



April 18, 2024
The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Director Chopra:

Thank you for speaking at the Financial Data Exchange's (FDX) 2024 Global Summit on March 13th. Your remarks and fireside session were enlightening and instructive for our members. They also offered the FDX Board further guidance on the attributes and process the CFPB will use to recognize qualified standard setting bodies under the Dodd-Frank Act's Section 1033 Personal Financial Data Rights Rulemaking.

FDX is the leading technical standards body for open finance data sharing in the U.S. and Canada. Through the work of our members, 76 million consumer accounts have been transitioned from sharing data via credential "screen scraping" to the FDX API. Hundreds of market participants, non-profits, consumer groups and industry stakeholder FDX members have contributed to the development and maintenance of successive versions of the FDX API specification as it expands and adapts every six months to meet everchanging market needs and innovations. We are proud of what FDX has accomplished and we are committed to continuing to unify the financial services ecosystem around a common, interoperable, and royalty-free technical standard for user-permissioned financial data sharing.

We are writing to make you aware of the significant work we have done over the last five months and the subsequent changes the FDX Board has agreed to undertake to evolve FDX's governance, ecosystem representation, structure, and Board composition. In addition, we want to underscore our commitment to continuing numerous existing healthy governance practices already in place at FDX. These substantive actions will place FDX in strong alignment with the attributes for fair, open and inclusive qualified standards bodies that the CFPB lists in the NPRM, and which are described in OMB Circular A-119.

The information below represents a summary of key upcoming changes to our governance. Once the CFPB has codified and published the attributes that standard-setting organizations must demonstrate to be recognized, FDX will seek formal recognition from the CFPB and will share more complete information as needed about how FDX meets the criteria of Openness, Balance, Due Process, Appeals, Consensus and Transparency.

Process

In September 2023, the FDX Board established a special task force to review and propose enhancements to FDX's structure and governance. This task force has been focused on addressing feedback received on FDX's current governance and bringing FDX more fully into alignment with the principles laid out in the NPRM and OMB Circular A-119.

- The special task force includes Board members equally balanced between data providers and third parties.
- The special task force met with smaller firms and non-commercial entities to hear and incorporate their perspectives.
- The special task force has met weekly for several months including a multi-day in-person meeting.

- The special task force brought a list of proposed changes to the FDX Board for discussion and feedback in February and March.

The FDX Board has now considered and approved a resolution to take the steps required to enact several changes to FDX's Board composition, governance, ecosystem representation, and structure. These actions will represent the most significant changes to FDX's governance since our organization's inception. The new governance structure will be directly linked to the scope FDX believes it is suited for under a final 1033 rule, which we communicated to the CFPB in FDX's NPRM comment letter in December 2023. (That is, if FDX were to change the scope of standard-setting activities it conducts, a different governance structure may be warranted.) With this in mind, we welcome any CFPB feedback on FDX's proposed current and future capabilities, as well as those activities FDX does not currently intend to pursue, since governance is intrinsically tied to the roles FDX could play.

Changes to FDX Governance & Structure to Align with Attributes for Qualified Standards Setting Bodies (QSSBs)

FDX Board

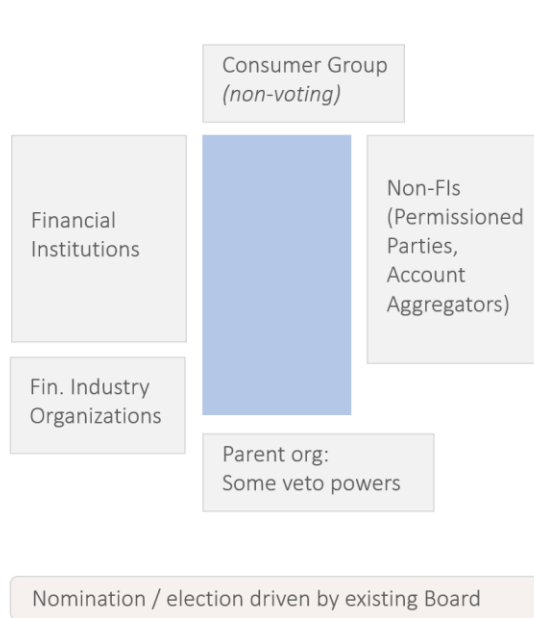
The FDX Board was established in 2018 and has consisted of diverse, but primarily large, financial services organizations. This composition helped the organization get off the ground and to provide the significant resources, expertise, and scale to make standardization of permissioned financial data sharing a success in our early years, including among many active larger firms that were early adopters of FDX standards. FDX's resource needs—funding and volunteers—continue to be significant today, especially in preparation for a potential role as a QSSB recognized by the CFPB.

Going forward, the FDX Board has voted to make the following changes to its Board to ensure balance and openness while also guaranteeing that the organization can continue to execute its standard setting mission.

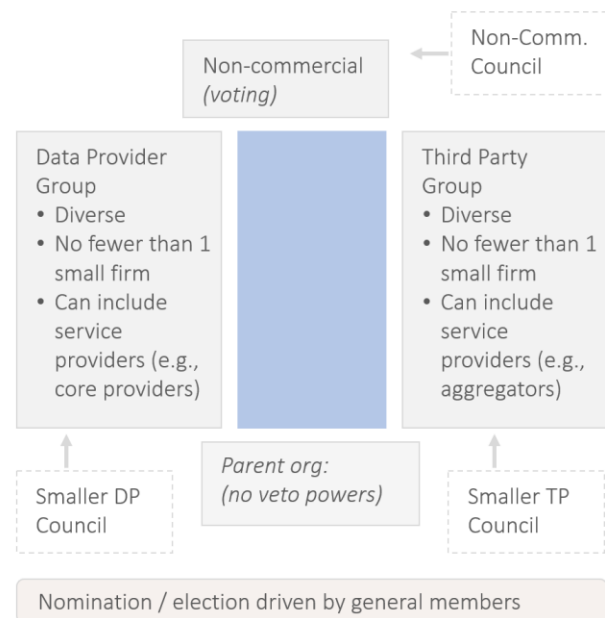
- The Board will be open to a diverse array of organizations and will have balanced representation from two primary voting constituencies: a Data Provider Group and a Third Party Group.
 - The Data Provider Group and Third Party Groups will maintain an appropriate balance & diversification of entity types and can include trade groups or other organizations that primarily serve Data Providers or Third Parties respectively.
 - The Data Provider group can include service providers (e.g., core providers).
 - The Third Party group will include both Data Access Platforms (Data Aggregators) and authorized third parties.
 - The Data Provider Group and the Third Party Group will have an equal number of voting board seats and an equal share of votes.
- Beyond those two groups, we will seek for the board to also have voting representation from at least one non-commercial entity. Non-commercial entity board members can include consumer groups and public interest groups (e.g., consumer advocates, academics, privacy groups, etc.). The chair of the newly created non-commercial council described below will be a voting board member. This structure is intended to allow for diverse non-commercial entities (who may have varying levels of interest or expertise in technical standard setting) to plug in more easily through the Council while also having an appropriate avenue for influence.
- Under the new agreed Board structure, we envision a future where a sizable portion of the Board can comprise smaller firms, and this share could fluctuate over time (e.g., based on level of their interest). We will also introduce several changes to make it easier for smaller firms—or organizations representing them—to be elected to the Board.
 - We will no longer have guaranteed board seats for founding FDX members.
 - We will change our member fee requirements so that no organization is required to pay higher fees as a condition for holding a Board seat.

- Nomination and election of board members will move from a board-driven process to one driven more by general FDX members, with staff coordination and board oversight.
- To guarantee a minimum floor for engagement by smaller entities, we will require that there be at least one small Data Provider Group representative and at least one small Third Party Group representative on the Board at any time. This represents a floor, not a ceiling; the remainder of board seats in each member group can be filled by smaller or larger firms that are nominated and elected by FDX members in its member group.
- One board seat will be reserved in both primary board constituencies for a Canadian Data Provider and a Canadian Third Party.
- All Board members will have a single equal vote and no board member will have a more powerful vote than another. There will no longer be block voting.

Board Structure: *Past*



Board Structure: *Future*



New Councils for Small and Non-Commercial Entities

FDX is committed to providing additional meaningful ways for consumer interests and the interests of smaller firms to be considered in the establishment of qualified industry standards beyond just the reserved board seats mentioned above.

Smaller firms and non-commercial organizations have played a vital role in FDX since its founding. A large share of FDX members are smaller firms, and many smaller firms have contributed substantially to the development of the FDX spec. Additionally, FDX has had several consumer groups as members of FDX and observers on the FDX Board over the years since its inception.

To promote increased engagement by these members going forward, FDX will establish three new dedicated councils for smaller data providers, smaller third parties, and non-commercial entities respectively. These councils will encourage input from smaller firms and non-commercial entities into the standards process and may also smooth the path for more smaller firms to seek Board nomination and election. The councils are also intended to address the most common request we get from these entities —for more education and assistance in navigating and understanding the technical work of FDX in business and consumer terms.

In practice, the councils will bring much of the FDX work directly to smaller and non-commercial entities, allow for smaller and non-commercial entities to pool their collective resources, and communicate their views into FDX standard-setting work streams, and serve in an advisory function to new dedicated Board seats for smaller and non-commercial entities discussed above. FDX will also refine its working cadences to facilitate greater incorporation of their perspectives into the standard-setting process.

- The councils will be chaired by the Board members who represent smaller Data Provider, smaller Third Party, and non-commercial groups respectively.
- The councils will be briefed on key proposed changes to the spec, and there will be a transparent process for addressing feedback provided by the councils.
- FDX staff will engage with these councils to promote awareness of the standard-setting work, solicit and document feedback, report back on how feedback is actioned, and encourage working group and task force engagement by small and non-commercial entities.
- We will also adapt FDX's process timeline for adopting any changes to the spec, to ensure these councils have adequate opportunity to provide input at the right junctures.

FDX expects and desires for these councils to contribute meaningfully in key decisions about qualified industry standard setting. (Today, FDX has a similar type of Council in place for Canadian member organizations, and that structure has proven to allow for substantial influence on key decisions.)

Additional actions

FDX is also committed to additional actions, in accordance with the CFPB's defined attributes for a QSSB.

- **Funding:** We are committed to a funding model for FDX that (1) seeks funding from a broad array of diverse organizations, (2) continues to accommodate diverse firms becoming members, and (3) avoids favoritism domination by one market participant.
 - To date, FDX has been funded primarily by member dues. Hundreds of member organizations contribute to FDX's funding today, and no single organization accounts for more than 3% of FDX's annual funding. Both data providers and third parties account for a large share of total funding today. Additionally, member dues are determined by a standardized fee schedule.
- **Consensus:** The FDX standards development process has always proceeded by consensus with a two-thirds vote of the board required for all material actions impacting FDX standards. FDX is committed to continuing with a consensus approach in alignment with the definition included in the NPRM (i.e., through general agreement but not unanimity.)
- **Procedures and processes:**
 - We are undertaking a full review of FDX's procedures and processes to confirm that they meet the CFPB's requirements for openness, due process, appeals, and transparency.
 - Already today, we have strong alignment with these principles through numerous existing practices. A few examples include: (1) broadly accessible policies and procedures; (2) open opportunities for all FDX members to participate in working groups where standards are developed; and (3) a transparent appeals process whereby objections and conflicting views on changes to the FDX spec can be raised, reviewed, addressed, and documented. We plan to continue these healthy governance practices.
 - Where opportunities for improvement are identified, we are committed to undertaking change. For example, we are committed to publishing a calendar of events and making publicly available a description and list of member organization participating in recurring meetings (Board, Working Groups, etc.). We are also working to ensure the process by which changes to FDX technical standards are made will be predictable, uniform, and transparent to ensure that diverse member feedback (including from smaller firms and non-commercial entities) lands at a time in the process so that it can be properly considered.

Next steps

The FDX Board has agreed on the aforementioned principles to guide our governance reform and will be taking the necessary steps to execute on them.

These changes to FDX's structure and governance are significant and executing them will require substantial detailed work (e.g., to amend our charter, to stand up new councils and processes, and to effect the changes to our current Board through new nomination and election processes). While we endeavor to implement some changes in the immediate term, like adding dedicated board representation for small data providers, small third parties and non-commercial entities, we expect the totality of this work to take time.

To ensure that FDX can continue to function well as an organization that depends on volunteer efforts, member funding, and existing processes, we are thinking through how best to phase in these changes. (For example, we are considering where existing board members serve in key committees or have specialized knowledge and how we can ensure changes don't impede FDX's ability to function effectively.) In some areas, a gradual transition may help FDX to best achieve the dual goals we share with the CFPB, to both build off existing industry momentum and to ensure a durable and balanced governance framework for the future. Maintaining momentum as an organization over the coming months is especially important given the volume of work FDX expects will be needed to align on a qualified industry standard and a technical certification program that accords with requirements in a final 1033 rule.

We are committed to implementing these governance changes as quickly as practical while maintaining momentum as an organization.

The Financial Data Exchange was created to unify the financial services ecosystem around a common, interoperable, and royalty-free technical standard for user-permissioned financial data sharing. This mission aligns well with the purpose envisioned for a QSSB in the proposed rule. We are pleased that the CFPB is moving quickly to codify its process and attributes and plans to begin the process soon to recognize qualified standards setting body(s).

FDX firmly agrees with Director's recent statement that standards are important to make sure the system is open and interoperable. We also support the CFPB's purposeful avoidance of micromanaging or dictating prescriptive technical details, in favor of supporting standards developed by industry participants. FDX can play an important role in achieving those ends.

We welcome a meeting with the CFPB when appropriate and we stand ready to engage with the CFPB and answer any questions you may have about this letter and the changes FDX is making to its governance and structure.

Sincerely,

Franklin Garrigues and Steven Smith

FDX Board Co-Chairs

Summary Table on Key Governance Dimensions

	Past	Future
Is Board structure fully aligned with key constituency groups described in NPRM?	<p>No; primary Board voting groups are:</p> <ul style="list-style-type: none"> • Financial Institutions • Permissioned Parties • Account Aggregators • Financial Industry Organizations • Parent Organization 	<p>Yes; Board voting groups will be:</p> <ul style="list-style-type: none"> • Data Provider Group • Third Party Group • Non-Commercial Entities
Are there strong mechanisms for small and non-commercial entities to have meaningful influence?	<p>Some mechanisms</p> <ul style="list-style-type: none"> • (e.g., small entities could participate in all working groups and task forces; non-commercial entity on Board as non-voting observer) 	<p>Yes via several improvements including:</p> <ul style="list-style-type: none"> • new Councils • improved education, transparency mechanisms, and processes • removal of “founding Board member” reserved seats • new guaranteed Board seats for smaller firms and non-commercial entities • new nomination and election process (driven more by general membership) • new fee structure for Board members
Is Board power balanced among key constituency groups?	<p>Opportunities for improvement (e.g., with complicated block voting percentages, and parent organization veto authority.)</p>	<p>Yes, with equally balanced voting Board seats between Data Providers & Third Parties and no more block voting or veto authority</p>
Is funding composition free of favoritism or domination by one market participant?	<p>Yes, funding is diverse and balanced today</p>	<p>Yes; we are committed to continuing to seek funding from broad and diverse entities. Also, removing reserved Board seats (and associated differentiated fees) for certain FDX founding members</p>
Do policies, procedures, and practices promote Openness, Balance, Due Process, Appeals, Consensus and Transparency?	<p>Many healthy practices today</p>	<p>Yes, we will continue existing healthy practices (e.g., appeals process) and implement enhancements (e.g., publicly available calendar of events)</p>