



# Financial Services Management

## Account-Information Access

### Cite

CFPB, Advisory Opinion, Consumer Information Requests to Large Banks and Credit Unions

### Recommended Distribution

Consumer Finance, Compliance, Legal, Government Relations

### Website

[https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023\\_10.pdf](https://files.consumerfinance.gov/f/documents/cfpb-1034c-advisory-opinion-2023_10.pdf)

## Impact Assessment

- Large banks and credit unions face new legal and reputational risks related to prompt, accurate responses to consumer account-information requests.
- Quality-control and human oversight may be necessary to ensure compliance.

## Overview

Using its advisory process to issue guidance that may lead to enforcement actions, the Bureau has for the first time set standards for the obligations of large banks and credit unions to respond to certain consumer inquiries. Going forward, virtually all requests specific to a consumer's deposit or loan account within an IDI or credit union over \$10 billion in assets will require a prompt, complete response without additional fees or any other obstacles the Bureau could deem a violation. No specific standards are set for criteria such as timeliness, making it a matter of subjective CFPB judgment that could lead to uneven enforcement and/or use of information-related penalties in the context of other Bureau actions, including those designed to penalize "repeat offenders."

## Impact

The Bureau premises this advisory on provisions in its authorizing statute mandating that consumers receive timely answers to requests about their accounts for financial products and services from large banks and credit unions.<sup>1</sup> This provision was designed in concert with new laws facilitating consumer financial-product complaints, but the CFPB has linked this advisory to its broader campaign against "junk fees," releasing it on a day when the President reiterated that his competition policy requires regulators to protect consumers from charges that they cannot anticipate or control.<sup>2</sup> The Bureau has previously announced plans to go after such fees,<sup>3</sup> subsequently doing so with particular vigor via a proposal sharply restricting credit-card late fees.<sup>4</sup> However, it is unclear how many covered companies in fact charge for the information requests covered by this

<sup>1</sup> See **CONSUMER14**, *Financial Services Management*, July 19, 2010.

<sup>2</sup> See *Client Report MERGER6*, July 9, 2021.

<sup>3</sup> See **CONSUMER38**, *Financial Services Management*, February 1, 2022.

<sup>4</sup> See **CREDITCARD36**, *Financial Services Management*, February 8, 2023.

guidance, with the only fine the agency cites in this arena not so much one related to the information request, but rather to the finding that the service covered by the fee – i.e., printed statements – was not in fact provided.

In addition to linking this advisory to junk fees, the advisory also puts it into the context of the agency's efforts to enhance relationship banking,<sup>5</sup> noting that large institutions do not provide the hands-on service that community entities are said to offer, seeking here to consumer-information obstacles consumers experience with larger entities.<sup>6</sup> The Bureau concludes from the responses it received that new standards detailed here are also necessary to give consumers the information they need without undue effort.

As detailed below, this advisory deals only with information specific to a consumer account. The Bureau is in the process of issuing a proposal establishing consumer data rights to address another Dodd-Frank requirement addressing the extent to which and the way consumers may claim this right.<sup>7</sup>

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## What's Next

The Bureau issued this advisory opinion on October 11, effective upon *Federal Register* publication. However, civil money penalties will only be assessed for actions after February 1, 2024.

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## Analysis

### A. Scope

This advisory applies only to IDIs and credit unions with assets over \$10 billion. It also covers these entities' affiliates, but not parent holding companies. As a result, consumer information housed in nonbank subsidiaries (e.g., regarding mortgages) do not come under these standards.

The advisory opinion broadly defines the type of information it covers, encompassing past or present account information under their control (i.e., via employee knowledge or that held by service providers) or possession on periodic statements or portals, information regarding bill payment and recurrent transactions, account terms and conditions, and fee schedules. The advisory also says covered information "could" include information on liens that should have been released years ago, but covered information does not include anything that is not specific to the consumer's own account. The advisory also reiterates statutory exceptions to covered information (e.g., confidential business information reports related to fraud or money laundering, internal scores).

### B. Requirements

Based on this framework, the advisory stipulates the following requirements, all of which must be met regardless of the technology a firm may use to address consumer queries, retrieve information, or otherwise address them:

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<sup>5</sup> See *Client Report CONSUMER51*, June 14, 2023.

<sup>6</sup> See *CONSUMER43, Financial Services Management*, June 16, 2022.

<sup>7</sup> See *DATA3, Financial Services Management*, November 4, 2022.

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- While covered financial institutions may determine the manner in which required information is provided, they may not set conditions or mandate modes of access (e.g., a chatbot) that “unreasonably impede” a consumer’s request.
  - Permissible conditions on which information transmission may depend include identity and account verification along with a clear description of the information requested.
  - Fees unreasonably impede fulfilling a request unless fees pertain to factors such as repeat requests for the same information.
  - Requests must be honored in a timely fashion, but the advisory does not set a specific time period. Instead, the Bureau will make case-by-case determinations based on when a request is made, its complexity, retrieval difficulty, and any other applicable law.
  - Covered entities must accurately and completely fulfill the consumer’s request if affected information is in their control or possession, including by way of a service provider.