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**National Association of Federally-Insured Credit Unions**

September 22, 2020

The Honorable Roger Wicker  
Chairman  
Committee on Commerce, Science,  
& Transportation  
United States Senate  
Washington, D.C. 20510

The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science,  
& Transportation  
United States Senate  
Washington, D.C. 20510

**Re: Tomorrow's Hearing: Revisiting the Need for Federal Data Privacy Legislation**

Dear Chairman Wicker and Ranking Member Cantwell:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing, "Revisiting the Need for Federal Data Privacy Legislation." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve nearly 121 million consumers with personal and small business financial service products. NAFCU and our members welcome the Committee further examining consumer privacy and data security standards by holding this hearing.

As NAFCU has previously communicated to Congress, we believe there is an urgent need for a national data security standard for those who collect and store consumer information. Intertwined with data security is data privacy and the need to protect consumer information. In 2019, recognizing the importance of data privacy and the ongoing privacy debate, NAFCU issued a series of data privacy principles that call for a comprehensive federal data privacy standard that protects consumers, harmonizes existing federal data privacy laws, and preempts state privacy laws. As the Committee works to achieve a path forward on federal data privacy legislation, NAFCU recommends you include the following elements as key aspects in any such bill:

- **A comprehensive national data security standard covering all entities that collect and store consumer information.** In order to protect consumers, retailers, fintech companies and any other organizations handling personal information should be required to provide reliable and secure information systems similar to those required of credit unions.
- **Harmonization of existing federal laws and preemption of any state privacy law related to the privacy or security of personal information.** The patchwork of federal and state privacy laws creates an environment where consumers receive multiple disclosures on different information and their rights vary significantly across different types of organizations; this situation is confusing for consumers, burdensome for credit unions, and can only be resolved by a federal law that preempts state laws.
- **Delegation of enforcement authority to the appropriate sectoral regulator.** For credit unions, the National Credit Union Administration (NCUA) should be the

sole regulator. Allowing NCUA, which is well versed in the unique nature of credit unions and their operations, to continue to examine and enforce any privacy and cybersecurity requirements is the most efficient option for both credit unions and American taxpayers.

- **A safe harbor for businesses that take reasonable measures to comply with the privacy standards.** Any federal data privacy bill should provide for principles-based requirements based on an organization's specific operations and risk profile, and a safe harbor for organizations that design and implement appropriate measures.
- **Notice and disclosure requirements that are easily accessible to consumers and do not unduly burden regulated entities.** Providing multiple privacy disclosures and opt-out mechanisms across multiple channels creates confusion for consumers and unreasonable burdens for credit unions. A new privacy law should incorporate the *Gramm-Leach-Bliley Act's* (GLBA) requirements to avoid conflicting or duplicative disclosure requirements.
- **Scalable civil penalties for noncompliance imposed by the sectoral regulator that seek to prevent and remedy consumer injury.** Actual damages to consumers are too difficult to establish by evidence and statutory damages for violations are incredibly ripe for frivolous lawsuits; sectoral regulators should have the power to assess scalable civil penalties, which can then be used to remedy and prevent consumer harm in a meaningful way.

NAFCU looks forward to working with the Committee and those in industry to address these concerns with consumer privacy and data security. In particular, any omnibus federal privacy legislation must be operationally workable for small- and medium-sized businesses like credit unions. We would urge you to work collaboratively with other interested Committees in the Senate to find a package that can advance and receive bipartisan support.

On behalf of our nation's credit unions and their nearly 121 million members, we thank you for your attention to this important matter. Should you have any questions or require any additional information, please contact me or Janelle Relfe, NAFCU's Associate Director of Legislative Affairs, at 703-842-2836 or [jrelfe@nafcu.org](mailto:jrelfe@nafcu.org).

Sincerely,



Brad Thaler  
Vice President of Legislative Affairs

cc: Members of the Senate Commerce Committee