

Data Breach and Privacy Legislation

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Issue Update

Data security breaches continue to put millions of consumers at risk and protecting consumer information and the privacy of personal information is a shared responsibility of all parties involved. While robust federal data security and privacy requirements for banks have been in place for nearly 30 years, other business sectors lack such requirements and have been the source of many large-scale breaches.

In previous Congresses, the House Financial Services Committee reported data breach legislation that would put in place uniform consumer notification standards across all Gramm-Leach-Bliley Act (GLBA) regulatory agencies and would preempt State and local data protection and consumer notification standards with respect to financial institutions subject to the GLBA. However, this was not enacted into law.

Due to controversy over certain uses of personal information by nonbanks, such as Facebook and Google, it is possible that legislation providing additional privacy protections for consumers will be considered by the 116th Congress along with data breach legislation. ABA agrees that it would make sense for Congress to consider legislation providing Federal privacy protections for consumers. However, it is important to remind Congress and policy-makers that banks are not the problem and should not be the focus of such legislation. GLBA and other existing privacy laws impacting the financial services industry already provide important privacy protections and that these protections must not be duplicated or undermined by Federal privacy legislation.

For example, the GLBA already provides transparency by requiring banks to provide written notices of their privacy policies and use of personal information to customers and prohibits sharing their personal information with unaffiliated third parties without the consumer's consent.

Why it Matters To Your Community

The application of robust data security and privacy standards by all entities that handle sensitive personal and financial information is critical. Stopping incidents like the Equifax, Sonic, Hyatt, Target, Home Depot and other breaches is critical for consumers, and also important to ABA members who often have the closest relationships with those affected. Data breaches impose significant costs on banks of all sizes because our first priority is to protect consumers and make them whole.

Recommended Action Items

- In considering data breach and privacy legislation, it is critical for Congress to include three key elements:
 - **Broad Application:** Legislation must ensure that all entities that handle consumers' sensitive financial data have in place a robust process to protect data, which can help prevent breaches from happening in the first place.
 - **Clear Preemption:** Legislation must put in place one strong national data security, breach notification and privacy standard eliminating the current inconsistent patchwork of state law.
 - **GLBA Recognition:** Legislation must recognize the strong data security standards already in place for the financial services sector under the Gramm-Leach-Bliley Act (GLBA).