



Financial Data and  
Technology Association

[www.fdata.global/north-america](http://www.fdata.global/north-america)

September 2, 2021

Manager of Access and Privacy Strategy and Policy Unit  
Ministry of Government and Consumer Services  
Enterprise Recordkeeping, Access and Privacy Branch  
134 Ian Macdonald Boulevard  
Toronto, Ontario  
M7A 2C5

**Re: Public Consultation – Modernizing Privacy in Ontario**

Dear Sir/Madam:

On behalf of the Financial Data and Technology Association of North America (“FDATA North America”), thank you for your prioritization of data privacy protections for Ontario residents as you look to make Ontario the world’s most advanced digital jurisdiction. FDATA North America appreciates the opportunity to provide written feedback in response to your request for public input as you consider a provincial privacy and data protection law for Ontarians. With commerce increasingly dependent on digital rails, this is a critically important issue for all Canadians. As you consider how best to promulgate a data privacy standard in the province, FDATA North America and our members strongly encourage the inclusion of a legally binding financial data access and portability right in any forthcoming data protection legislation or regulation.

FDATA North America is a consortium of leading financial technology companies, empowering millions of Canadians to better manage and improve their financial wellbeing. As the leading trade association advocating for customer-permissioned, third-party access to financial data globally, we believe that consumer and small business data access and control is essential to a well-constructed data privacy regime. We count innovative leaders such as the Alliance for Innovative Regulation (AIR), APImetrics, Basis Theory, Betterment, BillGo, Codat, Direct ID, Equitable Bank, Envestnet Yodlee, Experian, Fiserv, Flinks, Interac, Intuit, Inverite, Kabbage, Mogo, Morningstar, M Science, MX, Petal, Plaid, Questrade, Quicken Loans, SaltEdge, Trustly, ValidiFi, VoPay, Wealthica, and Xero, among others, as our members.

Unfortunately, Ontarians do not today have the legal right to access, permission or make portable their financial data, which may result in their financial institution restricting or blocking their ability to utilize third-party, technology- based tools that can help to meaningfully improve their financial wellbeing. In addition to the direct affect this lack of data empowerment has on consumers and small businesses, its negative impact on competition within the financial services marketplace stifles financial access and inclusion.<sup>1</sup>

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<sup>1</sup> FDATA North America, Competition Issues in Data-Driven Consumer and Small Business Financial Services in Canada, July 2020, <https://fdata.global/north-america/wp-content/uploads/sites/3/2020/07/FDATA-Canada-Anticompetition-White-Paper-FINAL-1.pdf>



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FDATA North America's perspective on this issue is not theoretical. With a growing list of countries around the world that have provided legally binding data access and portability regimes for their citizens, we draw on the experience of other markets as the basis of our view that agency over one's financial data is a competition imperative. Reports compiled by the United Kingdom's Financial Conduct Authority, for example, have underscored that competition is severely hindered by the difficulties consumers experience in taking advantage of the offers of competitors.<sup>2</sup> Robust competition in data-driven financial services delivers lower costs, better services, and better outcomes for consumers' and small business' financial outcomes.

Any environment in which a consumer or small business can share a component of their data with a party of their choosing must have adequate protections for data privacy and data security. Fortunately, the financial technology ecosystem has provided these critical customer protections for years. Approximately four million Canadians already utilize at least one financial technology application and do so through a customer-centric regime that is entirely reliant on their consent, and which enables them to control, at all times, which providers they allow to access their data, how their data is being used, and when access to their data is revoked.<sup>3</sup>

Existing statutory and regulatory protections provide for important consumer and small business data protections. Ontario's Digital and Data Strategy is a key first step in protecting, supporting, connecting, and equipping consumers and small businesses across the province as they interact in the digital world. Additionally, other provinces – including Alberta, British Columbia, and Quebec – have embraced the ability for consumers to access their own personal information within their privacy laws. At the federal level, additional data rights and protections are being contemplated. Parliament has been actively considering Bill C-11, which seeks to enact the Consumer Privacy Protection Act, which will, once enacted, provide a path to improving organizational transparency and accountability among financial institutions and financial services companies that collect, use, and store consumer's financial data. The Minister of Finance's Advisory Committee on Open Banking released a report in August on customer-directed finance<sup>4</sup> that recommends a regime under which financial institutions must allow their customers to share access to their financial data with the third-party service providers of their choosing and which would require any participating third parties to meet minimum data security, privacy, and governance standards. While a positive development, the report does not have the force of law and, as such, does not, in and of itself, provide for customer financial data empowerment. Ontario, and Canada more broadly, must support the rights of individuals to access and transfer their financial data, through data portability, to keep pace with other international standards that consider this right to be a key feature of a modern privacy regime.

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<sup>2</sup> Financial Conduct Authority, Promoting Competition, January 2020 <https://www.fca.org/uk/about/promoting-competition>.

<sup>3</sup> Department of Finance Canada, Consumer-Directed Finance: The Future of Financial Services, January 2020 <https://www.canada.ca/en/department-finance/programs/consultations/2019/open-banking/report.html>

<sup>4</sup> Government of Canada, Final Report – Advisory Committee on Open Banking, August 2021, <https://www.canada.ca/en/department-finance/programs/consultations/2021/final-report-advisory-committee-open-banking.html>



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While the federal government moves forward slowly, Ontario can – and should – provide for stronger financial data access rights for its residents more quickly. As you approach legislative solutions for improving consumer data privacy, we hope that you will take a holistic, evidence-based approach that recognizes the importance of data access and portability for consumers and small businesses across the province. In doing so, we urge you to consider the realities of modern technology and digital businesses. FDATA North America and our members look forward to working with you to build an ecosystem in which Ontarians’ financial data is protected while providing for the right to benefit from data access and data portability rights.

Sincerely,

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

Steven Boms  
Executive Director  
FDATA North America