



VIA ELECTRONIC SUBMISSION

June 20, 2019

The Honorable Stephen Lynch
Chairman
Task Force on Financial Technology
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable French Hill
Ranking Member
Task Force on Financial Technology
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Lynch and Ranking Member Hill:

The Financial Data and Technology Association of North America (“FDATA North America”) appreciates this opportunity to submit a letter for the record for the House Financial Services Committee Task Force on Financial Technology’s hearing “Overseeing the Fintech Revolution: Domestic and International Perspectives on Fintech Regulation.” This is a timely hearing: as countries around the world embrace technological innovation and market competition, they are adapting to modernized financial regimes that provide consumers with the legal right to their financial data in a well-managed, safe and secure ecosystem; however, the financial system in the United States does not currently provide a legal right for consumers to leverage their own financial data, limiting competition and their ability to utilize tools that would help them improve their financial wellbeing.

FDATA North America was founded in early 2018 by several firms whose technology-based products and services allow consumers and small businesses to improve their financial wellbeing. We count innovative leaders such as Axxess Consulting, Betterment, Cardlytics, Investnet Yodlee, Flinks, Intuit, Kabbage, Moven, Morningstar, MX, Onist, Petal, Plaid, Questrade, Quicken Loans, and others, as our members. We are a regional chapter of FDATA Global, which was the driving force for Open Banking in the United Kingdom and which continues to provide technical expertise to regulators and policymakers and to regulatory bodies internationally contemplating, designing, and implementing open banking frameworks.

Globally and in North America, our members are united behind the notion that consumer electronic financial data access and protection are fundamental rights and a market-driven imperative. FDATA North America members agree that consumers and small businesses should have the legal right to share their financial data with third parties, such as fintechs, in order to receive a product or service from the provider of their choice. Though data sharing already occurs in the United States financial marketplace today, it simply happens without comprehensive oversight or policy standards, which limits consumer choice and puts consumers, financial institutions, and service providers at unnecessary risk. A consumer-directed regime, in which the consumer is in control of their financial data, allows the consumer to choose to



provide access to their financial data to the provider of their choice and to have agency, at all times, over who has access to their data. Such a regime, built with appropriate policy safeguards and controls, also assures end users of safe interaction through strong policy and technology standards.

In the United States, the right for the consumer to control their data, and the ability for fintechs to access consumer-permissioned data, is murky. Financial institutions, fintechs and aggregators have all recognized that key policy principles must be developed to make consumer financial data more securely accessible and portable – including standards relating to liability, transparency, and accountability – but, currently, the only tool available to the industry to address these issues is bilateral agreements between financial institutions and fintechs. This path forward is neither sustainable nor consumer friendly. It is unreasonable to expect that each of the thousands of financial institutions in the United States will be required to negotiate and execute bilateral agreements with every financial aggregation firm, or that, even if that were a possibility, the terms of those thousands of disparate agreements would be similar to one another. Further – and critically – bilateral contracts between financial institutions and aggregators are opaque to the end users of the financial system and consumer transparency must be a fundamental objective as the market evolves and innovates.

To appropriately harness innovation in the financial sector for the benefit of consumers and small businesses, policy changes will be necessary to ensure the full legal right of the consumer to use their financial data safely and securely in the most modernized and secure ecosystem. For example: regulatory frameworks, like Regulation E, which dictate instances in which a financial institution is responsible for making a consumer whole for fraudulent activity not caused by the consumer, must be updated to reflect the ever-changing landscape of our financial system. Additionally, given the vastness of the United States financial system and the fragmentation of its regulatory structure, incremental progress toward a more open and secure ecosystem, rather than an immediate shift to a final end state, should be considered as tangible goal. Enforcement of Section 1033 of the Dodd-Frank Act, currently the only statutory provision that addresses consumer financial data access, is necessary, along with a broad collaboration of, and understanding between, financial institutions, aggregators and fintechs to provide a vast array of regulated and unrestricted products and services that will improve the consumer's financial wellbeing and choice.

Countries around the world are quickly embracing the notion that the consumer should be in control of their financial data, and without recognizing this modernized approach, the United States will fall behind as the world leader in digital innovation and market competition. In 2016, Europe adopted the Second Payment Services Directive (PSD2) into law, which affirms data portability for retail payment accounts and enhances the security of payment transactions and the protection of consumer-permissioned data. The Canadian government earlier this year launched a formal consultation on open banking, through which the Canadian Department of Finance announced its intention to provide for consumer choice while also delivering on financial



stability and economic growth. Mexico's Fintech Law, approved in March 2018, establishes the foundations of a regulatory framework to promote financial inclusivity and technological innovation through a joint collaboration between Mexican regulators, legislators and important industry stakeholders. Australia, New Zealand, Hong Kong, Singapore, and many other countries have either already or soon will deploy similar versions of open banking. These policies, rules, and regulations are increasing the level of competition and financial inclusion of these countries in the global market and are placing them at the forefront of the industry. The United States must review our current antiquated regulations and outdated policies to reflect the changing financial ecosystem and build a future that benefits consumers.

To build a new future that puts the consumers first, and where the United States maintains its leadership in the global financial system, broad collaboration and policymaker engagement are essential. Consumer confidence, a standardized regulatory and policy regime that supports safety and soundness, and a platform that embraces technological innovation must be at the center of our approach. Successful regimes focus on the importance of protecting consumer interests and their rights to data, while delivering in a way that promotes a secure and safe ecosystem. Without acknowledging the advancements made in other countries to put the consumer first, the United States runs the risk of falling behind globally. FDATA North America welcomes this first hearing of the Task Force and looks forward to working with you and your colleagues on these important issues in the months ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boms", with a long horizontal line extending to the right.

Steven Boms
Executive Director
FDATA North America