



**Jim Nussle**  
President & CEO

Phone: 202-508-6745  
jnussle@cuna.coop

99 M Street SE Suite 300  
Washington, D.C. 20003-3799

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The Honorable Mike Crapo  
Chairman  
Committee on Banking, Housing and  
Urban Affairs  
United States Senate  
Washington, DC 20510

The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing and  
Urban Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's credit unions, I am writing today in response to your February 13, 2019, invitation for stakeholder feedback on the collection, use, and protection of personal information by financial regulators and private companies. The Credit Union National Association (CUNA) represents America's state and federal credit unions and the 115 million members that they serve.

We appreciate the Committee providing robust oversight of financial institutions' collecting, safeguarding and use of personally identifiable information (PII). Data privacy and data security have become major concerns for American citizens as concern over misuses of PII by business and foreign states increases with every breach and misuse of this data. Since 2005, there have been more than 10,000 data breaches, exposing nearly **12 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.

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.

As this Committee knows, credit unions are subject to the Gramm-Leach-Bliley Act (GLBA) and examined by regulators for compliance with the requirements of GLBA and the various implementing regulations and guidance. GLBA sets forth requirements for credit unions and banks information security, privacy and the disclosure of nonpublic personal information to third-parties. The National Credit Union Administration (NCUA) along with the banking regulators and the Consumer Financial Protection Bureau (CFPB) have promulgated extensive regulations and guidance implementing these requirements for depository financial institutions, which have and continue to provide strong information security and privacy protections for consumers. This regulatory regime has been successful in significantly reducing the instances of data compromise and breach relative to business entities that are not subject to these standards.

Unfortunately, current law related to privacy and security of PII is not secure because some entities that collect and hold PII are not subject to security standards like those that the financial industry must follow. Congress should not expect any data privacy law it may enact to succeed in providing the desired level of privacy if such legislation does not also require all businesses and originations that collect, use and house PII to protect that data consistent with strong, federal security

requirements. A federal data security standard is essential to provide Americans with the comfort and confidence that the information that they share with businesses and organizations will remain private and secure.

We understand that this Committee has jurisdiction over financial institutions and we appreciate that the five primary questions asked focus on this Committee's jurisdiction. We encourage this Committee work with other committees and the administration to address consumer data privacy and data security so that all Americans can feel confident that their personal information is protected from breach and will not be misused by any company that possesses it.

Credit unions advance the following principles 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.

Finally, we urge Congress to 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 thank you for your leadership on this important issue. We look forward to working with you to advance this legislation.

Sincerely,



Jim Nussle  
President & CEO