

November 15, 2024

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

Dear Director Chopra:

We write to you to applaud the CFPB for finalizing rulemaking on Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Section 1033”). In doing so, the CFPB has taken a much-needed step towards empowering consumers to control their financial data.¹

However, we are concerned that big banks — which have fought against the Section 1033 rulemaking in an effort to maintain their monopoly power — are aiming to control its implementation. Specifically, we are alarmed that the Financial Data Exchange (FDX) has applied for Standard-Setting Body (“SSB”) status pertaining to the rule.² **The board of FDX is composed of representatives from major banks,³ including banks whose representatives are on the board of the Bank Policy Institute (BPI),⁴ which is currently suing to block the Section 1033 rule.** We urge the CFPB to reject the FDX’s application so long as those banks are on the board in order to ensure that big banks don’t control the future of open banking.

For far too long, big banks have been able to maintain their dominance by making it unduly difficult for consumers to switch institutions. As you noted, strong open banking rules stand to give Americans “more power to get better rates and service on bank accounts, credit cards, and more.”⁵ Given that this poses a direct threat to banking industry giants’ monopoly power, the BPI

¹ *Politico*, Victoria Guida, “Why Some Republicans Are Praising An Agency They Hate,” October 24, 2024, <https://www.politico.com/news/magazine/2024/10/24/why-republicans-praising-consumer-financial-protection-bureau-00185178>

² “Application to the CFPB - 1033 Dodd-Frank Standard-Setting Body,” Financial Data Exchange, accessed October 24, 2024, https://files.consumerfinance.gov/f/documents/cfpb_application-standard-setting-body-financial-data-exchange.pdf

³ “About FDX,” Financial Data Exchange, accessed October 24, 2024, <https://www.financialdataexchange.org/FDX/FDX/About/About-FDX.aspx?a315d1c24e44=2>

⁴ Bank Policy Institute, “About Us,” accessed October 24, 2024, <https://bpi.com/about-us/>

⁵ Press Release by the Consumer Financial Protection Bureau, “CFPB Finalizes Personal Financial Data Rights Rule to Boost Competition, Protect Privacy, and Give Families More Choice in Financial Services,” October 22, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-personal-financial-data-rights-rule-to-boost-competition-protect-privacy-and-give-families-more-choice-in-financial-services/>

has responded with a frivolous lawsuit against new open banking rules.⁶ For this reason, we are concerned that the following companies are represented on the boards of both the BPI and FDX:

- Citi
- Bank of America
- Wells Fargo
- JPMorgan Chase
- Royal Bank of Canada (RBC)
- PNC Financial Services
- Capital One
- TD Bank

The presence of these organizations on both the FDX and BPI boards undermines the credibility of FDX and presents various concerns relating to conflict of interest, interlocking directorate, and antitrust law.

Fourteen years after the passage of Dodd-Frank, the CFPB's finalization of the Section 1033 rulemaking is a historic step forward for the cause of giving consumers true freedom in their financial lives. For this reason, it is imperative that SSB status not be granted to an organization whose board members are, either directly or through a trade association they are participating in, suing the CFPB to stop the rules from taking effect, particularly when such members may be ethically conflicted from such dual participation. By rejecting SSB status for FDX or any other organization with similar conflicts of interest pertaining to Section 1033, the CFPB will help prevent big banks from sabotaging open banking rules.

Sincerely,

Demand Progress Education Fund
American Economic Liberties Project
Americans for Financial Reform
Center for Economic Integrity
Georgia Advancing Communities Together, Inc.
Lake Research Partners
Legal Aid Center of Southern Nevada
Maine People's Alliance
Oregon Consumer League
Oregon Consumer Justice

⁶ *American Banker*, Kate Berry, "CFPB's open banking rule faces suit from Bank Policy Institute," October 22, 2024, <https://www.americanbanker.com/news/cfpbs-open-banking-rule-faces-suit-from-bank-policy-institute>

Public Citizen
Public Justice Center