



The Honorable Arlen Specter
Chairman
Senate Judiciary Committee
Senate Dirksen Building, Room 224
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
Senate Judiciary Committee
Senate Dirksen Building, Room 152
Washington, D.C. 20510

Dear Chairman Specter and Senator Leahy:

The Financial Services Coordinating Council (FSCC) supports efforts by Congress to establish uniform national standards for businesses that collect sensitive personal information to provide notification of security breaches that pose a serious risk of harm to consumers. However, we have serious concerns about several aspects of the “Personal Data Privacy and Security Act of 2005” (S. 1789), which we understand may be considered by your Committee as soon as this week.

It is clear that many businesses are not covered by a clear legal and regulatory system that requires them to protect sensitive personal information. However, the institutions we represent in the banking, securities and insurance industries are already subject to the data security standards of the Gramm-Leach-Bliley Act (GLBA). These requirements are enforced by our “functional” regulators at the federal and state levels, including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, the Securities and Exchange Commission and state insurance authorities.

The FSCC supports uniform national standards for notification to individuals whose personal information has been subject to a security breach. However, S. 1789 permits states to promulgate additional laws in this area, which undermines our shared goal of a uniform national law. State laws with varying requirements could result in a delay in notifying individuals whose information has been subject to a breach. Further, federal security breach legislation should require notice only when the security and confidentiality of consumer information is truly at risk. Requiring notice in instances where the breach is not likely to result in identity theft undermines the significance of the notification.

S. 1789 acknowledges financial institutions’ comprehensive regulatory system by providing that financial institutions covered by GLBA data security requirements are deemed to be in compliance with the Act. However, this same clarification is not extended to those financial services firms that comply with current notice requirements imposed under regulations or guidance issued in accordance with GLBA. Further, instead of exclusive enforcement by our functional regulators, these provisions could be enforced by state Attorneys General. This additional enforcement mechanism is inconsistent with current law and unnecessary since our regulators already have the

authority to impose significant monetary penalties and take other enforcement action against violators.

Because of these provisions, as well as other requirements of the bill that cover financial services entities, such as the definition of “data broker,” S. 1789 would put in place a duplicative and inconsistent system of federal and state regulation and enforcement that could have far-reaching and negative consequences for the financial services system and our customers.

The FSCC commends your efforts and believes that Congress should establish uniform national standards for consumer notification of security breaches to ensure consumers receive the same information no matter where they live. Our members serve customers throughout the U.S., and a patchwork of state notification laws would not serve their customers or our national financial services system.

We urge the Committee to work closely with the Senate Banking Committee in addressing these issues, as that Committee has broad jurisdiction over financial services firms and their regulatory structure.

Thank you for considering our views on this important issue.

American Bankers Association

American Council of Life Insurers

American Insurance Association

Securities Industry Association

CC: Members of the Senate Judiciary Committee