Dear Acting Director Uejio,

Thank you for this opportunity to respond to the Consumer Financial Protection Bureau’s Advance Notice of Proposed Rulemaking on Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**Background:**
Financial technology (fintech) offerings have grown rapidly since the passage of Dodd-Frank.¹ Many consumer experiences are now occurring digitally, with demonstrably beneficial outcomes for consumers. According to a recent Harris Poll survey, 73% of consumers say that these types of fintech services will be their “new normal” for managing their finances after COVID-19.² This growing financial technology ecosystem is built on the premise that consumers own and can knowingly authorize the sharing of their data to gain access to a desired product.

We are financial technology companies that provide these types of services, powered by consumer-permissioned data, to millions of American individuals, households, and businesses. Consumers and businesses use our services to track their spending, save for the future, gain access to responsible credit, improve credit scores, pay down debt, and generally achieve their financial goals. Our customers come from a range of financial backgrounds, and bank with a range of financial institutions, from national banks, to digital banks, to local community banks and credit unions. To use our services, consumers rely on their ability to authorize the sharing of their financial data. When authorized access is consistent and reliable, a larger pool of ecosystem participants like us to compete to develop innovative data-driven, consumer-centric services that help consumers and businesses manage their financial lives.

We operate in a competitive landscape where consumers choose from a range of products and services provided by both incumbents and new entrants. Understandably, data holders have an advantage in this current system: as data holders they can impose limits on what type of data is shared, how it is shared, and who it is shared with. Oftentimes data holders treat consumer authorized data access differently from direct access by limiting data fields consumers can share with their chosen service providers or broadly preventing access. When consumers lack control over their own financial data, they are impeded from accessing financial services they want to use. A Section 1033 rulemaking can ensure that consumers can access and port their own data to use the full range of financial products and services from both new entrants and incumbents alike.

**Recommendations:**
To support consumers’ ability to benefit from innovation and competition in financial services, we encourage the Consumer Financial Protection Bureau to promulgate rules that:

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¹ EY Global Fintech Adoption Index shows adoption in the U.S. grew from 17% in 2015 to 46% in 2019
• Establish a broad data right that is consistent across direct and authorized access: Consumers’ financial data belongs to consumers, and their access to that data should not depend on who is currently holding that data. Right now some data holders restrict consumers’ ability to access their own data, which prevents consumers from benefiting from financial technology. The Bureau should require that a data holder can not limit any information that can be reasonably construed as belonging to the consumer for both direct and authorized access. This requires the data access scope to include all of the information consumers need to access the fintech ecosystem today and in the future.

• Ensure a level playing field that includes all Americans: America’s banking ecosystem is robust and diverse, and not all banks have the same resources to invest in data sharing technologies. The Bureau must be careful to ensure that Section 1033 rulemaking does not generate an unlevel playing field for consumers, where consumers’ access differs depending on where they bank. This requires the Bureau to not prescribe specific technologies for data sharing that may be less accessible to smaller banks than larger banks, and instead to allow financial institutions to choose for themselves how they can comply with consumers’ data access rights.

• Require transparency and controls: Consumers want to feel more in-control over their data, and industry can take steps to provide that control. The Bureau should establish strong guidelines for consumer transparency and control, including that consumers be aware of all parties involved in data sharing and have controls over which data they are sharing, with whom, and for what duration.

• Support standards-development in service of consumer rights: Industry will continue to collaborate to develop standards that promote access. The Bureau should take steps to ensure standards are in service of consumer rights, not of corporate interests. The Bureau should encourage the continued development of industry standards by establishing baseline principles and expectations that those standards must meet.

Our recommendations are in service of the millions of consumers who rely on our tools to manage their finances. When consumers control their financial data, it both benefits those consumers individually, and drives innovation in the broader financial services system, which historically has served consumers unequally.3

Authorized data access powers a breadth of use cases
With the above recommendations, we envision a future in which consumers’ data access incentivizes the continued growth of beneficial consumer products. Section 1033 rulemaking is critical, as it will allow for a broad range of consumer outcomes in a single regulation. The financial technology ecosystem, which is reliant on authorized access currently, offers services that address a wide range of consumer finance challenges:

- **Overdraft fees:** Consumers are charged $30 billion annually in bank overdraft fees.\(^4\) Fintech companies offer overdraft protection services to help consumers smooth their spending and avoid these fees.\(^5\) The structural disruption of overdraft brought about by the financial technology industry even led to Oliver Wyman, a major bank consultancy, to provide recommendations for banks to move beyond this historically lucrative practice in its 2020 report titled “Beyond Overdraft.”
- **Credit invisibility:** According to the CFPB, 45 million Americans have thin or no credit files. Alternative data in credit underwriting, such as cash flow data, is being broadly adopted by both fintech companies and incumbent providers\(^6\). This use of consumer-authorized data has been endorsed by CFPB and other prudential regulators in their 2019 joint statement, and also reiterated during the COVID-19 crisis to help banks extend access to responsible credit.
- **Credit score improvement:** Consumers looking to improve their credit scores can utilize a range of tools, including secured lines of credit, alternative data reporting to credit bureaus, and debt consolidation programs.
- **Financial inclusion:** Millions of consumers remain unbanked in the U.S., but adoption of digital financial services is beginning to close the gap. 14% of consumers making less than $50k annually said they started banking for the first time with fintech.
- **Earned wage access:** Consumers looking to avoid costly payday loans are increasingly relying on earned wage access (EWA) tools. Additionally, earlier access to wages can help mitigate unnecessary charges, like overdraft fees. A recent survey found that 89% of employees would work longer for a company offering EWA. Furthermore, hundreds of thousands of small business employees regularly benefit from accessing their earnings directly from EWA providers on a non-recourse, no-fee basis.
- **Small business loans:** Fintech companies have offered small business lending since banks receded from small business lending following the Global Financial Crisis. Fintechs were included in the Paycheck Protection Program, and delivered millions of loans to the smallest businesses.
- **Fraud mitigation:** As consumers engage with more fintech tools, their identity data is critical to preventing fraud. Fintech companies match the identity information consumers share from their bank accounts with the information they enter into the application, to prevent fraudulent activities.
- **Deposit switching:** A new era of digital-first fintechs have entered the financial services arena in the past decade and compete for customers with incumbent financial institutions. Some of these fintechs partner with FDIC-insured banks to accept deposits,

\(^4\)“Banks will collect more than $30 billion in overdraft fees this year. Here’s how to avoid them” https://www.cnbc.com/2020/12/01/banks-will-get-30b-in-overdraft-fees-this-year-heres-how-to-avoid-them-.htm
and others are receiving charters themselves. This competition is good for consumers, who need to be able to easily take their information with them as they switch banks.

- **Tailored financial services:** Fintech companies have pioneered behaviorally-informed tools to help consumers build beneficial habits. This includes robo-advisors helping consumers choose the right investment strategies, automatic savings tools helping lower-income consumers build a financial cushion, and community-based savings programs that help minority communities build credit.

- **Savings goals:** Fintech companies offer digital interfaces that help consumers and families set and achieve savings goals. Many of these programs leverage behavioral economics like prize-linked savings to drive positive consumer outcomes. Research from a financial technology nonprofit has shown that even small amounts of savings can generate outsize outcomes for consumers, like housing security and avoiding costly loans.

- **Student loan repayment:** For the tens of millions of Americans struggling to manage student debt, fintech companies offer debt refinancing and consolidation, debt management tools, and even services to ensure consumers are eligible for repayment plans that suit their financial circumstances.

**Authorized access benefits other consumer and Bureau priorities:**
In addition to providing innovations to the above list of use cases, consumers control of data benefits other Bureau priorities, like decreased financial fees and increased emergency savings. Recent studies show the benefits consumers see from the fintech tools they use which rely on authorized data access.

- **Saving on fees and interest:** According to a 2020 Survey conducted by the Harris Poll, consumers making less than $100,000 per year reported saving $360 annually on bank fees and interest when they use financial technology products like ours.

- **Emergency savings:** SaverLife and the FINRA foundation found that for low-income consumers, small amounts of savings can improve both housing insecurity and help to avoid high-cost loans.

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- **Small business lending**: As fintechs were included in the SBA’s PPP program as part of COVID-19 relief, fintechs facilitated hundreds of thousands of PPP emergency loans to small businesses.\(^{13}\)
- **Wealth-building**: Automatic savings tools have helped consumers save over $1 billion, and also connect consumers to wealth-building products like investments accounts.\(^{14}\)
- **Credit profiling**: Cashflow data has been found to substantially augment traditional credit reporting, which can help millions of thin file consumers gain access to credit.\(^{15}\)

The fintech ecosystem is committed to providing useful and innovative products and services that meet the needs of the millions of consumers who struggle to manage their finances. The CFPB can ensure consumers are able to access and benefit from innovation and competition in financial services by promulgating rules on Section 1033.

Gratefully,

Albert  
Betterment  
CommonBond  
Credit Karma  
Dave  
Digit  
Earnin  
Empower  
Gusto  
Kredit  
MoneyLion  
Perch  
Petal  
Plaid  
Qapital  
Savi  
Tally  
TransferWise  
Truebill  
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- LendingClub
- Prosper
- SoFi