

Comment Intake – Financial Data Rights
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

SENT VIA ELECTRONIC MAIL TO 2023-NPRM-DATA-Rights@cfpb.gov

Re: Docket No. CFPB-2023-0052, Required Rulemaking on Personal Financial Data Rights

On behalf of the undersigned organizations, advocates of financial inclusion and economic justice for people living in poverty and for all consumers, thank you for your continued work towards finalizing a rule under Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) that will create a legally binding consumer financial data right and, in so doing, increase competition and lower fees in the financial sector. The Notice of Proposed Rulemaking (NPRM) on Required Rulemaking on Personal Financial Data Rights establishes strong consumer data and safety protections and fosters a competitive and innovative financial services ecosystem. To ensure the rule provides the same rights and protections to consumers who face financial vulnerability and receive public benefits as it does to the affluent, we write to urge the Consumer Financial Protection Bureau (CFPB) to include Electronic Benefit Transfer (EBT) accounts within the scope of the final rule.

The NPRM proposes to include Regulation E asset accounts and Regulation Z credit card accounts within its scope. Covered data providers that hold these accounts will be required to establish and maintain both consumer-facing portals and developer interfaces that will ensure consumers have reliable, consistent, and free access to their financial data, along with the right to share elements of their data with third-party financial tools. As currently proposed, the NPRM would not include EBT accounts as in scope. The impact of such an omission would be to neglect a population who needs the same data access rights and protections as any other consumer, creating inequities for those who use public benefits, and decreasing protections for consumers.

Today, [more than 41 million people across the country rely on Supplemental Nutrition Assistance Program \(SNAP\) benefits](#), distributed and administered through EBT accounts, to feed their families and manage their household finances. These accounts are maintained and administered by for-profit EBT processors that contract with individual states and which currently are not mandated to provide beneficiaries with consistent and reliable electronic access to their transaction and balance information. As a result, EBT accountholders often experience data unavailability and slow connectivity when attempting to access their accounts. In some cases, EBT processors [may intentionally restrict accountholders from using third-party tools](#).

As organizations dedicated to financial inclusion, economic justice, well-being, and security, we are eager to see personal financial data rights include low-income families and families of color across the country. For tens of millions of American families, public benefits are an essential pillar of the household financial portfolio. Programs like SNAP serve the most vulnerable in our country—people who deserve access to their financial data and robust consumer protections to protect them from unfair, deceptive, and abusive practices.

EBT account holders' ability to check their balance or review their transactions is severely limited by [portal outages, a lack of data made available to them within their portal, and slow responsiveness of existing portal infrastructure](#). Because of the inconsistencies that exist in consumers' abilities to access their EBT account balance and transaction data directly from the EBT processors today, third parties have entered the market to provide accountholders alternative ways to access their EBT account balances and view their transaction histories. However, unlike traditional bank accounts, EBT accountholders currently do not have the right to

grant permission to third parties to access their data to help them better manage their public benefits. With only two EBT processors contracting with nearly all states, the [lack of competition among EBT processors](#) leaves little incentive for incumbents to voluntarily address these data access issues, leaving no obvious path other than the CFPB's Section 1033 rulemaking to meaningfully improve EBT account holders' data access rights.

EBT accounts perform the same function for households with low-income as do checking accounts, which are covered under the NPRM: they power daily, or near daily, transactions. People who receive these benefits typically spend down the account balance to zero each month. Accessing data about account balance is a frequent and essential need for these households. In the past two years, [EBT accountholders have been the victims of a national wave of theft and fraud](#), as organized crime rings have exploited a lack of modern security requirements in EBT cards. Ensuring reliable electronic data access to empower consumers to identify fraudulent transactions and promote the use of tools like card-locking is an essential step to promoting the security of EBT accounts, and the well-being of these vulnerable households. Providing recipients of SNAP benefits with the opportunity to easily review their account balances in real-time can help expediate the discovery of theft, and ultimately expediate the household receiving their replacement benefits. Otherwise, there is a risk of EBT users not discovering they were the victims of theft until they are at the checkout counter at the store with a cart full of groceries. Providing users with their financial data creates a more empowering and efficient experience for everyone.

A Section 1033 rulemaking that fails to include EBT accounts would create an unjust, two-tiered financial services system in which Americans who have lower incomes and who rely on EBT accounts to manage their household finances would be provided with meaningfully fewer rights and protections than wealthier consumers. Including EBT accounts in the final personal consumer financial data rights rule would provide EBT accountholders with the assurance that they can access their information at no cost via a developer interface that is required to maintain a commercially reasonable performance so that third parties adhere to data privacy, consumer consent and disclosure, and data usage standards. Recipients of public benefit programs like SNAP deserve the same financial protections as all other consumers, and the CFPB should include such protections in the current rulemaking to promote equity and fairness.

EBT accountholders routinely experience unreliable, unpredictable, and often restricted access to their account balance and transaction data. Amidst this dire data access environment, EBT accountholders don't have the luxury of waiting for future CFPB rulemakings to gain the same personal financial data rights and protections as wealthier consumers. The Bureau has an obligation to ensure that consumers who rely on public benefits receive equitable treatment under Section 1033 of the Dodd-Frank Act in the initial rule the CFPB intends to finalize next year.

Thank you for your work on the Section 1033 rulemaking, which will promote a stronger, fairer, and more competitive financial services marketplace with the inclusion of EBT accounts in the final rule.

Sincerely,

Vanna Cure
Associate Director, Advocacy