Written Statement of Petal Card, Inc.

Symposium on Consumer Access to Financial Records, Section 1033 of the Dodd-Frank Act

Consumer Financial Protection Bureau

February 12, 2020

Petal Card, Inc. ("Petal") would like to thank the Consumer Financial Protection Bureau ("CFPB" or "the Bureau") for the opportunity to participate in the Bureau's symposium on consumer access to financial records. Petal is a financial services technology company that provides access to credit products for consumers, many of whom are credit invisible or lack sufficient credit history to obtain a reliable credit score. Petal serves these consumers by developing and applying proprietary underwriting models to their permissioned financial transaction data to provide them with access to credit products for which they might not otherwise qualify. We appreciate the opportunity to participate in the symposium and support the Bureau's efforts with regard to Section 1033[1] policy-making to enhance the control of consumers over their financial lives, increase innovation and competition in consumer financial services, and expand access to credit for U.S. consumers currently underserved by the mainstream credit system.

Petal is a member of the Financial Data and Technology Association ("FDATA"). As the leading trade association advocating for consumer-permissioned, third-party access to financial data globally, FDATA and its members believe in the power of well-designed, well-implemented open finance frameworks to provide for the appropriate balance of innovation, improved consumer and small business financial access and opportunity, and end-user protection. We endorse the perspectives and policy recommendations set forth in the written testimony of Steven Boms, Executive Director of FDATA, which are incorporated herein by reference.

Consumer-permissioned access to financial information has provided a foundation for significant innovation in financial services to the benefit of consumers. Congress was prescient in passing Section 1033, codifying U.S. consumers' rights to their banking and financial data. The CFPB's 2017 principles[2] built on that start, "express[ing] the Bureau's vision for realizing a robust, safe, and workable data aggregation market that gives consumers protection, usefulness, and value." But the regulatory framework to date falls short of delivering sufficient clarity regarding consumers' rights to control access to and portability of their financial information. The Bureau

[1] Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Section 1033").

[2] Consumer Protection Principles: Consumer-Authorized Financial Data Sharing and Aggregation, released by the Bureau on October 18, 2017.

should take the next step and exercise its rule-making authority pursuant to Section 1033 to clarify consumers' rights to their financial data, similar to the actions taken by other governmental agencies to catalyze successful open finance frameworks.

Petal is devoted to improving the financial lives of consumers, especially those who traditionally have been underserved because they do not have a credit score or are new to credit. However, Petal cannot fully realize its mission to serve these individuals without consumer-permissioned access to their financial data that is consistent, complete and reliable, regardless of the financial institutions holding their data. To achieve this goal, and best serve consumers with innovative and competitive financial products, we need a comprehensive consumer-first open finance regulatory framework in the United States.

As of 2010, 45 million U.S. consumers, comprising approximately 20% of the adult population, were credit invisible or unscored.[3] Tens of millions of additional consumers have credit scores but "thin credit files." These individuals are routinely denied when applying for credit cards, loans and other forms of financing, or are forced to use expensive, inferior financial products (like payday loans) that make it easy to end up trapped in debt.

Petal is giving these consumers an opportunity to access and build credit, putting them on the path to financial success. An individual wishing to apply for a Petal Card will link their bank account, and Petal will analyze their financial data using proprietary cash flow underwriting technology, enabling the consumer to leverage their own financial data to establish creditworthiness.

In July 2019, the nonprofit innovation center FinRegLab released a groundbreaking empirical study, entitled "The Use of Cash-flow Data in Underwriting Credit: Empirical Research Findings," which analyzed the use of cash flow data to predict creditworthiness. The report found that, in some cases, cash flow data work better than a credit report to evaluate credit risk. In addition, where a credit report is present, the report found that cash flow data improve the credit assessment, filling in the rest of the consumer's financial picture. The report also found that cash flow data have the potential to improve the representation of underserved consumers without introducing discrimination on the basis of age, race, or other protected factors.

In December 2019, the Bureau, the Federal Reserve Board, the FDIC, the Office of the Comptroller of the Currency, and the National Credit Union Administration issued their "Interagency Statement on the Use of Alternative Data in Credit Underwriting." This statement recognized "that the use of alternative data may improve the speed and accuracy of credit decisions and may help firms evaluate the creditworthiness of consumers who currently may not

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[3] Data Point: Credit Invisibles, released by the Bureau in May 2015.

obtain credit in the mainstream credit system. . . . offering the potential to lower the cost of credit and increase access to credit."

Petal has observed these findings in action. By leveraging consumers' financial data using cash flow underwriting technology, a majority of Petal customers have been approved despite being credit invisible, unscorable or having a thin file. These individuals' credit histories, or lack thereof, do not tell their whole financial stories—people with strong cash flows tend to be responsible customers, making on-time payments much more frequently than their credit reports would suggest, and these customers are now building mainstream credit using a safe and responsible introductory product.

Petal is excited to continue providing underserved consumers with opportunities to access and build credit, but we face significant headwinds in doing so. In the absence of standardized and reliable Application Programming Interfaces ("APIs") across financial institutions, we face frequent business interruption related to downtime, brown-outs, missing data fields, and institutions that refuse to participate in the consumer-permissioned open finance ecosystem altogether. We also face increasing operating expenses associated with maintaining connections to thousands of disparate financial institutions through data aggregators. These issues are driving up costs that are ultimately borne by consumers attempting to exercise their rights under Section 1033, and in some cases are actually preventing consumers from leveraging their own financial data to prove their creditworthiness and access appropriate financial products and services.

Cash flow underwriting relies on the ability of financial applications like Petal to safely, securely, and reliably access and port, with affirmative consumer authorization, any element of consumers' financial data held by their financial institutions. For this to work successfully, the data must be available at the time of the automated cash flow underwriting process and must be complete, without suppressed data fields or categories of information. In addition, the data must be standardized across institutions, so that it can be analyzed in a uniform and statistically sound manner. With these basic principles in mind, Petal is concerned with certain developments in the data aggregation market.

Limited numbers of financial institutions have developed rich, reliable, direct API connections, and where they have, such connections are non-standardized. Without a common standard, current inefficiencies in data aggregation—including poor data reliability and expensive middlemen, among others—will proliferate, frustrating the will of consumers in accessing and porting their data, and contributing to an overall data lock-in effect, stifling portability despite what consumers want. Financial institutions should be required to maintain standardized APIs, and financial applications should have the ability to plug in directly if they so choose, using a common technical standard. Institutions that are unable to develop and maintain such APIs must be required to make the data available in another electronic form usable by consumers, per the mandate of Section 1033, that is standardized and accessible (including by way of safe and controlled screen-scraping techniques).

It is not acceptable to allow financial institutions that have built APIs to legislate, through onerous bilateral agreements with aggregators, the data elements or use-cases available to financial applications. At best, these financial institutions are frustrating the wishes of consumers and the intent of Section 1033, and at worst, they may be using their leverage as custodians of their customers' financial data to pursue their own commercial, anti-competitive interests. Consumers must have the ability to determine the scope of their authorizations to financial applications, including giving applications on-going, real-time access to their financial data without the need to re-authenticate, and financial institutions must be required to honor those authorizations. Other than the consumer's authorization, which they can revoke at any time, there should be no constraints on the data elements and use-cases available to consumer-permissioned financial applications.

Some institutions find fault with open finance proposals, arguing that financial applications may put consumer data at risk. This is not an argument against open finance—it is another reason why regulatory oversight is so critical.

A lack of clear regulation in the data aggregation market is hurting consumers and stifling innovation. We believe that the Bureau should work with relevant stakeholders and engage in rulemaking to develop a U.S. open finance framework that implements Section 1033 and helps to improve the financial lives of U.S. consumers.