



October 21, 2025

Mr. Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW,
Washington, DC 20552

**RE: Advance Notice of Proposed Rulemaking on Personal Financial Data Rights
Reconsideration** (Docket No. CFPB-2025-0037 / RIN 3170-AB39)

Dear Acting Director Vought:

The National Association of Convenience Stores (“NACS”) and the International Franchise Association (“IFA”) appreciate this opportunity to provide comments on the Advanced Notice of Proposed Rulemaking on Personal Financial Data Rights Reconsideration (“Notice”).¹ These comments are intended to ensure the Agency is fully aware of the impact this policy would have on American consumers and their future financial choices, particularly when they look to transact with Main Street businesses across the nation.

I. Background on the Associations

NACS is an international trade association representing the convenience store industry with more than 1,300 retail and 1,600 supplier companies as members, the majority of whom are based in the United States.²

The convenience store industry has become a fixture in American society and a critical component of the nation’s economy. In 2024, the convenience store industry employed approximately 2.74 million employees and generated \$837.4 billion in total sales, representing approximately 3.2% of U.S. Gross Domestic Product.

The industry, however, is truly an industry of small business. More than 60% of convenience stores are single-store operators. Less than 0.2% of convenience stores that sell gas are owned by a major oil company and about 4% are owned by a refining company. More than 95% of the industry, then, are independent businesses.

¹ 90 Fed. Reg. 40986 (Aug. 22, 2025).

² Background data on NACS comes from the NACS, State of the Industry Annual Report of 2024 Data (available at [NACS State of the Industry Enterprise | NACS](#)).

Members of the industry process more than 160 million transactions every single day. That is the equivalent of serving about half of the U.S. population. In fact, 93% of Americans live within 10 minutes of one of our industry's locations. These businesses are particularly important in urban and rural areas of the country that might not have as many large businesses. In these locations, the convenience store not only serves as the place to get fuel but is often the grocery store and center of a community.

IFA is the largest organization representing franchising. Its members include franchise companies in over 300 different industries, individual franchisees, and companies that support those franchise companies in marketing, law, technology, human resources, business development, and operations. At a time of economic instability in the U.S., the more than 800,000 franchised establishments operating in the U.S. serve as powerful engine of economic growth, contributing an estimated \$896.9 billion in economic output and providing an estimated 8.8 million direct jobs in 2024.³

However, contrary to common mischaracterization of franchising, it is not big business. Franchising is small business. More than 80% of franchise owners operate just one location. Further, franchisors tend to be small too – most franchise brands in operation today have less than twenty franchised units in their system; nearly a third of all franchisors make less than \$5 million per year. As is often the case, small businesses are disproportionately affected by regulations, compared to larger firms that have the legal and executive firepower to navigate difficult administrative and operational changes.

II. Importance of Open Banking

The markets for consumer to business payments in the United States today, which are dominated by legacy banks and credit card companies, are simply broken. The market is not competitive and has not kept pace with innovations that have taken hold in much of the world. While the United States should be a leader in payments innovation, it is not. U.S. consumers, businesses, and the economy as a whole suffer as a result.

Open banking can help unlock changes that bring real innovation and efficiency to U.S. payments. The CFPB's Section 1033 rule ("1033") has the potential to be central to that effort but it must be done right. If it is not, then the promise of many technological innovations that could change the U.S. economy for the better will not come to pass. The legacy banking and credit card industry simply has too much power over the market today to leave much room for error.

Some background on the problems may help shed light on the importance of a sound approach to this area.

³ Ashley Rogers, Jin Qi & Khadija Cochinwala, 2025 FRANCHISING ECONOMIC OUTLOOK 1-2, (INT'L FRANCHISE ASS'N 2025), <https://www.franchise.org/franchising-economic-outlook/>.

The credit and debit card systems in the United States, which are the dominant forms of payment, are burdened by anti-competitive conduct that makes the systems less efficient and effective than they should be. Two payment card networks, Visa and Mastercard, control more than 80% the market, creating a duopoly that brings together thousands of card-issuing banks across the nation to wield market power over pricing and credit card terms in ways that harm competition in the marketplace. Merchants have no realistic options to refuse to take cards controlled by this duopoly and virtually all the banks that are their members. With very few exceptions, merchants must accept all credit and debit cards that run over Visa and Mastercard no matter how high the fees the networks charge and no matter how onerous the rules and conditions they impose. The high fees that result from this exercise in market power inflate the costs of goods and services across the nation in a way that harms consumers, small business owners and competition.

It does not have to be this way. The rates that Americans pay on credit card swipe fees are the highest in the industrialized world – and it’s not close, at an estimated seven times credit card swipe fees in Europe. Total card swipe fees imposed on merchants were \$187 billion in 2024⁴– up from \$64 billion in 2010. Of that total, \$111.2 billion were interchange fees for Visa and Mastercard branded credit cards.⁵ Visa and Mastercard also collected swipe fees called network fees for themselves that in 2023 totaled \$10.9 billion on credit cards and \$8.3 billion on debit cards.⁶ All of this is a huge drain on American families who paid more for goods and services last year in the amount of about \$1,200 per family.

The problems in this market have developed because Visa and Mastercard centrally set the fee rates for the largest portion of swipe fees, known as interchange fees. These systems meet the dictionary definition of a cartel structure.⁷ Interchange fees typically ranging from 2 to 3 percent of the transaction amount that card-issuing banks charge to merchants each time a Visa or Mastercard card is used. But the banks that receive the fees don’t set the fees - they let Visa and Mastercard fix fee rates on their behalf. Because the banks’ fees are centrally set in this way, the banks don’t compete on price. That leads to problems that are common for anti-competitive arrangements – high and escalating prices, neglect of key aspects of the service (such as protection against fraud), and resistance to innovation and change that often drive more efficiency and better service. Visa and Mastercard also dictate a complex set of terms (called network rules) that govern how credit card transactions happen. These terms further insulate swipe fees from competitive market pressures and, in most cases, keep the fees confusing for merchants and hidden from consumers.

In particular, by imposing an “honor all cards” rule that requires a merchant to accept all cards issued with a Visa (or Mastercard) logo if the merchant wants to accept any cards carrying

⁴ The Nilson Report, March 2025 (available at [1282 - Nilson Report](#)).

⁵ The Nilson Report, March 2024 (available at [1282 - Nilson Report](#)).

⁶ CMSPI-IAC State of the Industry Report (Sept. 2024) at 19 (available at [State of the Industry Report | CMSPI Global](#)).

⁷ See the second definition set forth in the current version of the Merriam-Webster Dictionary at [CARTEL Definition & Meaning - Merriam-Webster](#) (“a combination of independent commercial or industrial enterprises designed to limit competition or fix prices”).

those networks' logos, the two largest networks remove the incentives for banks to negotiate with merchants on price or acceptance of their cards – and remove almost all bargaining power that merchants otherwise might have had. This is a central element of the credit and debit card systems in the United States today. In effect, Visa and Mastercard have created cartels that control prices and terms to the detriment of merchants and consumers.

The extent of the anticompetitive problems created by this structure was recently highlighted by the U.S. Department of Justice (DOJ) in the lawsuit it filed against Visa.⁸ While that case only covered debit cards, a story in the Wall Street Journal made clear that Visa's anticompetitive actions also negatively impacted the credit card market.⁹

The problems caused by all this for consumers, merchants and the economy are immense. The size of swipe fees and the fact that they are set largely as a percentage of transaction amounts means that they are an inflation multiplier; as inflation goes up the amount of fees collected goes up with it, which forces retailers to further raise prices to cover the increased fees. This inflates what all consumers pay.

The roles played by the two dominant card networks and the fees and terms they set cause other problems as well by reducing incentives for innovation in new payment products and improvements in services such as fraud protection. The United States should have the most efficient, effective and innovative payment system in the world, but we don't. Instead, as revealed by the Justice Department and the Wall Street Journal, we actually have a dominant payment network – Visa – actively holding back innovation in the market through pay-offs and manipulative fee practices. This market desperately needs changes so that there are competitive market forces that improve payments for everyone.

III. Specific Comments on the Notice

Two areas of the Notice merit particular attention in light of the current state of the payments market. The first is the question of whether financial institutions can charge fees to consumers who wish to have access to their financial data. The second is the question of who qualifies as a consumer's "representative" in order to be able to access that consumer's financial data.

A. Fees

Question 9 of the Notice asks whether it is the best reading of the statute that it prohibits financial institutions from charging fees for consumers accessing their own information. In our view, it is not only the best reading of the statute but unquestionably the best policy to ensure that such fees cannot be charged.

⁸ U.S. v. Visa, Complaint (Sept. 24, 2024) (available at [dl](#)). Note that key groundwork for this case came out of the lawsuit filed by the first Trump Administration's Department of Justice against Visa regarding its attempted acquisition of Plaid.

⁹ "Visa Wanted a Vast Empire. First, It Had to Beat Back Its Foes." By Annamaria Andriotis, The Wall Street Journal (Oct. 19, 2024) (available at [Visa Wanted a Vast Empire. First, It Had to Beat Back Its Foes. - WSJ](#)).

The language of the statute provides that covered financial institutions, “shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data.”¹⁰ The language of the statute is mandatory. Charging fees gives financial institutions the complete ability to undermine the language of the law and render is ineffectual.

All that any financial institution would need to do in order to undermine the language and intent of the law would be to impose fees that make the sharing of consumer information commercially non-viable. Suppose for a moment, that an institution wanted to avoid sharing. It could impose a fee of \$1,000 each time a consumer wanted to access such information. That would very effectively end sharing requests for that institution. A more subtle method to make sharing difficult would be to discriminate in pricing such that data for use in competitive services, like payments, are more expensive than other types of data sharing. In fact, that is precisely what JP Morgan Chase has proposed doing.¹¹

The American economy depends upon businesses having an interest in selling a product or service in order for the market to limit pricing on a competitive basis. But, an industry that has a collective interest in a service actually not being sold (precisely the situation here) has no such constraint. That is particularly true when, as here, that industry has a clearly established track record of working collectively on pricing that undermines normal competitive market dynamics. The legacy financial services industry has created the dynamic where the rule must be as set by Congress in order to ensure that people can access their information and won't be priced out of the market. That is why Congress balanced the interests the way it did when it passed section 1033 as part of Dodd-Frank.

The legacy financial industry would undoubtedly argue that any such huge fee would clearly be unreasonable. Of course, they would likely oppose the logical outgrowth of that argument - that the Consumer Financial Protection Bureau (CFPB) need only regulate the market to ensure that fees are not unreasonable when compared to costs. Of course, the statute does not give the CFPB the power to impose price regulation, evaluate financial institutions' costs and prices, and ensure that such prices are not designed to prevent access to consumer information. The language of the statute doesn't include anything of the sort which indicates that the statute was intended to prohibit fees on this data sharing. It is also worth noting that the legacy financial industry has spent more than a decade arguing against evaluation and regulation of its pricing in the debit card context even when the language of the law regarding debit cards explicitly provides for regulatory evaluation of prices to ensure they are reasonable and proportional to costs.

Without price regulation, which is clearly not justified under the law here, we are left with either allowing unlimited fees or recognizing that mandatory access must entail that no fees

¹⁰ 12 U.S.C. 5533.

¹¹ See “JPMorgan Preparing to Charge FinTechs for Consumer Bank Data,” Pymnts.com July 13, 2025 (available at <https://www.pymnts.com/news/banking/2025/jpmorgan-preparing-to-charge-fintechs-for-consumer-bank-data/>).

can be charged. The only way to ensure consumers get access to their information is to ensure that there are not charges for that service.

From a policy perspective, the power that financial institutions have over Americans' financial information makes this the right result. Note again the reasons why open banking matters. Consumers need innovative new financial services options. The technology that exists today for cryptocurrency, payment and budgeting applications, and other new services holds immense potential to make Americans' financial lives more convenient and efficient. But, the legacy financial services industry has a monopolistic hold on vast majority of Americans' financial information. That legacy industry has no interest in allowing new services to get any traction at all.

The news in July that JP Morgan Chase was going to charge fintech firms for access to consumers' data demonstrates this clearly.¹² JP Morgan Chase alone serves 84 million individual consumer clients and 7 million business clients.¹³ Even if that were the only bank in the nation to impose these fees, it would block a huge swath of the nation from the rights to access their data.

Access to data, of course, is a key building block to many fintech services, including new cryptocurrency services. Without access to their own data, consumers cannot make use of many of these services in a way that is attractive or practical.

The Center for European Policy Analysis (CEPA) has put the issue succinctly, "Fintech startups depend on access to data in order to offer digital banking, mobile payments, peer-to-peer lending, investment platforms, and other new services. Banks often resist giving account information to potential competitors."¹⁴ The concern for CEPA, as it should be for the United States, is that nations that fall behind on the open banking that will spur innovative financial services in the future will fall behind in many other aspects of the modern economy as well.

Note that the legacy financial services industry will undoubtedly argue that the costs of allowing access to data are too high and it cannot possibly allow access without charging fees. This argument is completely undercut by reality. Financial institutions have a wide variety of income streams from consumers. Just one among those is that they hold consumers' money that has been deposited in their institutions. Financial institutions get the use of that money for lending and a range of other activities – while acting as though it is a burden to be given money. It is not a burden. And, it is common-sense to expect that a basic requirement of holding onto peoples' money is that those people be given access to it, either to get it back when they want it or to get basic information about that money. None of this should be controversial.

In fact, it turns out that the banking industry regularly in most years has higher profit margins than any industry in the nation. The money center and regional banks that dominate

¹² Evan Weinberger and Paige Smith, "JPMorgan Tells Fintechs They have to Pay Up For Customer Data," Bloomberg (July 11, 2025) (available at [JPMorgan Tells Fintechs They Have to Pay Up For Customer Data - Bloomberg](#))

¹³ [Letter to Shareholders from Marianne Lake, Annual Report 2024 | JPMorganChase](#)

¹⁴ Padraig Nolan, "Fintechs Against Finance Fortresses: The Battle for Data Access" CEPA (April 9, 2025) (available at [Fintechs Against Finance Fortresses: The Battle for Data Access - CEPA](#)).

credit card issuing had net profit margins of 30.89 and 29.67 percent, respectively, as of late last year.¹⁵ Those are higher margins than any industry other than tobacco has today. The facts simply do not support the idea that banks can't allow consumers access to their own information without charging fees for it.

The bottom line is that unless the CFPB makes clear that financial institutions cannot charge fees for consumers to exercise their rights to access their own data, the legacy financial services industry will have all the tools it needs to block new innovation in financial services and keep its monopolistic stranglehold on the market.

B. Who May Consumers Authorize to Access Their Information

The Notice also probes how a rule should decide the meaning of the term “representative” in the context of who consumers may authorize to access their information. The language of the statute allows consumers to access their information by means of “an agent, trustee, or representative acting on behalf of an individual.”¹⁶ This is very broad. There is no limitation in the statutory language on who may act as a representative for a consumer in order to access their financial information.

Breadth is important to ensuring that section 1033 will allow for innovation to flourish. What types of services will consumers want to be able to serve them in the future? None of us knows that for certain. Even if the universe is narrowed to one area, like cryptocurrency, there is no way to know the full landscape of services that might yet be invented to allow consumers to transact and manage cryptocurrencies. In order to allow services we cannot imagine to come into being and flourish to benefit consumers, any rule needs to be broad enough to allow consumers to use those services.

Narrowing the definition of “representative” could cut off any number of fintech innovations from participating in the marketplace. Those proposing that a “representative” must have a fiduciary relationship with a consumer likely have exactly that in mind. Financial institutions simply want to artificially limit the types of services that might be able to compete for consumers’ business.

Requiring a fiduciary relationship would narrow the right of access to information beyond recognition. There are very few people that have fiduciary relationships with consumers. In fact, banks do not have a fiduciary relationship to their typical accountholder. Banks act as fiduciaries when they administer trusts or take on special roles along those lines, but not when they simply have an accountholder or lend money. So, narrowing “representative” to those with a fiduciary relationship would prevent a consumer from asking their bank to get access to their financial information from another bank in most instances.

¹⁵ New York University, “Margins by Sector (US),” (available at [Operating and Net Margins](#)). Note that NYU does not have data on that one industry at this time which is why the figures provided are for late last year. Once merchant groups started pointing to the data, it appears that the banking sector no longer wanted to provide its information like other industries do.

¹⁶ 12 U.S.C. 5481(4).

While financial planners, investment advisors, attorneys, and accountants have fiduciary responsibilities to consumers, that is a very narrow universe. It is not what Congress indicated was required for consumers to access their own financial information. There is nothing in the statutory text requiring that a “representative” be a fiduciary. The argument for such a restriction is an argument for undermining section 1033, not following its text, and cutting off financial innovation.

* * *

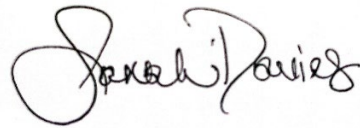
We strongly urge the CFPB to ensure that consumers have the full ability to access their financial information as laid out in the law passed by Congress. Doing this will open the market to financial innovation and allow new services to spread, to the benefit of American consumers and the U.S. economy. That innovation is stifled by a broken market controlled by two credit card networks and legacy financial institutions to the detriment of American consumers and competition, and an injection of innovation is desperately needed lest the U.S. fall further behind other industrialized countries.

We appreciate this opportunity to comment on the Notice and look forward to working with the CFPB as the rulemaking process moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Kantor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Doug Kantor
NACS General Counsel

A handwritten signature in black ink, appearing to read "Sarah Davies". The signature is cursive and stylized, with a large initial "S".

Sarah Davies
IFA General Counsel