

November 14, 2014

To: Members of the United States House of Representatives
Members of the United States Senate

Re: Data Breach Response

The massive breaches of sensitive personal information at Target, Home Depot, Michaels, Neiman Marcus, Jimmy Johns, Staples, and Dairy Queen have put millions of consumers at risk and have cost banks across the country hundreds of millions of dollars to reissue cards, make consumers whole for fraudulent transactions and put in place additional monitoring and other measures to stem the damage. It is banks and not retailers that bear the brunt of the costs of these breaches – our members are the ones that make consumers whole. Although all banks are affected, this places an especially heavy burden on our community banks.

That is why the letter you received on November 6, 2014, from a group of organizations representing elements of the retail industry is discouraging to us and others that are working to better protect consumers and everyone involved in the payments system. The letter is misleading and makes recommendations that would still leave consumers vulnerable to data breaches.

Merchants and banks are both the targets of these attacks. However, a key difference is that banks have developed and maintain robust internal protections to combat criminal attacks and are required by Federal law and regulation to protect this information and notify consumers when a breach occurs that will put them at risk. Any banker will tell you that significant regulatory requirements and internal safeguards are already in place at U.S. financial institutions with respect to data security, and that they undergo regular compliance examinations to ensure that these rules are followed. These extensive requirements and safeguards were first required in 1999 as part of the Gramm-Leach-Bliley Act (GLBA) and have been substantially enhanced since then by regulatory action.

In contrast, retailers are not covered by any Federal laws or regulations that require them to protect the data and notify consumers when it is breached. It is disturbing that certain retail trade groups have strongly opposed data security provisions in legislation in both the House and Senate because it is clear that national consumer notification alone – as advocated by the November 6th letter – will not solve this problem.

Banks and other financial institutions on their own are aggressively implementing new systems and leading the development of new technologies like tokenization to combat the ever-changing criminal threat and better protect consumers. It is time for all elements of the retail industry to unite and join us in this effort.

Sincerely,

Alabama Bankers Association
Alaska Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia Bankers Association
Hawaii Bankers Association
Heartland Community Bankers Association
Idaho Bankers Association
Illinois Bankers Association
Illinois League of Financial Institutions
Indiana Bankers Association
Iowa Bankers Association
Kansas Bankers Association
Kentucky Bankers Association
Louisiana Bankers Association
Maine Bankers Association
Maryland Bankers Association
Massachusetts Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association

Montana Bankers Association
Nebraska Bankers Association
Nevada Bankers Association
New Hampshire Bankers Association
New Jersey Bankers Association
New Mexico Bankers Association
New York Bankers Association
North Carolina Bankers Association
North Dakota Bankers Association
Ohio Bankers League
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
Puerto Rico Bankers Association
Rhode Island Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Tennessee Bankers Association
Texas Bankers Association
Utah Bankers Association
Vermont Bankers Association
Virginia Bankers Association
Washington Bankers Association
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association