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Comment Intake
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

SENT VIA ELECTRONIC MAIL TO [Financial Data Rights SBREFA@cfpb.gov](mailto:Financial_Data_Rights_SBREFA@cfpb.gov).

**Re: Outline of Proposals and Alternatives Under Consideration for SBREFA:
Required Rulemaking on Personal Financial Data Rights**

Morningstar ByAllAccounts appreciates the opportunity to respond to the Consumer Financial Protection Bureau's outline of proposals and alternatives under consideration for the bureau's Small Business Regulatory Enforcement Fairness Act panel in support of its rulemaking implementing Section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Morningstar is a leading provider of independent investment research, has a long history of advocating for transparency in global markets, and brings several perspectives to the proposed rule. Morningstar's mission is to help investors reach their financial goals. ByAllAccounts pioneered data aggregation for investment use cases in 1999, maintaining that dedicated focus through to today. Morningstar acquired ByAllAccounts in 2014, adding investor- and advisor-level data to its market data capabilities. As such, Morningstar ByAllAccounts is uniquely qualified to understand and satisfy the precise wants and needs of investors and the financial professionals that serve them.

For over 38 years, we've worked to empower investors to make confident investment decisions and achieve financial security. We believe that investing should be accessible to all consumers and that the best way to ensure positive investment outcomes is via personalized advice from competent and authorized financial advisors. The best financial advice incorporates each consumer's financial assets, liabilities, income, demographics, and preferences to craft and implement personalized strategies and plans to balance risk and opportunity to deliver positive outcomes.

We have several suggestions to improve on the work that the CFPB has done in advance of rulemaking. First, we believe the rule should be clear that financial advisors—both broker/dealer representatives and Registered Investment Advisors—should be able to act as authorized agents of an investor in aggregating financial data. Second, we believe screen-scraping should continue to be permitted under certain conditions. Finally, we encourage the CFPB to look for ways to expand the scope of the rule and to take the opportunity to coordinate with other agencies such as the Department of Labor to include more account types in a coherent, harmonized regulatory structure.

Financial Data Aggregation Helps Investors and Consumers Manage Their Finances

We applaud the CFPB for taking an important first step in setting clear rules of the road for financial data aggregation. Since Dodd-Frank passed in 2010, many investors and consumers have come to rely on data aggregation services, along with financial advisors who use these tools to serve their clients more efficiently and effectively.

Consumers engage in multiple financial behaviors every day: spending, saving, borrowing, investing, and protecting. Many consumers also engage in charitable giving, while others receive the benefits of subsistence programs. In all these behaviors, consumers use, create, and influence financial data about themselves that can relate to the outcome of the behavior. Access to this data by the consumer should be a basic right, as should the ability for them to share the data with the parties the consumer has selected as best suited to help them manage their financial activities and performance. For these reasons, Morningstar wholeheartedly agrees with the bureau's efforts to establish and enforce these rights for the consumer. We are pleased to add our perspective of how rulemaking can best benefit the consumer in their persona as an investor.

Financial data aggregation can also promote competition by helping investors see exactly what they are getting (and paying for) across their financial accounts. Investors today are faced with an almost overwhelming choice of investment options across stocks, bonds, currencies, commodities, and alternative assets classes. While these investors seek to maximize their positive outcomes and minimize their risk, they also look for their investing behaviors and choices to align with their values and preferences. Financial data aggregation tools promote competition and facilitate personalized investing, spurring innovation and competition.

The Final Rule Should Include Explicit Language for Financial Advisors Accessing Data as Authorized Agents

Morningstar is focused on both enabling and protecting consumers in their savings and investment activities. We believe that investing should be accessible to all consumers, and we know that one way to generate positive investment outcomes is via personalized advice from competent and authorized financial advisors. Robust financial advice incorporates each consumer's financial assets, liabilities, income, demographics, and preferences to craft and implement personalized strategies and plans to balance risk and opportunity to deliver positive outcomes. Financial advisors are stewards and guides for their clients and have legal obligations to act in their clients' best interests.

We serve two kinds of advisors—broker/dealer representatives and Registered Investment Advisors—both of which we believe meet the definition of Dodd-Frank section 1002(4). Registered Investment Advisor-licensed brokers operate under enforced compliance requirements to protect their clients from intentional and unintentional harm. They must meet Gramm-Leach-Bliley Act obligations for data security and privacy as well as SEC, Finra, and state regulators' rules for safeguarding their client's information and assets as well as third-party risk management of service providers. For these reasons, Morningstar believes Registered Investment Advisors and broker/dealers meet the consumer definition of Dodd-Frank Act Section 1002(4) as they are "an agent, trustee, or representative acting on behalf of an

individual” and should be treated as such under the rules. Acknowledgement of the consumer’s relationship with their advisor will greatly streamline enforcement of the rules by the bureau, data providers, and aggregators. The legal terms of the advisor’s engagement will also provide overarching governance of issues contemplated by the bureau such as disclosures, data retention, and secondary use.

The CFPB Should Permit Screen-Scraping in Some Circumstances

Screen-scraping is a viable technology practice used by responsible parties to accommodate a variety of data types and providers. While APIs and other direct-access methods can be preferable, most bank-published APIs in the United States are not fully compatible in data parity nor in terms of service quality to the consumer-direct sites by these same institutions. To accommodate the practical aspects of the rule’s implementation and enforcement without further disadvantaging consumers, the rules should allow screen-scraping for a reasonable period of time based on objective considerations of the data provider (for example, size), the volume and types of data to be consumed, and the type of consumer of that data (that is, unregulated versus regulated recipient).

The use of screen-scraping as a financial data collection mechanism is not synonymous with the use of consumer credentials, as the bureau points out. However, these two are conflated for commercial or political purposes. The use of alternative credentials, whether a static read-only password or OAuth, significantly reduces the security and privacy risks of granting access to consumers’ accounts. This risk is further reduced in regulated use cases, such as financial advice, by the enforced compliance regime.

The CFPB Should Expand the Definition of Covered Providers and Coordinate with Other Regulators to Promote the Benefits of Its Rulemaking

The current scope of the rulemaking is insufficient in the types of accounts to which this right will apply, exposing investors to an uneven regulatory landscape that will lead to data disparities, asymmetries, and gaps in certain types of accounts but not others. In addition to retail bank accounts, the CFPB should revisit covering brokerage accounts and should also coordinate with the Department of Labor so that similar rules apply to Erisa-covered retirement accounts. It could also be helpful to coordinate with the National Association of Insurance Commissioners regarding aggregation for annuities and insurance accounts. These efforts would help consumers receive a full picture of their financial situation, share it with their advisors, and track their financial progress in support of key milestones such as retirement. These recommendations are consistent with those made by the Department of the Treasury in its 2018 report, *A Financial System That Creates Economic Opportunities: Nonbank Financials, Fintech, and Innovation*¹, which stated, in part, that the U.S. should adapt regulatory approaches to changes in the aggregation, sharing, and use of consumer financial data and to align the regulatory framework to combat unnecessary regulatory fragmentation. Without a consistent set of rules, we believe there will be significant harm to consumers, as many of their providers are already limiting access for specious reasons. Ultimately, including

¹ https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation_0.pdf

all financial account types in a set of harmonized rules is necessary to ensure consumers maintain the opportunity for financial stability by making investment decisions right for their condition, needs, and goals.

On behalf of Morningstar ByAllAccounts, I thank you for your consideration of our submission in response to the SBREFA outline and for your continuing engagement on behalf of consumers across all their financial behaviors.

Sincerely,

Brian J. Costello

Brian J. Costello
Head of Data Aggregation Strategy & Governance