

February 28, 2023

The Honorable Patrick McHenry  
Chairman  
House Committee on Financial Services  
Washington, DC 20515

The Honorable Maxine Waters  
Ranking Member  
House Committee on Financial Services  
Washington, DC 20515

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the Electronic Transactions Association (ETA), I am pleased to share our views on H.R. 1165, the *Financial Data Privacy Act* which is being considered by the Committee during the February 28, 2023, markup. A bill that updates the Gramm-Leach-Bliley Act (GLBA) to better align with the changing technological environment while strengthening consumer protections to remain flexible to accommodate future innovation and technologies.

ETA is the world's leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately \$44 trillion annually in purchases worldwide and deploying payments innovation to merchants and consumers.

### **H.R. 1165, the *Financial Data Privacy Act***

ETA believes that consumer confidence is directly related to the perception of privacy, security and protection of financial information and data. Consumers need to be confident in the safety and security of the overall system, and trust that their financial information and data is being used in accordance with their wishes, as long as necessary to provide the service, and that the data and information used is accurate and up to date. ETA members already comply with a myriad of federal and state laws that apply to payments and related financial products, including privacy laws such as GLBA.<sup>1</sup>

By updating and modernizing GLBA, safeguards for consumer privacy expectations will be established while providing consumers and industry participants with certainty. ETA supports strengthen privacy laws that helps the payments industry combat fraud, satisfies consumer needs and expectations, and safeguards consumer data.

ETA supports the *Financial Data Privacy Act* and the following provisions in a proposal to modernize GLBA:

### **Permissible Use to Fight Fraud**

The payment industry has a long commitment and history of fighting fraud and is constantly developing and deploying new technology to detect, deter, and eliminate fraud. New and enhanced technologies have amplified the payments industry's ability to offer new fraud solutions and strengthen our on-going efforts. Any privacy or data protection standard should include provisions for permissible uses of data to prevent fraud and protect consumers.

### **Creating A Uniform National Standard and Enforcement**

Consistent protections provided by a uniform national law will benefit consumers and businesses. A federal uniform standard will provide certainty and consistency for businesses and consumers in lieu of having to navigate a complex patchwork of state laws and regulation. A uniform standard – that is a ceiling – would also reduce the complexity and costs of compliance and enforcement.

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<sup>1</sup> See *Overview of Federal and State Laws and Regulations Governing Payments and Related Services* at: <https://www.electran.org/wp-content/uploads/ETA-WP-FedStatePayments-1.pdf>

To protect consumer rights and provide responsibility, enforcement needs to be consistent and coordinate between the federal government and the state's regulatory agencies. Collaboration between the appropriate federal agency and state attorney generals should be followed to avoid duplicate or conflicting enforcement actions. However, a privacy law should not provide a private right of action for enforcement.

### **Industry and Sector Neutrality**

A national privacy framework should be applied to all industry sectors that handle consumer data and such protections should be consistent for companies across products and services. It should also be technology neutral and allow organizations to adopt privacy protections that are appropriate to specific risks. Protections shouldn't interfere with innovation and economic competitiveness in an evolving technology landscape.

### **Including Data Aggregators in the Definition of Financial Institution**

ETA agrees that nearly all covered data providers already comply with either the FTC Safeguards Rule or Guidelines issued under GLBA, as well as the prohibition against unfair practices.<sup>2</sup> Lawmakers should establish a framework to set reasonable security standards to address the risk profile of each entity and set a reasonable industry standard approach. It should be done in such a way that allows flexibility to combat future risks and technical flexibility to allow innovation in implementation of the framework. Consumers expect their financial data is subject to protection when held by a financial institution or a non-bank provider of financial services.

### **Keeping Pace with Innovation**

ETA supports a privacy framework that applies to financial services in a manner that is consumer centered and risk-focused while encouraging innovation. To that, ETA supports policymakers setting principles-based guidelines for industry-led standards to meet. This would permit flexibility over time to accommodate the technology capabilities of various stakeholders and satisfy consumer expectations.

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The payments industry works tirelessly to fight fraud and protect consumers. An update to GLBA should continue to recognize these goals and by working together we can protect consumers while providing them with access to the safest and most convenient payments system in the world. We look forward to working with the Committee on this important issue. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott, at [stalbott@electran.org](mailto:stalbott@electran.org).

Sincerely,



Jeff Patchen  
Director of Government Affairs  
Electronic Transactions Association

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<sup>2</sup> 16 CFR part 314 (FTC Safeguards Rule); 12 CFR part 30, App. B (OCC Safeguards Guidelines); 12CFR part 208, App. D-2 (Federal Reserve Board Safeguards Guidelines); 12CFR part 364, App. B (FDIC Safeguards Guidelines); 12 CFR part 748, App. B (NCUA Safeguards Guidelines). The Securities and Exchange Commission and the Commodity Futures Trading Commission also have issued rules implementing GLBA data security standards with respect to the entities under their jurisdiction.