

U.S. Introduces New Open Banking Regulations

On October 22, 2024, the Consumer Financial Protection Bureau (CFPB) finalized the rule for Personal Financial Data Rights, bringing the U.S. closer to adopting a robust open banking framework. This new regulation is designed to empower consumers by allowing them to authorize third-party providers to access their financial information. The final rule aims to boost competition in the banking, credit, and payment markets by making it easier for consumers to switch between providers without losing access to essential financial information.

The key elements of the U.S. open banking regulation include:

1. **Consumer Control Over Data: U.S.** Consumers will have the right to instruct financial institutions to share their personal data with other banks, fintechs, and payment providers. This data includes transaction history, account balances, and details needed for payments, promoting a smoother customer experience and encouraging consumers to seek better rates and services.
2. **Free Data Access:** The rule prohibits financial institutions from charging fees for sharing customer data, ensuring that consumers can exercise their new rights without financial barriers.
3. **Data Privacy and Security Safeguards:** The regulation mandates that third parties only use the data for the services requested by the consumer, preventing unauthorized use for marketing or other unrelated purposes. This aspect is critical in addressing privacy concerns that have been raised by critics of the rule.
4. **Phased Implementation:** Larger institutions must comply with the new rule by April 2026, while smaller institutions have until April 2030. This staggered implementation is intended to give smaller players more time to adapt to the significant changes in data management and privacy regulations.

According to the CFPB, this rule brings the U.S. banking system closer to the competitive, secure, and transparent models seen in other advanced economies. CFPB Director Rohit Chopra likened the impact of this rule to the mobile phone number portability law, which enabled consumers to switch carriers without losing their phone numbers. Similarly, this open banking rule will provide consumers with more freedom and leverage to choose better financial service providers.

However, reactions from industry stakeholders have been mixed. Fintech companies and data aggregators praised the rule for promoting innovation and secure data transfers, while traditional banks expressed concerns over data security and the potential risks of allowing third parties access to sensitive consumer information. Some banking groups argue that the rule could expose consumers to data breaches or unauthorized uses, while others criticize the CFPB's legal authority to mandate such broad access to financial data.

Though this regulation is specific to the U.S., its ripple effects may be felt internationally, particularly by Mexican companies with connections to U.S. financial institutions or multinational clients operating in both countries.

As the open banking framework promotes easier data sharing and access, Mexican businesses and individuals who deal with U.S. financial institutions may experience indirect effects, particularly when interacting with cross-border banking services.

Mexico has been pursuing a similar vision with open banking since the passage of the 2018 Fintech Law. The Mexican Fintech Law set the groundwork for open banking by requiring financial institutions to share customer data with third parties via secure APIs (Application Programming Interfaces). However, despite being a regulatory pioneer in Latin America, Mexico has yet to fully implement its open banking framework, which could provide significant benefits to consumers and businesses alike.

The potential benefits of open banking in Mexico are considerable. If implemented effectively, open banking could enhance financial inclusion, increase competition, and improve the quality of financial products available to consumers. As the Mexican financial system becomes more integrated with global trends, the experience of countries like the U.S. could provide valuable insights for the future development of Mexico's open banking ecosystem.

If your business operates in Mexico and interacts with U.S. financial institutions, or if you are interested in understanding how open banking may affect your company's operations or compliance obligations, our team of experts is here to provide legal support and guidance.

For any questions or additional information, please contact our experts:

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S I N C E R E L Y

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