

April 26, 2016

The Honorable Paul Ryan
Speaker of the House
United States House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Majority Leader
United States House of Representatives
H-107, The Capitol
Washington, D.C. 20515

The Honorable Steve Scalise
Majority Whip
United States House of Representatives
H-329, The Capitol
Washington, D.C. 20515

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
H-204, The Capitol
Washington, D.C. 20515

The Honorable Steny Hoyer
Minority Whip
United States House of Representatives
H-148, The Capitol
Washington, D.C. 20515

Dear Speaker Ryan, Majority Leader McCarthy, Minority Leader Pelosi, Majority Whip Scalise and Minority Whip Hoyer:

As the trade association representing the largest and most innovative retail companies, the Retail Industry Leaders Association (RILA) shares your commitment to passing data breach legislation that builds on the robust regulatory standards retailers already meet, establishes a strong preemptive federal policy and creates clear and practical notification principles for how our customers should be informed. With the growing threats in cybersecurity from nation state actors and criminal organizations across the globe, there is nothing more important to RILA members than the protection of our customers' personal information.

RILA has been a collaborative partner in this process by testifying before congressional committees and supporting specific data breach legislation, H.R. 1770, the "Data Security and Breach Notification Act of 2015." Our members understand the difficulty in bringing all sides to the table to address this critical issue, but with forty-seven states and territories having their own data breach laws and the constant evolving threats, only the federal government has the capability to address this problem.

While RILA has been an advocate for a certain set of policies and principals, we also feel it is important to highlight our serious concerns with another proposal addressing data breach, H.R. 2205, the "Data Security Act of 2015." This legislation would not only have a detrimental effect on the retail community but would also negatively impact businesses of all sizes across the country. Accompanying this letter is a document bringing to light other industries across the U.S. economy who have serious reservations about the policy prescriptions contained in H.R. 2205.

The key issue concerning this bill is that it would regulate every entity under the Federal Trade Commission's (FTC) jurisdiction by applying the Gramm-Leach-Bliley Safeguards Rule to non-banking industries. It makes no sense to take one industry's regulations and apply it to a large segment of the

economy without understanding the consequences. For example, certain aspects of these new regulations would require anyone that touches sensitive account information, defined as a credit or debit card, to first pass a criminal background check. This would subject millions of frontline employees who work the cash register and stock shelves to an intrusive background check. This is one regulation that makes perfect sense for the banking industry where individuals handle loans and mortgages, but it is certainly not necessary for the high school student working part-time as a sales associate at a cash register.

Additionally, it would be a mistake for Congress to codify security standards into statute that would almost immediately be obsolete and static. The Safeguards Rule was written as a regulation, and not as statute, with the financial services sector in mind and it can evolve and change over time as security threats and best practices change. H.R. 2205 takes the opposite approach by codifying the Safeguards Rule, which will hinder efforts by retailers to adapt to an evolving threat landscape and changing technology.

As we move through the remainder of the congressional calendar, RILA stands ready to work with Congress on passing federal data breach legislation that creates clear notification principals, institutes a federal preemption standard and implements smart regulations tailored for the retail industry.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer M. Safavian". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer M. Safavian
Executive Vice President, Government Affairs

What Business Groups are Saying about H.R. 2250

*“It **makes no sense** to take one industry’s regulations and apply it to a huge segment of the economy without consideration for how retail, grocery, convenience store, restaurant or small businesses operate.”*

*“...[H.R. 2205] **fails to address business realities**. Just as it would be bad policy to apply healthcare standards onto the financial services industry, applying financial services industry standards onto other industries is bad policy.”*

[Joint Association Letter, December 7, 2015](#)

Signed by representatives from the auto, food, college stores, convenience stores, grocery, restaurant, retail, furniture, and petroleum industries

*“...we strongly request that you consider amending the elements of a program designed to secure information by replacing it with a regime that is nimble, flexible, and attainable for organizations of all sizes and sophistication. **Prescriptive process mandates almost always result in a ceiling, preventing companies from innovating** more protective security methodology. A company must be able to protect the information they hold in a manner that is reasonable and appropriate to the nature of their business and the sensitivity of the data they hold. The security program by which an organization chooses to secure data should be voluntary, based on effective risk management and provide companies with the ability to adapt rapidly to emerging threats, technologies, and business models.”*

[Information Technology Industry Council Letter, December 7, 2015](#)

Signed by the Information Technology Industry Council

*“The legislation as introduced would require a diverse array of industries to apply regulatory standards currently required of financial institutions under the Gramm-Leach-Bliley Act (GLB) Safeguards Rule. These standards, codified over 15 years ago specifically for complex consumer financial services, would be **inappropriate** for Internet companies, who are currently regulated by the Federal Trade Commission (FTC) and many separate state data breach laws.”*

*“Additionally, without rules protecting small businesses and entrepreneurs, these standards **will hamper innovation** particularly from startups, which would be unable to comply with the same regulatory burdens is larger, established companies.”*

[Internet Association Letter, December 7, 2015](#)

Signed by the Internet Association