



Credit Union National Association

cuna.org

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June 3, 2009

The Honorable Bobby Rush
Chairman
Subcommittee on Commerce, Trade
and Consumer Protection
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable George Radanovich
Ranking Member
Subcommittee on Commerce, Trade and
Consumer Protection
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Rush and Ranking Member Radanovich:

On behalf of the Credit Union National Association (CUNA), I am writing regarding H.R. 2221, the Data Accountability and Trust Act. CUNA represents nearly 90 percent of America's nearly 8,000 state and federally chartered credit unions and their 90 million members.

Data security breaches have negatively impacted credit unions and their members, exposing their members and consumers to identity theft and fraud and exposing credit unions to "reputation risk" and actual monetary costs. While we have significant concerns regarding this legislation, we generally applaud legislation aimed at giving consumers more information when their personal information has been compromised, and we would like to work with you on this legislation as it moves to the full committee for consideration.

H.R. 2221 would set nationwide requirements for businesses to notify affected individuals when a breach of data security results in unauthorized parties gaining access to their personal data. While well-intentioned, we are concerned that Section 3 of the legislation does not adequately address the notification issue. The entities that have experienced data breaches in recent years do not typically have the necessary contact information to reach the individuals whose accounts may have been compromised; however, the financial institutions of affected accountholders certainly do.

We would encourage you to consider language providing for the notification to be done by the financial institutions of the affected accountholders at the expense of the entity that has lost the data. Credit unions currently do this at their own expense for members when they are notified of breaches by the merchant or card associations. They have the contact information, but should be compensated for the expense caused by the data breach. Further, we would encourage you to include language that permits the financial institutions to disclose the source of the breach or loss to affected accountholders. Without being able to disclose the source, credit unions are exposed to reputation risk—the loss of confidence in the credit union by the members—in addition to actual monetary costs.



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H.R. 2221 also would require entities that electronically store personal information to implement procedures to protect against security risks, similar to the procedural requirements currently in place for financial institutions under the Gramm-Leach-Bliley Act (GLB). The bill includes language in Section 2(a)(3) that gives the Federal Trade Commission flexibility to deem in compliance with the regulations ordered promulgated under this legislation any entity, "that is required under any other Federal law to maintain standards or safeguards of information security and protection of personal information that provide equal or greater protection than those required," under the bill. We would like to work with you on language that more explicitly exempts financial institutions that are currently under the jurisdiction of another federal regulatory agency for the purposes of privacy law compliance, including federally-insured credit unions which are regulated by the National Credit Union Administration.

We applaud efforts to reduce data breaches, increase data security and ensure that consumers are notified not only that a breach involving their personal information has occurred, but also the source of the breach. While we cannot support this legislation in its current form, we would like to work with supporters of the legislation to improve it as it makes its way through the legislative process.

On behalf of America's credit unions, thank you very much for your consideration.

Sincerely,

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

Daniel A. Mica
President & CEO

cc: The Honorable Henry Waxman, Chairman, Committee on Energy and Commerce
The Honorable Joe Barton, Ranking Member, Committee on Energy and Commerce