



November 8, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Request for Extension of the Deadline to File Comments to the Notice of Proposed Rulemaking on Personal Data Rights Docket No. CFPB-2023-0052 or RIN 3170-AA78

Dear Director Chopra:

The Office of Advocacy of the U.S. Small Business Administration (Advocacy) submits this letter to request an extension of the comment period for the Bureau of Consumer Financial Protection's (CFPB) proposed rule on Personal Financial Data Rights. The proposed rulemaking would implement section 1033 of the Dodd-Frank Act. It will require covered financial institutions, many of which are small, to make available to consumers and authorized third parties' certain data relating to consumers' transactions and accounts; establish obligations for third parties accessing a consumer's data, including important privacy protections for that data; provide basic standards for data access; and promote fair, open, and inclusive industry standards.

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed in this letter by Advocacy do not necessarily reflect the views of the SBA or the Administration. Advocacy performs outreach to obtain input from small business representatives about the impact of policy initiatives.

On October 31, 2023, the CFPB published the proposed rule on *Required Rulemaking on Personal Financial Data Rights* in the Federal Register.¹ The proposal seeks important information about the potential costs of the proposal to small entities. The small entities that will be required to comply with the regulation are in the best position to provide the CFPB with information about the potential costs associated with the proposal. This information is crucial for determining the economic impact of the rule and for considering less costly alternatives as required by the Regulatory Flexibility Act. Because of the importance of the information

¹ 88 Fed. Reg. 74796 (proposed Oct. 31, 2023).

potentially available from small entities, Advocacy requests that the comment period be extended.

This rulemaking will have a significant economic impact on a substantial number of small entities, as indicated by the initial regulatory flexibility analysis that the CFPB prepared as required by section 603 of the Regulatory Flexibility Act (RFA). The CFPB also convened a Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) panel on February 1, 2023, pursuant to section 609 of the RFA. The panel met with small entity representatives whose institutions would likely be subject to the proposals to obtain their feedback on the impact of CFPB's proposals on small entities.

On October 27, 2023,² several stakeholders submitted a joint letter outlining the challenges that small entities will have providing meaningful comments by the current deadline of December 29, 2023.³ They stated that many small business entities lack the resources necessary to respond to the NPRM during the current time frame, due to the consistently competing interests of serving their consumers effectively. As such, small entities impacted by this rulemaking would be disadvantaged in the process. They also asserted that without providing ample time for small entities to participate in the process, small entities may not be able to provide meaningful comments. This could result in the CFPB adopting a final rule that would disadvantage small entities and undercut the CFPB's desire to create competition through the implementation of Section 1033.

The letter also notes that the comment period and deadline occur during a time typically unavailable for those observing November and December holidays. This timeframe further reduces the work time period and reflects a lack of reciprocity between the implementing agency and affected entities to engage in the discourse needed within this complex issue and rulemaking. Accordingly, the stakeholders requested that the comment period be 90 days from the date that the NPRM was published in the Federal Register. This would extend the comment due date to January 29, 2024.

The Office of Advocacy supports the request for an extension of the comment period. Extending the comment period will provide crucial consideration to the challenges that small entities face and ensure that small entities have adequate time to provide comments with their limited resources and competing commitments. Extending the comment period to at least 90 days will also allow time for small entities to provide meaningful comments. Obtaining meaningful comments from small entities is beneficial both to small entities and to the CFPB in developing a strong and effective rule.

² The CFPB posted the proposed rulemaking on its website on October 19, 2023. Consumer Fin. Prot. Bureau, *Required Rulemaking on Personal Financial Data Rights* (Oct. 19, 2023), <https://www.consumerfinance.gov/rules-policy/notice-opportunities-comment/open-notice/required-rulemaking-on-personal-financial-data-rights/>.

³ Am. Fintech Council et al., *Comment Letter Request for Extension of Comment Period for Notice of Proposed Rulemaking on Personal Financial Data Rights* (Oct. 27, 2023), <https://www.regulations.gov/comment/CFPB-2023-0052-0005>.

Thank you for your consideration. If you have any questions regarding this request or if Advocacy can be of any assistance, please do not hesitate to contact me or Jennifer Smith at Jennifer.Smith@sba.gov.

Sincerely,

/s/

Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/

Jennifer A. Smith
Assistant Chief Counsel
for Economic Regulation & Banking
Office of Advocacy
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