

October 30, 2020

Donna Sembroski
Office of Attorney General Curtis Hill
302 West Washington Street
IGCS-5th Floor
Indianapolis, IN 46204

Re: LSA # 20-366 – Safe harbor standards

Dear Ms. Sembroski:

On behalf of the American Financial Services Association¹ thank you for the opportunity to provide comments on the Attorney General’s proposed rules to establish safe harbor standards for a database owner’s duty to implement and maintain a data security plan and setting out procedures for notifying the AG and implementing corrective action in case of a breach of security data (LSA # 20-366).

Our members share the state’s goal of protecting sensitive data and appreciate clear proposed standards with a safe harbor for companies complying with longstanding privacy standards. While we generally support the safe harbor standard proposed in the rule, and the list of various NIST frameworks and existing federal standards, we believe the list of standards should be expanded to include the federal Gramm-Leach-Bliley Act (GLBA).

Similar to the Fair Credit Reporting Act and other federal laws included in the proposed regulations, the GLBA is a comprehensive federal privacy standard that sets forth requirements regarding the treatment of nonpublic personal consumer information by financial institutions. Importantly, GLBA is included in *IC 24-4.9-3-3.5*—referred to here as the federal Financial Modernization Act of 1999. Including GLBA in the proposed rule’s safe harbor would be consistent with state law and ensure that Indiana’s standards for sensitive financial data are in line with those of the federal government and other states.

In addition, Section 3(a) of the proposed rule would require a certification within 30 days of the required disclosure that a corrective action plan was “developed and implemented.” The word “implemented” could be interpreted to mean the corrective action plan has been fulfilled or completed within that 30-day period which may not be possible. We ask that this phrase be changed to “developed.” The text in Section 3(a) that permits updates to be required as well as audits to be performed allows implementation to be confirmed.

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki".

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association