

March 15, 2019

The Honorable Michael Crapo  
Chairman  
Committee on Banking, Housing, and Urban  
Affairs  
United States Senate  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and Urban  
Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the American Financial Services Association (AFSA)<sup>1</sup>, thank you for the opportunity to comment on the collection, use, and protection of sensitive financial information, as well as legislative proposals that Congress can enact to avoid future security breaches. AFSA recognizes the importance of data security and privacy for consumer information and appreciates the committee's work on these issues.

Financial institutions are subject to privacy and data breach notification requirements under the Gramm-Leach-Bliley Act (GLBA), as well as under state law. The GLBA requires financial institutions to clearly disclose their privacy policies, allowing consumers to make informed choices about privacy protection. Consumers must be informed if their financial institution shares or sells personal financial data, either within the corporate family or with an unaffiliated third party; consumers also have the right to opt of such information sharing with unaffiliated third parties. Under the Act, federal financial regulators and the Federal Trade Commission established standards for financial institutions relating to administrative, technical, and physical safeguards for consumer information and gave regulators the ability to issue rules and exercise their full range of authority in case of violations.

In order to provide significant and consistent data protection for all consumers, Congress should impose a single, federal, risk-based standard through legislation. Inconsistent state laws regarding data security and the lack of a national standard for businesses have resulted in uneven consumer protection, as well as higher compliance costs for financial institutions. Congress should adopt a national risk-based standard, under which all entities handling sensitive consumer information should be subject. The standard should be enforced on a sliding scale, similar to Gramm-Leach-Bliley standards, so that the size and complexity of businesses are taken into account.

With respect to notifications in the wake of a security breach, federal requirements should limit notice to situations in which there is a significant risk that sensitive consumer information obtained in a security breach will be used to commit identity theft or fraud. Data security

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<sup>1</sup> Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

breaches do not automatically result in identity theft or account fraud. Therefore, if there is no significant risk to the consumer's identity or other personal data, a one-size fits all notification requirement could mislead consumers to think such data has been maliciously accessed when in fact a breach may not involve personally identifiable data at all. Any federal requirements should recognize and account for the varying degrees of risk to the consumer.

We applaud the passage last year of credit freeze legislation, allowing consumers, particularly vulnerable Americans whose data may have been compromised, to place, temporarily lift, or remove a credit freeze. A national credit freeze law brings consistency to consumers over the various state laws, and a national standard for data security should be the next step.

Thank you for the opportunity to comment on these important issues. We look forward to working with you on meaningful data security legislation.

Sincerely,

A handwritten signature in black ink that reads "Bill Himpler". The signature is written in a cursive, flowing style.

Bill Himpler  
President-Elect  
American Financial Services Association