KANSAS BANKERS ASSOCIATION

October 21, 2025

Comment Intake—Personal Financial Data Rights Reconsideration
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW, Washington, DC 20552

Re: Personal Financial Data Rights Reconsideration-Docket No. CFPB-2025-0037

Dear Sir or Madam:

The Kansas Bankers Association (KBA) appreciates the opportunity to comment on the Personal Financial Data Rights Reconsideration proposal (PFDR) to adjust and further refine the original rule adopted by the CFPB to implement section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The KBA is a nonprofit trade association which has 193 of the 196 Kansas domiciled banks and thrifts in Kansas, as well as 25 of 43 out-of-state chartered banks doing business in the state as members.

The CFPB has requested input on four issues:

1) The proper understanding of who can serve as a "representative" making a request on behalf of the consumer;
2) The optimal approach to the assessment of fees to defray the costs incurred by a "covered person" in responding to a customer driven request;
3) The threat and cost-benefit pictures for data security associated with section 1033 compliance; and
4) The threat picture for data privacy associated with section 1033 compliance.

Before providing substantive response, the KBA wishes to emphasize at the outset the urgency for the CFPB to take formal action to suspend the compliance dates of the November 2024 PFDR rule as soon as possible. As the CFPB has already clearly stated its intention to rewrite the Section 1033 rule, the Bureau must end this unnecessary compliance risk by indefinitely postponing all compliance dates until a new PFDR rule is finalized in the Federal Register.

RECOMMENDATIONS:

After due consideration of these issues, the KBA submits the following recommendations:

1) **Understanding the context of the PFDR rule is pivotal.** There will be an inherent and enduring tension between any PFDR rule that demands sharing personal information and prudential expectations for banks to safeguard it. The CFPB must consult transparently with the federal banking agencies and the FTC as required on safeguarding

data shared pursuant to the PFDR rule. This may include the prudential regulators issuing activity-specific guidance to aid supervised entities with meeting compliance expectations, as the general Interagency Guidance on Third-Party Relationships: Risk Management does not adequately address the issues presented by consumer-permissioned data sharing. The FTC has a role with its Safeguards Rule, and can issue guidance for nonbanks that are not sizeable enough to fall under CFPB supervision under larger participant rulemaking.

2) **Risk management efforts should be preserved.** In its re-proposed rule, the CFPB must not restrict data providers' ability to conduct risk management activities before, during, and after sharing data pursuant to consumer consent.

3) **PFDR should be governed by statute.** The CFPB should apply strict legal reading of Section 1033 in determining scope, not pragmatic interpretations fueled by business interests. For example, a logical reading of the statute requires the person requesting the information from the data provider to have *obtained the financial product or service themselves*.

4) **Data aggregators and larger fintechs should be subject to ongoing supervision.** On-going supervision of data aggregators and larger fintechs is imperative for the success of this rule. Supervision is necessary for, among other things, to ensure consumer wishes with respect to privacy are respected and information security requirements for the shared data are complied with.

5) **The re-proposed rule must grant data access rights among all "covered persons" as the 1033 statute directs.** Successful implementation of section 1033 requires that all covered persons be subject to compliance requirements. This includes banks, credit unions, fintechs, and data aggregators that hold information about consumer financial products and services on their systems. Further, any sharing among these entities must be expressly tied to the consent of the consumer and respecting the information security interests of the original data provider. In other words, data aggregators or data recipients should not be permitted to re-share permissioned data; rather, it must be obtained from the original data provider pursuant to explicit consumer authorization. This is the only way to ensure appropriate degrees of protection for the data, in addition to the flow of liability so that it corresponds with the data movement.
6) **Implementation that focuses on function rather than form.** To the extent the re-proposed rule includes provisions on data sharing throughout the ecosystem, it must distribute obligations based on function versus form. To start, it should be clear that any

entity offering financial products and services to consumers are data providers under the rule. Also, the confusing terminology of "third party" should be replaced with the more descriptive "data recipient." Further, the rule must impose substantially similar requirements on all covered persons. As things currently stand, the requirements in the November 2024 PFDR rule are focused on data provider obligations; which, as written, will disproportionately impact banks as supervised entities. Instead, the regulation should be reworked emphasizing the obligations of data aggregators and data recipients to ensure:

(1) consumer data is used for limited consumer-authorized purposes;
(2) the data remains secure and protected; and
(3) failure to meet these obligations will result in liability of the breaching party.

7) **Screen scraping should be designated a UDAAP violation.** The re-proposed rule must sunset screen scraping and specifically designate it as an Unfair, Deceptive, or Abusive Act or Practice (UDAAP) violation to ensure compliance with the prohibition, and data providers must be able to block screen scraping without fear of reprisal. The re-proposed rule must include clear timelines when the prohibition of screen scraping goes into effect, which could also serve as the compliance dates.

8) **No access fee limitations.** The re-proposed rule must allow for a free and fair market by being silent on the question of fees—as is the case with the 1033 statute. The KBA strongly supports the ability for data providers to charge a fee given the service they are affording to data aggregators and data recipients.

9) **If no fees are permitted, the exemption threshold should be raised.** If the access fees are not permitted as described in #8, the CFPB should raise the exemption for community banks to correlate with generally accepted definitions (for example, $10 billion in assets, with annual indexing for inflation).

10) **Notification of data breaches and unauthorized activities.** If the re-proposed rule includes provisions on data sharing throughout the ecosystem it should include a clear liability framework requiring a responsible party to notify others of potential data breaches or unauthorized activities, with a methodology for restitution. Given the prudential agencies' and the FTC's responsibilities on safeguarding such data, the Bureau must coordinate with them in this matter. The re-proposed rule should establish safe harbor provisions and a clear liability framework for banks. The principles underpinning this liability regime should be:

(1) Banks should be afforded a safe harbor when data misuse occurs downstream;
(2) Liability should follow the data, with third party recipients liable for fraud, data breaches, or other misuse due to their own activities and data handling;

(3) Data providers should retain discretion to require liability and indemnification terms as a condition for access; and
(4) Data aggregators and data recipients should be required to certify that they are adequately capitalized and carry indemnity insurance to make good on their liability obligations.

11) **Prohibition on secondary users.** The CFPB should retain the general prohibition on secondary uses in its re-proposed PFDR rule. It should add examples of permissible and forbidden behavior under this framework, the latter of which must include "reverse engineering."

12) **Express informed consent model form should be available.** Express informed consent is the appropriate principle governing activities using consumer-permissioned data. The CFPB should include a model form illustrating this in practice, use of which would provide a safe harbor.

Once again, we appreciate the opportunity to provide the above recommendations for the Personal Financial Data Rights Reconsideration proposal. If you have any questions or concerns regarding the above, please feel free to contact the undersigned at 785-232-3444.

Respectfully,

Douglas E. Wareham, President & CEO
Kansas Bankers Association

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Kansas Bankers Association