

UNITED STATES OF AMERICA  
FEDERAL RESERVE SYSTEM  
CONSUMER FINANCIAL PROTECTION BUREAU

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ENOVA INTERNATIONAL, INC.	)	2021-MISC-Enova International, Inc.-0001
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**SUPPLEMENTAL DECISION AND ORDER ON REQUEST BY ENOVA  
INTERNATIONAL, INC. FOR CONFIDENTIAL TREATMENT**

On September 30, 2021, Enova International, Inc. (“Enova”) submitted a supplemental statement in support of its request for confidential treatment of portions of its petition to modify or set aside a civil investigative demand (“CID”) and related materials. For the reasons set forth below, Enova’s request for confidential treatment is **GRANTED**.

**I. FACTUAL BACKGROUND**

On May 24, 2021, the Consumer Financial Protection Bureau (“Bureau”) issued a CID to Enova. Pet. at 1. On June 14, 2021, Enova petitioned the Bureau to modify or set aside the CID. Pet. at 14. Enova also requested confidential treatment of portions of the petition and an attached declaration. Request at 1. In its request for confidential treatment, Enova argued, among other things, that Exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(b)(4), applied to some of the information in the petition materials. Request at 2. However, Enova failed to specify which information in the petition materials Exemption 4 would apply to. Enova also failed to explain why Exemption 4 would apply to the petition materials.

On September 20, 2021, the Bureau denied the petition to modify or set aside the CID. *In re Enova International, Inc.*, 2021-MISC-Enova International, Inc.-0001 (Sept. 20, 2021), at 1.

The Bureau also rejected Enova’s request for confidential treatment of the petition materials under Exemption 4 of FOIA.<sup>1</sup> *Id.* at 6. The Bureau determined that Enova had failed to meet its burden to establish that any of the petition materials should be kept confidential under Exemption 4. *Id.* The Bureau exercised its discretion, however, to provide Enova with an opportunity to submit a supplemental statement detailing which information in the petition materials Enova believed to be covered by Exemption 4, and why that information would be protected by Exemption 4. *Id.* at 6-7.

Consistent with the terms of the Bureau’s order, Enova submitted a supplemental statement in support of its request for confidential treatment on September 30, 2021. The supplemental statement seeks confidential treatment of page 6 of the petition, lines 13-14, 17-19, 20; page 7 of the petition, lines 1, 4-9; and paragraphs 8-15 of the declaration in support of the petition. The supplemental statement also seeks confidential treatment of the corresponding portions of the statement itself as well as a declaration in support of the statement.

## **II. LEGAL DETERMINATION**

As explained in the Decision and Order on Enova’s petition, petitions to modify or set aside a CID are “part of the public records of the Bureau unless the Bureau determines otherwise for good cause shown,” 12 C.F.R. § 1080.6(g). *In re Enova International, Inc.*, 2021-MISC-Enova International, Inc.-0001 (Sept. 20, 2021), at 5. When determining whether a request for confidential treatment is supported by good cause, the Bureau looks to the standards for withholding material from public disclosure established by FOIA. *Id.*

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<sup>1</sup> Although the Bureau denied Enova’s request for confidential treatment under Exemption 4, the Bureau did conclude that some portions of the petition should be kept confidential under FOIA Exemptions 7 and 8. *In re Enova International, Inc.*, at 7-8.

Here, Enova requests confidential treatment of portions of its submissions under FOIA Exemption 4.<sup>2</sup> Specifically, Enova argues that Exemption 4 applies to three types of information contained in its petition materials: (1) information about the technology and functionality of platforms utilized for its credit products; (2) information about its credit products' servicing protocols; and (3) information about its credit products' payment processing operations. Supplemental Request at 2-4.

Exemption 4 applies to two broad categories of information: (a) "trade secrets" and (b) "commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Enova does not contend that any information in its petition materials is a trade secret. Therefore, Exemption 4 will apply only if Enova can show that information in its petition materials is (1) commercial or financial, (2) obtained from a person, and (3) privileged or confidential. Information qualifies as "commercial" under the first prong of this Exemption so long as "the provider of the information has a commercial interest" in it. *Baker & Hostetler LLP v. U.S. Dep't of Commerce*, 473 F.3d 312, 319 (D.C. Cir. 2006). And the "obtained from a person" prong is satisfied where the information was supplied by an outside party rather than having "been generated within the Government." *Bloomberg, L.P. v. Bd. of Governors of the Fed. Reserve Sys.*, 601 F.3d 143, 148 (2d Cir. 2010). As for the third prong, information is "confidential" if, at a minimum, "it is customarily kept private, or at least closely held, by the person imparting it." *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019). The Supreme Court has also raised the possibility that information could be considered "confidential"

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<sup>2</sup> Enova seeks confidential treatment of portions of the petition as well as an accompanying declaration. Supplemental Request at 1. Enova also seeks confidential treatment of portions of its supplemental statement in support of its request for confidentiality and an accompanying declaration to the extent that they reference the confidential information contained in the petition and declaration attached to the petition. Supplemental Request at 8. This order refers to these documents collectively as "petition materials."

for purposes of Exemption 4 only if a second requirement was met—namely, that the government provided the submitter “some assurance that [the information] will remain secret.”

*Id.* (The Court, however, declined to resolve whether such an additional requirement in fact exists. *Id.*)

Enova has met its burden to establish that information in the petition and its supporting materials should be kept confidential under Exemption 4. First, information detailing Enova’s technology platforms, servicing protocols, and payment processing operations is commercial. Given the direct relationship between this information and Enova’s business practices, Enova has a commercial interest in such information. Second, this information was generated by Enova and not by the government. The information therefore meets the “obtained from a person” prong.

Finally, Enova has adequately explained and substantiated that it customarily keeps private the information it seeks to redact: Its sworn declaration attests that Enova customarily keeps the information private and details the company’s efforts to safeguard the information from public disclosure. Existing case law does not conclusively resolve whether, to be considered “confidential” for purposes of Exemption 4, the government must have provided the submitter some “assurance” of confidentiality. I need not resolve that here either, because regardless of whether such a requirement exists under Exemption 4, there is “good cause” within the meaning of the Bureau’s regulations to keep confidential the information that Enova customarily keeps private, regardless of whether assurances of confidentiality were made.

Accordingly, I order that certain portions of the petition, supplemental request for confidentiality, and attached declarations be redacted under Exemption 4.

### **III. CONCLUSION**

For the foregoing reasons, Enova's request for confidential treatment is **GRANTED**. I **ORDER** that the petition, supplemental request for confidential treatment, and attached declarations be redacted as indicated in the redacted versions of these materials attached to this order.

This Supplemental Decision and Order, as well as the September 20, 2021, Decision and Order, the petition, Enova's original request for confidential treatment, and Enova's supplemental submission in support of that request, and the accompanying materials, will be published on the Bureau's website no fewer than five business days after service of this Supplemental Decision and Order on Enova.

**IT IS SO ORDERED.**

Dated: November 15, 2021

*Rohit Chopra*

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Rohit Chopra  
Director