



February 4, 2021

By electronic submission to: FederalRegisterComments@cfpb.gov

Consumer Financial Protection Bureau
1700 G St NW
Washington, D.C. 20552

Re: *Advanced Notice of Proposed Rulemaking Regarding Consumer Access to Financial Records*
Docket No.: CFPB-2020-0034

Ladies and Gentlemen:

The undersigned financial services trades welcome the opportunity to comment on the Consumer Financial Protection Bureau (CFPB)'s Advanced Notice of Proposed Rulemaking regarding consumer access to financial records¹.

We believe that responsible innovation in financial services will continue to benefit customers as it has throughout history. The use of data plays a critical role that can help promote financial inclusion, make it possible to extend credit to many more borrowers, and give customers improved transparency into the financial products they use every day.

As the CFPB considers next steps to encourage the development of a data ecosystem that protects consumers we strongly urge them to maintain their principles-based approach, supporting the market developments that are already well underway.

I. The evolving financial marketplace should have evolving standards that protect consumers while promoting innovation.

Technology has facilitated the creation of a tremendous amount of consumer financial data. The unprecedented proliferation and availability of this data has enabled the development of new financial innovations that stand to benefit customers. However, the inherent sensitivity of this data and the discussion around the appropriate role of large technology companies in banking highlights

¹ Advanced Notice of Proposed Rulemaking Regarding Consumer Access to Financial Records, 85 Fed. Reg. 216 (Nov. 6, 2020). Available at <https://www.govinfo.gov/content/pkg/FR-2020-11-06/pdf/2020-23723.pdf>

the timeliness of this issue and the need to ensure that financial data are handled appropriately and securely.

As our members innovate, they do so within an established regulatory framework, backed by strong supervision and oversight, that ensures robust customer and data protection. Innovation is also taking place outside of our collective memberships. Technology-focused startups are building consumer facing products that rely on access to financial data. As a result, the demand for consumer financial data has increased dramatically, creating a robust market for these data.

We believe that if handled appropriately, access to these data can benefit consumers. **This is why our members fully support their customers' ability to access and share their financial data with the service provider of their choice in a secure, transparent manner that gives them control.** Today, our members are working with technology companies to build tools that facilitate access to financial data in a way that protects and empowers consumers.

However, it is important to note that sharing financial information is not without its risks. Consumer financial data are extremely sensitive and must be protected appropriately. Accordingly, Congress has recognized the sensitivity of financial information and has provided protections for it in the Gramm-Leach Bliley Act of 1999 (GLBA). These protections should apply wherever data is held. Consumers trust that their financial data are being protected and handled appropriately by covered financial institutions.

II. CFPB's 2017 principles have successfully protected consumers and allowed the marketplace to flourish.

There is significant work underway to ensure that consumers can share their financial data while maintaining these critical protections. In 2017, the CFPB released a set of principles² to support responsible sharing of consumer data. According to then-Director of the CFPB, Richard Cordray, "these principles express our vision for realizing an innovative market that gives consumers protection and value." Importantly, these principles recognized the critical balance of giving consumers the ability to share their data, while ensuring they remain protected when they do so.

These principles have served as a flexible bedrock for industry collaboration that has driven real progress. Since 2017 our members have worked with aggregators and other technology companies to invest in technologies that move away from less secure methods of data sharing like credential - based access and screen scraping to more secure API-based standards that give consumers transparency and control when they share their financial data. This has resulted in the development of the Financial Data Exchange (FDX) API standard, a joint effort between financial services firms, data aggregators, and fintech companies.

This industry-driven progress is made possible by the principles-based approach that the CFPB has taken to date. A more prescriptive approach is not just unnecessary but may undermine the progress that has already taken place and risks leaving consumers exposed if undertaken too narrowly. If the CFPB were to announce a new approach to data aggregation, industry participants may pause and reevaluate existing initiatives that already give consumers more secure methods to share their data.

Prescriptive standards also rarely facilitate innovation. By their very nature, standards are relatively static. In a market that is evolving as quickly as financial services, the data fields that are identified as important for today's use cases of aggregated data are unlikely to be appropriate for the innovations of tomorrow.

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Finally, we strongly believe that any Bureau efforts cannot just focus on access but must also build a robust framework for consumer protection that includes supervision, and data security. Access cannot be divorced from the other important principles already outlined by the CFPB and must be paired with security, transparency, control, and minimization. Consumers only benefit from authorized access when the financial data retains existing legal protections. Consumers' ability to authorize access to their data must be developed alongside strong protections and clear disclosures to avoid leaving consumer data exposed.

By fairly addressing both the opportunities and risks, we have the ability to give consumers innovative financial services that they can trust. Customers need security, transparency and control to unlock the true potential of fintech and take charge of their financial future. We look forward to working with the CFPB as it addresses this critical issue.

Sincerely,

American Bankers Association
American Financial Services Association
American Land Title Association
Bank Policy Institute
Consumer Bankers Association
Housing Policy Council
Independent Community Bankers of America
Mortgage Bankers Association
Securities Industry and Financial Markets Association