.

The danger now is acute. On September 16, 2025 JPMorgan Chase's fee implementation began, formally ushering a new era of paid data-access.[17] Absent the Open Banking Rule's protections, dominant data holders like JPMorgan Chase will be able to impose tolls that chill competition and limit consumers' practical ability to use their own information. Reports indicate payment-related use cases would face the highest charges, and industry reaction has already been sharply negative, underscoring the risk that fees will entrench incumbents and undermine innovation.

The loss of these protections will hit consumers the hardest. Without an Open Banking Rule, banks will wall off data or impose tolls that make it costly or impossible for Americans to access fintech and blockchain products. The practical right to access and share one's own financial information will shrink to a privilege granted only on a bank-by-bank basis.

The Bureau should reverse course and stand behind the Open Banking Rule.

1. Section 1033 Requires Free Consumer Data Access

The legal questions here are not academic; the revisions sought by opponents of the Open Banking Rule would contradict the language of Dodd-Frank. Plaintiffs in *Forcht Bank* argue, *inter alia,* that the representatives authorized by Dodd-Frank to access consumer information cannot include fintechs and DeFi, and that the prohibition on fees from in the Open Banking Rule is

[16] *See* 12 U.S.C. § 5481(6) (defining "covered person"); *id*. § 5481(15)(A)(iv) (including deposit-taking, transmitting or exchanging funds, and custodial activities); *id*. § 5481(15)(A)(vii)(I) (excluding merchants and retailers that process payments solely for their own sales); *id*. § 5481(15)(C)(i)–(ii) (excluding the business of insurance and electronic conduit services).

[17] Press Release, JPMorgan Chase & Plaid, *JPMorgan Chase and Plaid Announce an Extension to Their Data Access Agreement for Sharing Consumer Permissioned Data* (Sept. 16, 2025), available at https://www.jpmorganchase.com/newsroom/press-releases/2025/jpmc-plaid-renewed-data-access-agreement

unsupported by the statutory text.[18] In fact, the opposite is true. The only valid reading of Section 1033 is to (i) permit *any* authorized representative to access customer financial information, and (ii) prohibit covered persons from charging fees to consumers.

Since the Supreme Court's 2024 ruling in *Loper Bright Enterprises v. Raimondo,* 144 S. Ct. 2244 (2024) ("*Loper Bright"*) Courts reviewing agency action must exercise independent judgment when interpreting statutes and identify their "single best" reading "after applying all relevant interpretive tools."[19] Agencies have discretion to set policy within statutory limits, but they are not automatically entitled to deference. Courts must determine whether a given action is "within [an agency's] statutory authority," and may not defer to an agency interpretation of the law simply because a statute is ambiguous.[20]

The single best reading of Section 1033 requires broad access to information for authorized third parties and precludes fees, so no rule can (i) circumscribe the parties that can be authorized to access information or (ii) permits fees. Because the law requires it, the Bureau should refrain from promulgating such a rule.

A. Representatives

First, authorized third parties (*e.g*. fintech applications) qualify as "consumers" and so Section 1033 requires covered persons to provide them information. Title X of Dodd-Frank (the Consumer Financial Protection Act of 2010 or "CFPA"), defines the term "consumer" to mean "an individual **or an agent, trustee, or representative acting on behalf of an individual**."[21] So as a matter of interpretation, if a third party is an "agent, trustee, or representative acting on behalf of an individual," then they are a "consumer." And since it is clear that these third parties are manifestly representatives (and in many cases, agents), they are "consumers" under Section 1033 entitled to receive information.

Under settled agency principles, a "representative" relationship exists where a person is authorized to act on another's behalf and subject to that person's direction. The Open Banking

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[18] Complaint, *Forcht Bank, N.A. v. Consumer Fin. Prot. Bureau,* No. 5:24-cv-00304 (E.D. Ky. Oct. 22, 2024), available at https://bpi.com/wp-content/uploads/2024/10/Forcht-Bank-Kentucky-Bankers-Association-BPI-v-CFPB-2024.10.22.pdf.

[19] For four decades between *Chevron U.S.A. Inc. v. NRDC* (1984) and *Loper Bright*, agencies like the CFPB enjoyed substantial deference in their interpretations of the statutes that empowered them to promulgate rules. Under *Chevron*, courts routinely upheld agency interpretations so long as they were "permissible," even when not the "best" reading of the statute. That era ended with *Loper Bright*, where the Court held that "[t]he Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024).

[20] *Id.*

[21] 12 U.S.C. § 5481(4) (2021) (emphasis added).

Rule's signed-consent and on-behalf-of requirements satisfy that legal standard.[22] Any authorized party, under the Open Banking Rule, must "[o]btain the consumer's[23] express informed consent to access covered data on behalf of the consumer by obtaining an authorization disclosure that is signed by the consumer electronically or in writing." In doing so, as a matter of law, they become the consumer's "representative" with respect to the discrete task of retrieving data, which is all the final rule permits such third parties to do.

The rule also confines an authorized third party's authority in ways characteristic of legal representation. To comply with the Open Banking Rule, third parties must certify to the consumer that they accept the rule's obligations. These authorized third parties may collect, use, and retain only what is "reasonably necessary" to provide the requested product or service. Their authorization expires absent reauthorization after one year. Finally, the consumer must have an easy, no-penalty right to revoke, which ends collection and generally halts further use/retention.[24] Those textual limits mirror the consent-and-scope features that define representation at common law, confirming that a third party complying with Open Banking Rule[25] functions as a "representative acting on behalf of an individual" and is therefore a "consumer" under the CFPA.[26]

Third parties authorized by users may well be those users' "agents," but they are certainly "representatives," and so, within the CFPA's scheme, they are clearly *consumers* entitled to access under Section 1033.[27] The Bureau cannot now circumscribe those rights.

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[22] Restatement (Third) of Agency § 1.01 (Am. L. Inst. 2006); see 12 C.F.R. § 1033.401(a), (c) (2024).

[23] Note that, somewhat confusingly, the final rule defines "consumer" more narrowly than does Dodd-Frank, the overarching legislative scheme, to mean "an individual who obtains or has obtained from a covered data provider a covered consumer financial product or service that is to be used primarily for personal, family, or household purposes." For purposes of interpretation, this means that a third party can both act on a consumer's behalf within the meaning of the Open Banking Rule, and *be* a consumer within the broader legislative framework.

[24] 12 C.F.R. § 1033.401(b) (certification via § 1033.411(b)(5)); § 1033.421(a), (b)(2)–(3), (h)(1)–(2), (i) (2024).

[25] *See 12 C.F.R. §§ 1033.401, 1033.411.*

[26] *See* Restatement (Third) of Agency § 1.01; 12 U.S.C. § 5481(4).

[27] While some may be inclined to define representative more narrowly, as a synonym for "agent," such reading is disfavored by the statutory scheme explicitly referencing *both* agents *and* representatives. Congress's use of the disjunctive, "agent, trustee, or representative, "in the CFPA's definition of "consumer" must be given independent effect. Reading "representative" to mean only "agent" would render "representative" superfluous. The canon against surplusage instructs that statutes should be construed so that no word is without operative effect. See, e.g., *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("[A] statute ought … to be so construed that … no clause, sentence, or word shall be superfluous, void, or insignificant."); *Hibbs v. Winn*, 542 U.S. 88, 92 (2004) ("the rule against superfluities instructs courts to interpret a statute to effectuate all its provisions, so that no part is rendered superfluous").

B. Fees

Section 1033 does not permit Covered Persons to impose fees on data sharing. This prohibition is a valuable bulwark against the risks that Covered Persons will attempt to limit access in exactly the way JPMorgan Chase already has, and it is required by law.

Section 1033 comprises three principal, operative sections. Subsection (a) states that Covered Persons are required to provide information to consumers, in an electronic form usable by consumers. Subsection (b) provides a series of exceptions that limit that requirement: a Covered Person is not required to provide confidential information, information collected to prevent fraud, or information that cannot be recovered in the ordinary course of business.[28] Subsection (c) further clarifies that the rule *does not* create a new recordkeeping duty for Covered Persons.

Read together, these subsections create a rule, the requirement to provide information, as well as a list of permissible limitations. This is the paradigmatic example of the canon of interpretation *expressio unius est exclusio alterius,* which has force "when the items expressed are members of an 'associated group or series,' justifying the inference that items not mentioned were excluded by deliberate choice, not inadvertence."[29] And a straightforward application of this canon says that *other* limitations on the rule, which, again, is that covered persons must provide information, cannot be imposed. When Congress imposes a list of exceptions and does not include a right to impose fees, "It seems that the statute fails to mention [permitting fees] 'by deliberate choice, not inadvertence."[30]

Moreover, Congress clearly permits regulated parties to charge fees under other statutory structures and chose not to here. Numerous federal statutory schemes, including *e.g.* ERISA, HIPAA, and The Securities Exchange Act of 1934, explicitly permit the kind of fee reimbursement sought by the plaintiffs in *Forcht Bank*, yet Section 1033 does not.[31] The absence of such authorization here supports the inference that Congress did not intend to permit fees.[32]

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[28] 12 U.S.C. § 5533(b) (2021).
[29] *Barnhart v. Peabody Coal Co*., 537 U.S. 149, 168 (2003).
[30] *Bruesewitz v. Wyeth LLC, 562 U.S. 223 (2011).*
[31] For instance, in the Securities Exchange Act of 1934, Congress authorized national securities exchanges to have rules that provide "for the equitable allocation of reasonable dues, fees, and other charges among … persons using its facilities." 15 U.S.C. § 78f. In ERISA, Congress expressly authorized plan administrators to recoup reasonable copying, mailing, and other costs when furnishing required plan information: "The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1)." 29 U.S.C. § 1024(b)(4). Under HIPAA, a covered entity ("covered entities" under HIPAA include health plans, health-care providers, and health-care clearinghouses) may impose a reasonable, cost-based fee for providing a copy of protected health information, limited to costs such as labor for copying, supplies for creating the copy or electronic media, postage, and preparing a summary or explanation if the individual agreed in advance. 45 C.F.R. § 164.524(c)(4) (2024).
[32] *See Astrue v. Ratliff,* 560 U.S. 586 (2010); *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291 (2006).

In the pre-*Loper Bright* world, courts frequently afforded agencies deference when an enabling statute was ambiguous. But *Loper Bright* requires courts to exercise their independent judgment rather than defer to an agency's construction of a statute.[33] Because Section 1033 contains no express grant authorizing the Bureau to permit Covered Persons to charge fees,[34] the Bureau must identify strong textual or structural bases for any fee rule. There are none[35], so fees must be prohibited.

2. Reversing the Open Banking Rule Will Harm Consumers

Beyond the legal merits of the Open Banking Rule, the risk of failing to preserve open banking in the United States is acute. As JPMorgan Chase has already demonstrated, big banks will use a weakened rule to limit access to new financial tools, weaken competition, and reinforce their market position. Ultimately, this will harm consumers.

The text of Section 1033 requires data providers to furnish standardized, no-fee API access to consumer-permissioned, machine-readable data.[36] That mandate widens product access and functionality, enabling budgeting, payments, credit, and related tools to connect reliably while improving data quality and security.

Since Dodd-Frank passed in 2010, the fintech industry has, according to the management consulting firm McKinsey & Company, "profoundly reshaped certain areas of financial services."[37] It has done this, in effect, by giving consumers access to products that they had never before been able to access. The novel ability to interact with information and create functional products for consumers has led the combined public and private market cap of firms in this category to exceed $1 trillion in 2023.[38]

In the blockchain space, DeFi, similarly, offers access to protocols that allow consumers to interact directly with blockchain-based financial services without relying on traditional intermediaries. Users connect their digital wallet to a smart contract, which automatically executes transactions based on preset code.

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[33] *See Loper Bright*.
[34] *See generally* 12 U.S.C. § 5533.
[35] Although Section 1033 states that covered persons must provide information "subject to rules prescribed by the Bureau," that provision does not, on its own, constitute a grant authorizing the Bureau to permit fee-based access. The clause is a conventional rulemaking delegation, not an authorization of substantive carve-outs that contradict the statute's text and specified exceptions in Sections 1033(b)–(c).
[36] 12 C.F.R. §§ 1033.301(a), (c), 1033.311(b), 1033.331(a)–(b) (2025).
[37] McKinsey & Co., *Fintechs: A New Paradigm of Growth* (Oct. 20, 2022), available at https://www.mckinsey.com/industries/financial-services/our-insights/fintechs-a-new-paradigm-of-growth.
[38] *Id*.

In either model, consumers enable a third party application to interact with their primary banking institution through an API, a data port that allows the fintech and the bank's software to communicate directly. The bank sends the fintech data, and the fintech can structure it to produce insights to help users budget, manage bill pay automatically, or even underwrite loans.[39]

Prior to the advent of API enabled fintech, consumers were forced to use now-obsolete methods to access their financial data like "direct access" and "screen scraping." Direct access, logging into a bank account, downloading statements, or manually providing account and routing numbers, enabled only the simplest uses. It required frequent credential sharing, created delays, and could not connect with outside applications. To enable broader use cases, third parties developed screen scraping, which allowed consumers to provide their online banking credentials to an intermediary that would log in on their behalf and copy displayed data.

While screen scraping enabled innovation by allowing aggregation and budgeting tools, it also introduced serious security, privacy, and reliability problems. Intermediaries stored sensitive credentials, collected excess data, and faced frequent service disruptions when banks changed website formats. Recognizing these risks, both the CFPB and the Treasury Department during President Trump's first term identified non-credential-sharing access as a core consumer protection principle.[40] The Open Banking Rule will finally phase out screen scraping by requiring covered entities to provide data through secure APIs, advancing a modern financial ecosystem while eliminating an unstable and risky legacy practice.[41]

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[39] FinRegLab, Comment Letter on CFPB Section 1033 Rulemaking (Feb. 4, 2021), available at https://finreglab.org/wp-content/uploads/2023/11/21-02-04_Comment_Letter_FinRegLab-Section-1033.pdf.

[40] The shortcomings of screen scraping are significant. Because it depends on credentials being shared and stored by intermediaries, screen scraping introduces heightened security and privacy risks. Data is often collected in bulk without precision, creating both over-collection and stale records. This is why the Bureau, during President Trump's first term, identified access that "does not require consumers to share their account credentials with third parties" as a consumer protection principle. Consumer Fin. Prot. Bureau, *Consumer Protection Principles: Consumer-Authorized Financial Data Sharing and Aggregation* (Oct. 18, 2017), available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-protection-principles_data-aggregation.pdf. For its part, the Treasury Department noted in 2018 that "The practice of using login credentials for screen-scraping poses significant security risks, which have been recognized for nearly two decades." U.S. Dep't of the Treasury, *A Financial System That Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation* (July 2018), available at https://home.treasury.gov/system/files/136/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financi....pdf.

[41] As of 2023, likely because the Open Banking Rule had not yet been implemented, the OECD reported that the United States was one of the last remaining nations where the practice was still prevalent. OECD, *Shifting from Open Banking to Open Finance: Results of the 2022 OECD Survey on Data Sharing Frameworks* (Jan. 2023), available at https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/01/shifting-from-open-banking-to-open-finance_1a650f63/9f881c0c-en.pdf.

"The aim of [fintechs] is to make the customer the main driver of its operations"[42] and so this explosion has rapidly created large consumer dividends. 2025 survey data collected by FTA found that "79% of consumers and 95% of small businesses report that fintech better meets their financial needs and feel a greater sense of control compared to traditional banks."[43] The fintech firm Plaid found that "Fintech users reported a median savings of $360 in bank fees and interest and almost 4 hours per week in time."[44]

If these gains are retrenched, consumers will have to return to older models, and will lose the progress they have made in recent years. They will have worse information access, more cumbersome interfaces, and will be exposed to higher risks. Without the Open Banking Rule, they will be returned to the age of PDFs and screen scraping.

A. Banks' Monopoly Power

If the Open Banking Rule is discarded, the entire American ecosystem of fintech and DeFi is at risk. Even now, before any final determination is made on the rule, the banks' plans are clear. JPMorgan Chase's new fees are only the beginning. If permitted, other banks will follow, charging fintechs, and, ultimately, consumers, for access.

If the Bureau allows this trend to proceed, a growing sector of American businesses will struggle to compete. In a system where, according to the Bank Policy Institute, just five major banks control 46% of all retail deposits, this would likely weaken competition and measurably harm consumer welfare.[45]

According to the trade publication *Fortune,* under JPMorgan Chase's scheme, "every time a consumer moves money from JPMorgan Chase to a crypto account or a third-party service like Robinhood, the bank could charge the data aggregators a fee." In an example of how this could

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[42] Barroso, Marta & Laborda, Juan, *Digital Transformation and the Emergence of the Fintech Sector: Systematic Literature Review*, 2 Digital Business 100028 (2022), available at https://doi.org/10.1016/j.digbus.2022.100028.

[43] Fin. Tech. Ass'n, *New State of Fintech Survey Reveals High Levels of Satisfaction, Value, and Trust in Fintech* (May 16, 2023), https://www.ftassociation.org/new-state-of-fintech-survey-reveals-high-levels-of-satisfaction-value-and-trust-in-fintech.

[44] Plaid, *The Fintech Effect: Consumer Impact and a Fairer Financial System* (Oct. 28, 2020), https://plaid.com/blog/the-fintech-effect-consumer-impact-and-a-fairer-financial-system/.

[45] Bank Policy Inst., *Five Important Facts About the Competitiveness of the U.S. Banking Industry* (June 23, 2020), available at https://bpi.com/five-important-facts-about-the-competitiveness-of-the-u-s-banking-industry.

work, a former fintech executive explained that it could "suddenly cost $10 to move $100 into a Coinbase or Robinhood account."[46] Other cryptocurrency executives likened the fee to a "toll."[47]

In the first case, such a system will pass costs of financial access and data usage on to consumers, imposing a new cost on everyday Americans trying to use technology to save and manage their finances. At the margin, such fees will squeeze many of these consumers, those that cannot afford the new costs, of the system entirely.

Even more acute is the risk that many businesses, particularly innovative startups, will be unable to pass on these costs. While large firms may be able to negotiate deals with the big banks, small players in the fintech and DeFi industries may be unable to participate in the market for consumers' economic data. Without access to consumer information, these firms could quickly fail. In turn, this could leave consumers with a smaller menu of options than they have today.

Banks like JPMorgan Chase will likely absorb some of the functions currently provided by the fintech industry today, but a small number of large firms is no substitute for a large number of small competitors.

Banks offer a variety of services including brick-and-mortar locations that may not be available everywhere. Not every individual will be able to find an alternative bank, and even if they do, it could be expensive and time-consuming to move their life savings to a new institution. Because it is much more difficult for retail users to change banks than it is to interact with new fintechs, it is highly unlikely that banks will face the same competitive pressures to develop and improve these products as fintechs and DeFi experience now. The result of such a system won't be market-neutral, it will systemically down-level the quality and variety of financial tools available to American consumers.

Worse yet, without access to safe data through APIs, firms seeking to fulfill consumer demand for fintech products will likely revert to insecure workarounds like screen scraping, and integrations that raise serious fraud and security risks.

The United States' fintech and DeFi sectors are a vibrant and developing ecosystem that President Trump has recognized as playing "a crucial role in innovation and economic development in the United States, as well as our Nation's international leadership."[48] That role, and the welfare of American consumers, is at risk if the Open Banking Rule is ultimately reversed.

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[46] Beltran, Luisa, "JPMorgan Chase's plan to charge for data could 'cripple' crypto and fintech startups, execs warn," *Fortune* (July 16, 2025), available at https://fortune.com/2025/07/16/jpmorgan-chase-fees-fintechs-plaid-finicity-crypto-wall-street-citigroup-bank-of-america-wells-fargo/.

[47] *Id*.

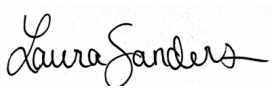
[48] Exec. Order No. 14178, *Strengthening American Leadership in Digital Financial Technology* (Jan. 23, 2025), available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-protection-principles_data-aggregation.pdf

Conclusion

For the foregoing reasons, the Blockchain Association respectfully urges the Bureau to finalize a Section 1033 rule that:

1) confirms that third parties who comply with the rule's authorization procedures qualify as "representatives" under 12 U.S.C. §5481(4) and therefore are "consumers" entitled to access under Section 1033, and;
2) precludes "covered persons" from charging fees for data access.

Respectfully Submitted,



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cc:
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