

January 5, 2018

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
Washington, DC 20515

The Honorable Bob Latta  
Chairman  
Subcommittee on Digital Commerce and  
Consumer Protection  
Committee on Energy and Commerce  
Washington, DC 20515

Dear Chairman Walden and Chairman Latta:

On behalf of the American Financial Services Association (AFSA)<sup>1</sup>, I would like to take this opportunity to comment on data security and legislative proposals that Congress can enact to avoid future security breaches.

Financial institutions are subject to privacy and data breach notification requirements under Gramm-Leach-Bliley, as well as under state law. However, consumers remain vulnerable to identity theft and fraud because of personal and financial data breaches commonly occurring at retailers and other businesses. Meaningful protections and reform will require cooperation by all parties.

In order to provide significant and consistent data protection for all consumers, Congress should impose a single, federal, risk-based standard. 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, 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. If there is no significant risk, notification could simply frighten or confuse consumers and might lead to ambivalence when an actual threat is present.

In addition to increased federal standards on data security, Congress should enact a federal credit freeze law. This would allow consumers, particularly vulnerable Americans whose data may have been compromised, to place, temporarily lift, or remove a credit freeze. A national credit freeze law would bring consistency to consumers over the various state laws, thereby providing more protection for consumers.

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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.

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

Sincerely,

A handwritten signature in black ink that reads "Bill Himpler". The signature is written in a cursive style with a large, prominent initial "B".

Bill Himpler  
Executive Vice President  
American Financial Services Association