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February 4, 2015

The Honorable Jerry Moran
Chairman
Senate Consumer Protection, Product
Safety, Insurance, and Data Security
Subcommittee
361A Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Blumenthal
Ranking Member
Senate Consumer Protection, Product
Safety, Insurance, and Data Security
Subcommittee
724 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Moran and Ranking Member Blumenthal:

On behalf of the more than 1 million members of the National Association of REALTORS® (NAR) and more than 1400 local REALTOR® associations, I wish to share NAR's thoughts on data breach notification in advance of your February 5, 2015 hearing entitled "Getting it Right on Data Breach and Notification Legislation in the 114th Congress."

REALTORS® have long been supportive of efforts to protect consumers' sensitive personal information. To this end, NAR supports efforts create a national uniform standard. The Association believes that one national standard will help to reduce compliance burden for small businesses. In addition, a single uniform national standard will enhance actual notice to consumers in the case of a data breach.

While supportive of a federal standard, NAR strongly believes that any new federal data security law must be narrowly tailored to minimize the regulatory burden such a law could place on vulnerable independent contractors and small businesses that are just now beginning to experience a fragile economic recovery.

Real estate firms vary widely in size, but the overwhelming majority are very small entities. NAR's most recent surveys indicate that more than half of all realty firms have less than twenty-five agents and the typical sales agent is affiliated with an independent realty firm with only one office. This unique industry structure can make compliance with regulatory burdens particularly onerous. Further compounding this concern is the independent contractor status of the overwhelming majority of real estate sales professionals. Any new data security requirements will necessarily impact the individual real estate agent who is a legal business entity separate from the real estate company with which they are affiliated.

It is important to note that NAR believes that notice requirements should be based on a "significant risk of harm" standard. Implementation of a "significant" risk of harm safe harbor will reduce unnecessary compliance burden on small businesses and at the same time, minimize the risk that consumers are desensitized to the risk of fraud from over-notification in cases where no risk of fraud or identity theft is likely.



A single data breach notification standard that is narrowly targeted to a significant risk of consumer harm provides consumers with the information they need without imposing undue regulatory burden on small businesses. Given the importance of this issue to consumers and businesses of all sizes, it is extremely important that Congress fully understand the ramifications of any actions taken. I thank you for your work on these important security and consumer issues and look forward to working with you and your staffs to advance legislation that will both protect consumers and create an environment where businesses and innovation can flourish.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Polychron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Polychron
2015 President, National Association of REALTORS®

cc: Members of the Senate Consumer Protection, Product Safety, Insurance, and Data Security Subcommittee