



February 21, 2017

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Request for Information Regarding Consumer Access to Financial Records
[Docket No.: CFPB-2016-0048]

Dear Ms. Jackson:

Financial Innovation Now (“FIN”)¹ appreciates the opportunity to respond to the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) request for information (“RFI”) regarding consumer access to financial account and account-related data (“consumer financial account data”) in usable electronic form.² Secure, consumer-permissioned access to consumer financial account data provides substantial benefits to consumers and the broader economy.³ Providers of consumer financial products and services that generate data about consumer accounts and transactions and providers of consumer financial products and services that make use of that data (collectively, “Industry”) have taken recent steps to further facilitate permissioned access to consumer financial account data, but significant opportunities remain for industry to expand consumer access.

FIN supports the CFPB’s efforts, through the RFI, to gather information to “help industry develop best practices to deliver benefits to consumers and address potential

¹ FIN is an alliance of technology leaders working to modernize the way consumers and businesses manage money and conduct commerce. We believe that technological transformation will make financial services more accessible, safe and affordable for everyone, and we promote policies that enable these innovations. Our member companies include Amazon, Apple, Google, Intuit and PayPal. For more information regarding FIN’s policy priorities and principles, please visit www.financialinnovationnow.org.

² 81 Fed. Reg. 83,806 (Nov. 22, 2016).

³ The phrase “permissioned access to consumer financial account data” is used by the Bureau to refer to access to consumer financial account data by third parties with the permission of the consumer. It is important to note that, while we are responding to the CFPB’s RFI on consumer financial account data, small businesses also receive benefits from permissioned access to financial account data. FIN would be happy to discuss those benefits to small businesses at the CFPB’s request.

consumer harms.”⁴ FIN also supports the spirit of Section 1033 of the Dodd-Frank Act, that a bank or other consumer financial services provider, or “covered person,” should “make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data...in an electronic form usable by consumers.”⁵ However, FIN believes that regulation of permissioned access to consumer financial account data is not necessary at this time. We are concerned that regulation would run the risk of creating a framework that likely would restrict market developments or innovations and not easily adapt to the pace of technological innovation and consumer expectations. This concern is particularly acute with respect to technical standards or a technology mandate. Congress recognized this concern in Section 1033, stating that rules should “not require or promote the use of any particular technology in order to develop systems for compliance.”⁶

As discussed further below, our views on permissioned access to consumer financial account data are based on FIN’s observations that:

- Consumers are using new applications and technologies that utilize consumer financial account data to empower themselves to make better-informed financial decisions; and
- Permissioned access to consumer financial account data benefits both consumers and the broader financial services industry.

Based on these observations, FIN believes that consumers’ interests will be promoted most effectively if:

- Consumers are empowered to permission access to consumer financial account data securely and easily, using whatever secure application or technology they wish, without charges or restrictions that unreasonably favor any one application or technology over another; and
- Standards for permissioned access to consumer financial account data are developed by Industry, regularly reviewed and updated, and do not mandate a specific type of technology.

⁴ *Id.* at 83,807.

⁵ 12 U.S.C. § 5533.

⁶ 12 U.S.C. § 5533(e)(3).

Consumers are using new applications and technologies that utilize consumer financial account data to empower themselves to make better-informed financial decisions.

The economic benefits of wide access to data to facilitate informed market choices are axiomatic. Simply put, more information enables better choices. One study estimates the potential value of wide access to data (or “open data”) to the U.S. economy across seven sectors, including consumer finance, to be approximately \$1.1 trillion.⁷

This benefit ultimately accrues to consumers. Consumers make better-informed decisions and benefit from lower costs for products and services, and more efficient production leads to more jobs and higher wages, all of which collectively lead to higher standards of living. Today, the benefits of open data are manifesting themselves in many different aspects of consumers’ lives, including with respect to consumer transactions, social networking, professional development, health care and education. Transparency enabled by open data has, for example, allowed consumers to easily compare pricing for travel, health care, and other consumer products and services. Open data has also changed the way consumers travel, for example by enabling improved navigation on mobile devices and public transportation reliability. Consumers are empowered to make use of this data increasingly through apps on mobile devices and in app marketplaces, and these delivery mechanisms have dramatically lowered barriers to entry for thousands of entrepreneurs to innovate and create new services and new jobs.⁸

The area of consumer financial services, based in part on the extensive amount of data generated, provides some of the greatest opportunities for consumers and their households to benefit from open data. Currently, there are a range of tools for consumers to better manage their finances, including personal financial management and budgeting apps that enable consumers to view and manage consumer financial account information on a consolidated basis across accounts and financial institutions. These tools help consumers analyze account activity, make better-informed financial decisions and become aware of, and ultimately avoid, unnecessary fees. Consumers also are using savings tools, informed by permissioned access to consumer financial account data, to help meet their savings goals, as well as apps that can educate and advise them on the range of financial products and services that may be available to them, including recommendations for credit and other financial products or services.

⁷ See McKinsey & Company, OPEN DATA: UNLOCKING INNOVATION AND PERFORMANCE WITH LIQUID INFORMATION 6 (2013), <http://www.mckinsey.com/business-functions/digital-mckinsey/our-insights/open-data-unlocking-innovation-and-performance-with-liquid-information>.

⁸ See The App Association, STATE OF THE APP ECONOMY 2 (4th Ed. 2016), https://actonline.org/wp-content/uploads/2016_State_of_App_Economy.pdf.

Permissioned access to financial account data benefits consumers and the broader financial services industry.

Enabling permissioned access to consumer financial account data has the potential to make these and other tools more widely available and reliable. For example, open data can enable efficient and more reliable tools that provide verification of account ownership or loan application information. Account verification tools enable consumers to access other financial products and services, including peer-to-peer payment services, in real time rather than by delayed verification options, such as micro-transfers.

Importantly, permissioned access can be targeted to narrow data sets and designated for specific entities. Such tailoring enhances consumer control. Enabling consumers to permission access to financial account data for designated creditors, for example, can provide the designated creditors with a more complete picture of a consumer to assess creditworthiness.

Fundamentally, we believe that permissioned access to consumer financial account data is a core component of promoting the Bureau's statutory purpose to "ensur[e] that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive,"⁹ and would help the Bureau achieve its objective of markets "operat[ing] transparently and efficiently to facilitate access and innovation."¹⁰

Consumers should be empowered to permission access to consumer financial account data securely and easily, using whatever secure application or technology they wish, without charges or restrictions that unreasonably favor any one application or technology over another.

In spite of strong consumer interest and the potential for significant consumer benefit, permissioned access to consumer financial account data has, at times, been restricted. Some account-holding financial institutions have blocked access to permissioned entities (e.g., personal finance applications or aggregators) that the consumer directs to access consumer financial account data. In addition, sometimes account-holding financial institutions change data formats and URLs or online forms in ways that disrupt automated access to consumer financial account data by these permissioned entities acting on behalf of consumers.

Some in the industry are working together in constructive arrangements to facilitate greater permissioned access to consumer financial account data. For example, within the last couple of months, financial institutions have reached deals with Intuit Inc. to enable

⁹ 12 U.S.C. § 5511(a).

¹⁰ *Id.* § 5511(b)(5).

mutual customers to permission access to their financial account data through APIs with Intuit's financial management apps, including Mint, TurboTax Online and QuickBooks Online. Under those arrangements, mutual customers can provide consent for token-based access by Intuit to financial account data. As with most third-party application providers, the consumer that permissions access to his or her financial data is also empowered to revoke permission and to delete his or her account with the permissioned entity, at any point.

While these agreements are an important step toward enabling that greater access, there continues to be a potential gap for those consumers that are not customers of large financial institutions with bilateral agreements, as well as for third-party application providers that have built their applications with the consumer's broader financial picture in mind. As such, FIN recommends that industry standards be developed and applied. Examples of such industry standards and best practices are those envisioned by the Center for Financial Services Innovation ("CFSI")¹¹ or those contemplated within the Financial Services Information Sharing and Analysis Center ("FS-ISAC").

Developing industry standards, formal or informal, potentially based on the discussions at CFSI or FS-ISAC, would lead to the establishment of a data-sharing ecosystem that is open to all, not only those who bank with the financial institutions that have entered into bilateral agreements. Fundamentally, these standards must include a focus on security, reliability, and consumer consent.

Principles for a Data-Sharing Ecosystem

Security. Realizing the benefits of permissioned access to consumer financial account data is dependent on robust security – all participants in the ecosystem are aligned that security is a shared goal and a shared responsibility.

There are a growing number of approaches designed to share securely consumer financial account data. We support the adoption of industry-wide technical protocols; however, both security challenges and technology will continue to evolve. Security standards must not box in any specific technology and should allow for technology to be updated, as needed, on an ongoing basis. Participants in the ecosystem will need to collaborate to define industry-wide standards and protocols for consumer data sharing, and to identify or develop an independent body to administer and maintain these standards over time. Security standards also should be risk based, so that security requirements match the risk posed, but do not constrain innovation.

Reliability. Moreover, realizing the benefits of permissioned access to consumer financial account data is dependent on consumer confidence that the data obtained by the

¹¹ See Jennifer Tescher, *One-off data-sharing deals aren't enough*, Am. Banker, Jan. 27, 2017, <https://www.americanbanker.com/opinion/one-off-data-sharing-deals-arent-enough>.

permissioned entity is current, accurate and complete. Industry will need to develop common expectations around the content of data. Industry should also consider developing a reporting and resolution mechanism for inaccurate or incomplete data. Finally, we understand that there may be circumstances under which account-holding financial institutions would need to discontinue access to consumer financial account data. Industry standards should ensure that these circumstances would be exceptional and reasonably justified, and that permissioned entities would be notified of the interruption and the timeline for resolution.

Consumer Consent. Fundamental components of permissioned access to consumer financial account data are appropriate consumer consent to such access, transparency regarding what data permissioned users may access, and the purposes for which the data may be used. Permissioned users should also provide a clear revocation option.

Standards for permissioned access to consumer financial account data should be industry-led and should not box in current technology.

Individual partnerships enable certain consumers to benefit from permissioned access to financial account data, but these partnerships cannot scale to all account-holding institutions or third-party application providers. Industry standards would empower a broad class of consumers to permission access to consumer financial account data, and would promote innovation. For example, industry standards would enable many small financial institutions to facilitate permissioned access to consumer financial account data, minimizing the need to negotiate bilateral agreements with every third-party application provider.

The development of standards will require the input of all industry stakeholders, and the standards should be technology neutral and capable of evolving. In fact, the rate of innovation and the diversity of the consumer financial services ecosystem demand that there be core technology standards that are flexible and capable of evolving. Developing these standards will require cooperation and commitment by all in the industry through a multi-stakeholder, consensus-based approach.

The need for standards to evolve as technology evolves makes a regulatory approach to setting standards for permissioned access to consumer financial account data insufficiently flexible. This is not a role for a government regulator—standards development and maintenance must be industry-led.

* * *

FIN supports the CFPB's efforts to better understand the market for permissioned access to consumer financial account data. This is a dynamic space for innovation and promises to deliver significant benefits to consumers by enabling them to make smarter financial decisions and gain access to a broader range of consumer financial products and services. These benefits will only be fully realized if consumers are empowered to permission access to consumer financial account data securely and easily, using whatever

application or technology they wish, without charges that favor any one application or technology over another. To empower consumers, industry should develop standards that are designed to promote security, reliability, and consumer consent.

FIN would be pleased to meet with the Bureau to discuss these issues or any other issues related to promoting broader permissioned access to consumer financial account data.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. Peters". The signature is fluid and cursive, with a prominent initial "B." followed by a stylized "Peters".

Brian Peters, Executive Director
Financial Innovation Now
1155 F Street NW
Washington, DC 20004
info@financialinnovationnow.org