

# CFPB Outlines Sweeping Data Proposal, Drawing Swift Bank Condemnation

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Ronald Raether, Jr. | Alan D. Wingfield

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Ron Raether, co-chair of Troutman Pepper's Privacy + Cyber team and a partner in the Consumer Financial Services Practice Group, and Alan Wingfield, a partner in Troutman Pepper's Consumer Financial Services Practice Group, were quoted in the September 21, 2023 *American Banker* article, "[CFPB Outlines Sweeping Data Proposal, Drawing Swift Bank Condemnation](#)."

"Removing this data from the system will degrade the value of traditional credit reports," said Alan Wingfield, a partner at Troutman Pepper. "It could have a negative impact on credit models, with creditors not understanding the full financial pressure consumers are under if [consumers] have a lot of unpaid medical debt that they are responsible for but that is eradicated from the system."

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"What the CFPB is saying is they want to regulate based on the nature of the data, not on how the data is being used, which is directly in conflict with the definition under the FCRA," said Ron Raether, a partner at Troutman Pepper.

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Under the FCRA as currently interpreted, banks cannot be sued by a consumer if a credit report contains inaccurate information. Instead, the bank is allowed to correct the information under a consumer dispute process. But the CFPB's proposed rulemaking "appears to be specifically written to make class actions against banks for credit reporting possible," said Wingfield.

"What they're trying to do through this rulemaking is a change in the law, under FCRA, to pave the way for class actions against furnishers," he said.

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"The industry needs to galvanize and react to what the CFPB is doing," said Raether. "We need to be looking not just at the rulemaking process but litigation options and legislative options as well, to make sure the views of the industry and the consequences are getting some voice and consideration."

## RELATED INDUSTRIES + PRACTICES

- Consumer Financial Protection Bureau (CFPB)
- Consumer Financial Services
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