

June 24, 2024

The Honorable Cathy McMorris Rodgers
Chair
Committee on Energy & Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair McMorris Rodgers and Ranking Member Pallone:

The American Financial Services Association (AFSA¹) has long supported a federal privacy law that is comprehensive and fully protects American consumers and appreciates the work that the Energy and Commerce Committee is doing to develop legislation. However, AFSA has concerns with the American Privacy Rights Act (APRA) of 2024 as it is currently drafted and is proposing changes which will protect the ability of financial institutions to best serve their customers, while continuing to provide strong data privacy.

At the outset, AFSA would like to emphasize that regulated financial institutions are already subject to privacy and data security consumer protection requirements under Title V of the Gramm-Leach Bliley Act (GLBA). The GLBA established stringent data security requirements that financial institutions must comply with in order to safeguard the confidentiality and privacy of their customers. The privacy requirements include the disclosure of how consumer information is collected or shared and providing consumers the option to opt out of third-party data sharing.

The APRA seems to fail to consider compliance with the GLBA's strong privacy and data security requirement. Certain provisions are either duplicated or inconsistent with the APRA. Consequently, AFSA is asking that the APRA be amended to include a provision which clearly exempts all GLBA regulated institutions at an entity level. This will avoid unnecessary and conflicting requirements, which could lead to an interruption in the consumer data practices which are already in place.

Further, AFSA is concerned with how the APRA's enforcement system is structured. Currently, the APRA's proposed enforcement system will allow for different judicial interpretations of the law. The private right of action included in the APRA covers both compensatory damages and attorneys' fees. AFSA is concerned that this will only encourage an increase in trivial lawsuits or time-consuming class action suits. AFSA appreciates the importance of national privacy

¹ Founded in 1916, the American Financial Services Association (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.

standards. Under private right of action, however, states will eventually have different privacy protections based on their judicial interpretations. To avoid further fracturing national privacy laws and encouraging time-consuming, inconsequential lawsuits, AFSA is asking that the enforcement provision of APRA should be amended.

AFSA is highly supportive of legislation that creates a federal standard of consumer privacy protection. Such legislation should ensure that financial institutions that already comply with strong data privacy and security requirements under the GLBA have a clear exemption. This will avoid inconsistent requirements and ensure that there is no interruption in data privacy for consumers. It must also have an enforcement system that works with appropriate state or federal regulators and prevents the possibility of improper interpretations of the law. We urge the Committee to address these concerns before moving forward with this legislation.

Thank you for the opportunity to comment, and please feel free to contact me at 202-776-7300 or cwinslow@afsamail.org with any questions.

Sincerely,



Celia Winslow
Senior Vice President
American Financial Services Association