October 21, 2025

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

Submitted via regulations.gov

Re: Section 1033 of Dodd-Frank Act; Docket No. CFPB-2025-0037

Dear Mr. Vought:

FMI – The Food Industry Association (FMI) welcomes the opportunity to comment on the advanced notice of proposed rulemaking (ANPR) regarding *Personal Financial Data Rights Reconsideration*, section 1033 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) known as open banking *(Docket No. CFPB-2025-0037)*. FMI and our members support increasing competition in consumer payments, including the continuance of an open banking system. Open banking is beneficial in fostering competition, increasing consumer choices, and providing Americans with more control over their financial data.

As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain – from retailers that sell to consumers, to producers that supply food and other products, as well as a variety of companies providing critical services – to amplify the collective work of the industry.

A collective of FMI's membership manufactures, distributes, and sells food and consumer goods that are found in pantries, refrigerators, medicine cabinets, and laundry rooms across the country. Our retail members, which range in size from independent operators to regional and large national and international businesses and brands, operate 45,000 grocery stores and 12,000 supermarket pharmacies. The food industry produces and supplies over 30,000 different food and consumer good products found on store shelves, employs over 6.3 million individuals, and ultimately touches the lives of more than 100 million U.S. households per week.

Food retailing is a diverse industry that presents a unique set of challenges, considering the numerous daily functions a single store provides to its customers and communities. Grocery stores are the hub for everyday food and consumer goods, operating pharmacies that dispense

life-depending medications, vaccines, and flu shots, and serving the community of Americans who rely on critical food assistance programs like the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These functions involve millions of financial transactions every day.

Food retailers support bolstering payment options for our customers who want increased financial choices and payments innovations to help our slim-margin industry keep inflationary and operational costs in check. The grocery industry is among the most competitive in our economy. Grocers negotiate prices on every product they sell and every service they use with vendors and operate on razor-thin profit margins – about 1.7 percent on average. Grocers are doing everything possible to avoid passing inflationary costs onto shoppers. Competition in the grocery sector is fierce, and the battle for market share helps keep prices down for shoppers.

As more grocery customers have progressively increased their use of credit and debit cards over time, grocers' operations costs have been squeezed. Every time a credit card is used for a purchase, a merchant is charged an interchange transaction/swipe fee by the credit card networks and the nation's largest banks which is on average 2-4 percent of the purchase price. This means that often Visa, Mastercard, and the nation's largest banks are making more of a profit from grocery purchases than the store does. Visa and Mastercard-branded credit card swipe fees on merchants and consumers in 2024 totaled $111.2 billion, according to the *Nilson Report*[1] – an increase of more than 10 percent in just one year and nearly triple what the fees were in 2014. U.S. grocers and other merchants pay the highest swipe fees in the industrialized world.

According to FMI's most recent Food Retailing Industry Speaks survey[2], 80 percent of purchases in 2024 were made with a credit or debit card. Grocers have tried numerous approaches and have no ability to negotiate with Visa and Mastercard on contract terms and the cost of accepting this form of payment for their customers. Swipe fees that grocers must pay to accept credit and debit cards are the highest operating cost after labor and rent. The development of competitive payment choices in an open banking market, as alternatives to traditional credit and debit cards, can provide grocery customers with options and grocery retailers with relief from high swipe fees. Grocers have worked hard to stay on top of rapidly changing shopper preferences for "frictionless" checkout experiences and, as such, have moved to offer scan-and-go technology and acceptance of mobile payments like store-created wallets and QR codes. Of respondents to our Speaks survey, 95 percent reported accepting mobile payments.

An inhibitor to competition and innovation in consumer payments is a system that allows the nation's largest banks to overrun this market, like they have done so in the credit card market[3].

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[1] *Nilson Report* 1281, March 2025

[2] The Food Retailing Industry Speaks 2025

[3] *Mass Market Retailers* "Merchants demand swipe fee reform as banks rake in record profits," July 16, 2025

This summer, JPMorgan Chase announced[4] it would charge fees to financial technology companies for access to consumer financial data, a move that runs counter to the intention of open banking. As discussed in a letter to President Donald Trump[5] sent by FMI and other main street merchant organizations, "[t]hese excessive fees erect significant barriers for consumers, making it more difficult and costly for them to access and use their own financial data according to their needs and preferences. These fees, particularly those levied on payments-related data transfers, are designed not to recover costs but to crush competition. The big banks' intent is clear: inflate the cost of alternative financial services and protect the banks' entrenched dominance – particularly in the high-margin credit card industry."

In conclusion, FMI supports fostering and developing innovative payments solutions in an open banking market to provide grocery customers with choice and help retailers in the slim-margined food industry alleviate burdensome credit and debit swipe fees.

Sincerely,

Christine Pollack
Vice President, Government Relations

[4] *Payments Dive* "Fintechs blast JPMorgan over data fees," July 15, 2025
[5] Letter to President Trump on open banking, July 28, 2025