February 4, 2021

Dave Uejio, Acting Director
Bureau of Consumer Financial Protection
Comment Intake—Section 1033 ANPR
1700 G Street, NW
Washington, DC 20552

RE: Consumer Access to Financial Records
Docket ID CFPB-2020-0034, RIN 3170-AA78

Dear Acting Director Uejio:

AARP, on behalf of our 38 million members and all older Americans nationwide, thanks you for the opportunity to comment on the Consumer Financial Protection Bureau’s (CFPB) advance notice of proposed rulemaking regarding Consumer Access to Financial Records.

Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act empowers the CFPB to set standards for consumer data-sharing that improve consumers’ control over their own data. These standards, in turn, may promote the growth of innovative products and services that help people better manage their finances. However, the emergence of these tools also carries new risks, including the erosion of long-established consumer protections and the potential for identity theft and identity fraud. AARP urges that any future rulemaking should ensure the benefits of consumer data access are available to older adults and address the potential risks of financial harm.

Specifically, AARP recommends that the CFPB take the following steps to support safe and equitable practices with regard to consumer access to financial records:

1. Encourage companies to include older adults in the design and testing process when developing new offerings through expanded consumer data access. The pandemic has encouraged many individuals to conduct financial transactions digitally, and the proportion of older adults who manage their money through online and mobile platforms has grown. However, major gaps in access to safe and affordable financial services, or to any digital services at all, remain for some older adults. These gaps include disparities by income, race or ethnicity, and geography. Expanded data access may potentially reduce some of these gaps and also make it easier to manage someone else’s money. Some older adults seek help making financial decisions from a relative, friend, caregiver, or professional. Secure and reliable sharing of consumer financial records (with appropriate constraints to prevent financial exploitation) may help trusted parties ensure bills are paid in a timely manner and identify suspicious activity. Companies should therefore include older adults in the design and testing process when developing new offerings through expanded consumer data access.

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2. **Keep consumers in control of their personal data and how it is used.** Data aggregators and data users should make clear the types of data they access and only require the minimum data necessary to make a product or service work. Consumers should know what data points from their financial records are being used, for what purpose, and for how long they will be retained. They should also have the ability to readily correct any inaccurate information and revoke their consent at any time.

3. **Protect consumers’ rights when using data access tools.** AARP is particularly concerned about any attempts to expand access to data that could weaken consumer protections or encourage consumers to waive their rights without understanding that they are doing so. To address this concern, the CFPB must protect consumers’ pre-existing rights, including protections against unauthorized transactions under Regulation E and the Electronic Funds Transfer Act. These protections should apply regardless of whether the disputed transactions were caused by the actions of a financial services provider or another entity. Consumers should be held harmless regardless of disputes regarding questions of liability among entities in the data ecosystem.

4. **Require data holders, aggregators, and users to take steps to prevent and mitigate fraud.** Whether through trusted parties or greater use of automated algorithms, expanded data access contains the potential to combat fraud. At the same time, the CFPB should assess consumer data access for the potential to increase the risk of scams and fraud. As consumers increasingly share their financial records with third parties to access legitimate products and services, they may also be steered toward entities looking to use their data to cause harm. The CFPB should require all parties seeking legitimate access to be clearly identified and differentiated from attempts to scam or defraud. Additionally, the CFPB should require data holders, aggregators, and users to meet robust and established security standards in order to prevent identity theft and identity fraud, and to inform and protect consumers in the event of a data breach.

In sum, as the CFPB continues to explore this issue, AARP urges that any proposed rule expand responsible consumer data access while taking all essential steps to prevent consumer harm. Millions of older adults and other Americans depend on the CFPB’s rulemaking, supervision, and enforcement to ensure that their dollars, their data, and their consumer rights remain secure.

Once again, AARP appreciates the opportunity to share our thoughts regarding the CFPB’s advance notice of proposed rulemaking on Consumer Access to Financial Records. We look forward to continuing our work with the Bureau in this developing area and to sharing additional information in the future. If you have any questions, please feel free to contact Tom Nicholls of our Government Affairs staff at 202-434-3765 or by email at TNicholls@aarp.org.

Sincerely,

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Government Affairs