



July 13, 2023

By electronic submission to:

Comment Intake— Request for Information Regarding Data Brokers
c/o Legal Division Docket Manager
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Re: Request for Information Regarding Data Brokers and Other Business Practices (Docket No.: CFPB-23-0020)

Dear Sirs and Madams:

The Online Lenders Alliance (OLA) is pleased to submit comments in response to the Consumer Financial Protection Bureau's (CFPB) Request for Information Regarding Data Brokers and Other Business Practices. We appreciate the opportunity to provide our perspective on this topic.

About OLA

OLA represents the growing industry of innovative companies that develop and deploy pioneering financial technology, including proprietary underwriting methods, sophisticated data analytics and non-traditional delivery channels, to offer online consumer loans and related products and services. OLA's members include online lenders, service providers to lenders, consumer reporting agencies, payment processors, online marketing firms and data brokers. Fintech companies are at the vanguard of innovative online tools that reach new customers, prevent, and mitigate fraud, manage credit risk, and service loans. As technology evolves and the public's consumer comfort with online financial transactions grows, protecting consumers will be more important than ever. OLA is leading the way to improve consumer protections, with a set of consumer protection standards to ensure that borrowers are fully informed, fairly treated, and using lending products responsibly. To accomplish this, OLA members voluntarily agree to hold themselves to a set of Best Practices, a set of rigorous standards above and beyond the current legal and regulatory requirements. These are standards that OLA members, the industry, and any partners with whom OLA members work use to stay current on the changing legal and regulatory landscape. OLA Best Practices covers all facets of the industry, including advertising and marketing, privacy, payments, and mobile devices. Most importantly, OLA Best Practices

are designed to help consumers make educated financial decisions by ensuring that the industry fully discloses all loan terms in a transparent, easy-to-understand manner.¹

Much of the innovation undertaken by OLA members has given consumers greater control over their financial future. This is especially the case when it comes to access to capital. Whether purchasing a home, starting a business, financing an education, or even paying for auto repairs, the ability to find and secure credit is often a determining factor in a consumer's financial wellbeing. Online lenders provide benefits to consumers, particularly those in underserved communities, with fast, safe, and convenient choices that simply are not available through traditional lending markets.

Introduction: Role of Data in Credit Availability

The ability to secure credit plays a role in every major consumer financial decision. Whether purchasing a home, starting a business, financing an education or even paying for auto repairs, the ability to find and secure credit are often determining factors. Many individuals face barriers to accessing credit due to issues like late payments, a lack of a credit history, or difficulty documenting income. These and other barriers pose elevated risk for the lender and result in higher interest rates and fewer credit options.

For decades, a large share of the credit decisions made by lenders was predicated on a consumer's credit score from one of the big three credit bureaus. However, many traditional credit scores do not provide the full picture of a consumer's credit history. Many consumers have credit data – just not the type of data that the major credit bureaus track and record. Data brokers have been able to bring this information to the forefront, helping to provide a more complete picture of a consumer's credit history.

A cell phone payment, checking account activity, utility payments, and rent, as well as other everyday transactions, are all part of the growing alternative data efforts pioneered by data brokers. When these items are teamed with compliant modeling techniques, they become a powerful tool in helping consumers secure loans and finetuning borrowers' credit reports.

Types of Data

The information accessed by data brokers has become an important element in creating an environment that gives consumers greater opportunity to secure credit, finding products that best suit their needs, protecting them from fraud, and helping them avoid unnecessary costs. This data can take many forms.

ID Verification: Shopping for financial products increasingly has moved online, with many of the traditional interactions between lender and borrower disappearing. Gone are the days when prospective borrowers went to their bank for a loan, which allowed the institution to determine some level of proof that the individual was who they said they were. While the elimination of this step has given consumers more flexibility, it has also created an element of uncertainty for the lender. The information provided by data brokers that utilize consumer information, coupled

¹ Online Lenders Alliance Best Practices <https://onlendlendersalliance.org/best-practices/>

with compliant modeling, has filled this void. Through modeling that checks Social Security numbers against birth dates, addresses and death records, this process plays a valuable role in determining the validity of the potential borrower.

Performance Data: Data brokers provide grouping of information used in modeling that tracks regular consumer transactions to create patterns that successfully project a borrower's potential creditworthiness. OLA members have led the way in using everyday transactions, such as cell phone bills and internet payments, coupled with rent and other utilities, to discern patterns that have shown themselves to be very accurate and predictive of a borrower's credit habits.

Bank Account Information: A very useful data point has been available for decades: a borrower's bank account history. Using technology to examine account balances, transactions and items such as returned checks, allows for the construction of a more definitive picture of a potential borrower.

Social Media: The most-cited example of alternative data – social media, including Facebook – has had limited impact in the financial sector. The alternative data community continues working to gauge how best to utilize this vast dataset.

The Role that Data Plays in Credit Decisioning

Across the financial services industry, lenders are looking for opportunities to extend credit to deserving consumers. Data brokers are helping lenders augment a borrower's lending file to create a more predictive profile of a potential loan applicant's ability to repay. Data plays a number of roles in the credit approval process:

Impact on Credit Score: For many in the lending community, the alternative data provided by data brokers has become an additive allowing lenders to approve loan applications for borrowers whose FICO scores are below a banking institution's traditional threshold.

Supporting Credit Determinations: For the short-term lending market, alternative data may be a primary determinant. As opposed to lenders who use traditional data to augment a credit score for a mortgage or auto loan, short-term lenders are not pulling from those sources. This makes the information provided by data brokers a key component in credit determination.

The Industry's Use of Information Provided by Data Brokers

The benefits of this alternative data extend beyond increased credit availability to consumers. It also helps the industry through cost savings, increased efficiency, and improved operating structure.

Fraud Prevention: As previously noted, cross-referencing Social Security numbers with the borrower's date of birth, addresses and death record has become a regular first check for fraud. Data brokers have developed models to analyze patterns in credit applications that often can flag potentially fraudulent activity.

Enhancement of Credit Models: Lenders use information from data brokers to tailor credit risk, enhancing a lender's ability to approve a borrower's application.

Improved Risk Detection: Alternative data has been useful in identifying marketplace trends that lenders use to insulate themselves against future losses. By analyzing data like borrowers' credit shopping history and loan performance, lenders gain a better understanding of the credit market.

Benefits to Consumers

By unlocking and improving credit access, the information collected by data brokers provides significant benefits to millions of Americans.

Improved Terms and Conditions: Alternative data can be used in conjunction with traditional credit scores to round out a borrower's profile. Research by LexisNexis found that when alternative data is factored into a borrower's existing credit history, 20 percent of borrowers qualify for a loan with better terms and conditions, providing greater financial flexibility to the consumer.

Financial Inclusion: One of the unique aspects of this new information is data brokers' ability to layer varying levels of data to improve a consumer's credit risk profile from previous years enabling them to qualify for credit.

Access to Broader Range of Products: A wider universe of data provided by data brokers can create more complete customer profiles, allowing financial institutions to anticipate customer needs. This data can also play a role in developing new products: it has spurred new working relationships between banks and data brokers, resulting in new products that expand consumers' choices.

Education: A key factor in enabling this new data to reach its full potential will be educating consumers on the role alternative credit data plays in their chances of getting credit and moving up in the credit spectrum. Most underbanked consumers need this financial education. It will be incumbent on the industry, consumer groups and regulators working together to ensure greater emphasis is placed on helping consumers understand the role that the information provided by data brokers plays in a consumer's financial health.

Risks

It is essential that the information provided by data brokers is fair, accurate and verifiable. As with any new or evolving sector, there will be challenges. The growth of data brokerage is no different.

Privacy: As with any online transaction, privacy and the ability to protect consumers is always paramount. It's why privacy is a key component to the OLA Best Practices, which all members must follow, setting standards above current legislative and regulatory benchmarks.

Data Quality: One of the early concerns around the work of data brokers was the quality of the information they accessed. As the internet has become increasingly ubiquitous, data reliability has improved, along with the sources of information. This increased flow of information, combined with the development of next-generation systems created exclusively to work with these new forms of data, has addressed many of the earlier challenges. Still, unlike the traditional data used by the big three credit bureaus, this data may vary in the type of information captured. One solution to this challenge – something that OLA members have pioneered – is partnering with consumers, empowering them to have control over their own data. This is accomplished through instituted mechanisms by which consumers can input data that may be missing from

their records. This increases the likelihood of gaining a complete and comprehensive financial picture, improving the overall quality of data.

Unintended Impact on Protected Classes: The online lending process, based on its models and algorithms, can guard against some of the unintended biases that may creep into traditional lending transactions. Still, it is important to constantly monitor how data is mined and used to ensure it is not having a negative impact on a particular group of borrowers.

Impact on Markets

The growing use of all forms of data has been one of the most significant trends impacting the financial services industry in the past decade. It has helped to realign lending markets and provides growth opportunities.

Access to New Borrowers: Many traditional credit reports operate by employing an accounting-style ledger, creating potential borrower credit profiles. At one time, this was the best measurement of an individual's ability to repay. Today, however, due to job market shifts and consumer purchasing habits, this form of evaluating a potential borrower may not always be the best indicator. The information that data brokers provide can open more applicants to more credit offerings at competitive rates. The group that has benefited the most are younger consumers, ages 18-25, who are new to the credit world. This has allowed lenders to gain a better understanding of changes in this group's borrowing habits, that if examined exclusively through traditional credit models, could negatively skew their profile.

Improved Competitive Positioning: No two financial institutions use alternative data in quite the same way. Lenders have developed unique and proprietary models predicated on varying data points and approaches. Each company is looking to strike the right balance to unlock potential new lending opportunities and expand the institution's borrower pool while managing risk.

Supporting Secondary Markets: Many online lenders, especially those engaging in small business lending, rely on the ability to sell loans or portions of loans, to replenish capital. Data brokers are working to help increase investor confidence on the secondary market, providing additional information on the potential performance of a loan.

Barriers to Future Growth

While information provided by data brokers is playing a significant role in making credit available to millions with limited credit options, there are potential barriers to this sector's future growth. Many of the statutes that govern credit decisioning, like the Fair Credit Reporting Act, were not written to account for this new age of data and have shown themselves to be inflexible in the face of innovation. This in turn creates uncertainty with regulators who at times have been overly cautious, or communicated inconsistently with lenders on the roles that new forms of data can play.

Regulators need to take a modern view of credit markets when examining enforcement actions. If lenders interpret the messages regulators send as necessitating higher compliance costs, they will pull back on finding new and innovative ways to serve consumers, especially those historically locked out of the credit market.

Conclusion

The information provided by data brokers plays an increasingly invaluable role for the entire financial service ecosystem by expanding consumer choices and allowing lenders to expand their offerings. While much of this data, whether it's cell phone payments, rent, or checking account activity, may seem commonplace, it is emerging as a key factor in helping lenders understand the full credit history of a potential borrower.

While the greatest benefit of alternative data is to provide capital to consumers whose traditional credit history may not qualify them for a loan, its impact extends well beyond that, through reducing fraud, lowering defaults, improving efficiencies, and reducing the overall costs of providing loans.

Although this information is often labeled as "alternative," there is in fact nothing alternative about transactions that take place every day, in every community. The paradigm shift is the work that data brokers are doing to unlock innovative ways to employ the information, along with modeling techniques that provide a more complete and accurate picture of a borrower's credit profile. Greater use of these products helps lenders make more accurate credit decisions that will translate into better credit options for consumers.

Consumers' desire to have cutting edge financial products has played an important role in driving market development and should continue to be encouraged. OLA members support the growing use of alternative data and a balanced regulatory approach to govern its use. This will be a critical component in efforts to enable greater consumer control over their financial choices, ultimately improving their financial health.

The members of OLA appreciate the opportunity to share our views. We look forward to working in a collaborative manner to reduce barriers to credit and enhance consumer financial options.

If you have questions or would like additional information, I can be reached at mday@oladc.org

Thank you.

Michael Day
Policy Director
Online Lenders Alliance