



## VIA ELECTRONIC SUBMISSION

November 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 Tom Emmer  
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 Emmer:

The Financial Data and Technology Association of North America (“FDATA North America”) appreciates the opportunity to submit a letter for the record for the House Financial Services Committee’s Task Force on Financial Technology’s hearing entitled “Banking on Your Data: the Role of Big Data in Financial Services.” As the leading trade association advocating for consumer-permissioned, third-party access to financial data, FDATA North America and its members strongly believe that an open banking framework is required to provide for the appropriate balance of innovation, improved consumer and small business financial access and opportunity, and end-user protection. The first, critical step in the creation of such a framework in the United States is the provision of the legal right for consumers and small businesses to their financial data, thereby empowering them to leverage their own data for improved financial outcomes through technology-based tools that can 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 to better manage their finances, improve their financial wellbeing, and/or enable small businesses to provide higher-quality products to their customers. We count innovative leaders such as the Alliance for Innovative Regulation, Betterment, Envestnet Yodlee, Flinks, The ID Co, Intuit, Kabbage, Lendified, Mogo, Morningstar, MScience, MX, Petal, Plaid, Questrade, Quicken Loans, TransUnion, VoPay, 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, lawmakers, and supervisory bodies internationally contemplating, designing, and implementing open banking frameworks.

Though the title of the hearing the Task Force is holding implies a robust ecosystem in which Americans’ data can be utilized in the financial system, there currently exists no legal right for consumers or small businesses to leverage their own financial data through the financial provider of their choice. This absence limits consumer choice in determining the products and services best suited to their individual financial situations and hinders competition, improved pricing, and innovation. The financial needs of individual consumers, their families, and small businesses vary widely, and lack of access to innovative financial products, and transparency of



those products, limits options that could be life changing, enabling consumers to benefit from services they previously could not qualify for or afford, and, unfortunately, sometimes forcing them to turn to products of a more predatory nature.

Additionally, because consumers have no legal right to access and share their data, the system for sharing data between financial institutions and fintechs is cumbersome and lacks transparency to the end user, who, in a well-managed open banking system, is appropriately at the center of the ecosystem. Financial institutions, fintechs and aggregators all recognize 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 individual bilateral agreements between financial institutions, aggregators, and fintechs. It is impossible for the thousands of financial institutions in the United States to negotiate and execute opaque bilateral agreements with every financial aggregation firm. Moreover, even if this outcome were practical, the individual terms between counterparties would likely differ from financial institution to financial institution and from aggregator to aggregator, leading to an unlevel playing field in which some consumers and small businesses are provided with more financial opportunity than others, merely because of the terms of a bilateral agreement between their bank and an aggregation firm to which the end user was not party. This complex array of agreements further limits transparency for consumers.

To appropriately encourage innovation in the financial sector for the benefit of consumers and small businesses, policy changes and comprehensive oversight are necessary to ensure the full legal right of the consumer to use their financial data safely and securely. A well-structured consumer-directed regime would allow individual consumers and small businesses to choose to provide access to their financial data to providers of their choice, to have agency over who has access to various elements of their financial data, and, importantly, to revoke that access when or if they ever see fit. Additionally, such a regime would necessarily have to provide a level of oversight over third-party technology providers and would have to begin the process of more appropriately accounting for potential liability risk throughout the 21<sup>st</sup> century financial system.

To achieve these goals, FDATA North America strongly supports legislation sponsored by Consumer Protection and Financial Institutions Subcommittee Chairman, Rep. Gregory Meeks (D-NY). H.R. 4047, the Open Banking Study Act, would take a small but critical step toward ensuring consumers and small businesses have greater control and flexibility with regard to the financial products and services they choose. The legislation would merely require the Federal Reserve, the Consumer Financial Protection Bureau (CFPB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) to report to Congress what actions both they and the entities they regulate have taken to advance open banking in the United States. The Open Banking Study Act does not enact new policies, impose new requirements upon the regulatory agencies, or establish any new standards in the marketplace. Instead, it would begin the process of identifying outdated processes and guidance that will need to be modernized to better harness



innovation in the financial services markets, as well as how best to utilize those authorities Congress has already bestowed on regulatory bodies, including third-party vendor risk management oversight and Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which provides the CFPB with the ability to ensure financial institutions make available to consumers their own financial data.

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 could fall behind as the world leader in digital innovation and market competition. The open banking policies, rules, and regulations embraced by countries around the world – including the United Kingdom, Australia, Canada, and Singapore, just to name a few – have improved the global competitiveness of these nations and have enhanced financial inclusion for their citizens. FDATA North America respectfully suggests that, at this critical time in the evolution of the financial services industry, Congress initiate a holistic review of those regulations and policies that may require modernization to reflect the changing financial ecosystem and build a future that benefits consumers and small businesses.

The Open Banking Study Act would be a modest but critical first step toward increasing consumer confidence, providing a standardized regulatory and policy regime that supports safety and soundness, and supporting a platform that embraces technological innovation. By not acknowledging the advancements made in other countries that put the consumer first, the United States runs the risk of falling behind globally and supporting an outdated and unsecure financial system.

FDATA North America welcomes this hearing of the Task Force and looks forward to working with you and your colleagues on these important issues in the months ahead.

Sincerely,

Steven Boms  
Executive Director  
FDATA North America