

**STATEMENT OF REPRESENTATIVE GARY L. ACKERMAN
HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT**

**HEARING ON H.R. 3997,
THE "FINANCIAL DATA PROTECTION ACT OF 2005."**

WEDNESDAY, NOVEMBER 9, 2005

Thank you very much Chairman Bachus. I want to thank you and Ranking Member Sanders for holding this hearing. With the long list of security breaches this past year involving banks, data brokers, and other financial institutions, I believe Congress must act quickly in order to protect the identities of the countless Americans who are clearly at risk.

I am concerned, however, that, in our haste to respond, we may be focusing on the wrong piece of legislation. Compared with several other bills addressing this issue, H.R. 3997, the Financial Data Protection Act, does too little to improve the protection of consumer data and may in fact weaken both the federal and state protections that are currently in place.

We need to ensure that the legislation we forward to the House is at least as strong as the best state laws already on the books. I would note in particular California's law that, since enactment, has successfully forced companies nationwide to promptly notify consumers about data breaches.

In addressing this issue, great care and precision in defining terms is vital. For example, a "security breach" should not be defined narrowly and require "financial fraud" as a precursor to triggering protections. Rather, as recommended in a letter last month by the National Association of Attorneys General, which has been submitted for the record, a "security breach" should be broadly defined to include *any* unauthorized access to personal information, and increase the level of protection that we currently provide to consumers.

And, in keeping with the common habit of respecting federalism only when convenient, H.R. 3997 would prevent its security requirements from being imposed under state laws. Instead, legislation passed out of this Committee should enable States to enforce security breach notifications laws in either state or federal court to ensure American consumers enjoy the greatest possible protection of their credit and identities.

Finally, I believe we need to maintain and extend the standards of Gramm-Leach-Bliley and the Fair Credit Reporting Act in data security legislation, rather than replacing these statutes with a lower set of standards for protecting the confidentiality of consumer information.

I want to thank you again, Mr. Chairman, for holding this hearing today.