



Federal Financial Analytics, Inc.

Data Ownership and the Future of Retail Finance

Although the Dodd-Frank Act in 2010 recognized the critical importance of determining who owns a consumer's financial data, who owns consumer financial-delivery channels by virtue of who owns their core data remains unresolved to this day. Biden Administration policy will finally give us the answer.

The analytics below are based on in-depth reports provided to FedFin clients.
To learn more, contact us at info@fedfin.com

Follow us on



Although data ownership seems arcane, it is in fact critical to the competitive balance between legacy and new-entry financial companies as well as to the fundamental social-welfare proposition of fintech and BigTech consumer banking. For example, if a third-party aggregator can access a legacy provider's customers without that institution's consent, it can quickly leverage decades of marketing, systems, and product-development investments to adversely-select the legacy provider. Conversely, if the legacy provider protects its investment, its retail customers may be stuck with anachronistic products that reduce access to best-value alternatives or even suppress financial inclusion. And, if the aggregator has access to customer data or customers grant access to unreliable third parties, then consumer privacy and security are likely at risk along with the finality essential to sound retail payments. Conflicts of interest in terms of data use and consumer marketing may also proliferate, as [recently detailed](#) by the president of the Federal Reserve Bank of Cleveland.

The European Union adopted its "open banking" construct in 2018, but the U.S. is still well behind even an initial concrete consumer data-ownership proposal, let alone a final construct. As always, jurisdiction over this question is divided among several federal regulators even as states retain the right to adopt tougher standards under certain circumstances. The lead federal regulator is the Bureau of Consumer Financial Protection (CFPB). It laid out [data-ownership principles](#) in 2017, but these were often vague and wholly nonbinding. In late October, the [Bureau took a tentative step forward](#) to a more [prescriptive framework](#). This would govern large consumer-finance providers whether legacy or new-entry, but – as the Bureau readily concedes – many providers would remain outside its reach even after the agency decides what to grab via any new rules.

This policy vacuum won't last long. Consumer data ownership is a vital question not only in financial services, but also across the spectrum of BigTech services in which data has become the nation's [most valuable form of capital](#). If BigTech business models are indeed "[surveillance capitalism](#)," then data are its most critical currency.

We do not think the Biden Administration will allow free use of this valuable coin even if Congress remains gridlocked on a federal consumer-privacy or data-ownership construct. Under a new CFPB director – and there will be one early next year – data ownership will move quickly to the top of the regulatory queue. Comments on the CFPB's preliminary inquiry will thus prove critical to setting the parameters of a rule in mid-2021, as well as to defining the policy and political boundaries for Congress and the White House.

To read Karen Petrou's latest speech, click [here](#)
To read our latest in-depth non-proprietary report, click [here](#)
Karen Petrou's latest column can be found [here](#)

For more information on access to paywalled reports, please contact us at info@fedfin.com

[Unsubscribe](#)

Federal Financial Analytics, Inc.

2101 L Street, NW – Suite 300

Washington, DC 20037

Phone: 202.589.0880

www.fedfin.com

A proprietary think-tank for its clients, Federal Financial Analytics reviews critical federal and global policy developments in banking, insurance, asset management, and mortgage finance. We analyze strategic actions in great depth. Then, we advise clients on whether what they want can be made to work for them, within the policy environment and for the financial system. The firm's practice is a unique blend of strategic advice and policy analysis serving as a thought leadership resource for boards of directors and senior management seeking a forward looking assessment of risks, opportunities, governance and other matters critical to success.

© 2020. Federal Financial Analytics, Inc. All rights reserved.