

August 1, 2012

The Honorable Harry Reid  
Majority Leader  
United States Senate  
United States Capitol, S-221  
Washington, DC 20510

The Honorable Mitch McConnell  
Republican Leader  
United States Senate  
United States Capitol, S-208  
Washington, DC 20510

Dear Majority Leader Reid and Republican Leader McConnell:

The financial services industry, represented by the undersigned organizations, opposes the Cybersecurity Act of 2012 (S. 3414) in its current form. While we strongly support efforts to protect the nation's critical infrastructure from cyber-attacks, this legislation threatens to undermine important cybersecurity protections already in place for our customers and institutions, and misses an opportunity to substantially improve cyber threat information-sharing between the federal government and the private sector.

Our sector recognizes the very real and ongoing threat of cyber-attacks and works very hard to prevent those attacks by constantly updating, and investing heavily in our security systems. We work tirelessly, day and night, to block cyber-attacks, including working with the federal government and other private sectors to share information and design effective ways to mitigate cyber threats. Given this, we believe any legislation passed by the Senate, and eventually enacted into law, must take a balanced approach that builds upon, but does not duplicate or undermine what is already in place and working well in the financial sector. At the same time, it should enhance Cybersecurity protections in areas where they are most needed.

There are several issues and questions raised by the technical language included in the revised bill. For instance, while the sponsors of the legislation have attempted to design a voluntary framework for the designation of "critical infrastructure," the text of the bill would likely create a mandatory regulatory regime that could displace robust efforts already being made in the financial sector to combat the risk of cyber-attacks. Additionally, the government agency "Council" created in Title I of the bill to conduct risk assessments, and set best practices for protecting critical infrastructure does not provide a meaningful role for sector-specific agencies that oversee financial institutions. The bill does not recognize the existing security standards and regulations to which financial institutions are subject, including the Gramm-Leach-Bliley Act, nor the regular oversight and examinations conducted by financial regulatory agencies. This opens the door for inconsistent and potentially duplicative regulations that are more than likely to become mandatory for our industry.

Further, the process for designating financial systems as covered critical infrastructure does not provide for meaningful input of financial agencies or the private sector, and this is crucially important for determining what is, in fact, critical and what is not. Finally, we are concerned that the changes made to the Title VII information sharing provisions

could actually restrict some forms of important information sharing between the government and private sectors, as well as decrease the current level of information sharing between private entities.

As the Senate considers S. 3414, a legislative proposal we support could be considered as an amendment on the Senate floor; specifically, Amendment #2581 offered by Senators Hutchison and McCain, which encompasses the SECURE IT Act of 2012 (S. 3342). This amendment would provide necessary updates and clarifications to current law that will facilitate and increase cyber intelligence information sharing within the private and public sectors, as well as update the federal information security policy, encourage research and development, and increase criminal penalties. We encourage you to support this amendment, which builds upon our existing regulatory structure, better protecting financial institutions and our customers.

We recognize that more needs to be done to encourage high levels of cybersecurity protection across all sectors deemed critical infrastructure. We would like to continue to work with you and your colleagues in the Senate to pass legislation that accomplishes this goal, while utilizing existing regulatory requirements and ensuring a central role for sector-specific agencies; this would bolster the ongoing efforts of the financial services industry as we continue to improve the effectiveness of our cybersecurity.

We look forward to working with you and your colleagues on this important issue.

American Bankers Association  
American Council of Life Insurers  
The Clearing House Association  
Consumer Bankers Association  
Electronic Funds Transfer Association  
Financial Services Information Sharing and Analysis Center (FS-ISAC)  
The Financial Services Roundtable  
NACHA-The Electronic Payments Association  
Securities Industry and Financial Markets Association (SIFMA)