Credit Union National Association
CUNA

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The Honorable Chairman Roger Wicker
Chairman
Senate Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20515

The Honorable Maria Cantwell
Ranking Member
Senate Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20515

Dear Chairman Wicker and Ranking Member Cantwell,

On behalf of America's credit unions, I am writing regarding the Committee's hearing titled, "Revisiting the Need for Federal Data Privacy Legislation." The Credit Union National Association (CUNA) represents America's credit unions and their more than 120 million members.

We appreciate the Committee's commitment to heightening privacy and data security protections for all Americans. This hearing's focus on the current state of consumer data privacy and legislative efforts along with assessing state privacy laws in the U.S. and the E.U. General Data Protection Regulation should provide the Committee with an excellent overview of challenges of the current privacy and data security regime in place.

The current complex layer of laws does provide protections for consumers, but the many laws and regulation are also inefficient as some businesses must comply with many different requirements while others manage to escape requirements to protect information. Privacy and data security requirements will only become more complex as more states implement their own privacy and data security laws, which is why this hearing's focus on the impact of the diverse requirements currently in place are so important.

CUNA supports the "Setting an American Framework to Ensure Data Access, Transparency, and Accountability Act" (SAFE DATA Act) that has been introduced in conjunction with this hearing. The SAFE DATA Act would simplify privacy and data security laws by a creating national standard which would add protections for all Americans while reducing compliance burdens stemming from compliance with many standards across the states.

Data privacy and data security are major concerns for Americans given the frequency of reports of misuse of personally identifiable information (PII) data by businesses and breaches by criminal actors, some of which are state sponsored. Since 2005, there have been more than 11,700 data breaches, exposing more than 1.6 billion consumer records. These breaches have cost credit unions, banks and the consumers they serve hundreds of millions of dollars, and they have compromised the consumers' privacy, jeopardizing their financial security.

CUNA members have reported a massive increase in fraud against state unemployment insurance programs attributed to the COVID-19 pandemic. These reports have been confirmed by the United States Secret Service. The fraud appears to be mainly coming from an international fraud ring that has the capacity to exploit many states' unemployment programs. According to the Secret Service, the criminals are likely in possession of a vast amount of PII, which they are using to apply for unemployment insurance. It is almost certain that this PII was stolen in a data breach or many data breaches and it is now being used to exploit state unemployment insurance

programs. This is clearly and example of how the multiple data breaches were PII has been stolen are causing harm to Americans and costing everyone money.

Stringent information security and privacy practices have long been part of the financial services industries' business practices and are necessary as financial institutions are entrusted with consumers personal information. This responsibility is reflected in the strong information security and privacy laws that govern data practices for the financial services industry. But it is not enough. It is long past time for Congress to enact a meaningful data security and privacy legislation that sets a nationwide standard and applies to businesses and financial institutions alike.

With that in mind, credit unions call on the Committee and Congress to follow the principles outlined below for Federal privacy and data security legislation:

Data Privacy and Data Security Are Hand in Glove:
Any new privacy law should include both data privacy and data security standards. Simply put, data cannot be kept private unless it is also secured. Congress should enact robust data security standards to accompany and support data privacy standards.

Everyone Should Follow the Same Rules:
The new law should cover all business, institutions and organizations. Consumers will lose if Congress focuses only on tech companies, credit-rating agencies, and other narrow sectors of the economy because any company that collects, uses or shares personal data or information can misuse the data or lose the data through breach.

There Should Be One Rule for the Road:
Any new law should preempt state requirements to simplify compliance and create equal expectation and protection for all consumers. We understand that some states have strong security and privacy requirements. Congress should carefully examine those requirements and take the best approaches from state law, as appropriate. A patchwork of state laws with a federal standard as a floor will only perpetuate a security system littered with weak links. The federal law should be the ceiling and the ceiling should be high. Just like moving away from the sector specific approach, the goal should be to create a strong national standard for all to follow.

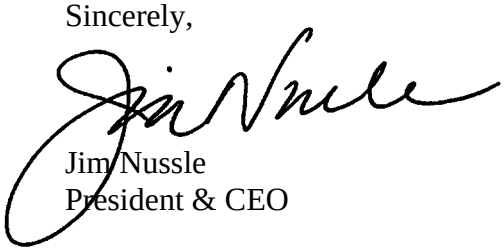
Breach Disclosure and Consumer Notification Are Important, But These Requirements Alone Won't Enhance Security or Privacy:
Breach notification or disclosure requirements are important, but they are akin to sounding the alarm after the fire has burned down the building. By the time a breach is disclosed, harm could already have befallen hundreds of thousands, if not millions, of individuals.

Hold Entities that Jeopardize Consumer Privacy and Security Accountable Through Private Right of Action and Regulatory Enforcement:
The law should provide mechanisms to address the harms that result from privacy violations and security violations, including data breach. Increasingly, courts are recognizing rights of action for individuals and companies (including credit unions). However, individuals and companies should be afforded a private right of action to hold those that violate the law accountable, and regulators should have the ability to act against entities that violate the law.

Recognize This Issue For What It Is--A National Security Issue:
More and more, data breaches that expose consumer PII are perpetrated by foreign governments and other rogue international entities. The proceeds from these attacks are being used to fund illicit activity. The nature of these breaches alone calls for a strong federal response that ensures all involved in collecting, holding and using PII do so with the security of the information of paramount concern. You simply cannot have data privacy unless there is data security.

On behalf of America's credit unions and their more than 120 million members, thank you for holding this important hearing.

Sincerely,



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