



22 West Washington Street
Chicago
Illinois 60602

Telephone: +1 312 696-6000
Facsimile: +1 312 696-6001

December 28, 2023

Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

SENT VIA ELECTRONIC MAIL TO 2023-NPRM-Data-Rights@cfpb.gov

Re: Required Rulemaking on Personal Financial Data Rights, Docket No. CFPB-2023-0052

ByAllAccounts, a Morningstar Wealth solution, appreciates the opportunity to respond to the Consumer Financial Protection Bureau's (CFPB) proposed rule 12 CFR Part 1033 (the Rule) to implement personal financial data rights under the Consumer Financial Protection Act (CFPA) of 2010. The effective implementation of this proposed rule will codify consumers' rights to access the financial data that covered institutions hold about them, and to provide that information to parties chosen by the consumer as best suited to help them achieve a positive financial outcome. Once implemented, consumers of all demographics and in all situations will be able to exercise their rights under the rule more uniformly, reliably, and safely than in the current market led ecosystem. This will not only benefit those consumers and their families but will also have a positive effect on local as well as national public policy programs linked to consumer financial wellbeing.

Morningstar is a leading provider of independent investment research, with a long history of advocating for transparency in global markets and brings several perspectives to the proposed rule. Morningstar's mission is to help investors reach their financial goals by providing them and their advisors with rigorously researched analysis and insights along with personalized user experiences delivered via reliable and secure channels. ByAllAccounts pioneered data aggregation for investment use cases in 1999, maintaining that dedicated focus through to today. Morningstar acquired ByAllAccounts in 2014, adding investor- and advisor-level aggregated data to its market data capabilities. As such, ByAllAccounts is uniquely qualified to understand and satisfy the precise wants and needs of investors and the financial professionals that serve them.

For over 38 years, we've worked to empower consumers to make confident investment decisions and achieve financial security. We believe that investing should be accessible to all consumers and that one way to ensure positive investment outcomes is via personalized advice from competent and authorized financial advisors. The best financial advice incorporates each consumer's financial assets, liabilities, income, demographics, and preferences to craft and implement personalized strategies and plans that balance risk and opportunity to deliver positive outcomes.

Financial Data Aggregation Helps Ordinary People Manage Their Finances

We applaud the CFPB for setting clear rules of the road for financial data aggregation. Since the CPFA was signed into law in 2010, many investors and other consumers have come to rely on data aggregation services, as have their financial advisors who use these tools to serve their clients more efficiently and effectively as a result of the positive signaling of a future financial data right.

Consumers engage in multiple financial behaviors every day, such as spending, saving, borrowing, and investing. Many consumers also engage in charitable giving, while others receive assistance from public benefits programs. In all these behaviors, consumers use, create, and influence financial data about themselves. Access to this data by the consumer must be an enforceable right, which should include the ability to share the data with the parties that the consumer has selected as best suited to help them manage their financial activities and outcomes.

Financial data aggregation can also promote competition by helping consumers see exactly what they are getting (and paying for) across their financial accounts. As investors, consumers are faced with an almost overwhelming choice of investment options across stocks, bonds, currencies, commodities, and alternative assets classes. While these investors seek to maximize their positive outcomes and minimize their risk, they also look for their investing behaviors and choices to align with their values and preferences. Financial data aggregation tools promote competition, facilitate personalized investing, and enable innovation.

For these reasons, Morningstar wholeheartedly agrees with the Bureau's efforts to establish and enforce these rights for the consumer. We are pleased to add our perspective of how this rulemaking can best benefit the consumer in their persona as an investor.

The proposed Rule has evolved positively as a result of the SBREFA process, and we commend the Bureau for these updates. However, we have two important suggestions to address flaws in the proposed Rule. First, we believe the Rule should be clear that financial advisors—both broker/dealer representatives and Registered Investment Advisors—should be able to act as authorized agents of an investor in aggregating financial data via the CFPA definition of “consumer”. We also strongly encourage the CFPB to look for ways to quickly expand the scope of the Rule and to take the opportunity to coordinate with other agencies such as the Department of Labor to include more account types in a coherent, harmonized regulatory structure that enables consumers to access all their financial accounts and avoids unintended consequences of asymmetric financial data access.

The Final Rule Should Include Explicit Language for Financial Advisors Accessing Data as Authorized Agents of the Consumer

Morningstar focuses on both enabling *and* protecting consumers in their savings and investment activities. We believe that investing should be accessible to all consumers, and we know that one way to generate positive investment outcomes is through personalized advice from competent and authorized financial advisors. Highly effective financial advice

incorporates each consumer's financial assets, liabilities, income, demographics, and preferences to deliver personalized strategies and plans that balance risk and opportunity to deliver positive outcomes. Financial advisors are stewards and guides for their clients and have legal obligations to act in their clients' best interests.

We serve two kinds of advisors—broker/dealer representatives and Registered Investment Advisors (RIAs)—both of which meet the definition of “consumer” in the CFPA Section 1002(4). Registered Investment Advisors and licensed Brokers -Dealers operate under regulatory compliance requirements to protect their clients from harm and to act in their clients' best interests. They must meet GLBA obligations for data security and privacy as well as SEC, FINRA, and state regulators' rules for safeguarding their client's information and assets as well as for third-party risk management of their service providers. For these reasons, Registered Investment Advisors and Broker-Dealers meet the consumer definition of the CFPA Section 1002(4) as they are “an agent, trustee, or representative acting on behalf of an individual” and should be treated as such under the Rule. The proposed change to the definition of “consumer” in § 1033.131 could negate these relationships by potentially redesignating such advisors as third parties thus denying consumers access to the advisory services upon which they depend for retirement, tax, education, medical and general financial management purposes. Morningstar appreciates that clarity is necessary to differentiate such agents from third-party data recipients, but this proposed change has far-reaching consequences that could undo decades of legally established and responsibly operating agency relationships to the detriment of millions of consumers as well as the stated pro-competition goals of the proposed Rule. Keeping the current definition of “consumer” as stated in the CFPA Section 1002(4) and providing clear acknowledgement of the consumer's relationship with their advisor will greatly streamline enforcement of the Consumer Financial Data Right rules by the Bureau, data providers, and aggregators. The legal terms of the advisor's engagement will also provide overarching governance of issues contemplated by the Bureau such as disclosures, data retention, and secondary use.

The CFPB Should Expand the Definition of Covered Providers and Coordinate with Other Regulators to Promote the Benefits of Its Rulemaking

The current scope of the rulemaking is insufficient in the types of accounts to which this right will apply, exposing consumers to an uneven regulatory landscape that will lead to data disparities, asymmetries, and gaps in access to certain types of accounts but not others. In addition to retail bank accounts, the CFPB should revisit covering brokerage accounts and should also coordinate with the Departments of Treasury and Labor so that similar rules apply to ERISA-covered retirement accounts. It would also be helpful to coordinate with the National Association of Insurance Commissioners regarding aggregation for annuities and insurance accounts. These efforts would help consumers receive a full picture of their financial situation, share it with their advisors, and track their financial progress in support of key milestones such as retirement. These recommendations are consistent with those made by the Department of the Treasury in its 2018 report, *A Financial System That Creates Economic Opportunities*:

*Nonbank Financials, Fintech, and Innovation*¹, which stated, in part, that the U.S. should adapt regulatory approaches to changes in the aggregation, sharing, and use of consumer financial data and to align the regulatory framework to combat unnecessary regulatory fragmentation. Without a consistent set of rules for covered accounts, we believe there will be significant harm to consumers, as many of their providers are already limiting access for specious reasons. Ultimately, including all financial account types in a set of harmonized rules is necessary to ensure consumers maintain the opportunity for financial stability by making investment decisions right for their condition, needs, and goals.

On behalf of ByAllAccounts, I thank you for your consideration of our submission in response to propose Rule 12 CFR Part 1033 and for your continuing engagement on behalf of consumers across all their financial behaviors.

Sincerely,

A handwritten signature in cursive script that reads "Brian J. Costello".

Brian J. Costello
Head of Data Aggregation Strategy & Governance
ByAllAccounts
Morningstar Wealth

¹ https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation_0.pdf