

September 22, 2017

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Clayton:

I write to urge the Securities and Exchange Commission (SEC) to open an investigation into whether Equifax violated federal securities laws by failing to promptly disclose material information about its recent data breach to investors.

As you know, Section 17(a) of the Securities Act of 1933,¹ Section 10(b) of the Securities Exchange Act of 1934,² and SEC Rule 10b-5³ prohibit public companies from misleading investors about any facts that could affect the companies and their stock prices. These laws allow the capital markets to operate efficiently and lie at the heart of the SEC's mission to protect investors and facilitate capital formation.

On September 7, 2017, Equifax publicly announced that hackers had breached its systems and gained access to personal information on as many as 143 million Americans. But Equifax has admitted that it first discovered the breach on July 29th – 40 days before its public disclosure.⁴ Moreover, according to Equifax, on August 2nd, it “contacted a leading, independent cybersecurity firm, Mandiant, to assist in conducting a privileged, comprehensive forensic review to determine the scope of the intrusion, including the specific data impacted.”⁵

Yet Equifax did not disclose the Mandiant review or the existence of a potentially massive data breach in an investor presentation it gave on August 16th – two weeks after it discovered the breach and retained Mandiant to investigate. Instead, the investor presentation merely encouraged investors to consult the company's annual report and other SEC disclosures, which

¹ 15 U.S.C. § 77q(a).

² 15 U.S.C. § 78j(b).

³ 17 C.F.R. § 240.10b-5(b).

⁴ Equifax, *Equifax Releases Details on Cybersecurity Incident, Announces Personnel Changes* (Sept. 15, 2017) (<https://investor.equifax.com/news-and-events/news/2017/09-15-2017-224018832>).

⁵ *Id.*

“outline the risks” that face the company.⁶ The company’s annual report predated knowledge of the data breach and obviously said nothing about it.

Equifax’s failure to disclose in its August 16th investor presentation its discovery of the data breach, its retention of Mandiant to investigate the breach, or the results of Mandiant’s investigation to date, warrant prompt and thorough SEC investigation. On the day it made its investor presentation, Equifax shares traded at \$143. The share price has plummeted more than 30% since then. Investors who believed Equifax’s August 16th presentation was complete and accurate would have suffered enormous losses if they decided to invest in the company on the basis of the presentation.

I respectfully request that you investigate this matter and any other potential securities law violations that may have stemmed from Equifax’s failure to disclose material information about its data breach to investors.

Sincerely,



Elizabeth Warren
United States Senator

⁶ Equifax, *Investor Relations* (Aug. 2017) (<https://investor.equifax.com/~media/Files/E/Equifax-IR/documents/presentation/investor-relations-presentation-august-2017.pdf>).