



# Credit Union and Community Bank Public Policy Report

**May 2018** | **Federal Update**



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## Credit Union and Community Bank Public Policy Update – May 2018

### Rep. Hensarling comments on regulatory relief legislation

In a speech at the US Chamber on April 26, House Financial Services Committee Chairmen Jeb Hensarling (R-TX) made remarks about S. 2155, the bipartisan banking regulatory relief legislation. To date, Hensarling has suggested that he would prefer to have the House pass its own version of S. 2155 that may include changes to the language in the bill or new provisions. However, in his speech Hensarling said he was open to advancing any changes in a separate bill, stating that he would “prefer it be in S. 2155, but, if not, we’re certainly open to other pathways.” Experian continues to work directly with lawmakers and through our trade group to perfect S. 2155’s provisions related to credit freeze and SSA database access. While Hensarling did not rule out further work by the House on S. 2155, his statements suggest that the House may be increasingly likely to adopt S. 2155 as passed by the Senate.

### CFPB Update: Complaint Portal; Auto lending guidance; CID Comments

In remarks to the American Bankers Association on April 24, CFPB Director Mick Mulvaney stated that he does not believe the Bureau is required under Dodd-Frank to make the **complaint portal** public. He said that the agency will continue to maintain the consumer database and issued an RFI in March to better understand stakeholder concerns with the complaint portal. Meanwhile, on April 18, the Senate voted 51-47 to repeal the CFPB’s **Indirect Auto Guidance** (CFPB Bulletin 2013-02) under the Congressional Review Act. Senator Joe Manchin (D-WV) was the lone Democrat to vote with Republicans to support the measure. This is the first time that Congress has passed legislation repealing a “guidance” document using the Congressional Review Act expedited process. This is due to a ruling from the GAO that was issued in December that concluded that the Bulletin “is a rule subject to the requirements of the Congressional Review Act. The measure will now move to the House for consideration. Meanwhile, CDIA and the US Chamber both filed comments on the **Bureau’s RFI regarding Civil Investigative Demands**. In its [letter](#), CDIA suggested that the Director’s approval is required for both initiating an investigation and civil investigative demand (CID). CDIA also recommends that CFPB should lengthen the time frames by which a company must respond to a CID, as well as exercise more discretion by modifying requests and extending deadlines. Finally, CDIA encourages the Bureau to do more to improve the process that companies use to Petition to Modify or Set Aside CIDs. In its [letter, the US Chamber](#) encouraged the Bureau to adopt four principles with respect to CIDs. These principles include: protect institutions’ free speech rights; petitions to set aside CIDs should be kept private so institutions are not deterred from asserting their rights; provide target institutions with fair notice if the Bureau believes a legal standard has been violated; and narrowly tailor requests to relevant documents that could yield information about an articulated alleged violation. Experian worked with the CDIA and US Chamber to draft their comments in response to the RFI.

### Report highlights CFPB complaints filed following Equifax breach

On April 30, Senators Elizabeth Warren (D-MA), Brian Schatz (D-HI) and Bob Menendez (D-NJ) released a new [report](#) on the Equifax data breach that highlighted the number of complaints CFPB received in the aftermath of the breach. The report notes that between September 2017 and March 2018 the CFPB received more than 20,000 complaints related to Equifax: 7,000 related to improper use of a credit report after the breach; 7,000 complaints related to incorrect information being displayed on a credit report; 3,000 complaints related to Equifax’s inadequate assistance in resolving problems after the breach; and 1,500 complaints related to Equifax’s credit monitoring services, fraud

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alerts, security freezes, and other identity theft protection products. The Senators conclude that based upon the large number of complaints, the CFPB should act quickly and aggressively to hold Equifax accountable. The report may generate interest from national and beltway media, but is unlikely to lead to any new legislative or regulatory activity at this time.

### House passes IRS modernization legislation and SSA Database Bill

On April 19, the House passed the [21<sup>st</sup> Century IRS Act](#), a legislative package aimed at improving and modernizing services at the IRS. Section 301 of the bill includes the **IRS Data Verification Modernization Act**, which would require the IRS to automate the income verification process. The IRS Data Verification Modernization Act requires the IRS to automate the Income Verification Express Services process by creating an API to allow small businesses and consumers to access accurate credit assessments more efficiently. While a companion bill was introduced by Senators Cory Booker (D-NJ) and Mike Crapo (R-ID), the legislation has yet to receive consideration. Experian continues to work directly with lawmakers as well as with our trade association to monitor developments related to this issue. Meanwhile, on April 17, the House passed [H.R. 5192, the Protecting Children from Identity Theft Act](#). The bill would require the **Social Security Administration** to develop a database to facilitate the verification of consumer information upon request by a certified financial institution. Such verification shall be provided only with the consumer's consent. The legislation is similar to a provision included in the large regulatory relief package that passed the Senate in March (S. 2155). However, the main differences being that H.R. 5192 does not explicitly require SSA to provide access to commercial entities and it provides additional discretion and authority for SSA to further delay and possibly fail to provide verification with commercially reasonable uptime and availability. Experian is working directly with lawmakers as well as with lender trade associations to ensure the final version of the bill would be effective at detecting and deterring synthetic identity fraud.

### Facebook CEO testifies before Congress; Data Privacy legislation

**Facebook CEO Mark Zuckerberg** testified before Congress following recent disclosures of data being shared outside of the company's policies. On April 11, he testified before a joint hearing held by the Senate Commerce and Judiciary Committees. On April 12, he testified before the House Energy and Commerce Committee. The hearings focused on a wide range of topics, including Facebook's involvement in the 2016 election interference, their policies on limiting political speech and consumer privacy. Over the course of the hearings, there was a discussion by lawmakers from both parties on what, if any, action Congress should take to help provide consumers with added transparency and control of their data. Democrats and Republicans questioned Zuckerberg about Facebook's data collection, use and sharing practices and they criticized him for the company's past mistakes on this front. The hearing, generated additional media scrutiny into data sharing and ad targeting. While legislation is likely to be introduced related to data privacy, the dialogue during the hearings made clear that there is no consensus on the need for privacy or data broker legislation. Following the hearing, **two data privacy bills** were introduced in the Senate. On April 23, Senators Amy Klobuchar (D-MN) and John Kennedy (R-LA) introduced [S. 2728, the Social Media Privacy Protection and Consumer Rights Act of 2018](#). The bill strengthens disclosure requirements; allows consumers to opt out of data tracking and collection; and mandates companies notify consumers of privacy violations within 72 hours. It would require online platforms to establish privacy programs and use "plain language" in terms of service agreements. While it is the first bipartisan privacy bill this session, it is unlikely to pass Congress this year due to a lack of consensus on privacy legislation within the Committee and the larger Congress. Meanwhile, on April 10, Senators Ed Markey (D-MA) and Richard Blumenthal (D-CT) introduced [S. 2639, the Customer Online Notification for Stopping Edge-provider Network Transgressions](#). The bill would require edge providers to obtain opt-in consent from

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their customers prior to using or disclosing their sensitive proprietary information. The legislation was referred to the Senate Commerce Committee. Similar legislation was introduced in the House last May and has yet to move or receive further consideration. Both bills have been referred to the Senate Commerce Committee. Experian will continue to engage with lawmakers directly, as well as through the DMA to impress upon them the value that responsible information plays in our nation's economy.