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Agents  
Serving  
Main Street  
America<sup>SM</sup>

Honorable Mike Crapo, Chairman  
Honorable Sherrod Brown, Ranking Member  
U.S. Senate Banking, Housing & Urban Affairs Committee

**Re: Feedback on Data Privacy, Protection and Collection**

March 15, 2019

Dear Chairman Crapo and Ranking Member Brown:

Founded in 1931, the National Association of Professional Insurance Agents (PIA National) is a national trade association that represents independent insurance agencies and their employees who sell and service all kinds of insurance but specialize in coverage of automobiles, homes, and businesses. PIA National represents independent insurance agents in all 50 states, Puerto Rico, and the District of Columbia. They operate cutting-edge agencies and treat their customers like neighbors, providing personal support and service. PIA National members are *Local Agents Serving Main Street America<sup>SM</sup>*.

PIA members are mostly small- and mid-sized insurance agencies that serve both residential and commercial purchasers of all types of insurance, but our members specialize in property and casualty coverages. Many of them are already subject to state-specific versions of the National Association of Insurance Commissioners (NAIC) Insurance Data Security Model Law created in October 2017 and subsequently passed in South Carolina, Ohio, and Michigan. Moreover, the NAIC model borrowed heavily from the New York Department of Financial Services Cybersecurity Regulation (cited as 23 N.Y.C.R.R. Part 500).

We appreciate the opportunity to provide feedback on your request for information on data privacy, protection, and collection. Our responses to each question appear below.

**Question:**

- 1) What could be done through legislation, regulation, or by implementing best practices that would give consumers more control over and enhance the protection of consumer financial data, and ensure that consumers are notified of breaches in a timely and consistent manner?

**Answer:**

Protecting consumers from data breaches is a priority for PIA National and our independent insurance agent members. However, this challenge should be addressed at the state and not the federal level. A federal law or rule regulating the data security of insurance agencies is a bold encroachment on states' regulatory authority over the insurance industry. Insurance is regulated at the state level for good reason: no one knows policyholders and their needs better than the agents

who serve them, and state legislators and regulators will always have a more thorough understanding of local insurance issues than federal lawmakers.

Insurance agents' and their agencies' available resources vary greatly across the country; the biggest benefit of having this issue regulated at the state or local level is the degree of understanding and flexibility each state has thus far been willing to demonstrate to the agents doing business in that state.

All that said, PIA National supports flexible, risk-based proposals that recognize the risks to consumers and to independent agencies if a breach were to occur. For that reason, if Congress chooses to legislate in this space, we encourage the passage of a bill that protects sensitive consumer data using a harm trigger and other methods that are flexible, risk-based, and practical for small businesses.

If legislation is to be considered at the federal level, it should set a few parameters and remain sufficiently broad to allow states to fill in the details as appropriate. Congress should not move forward with detailed legislation on this issue, which is one of many better left to states.

**Question:**

- 2) What could be done through legislation, regulation, or by implementing best practices to ensure that financial regulators and private financial companies (including third-parties that share information with financial regulators and private financial companies) provide adequate disclosure to citizens and consumers about the information that is being collected about them and for what purposes?

**Answer:**

In some industries, notices of disclosure are already issued by financial regulators and private financial companies concerning the information being collected about citizens and consumers and the purpose of said collection. PIA National supports those disclosure notices where appropriate.

**Question:**

- 3) What could be done through legislation, regulation, or by implementing best practices to give citizens and consumers control over how financial regulators and private financial companies (including third-parties that share information with financial regulators and private financial companies) use consumer data?

**Answer:**

PIA National has many concerns regarding the treatment of agents' relationships with third-party service providers. Small businesses, out of necessity, frequently enter into what are known as contracts of adhesion. Large companies serving as Third-Party Service Providers are going to be reticent to change their cybersecurity practices to reflect compliance with a law that applies only to some small businesses with which they interact. Small businesses rarely have the luxury of negotiating the details of their relationships with relatively large Third-Party Service Providers. Therefore, many small businesses will be subjected to whatever cybersecurity practices the Third-

Party Service Provider already offers, whether those practices meet the standards set forth by the federal government. A federal law in this space will be redundant and could confuse small-business owners who want to comply with all necessary laws and rules. PIA National is also concerned that a federal law will impose unrealistic burdens on small business owners like those that own independent insurance agencies.

**Question:**

- 4) What could be done through legislation, regulation, or by implementing best practices by credit bureaus to protect consumer data and to make sure that information contained in a credit file is accurate?

**Answer:**

Credit bureaus should continue to be held accountable for data breaches they experience. It is our understanding that credit bureaus are already subject to a data breach regulation (23 N.Y.C.R.R. Part 201) in New York. We encourage Congress to permit documented compliance by a credit bureau with 23 N.Y.C.R.R. Part 201 (and documented compliance by an entity subject to the New York Department of Financial Services Cybersecurity Regulation 23 N.Y.C.R.R. 500 to serve as indicia of compliance with other similar state or federal laws.

**Question:**

- 5) What could be done through legislation, regulation, or by implementing best practices so a consumer can easily identify and exercise control of data that is being (a) collected and shared by data brokers and other firms and (b) used as a factor in establishing a consumer's eligibility for credit, insurance, employment, or other purposes.

Credit bureaus should be held to a high standard when it comes to protection of consumer data and should offer free credit monitoring to affected consumers following a data breach. Moreover, credit bureaus may be able to make consumer credit reports easier to obtain access to and to make changes to so that consumers can protect their eligibility for credit, insurance, etc. as appropriate.

PIA recognizes and appreciates the considerable thought and effort that Chairman Crapo, Ranking Member Brown, and the rest of the Senate Banking Committee members and staff are giving to data security issues, and we are grateful for the opportunity to provide the independent agent perspective.

Please contact me at [laurenpa@pianet.org](mailto:laurenpa@pianet.org) or (703) 518-1344 with any questions or concerns. Thank you for your time and consideration.

Sincerely,

Lauren G. Pachman  
Counsel and Director of Regulatory Affairs  
National Association of Professional Insurance Agents