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VIA ELECTRONIC SUBMISSION

July 24, 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 "Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit." As the leading trade association for permissioned data aggregation and the significant benefits that putting consumers and small businesses in control of their own financial data can bring to the market, FDATA North America and its member companies strongly believe in the ability of technological innovation to empower consumers and to provide for greater financial inclusion and access.

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 Axcess, Betterment, Envestnet Yodlee, Flinks, Intuit, Kabbage, Lendified, Mogo, Moven, Morningstar, MX, Petal, Plaid, Questrade, Quicken Loans, The ID Co., TransUnion, Wealthica, 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.

There are many components to cash-flow underwriting. Though the task force is principally focused, for the purposes of this hearing, on alternative data, FDATA North America would respectfully recommend a related but separate issue to the task force's attention. As technology and innovation in financial services have advanced over the last several years, numerous fintech companies, many of whom are FDATA North America members, now utilize permissioned financial transaction data, accessed through data aggregation, into cash-flow underwriting practices, which can allow a lender to see a more holistic financial picture of a credit applicant and, critically, to provide or expand credit access and to lower the cost of credit for individuals or small businesses. With as many as 45 million Americans who are either credit invisible or unscorable[1], this process provides individuals or small businesses with more opportunities to safely access more affordable credit, even in the absence of a traditional credit score or history, based on an analysis of their own transaction data.

The adoption of the Fair Credit Reporting Act ("FCRA") in 1970 sought to ensure the accuracy, fairness and privacy of consumer information when used for financial decision-making. The goal of the FCRA was to provide transparency to consumers in an opaque system of credit data and a means to allow consumers to have incorrect data contained in their credit file corrected. The FCRA provided important tools that allowed consumers to take increased control of the accuracy of their credit data by providing more visibility into the credit reporting process. To achieve this outcome, a regime was created to ensure that financial institutions, data furnishers, creditors, and the credit bureaus ensured that the data being collected, transmitted and used for a credit decision about a consumer is accurate.

The rise of financial technology, fueled by consumer-permissioned data aggregation, and the notion that the consumer is in full control of their financial information, was not considered when the FCRA was developed and implemented. A key element of cash-flow underwriting is the ability of the consumer to opt-in to sharing elements of their financial transaction data in addition to or instead of traditional credit reporting data. Transaction data, to which the consumer or small business has, under existing law, full access to and transparency into at all times, is materially different, both in process and substance, than the data elements collected about a consumer from their creditors for the purposes of credit reporting. The FCRA, however, is silent on this issue.

As more lenders, financial technology firms, and consumers recognize the value of using their own transactional data to demonstrate their creditworthiness, there is a significant need for clear guidance that supports the ability of end users to access and share their own financial data and, importantly, prevents the misapplication to this market of regulations written for consumer reporting agencies.

Already some financial institutions are seeking to block consumers from sharing their transactional data with lenders unless it is through a credit reporting agency. But permissioned transaction data is substantively different than credit reporting data. Importantly, end users are continuously in control of their financial transaction data, can monitor it in real time, have the ability to correct erroneous information quickly, and are providing their consent to a technology-powered lender to obtain their data. For all of these reasons, FDATA North America submits that the objectives of the FCRA are already embedded in the cash flow underwriting market and respectfully suggests that the task force should ask the Consumer Financial Protection Bureau

[1] https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf

("CFPB") to provide clarity on this point across the market, so that no market participant withholds from its customers the ability to take advantage of cash-flow underwriting applications.

In today's financial market, consumers are progressively more aware of the technology available to help them increase their financial wellbeing and grow their credit. The FCRA, which originally sought to ensure transparency, never envisioned a time when permissioned data could be used in cash-flow underwriting and was intended only to apply to financial data collected about consumers from their creditors. The absence of clear guidance on end users' right to access and share their data to obtain a loan creates barriers for lenders to serve their customers and provides restrictions for consumers and businesses alike wishing to take advantage of cash-flow underwriting tools, despite their explicit consent. For the sake of greater financial inclusion and access, and more competitive pricing and lending products, FDATA North America believes guidance is required from the CFPB to ensure that consumers continue to have the right to use their own financial transaction data for underwriting tools.

Thank you for once again for holding this important hearing.

Sincerely,

Steven Boms
Executive Director
FDATA North America