



Consumer Financial
Protection Bureau

1700 G Street, N.W., Washington, DC 20552

November 21, 2017

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your letter to the Consumer Financial Protection Bureau about the Equifax data breach. As you know, the recent breach at Equifax poses an enormous threat to consumers and compromises their highly sensitive information. The Consumer Bureau is currently looking into the data breach and Equifax's response. We appreciate the opportunity to address the impact on consumers affected by the incident.

In general, the most important point I could convey is that the federal laws that are applicable to data security have not kept pace with technological and cybersecurity developments. I believe it is imperative for Congress to take steps to ensure that the regulatory framework is adequate to meet these challenges. To take just one example, the Gramm-Leach Bliley Act authorizes federal regulators other than the Consumer Bureau to establish appropriate security and confidentiality standards for information, but it applies only to financial institutions and only to certain information. Furthermore, neither the Consumer Bureau nor any other federal agency has the authority to supervise with respect to compliance with that law or with the regulations issued pursuant to it, including at the consumer reporting companies. Supervisory authority is essential in order to be able to address such issues in a preventive manner, rather than simply trying to pick up the pieces after the fact. These examples illustrate the need for Congress to reexamine whether current laws are sufficient to protect the data that consumer reporting companies collect about us and thereby restore public confidence in the credit reporting system.

In the meantime, the Consumer Bureau is working with our Federal and state partners to respond to the problems at Equifax and to try to address data security issues at all three major consumer reporting companies. Our efforts include reaching out to the other banking regulatory agencies, both individually and through umbrella organizations of multiple agencies such as the Federal Financial Institutions Examinations Council and the Financial Banking Information Infrastructure Committee, to share expertise and experience with one another in addressing these issues. We also are coordinating with the Federal Trade Commission – which has enforcement but not supervisory authority – and with state regulators and state attorneys general. I would not assert that what we are all doing is enough to address data security comprehensively, but we will certainly do whatever we can under the current statutory and regulatory framework to protect consumers.

In response to your specific inquiries, it is my understanding that the Consumer Bureau did not learn of the breach at Equifax until the same day it was made public, and I am unaware of any specific requirement for anyone to be given prompt notice under Federal financial law as it now stands, which may be an example of the kinds of regulatory gaps that currently exist.

The Consumer Bureau plays an important role in protecting consumers from harms attributable to data breaches, including identity theft, by implementing and enforcing existing consumer financial protection laws and educating consumers about existing consumer protections. The Consumer Bureau has authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act to review the data security practices of financial institutions within our jurisdiction to determine whether such practices violate Federal consumer financial laws that we administer, which include prohibitions on unfair, deceptive, or abusive acts and practices (UDAAP authority). The Consumer Bureau also has rulemaking authority to prevent UDAAPs. Further, the Consumer Bureau has authority, along with the Federal Trade Commission and other agencies, to enforce the Fair Credit Reporting Act, and is the first Federal agency to have general rulemaking authority with respect to most provisions of the FCRA. The Consumer Bureau also is the only Federal agency that has any supervisory authority over the larger consumer reporting companies. However, our authority is limited in that we do not have supervisory, enforcement, or other authority over certain provisions of the Gramm-Leach-Bliley Act that also relate to data security. Those responsibilities belong to other agencies.

To date, the Consumer Bureau's focus with respect to the consumer reporting companies has been on certain core issues consumers complained most about in the consumer reporting market: namely, the accuracy of credit reports and consumers' ability to dispute errors on their reports and get them corrected. The Consumer Bureau has made significant progress toward ensuring that consumer reporting companies, banks, and other creditors are complying with the FCRA as well as other applicable Federal consumer financial laws. Because the Consumer Bureau is the first Federal agency with authority to supervise larger consumer reporting companies for compliance with these laws, we have been able to make significant headway in the past few years on these core areas of our focus. In March 2017, the Consumer Bureau released a special edition of *Supervisory Highlights* exclusively focused on consumer reporting.¹ As reflected in that report, we have seen major improvements in the processes that the consumer reporting companies use to try to improve accuracy and investigate consumer disputes of inaccurate information. In addition, the Consumer Bureau has brought enforcement actions against companies for violating accuracy requirements,² not properly investigating mistakes in consumer reports,³ and deceiving consumers about the nature and actual cost of credit scores they sold to consumers.⁴ We will continue to protect

¹ https://www.consumerfinance.gov/documents/2774/201703_cfpb_Supervisory-Highlights-Consumer-Reporting-Special-Edition.pdf.

² <http://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-two-of-the-largest-employment-background-screening-report-providers-for-serious-inaccuracies/>.

³ <http://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-subprime-credit-reporting-company-and-owner-to-pay-8-million-penalty-for-illegal-practices/>.

⁴ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-transunion-and-equifax-pay-deceiving-consumers-marketing-credit-scores-and-credit-products/>; see also <https://www.consumerfinance.gov/about-us/newsroom/cfpb-fines-experian-3-million-deceiving-consumers-marketing-credit-scores/>.

consumers by examining and investigating consumer reporting companies and furnishers, using the authority and tools provided by the Dodd-Frank Act.

Since the Equifax breach was announced, we have handled over 7,500 complaints as well as numerous calls to our Consumer Resource Center related to this breach. A large number of complaints involved specific problems with Equifax's post-breach response. Many complaints involved attempts by consumers to set up a security freeze. Consumers described difficulty in reaching Equifax's call centers and in accessing their security freeze PIN when adding a freeze online. Consumers mentioned lengthy hold times, dropped calls, agents not calling back as promised, and call center agents that were not helpful. We are working to understand, in more detail, the problems these consumers experienced as a result of this incident and the impact of those experiences on their financial lives.

The Consumer Bureau is also focused on empowering consumers to take more control of their financial lives by providing consumers with tools and information to help them know what to do when they encounter a problem, and how to avoid problems in the first place. For example, we provide information to consumers about how they can obtain access to their credit reports to check their accuracy. In addition, the Consumer Bureau features prominently on our website a list of resources and information about the Equifax breach to help people understand what we currently know and what steps or actions they can take to protect their personal information.⁵ This information helps consumers protect themselves from identity theft,⁶ helps military personnel and their families secure their identities,⁷ and spells out the *Top 10 ways to protect yourself in the wake of the Equifax data breach*.⁸ In addition, prior to the Equifax breach, the Consumer Bureau's online tool, *Ask CFPB*, provided consumers with answers to frequently asked questions about a variety of topics, including identity theft, credit freezes, fraud alerts, and credit and identity monitoring.⁹

The Consumer Bureau will continue to examine and investigate consumer reporting companies and furnishers of information, and it will continue to educate and empower consumers to take control of their financial lives. The Consumer Bureau's vision for this market is that consumers can have confidence that their credit reports are safe, accurate, and reliable because these companies are held accountable to that end. A breach of this magnitude calls for a coordinated response, and I have directed our team to coordinate closely with other relevant Federal and state agencies to ensure we are doing everything we can to inform and protect consumers.

Thank you for your interest in the Consumer Bureau's work. Should you have any additional questions about this issue or other aspects of our work, please do not hesitate to contact me or have your staff contact Matthew Pippin in the Consumer Bureau's Office of Legislative Affairs. Mr.

⁵ <https://www.consumerfinance.gov/equifaxbreach>.

⁶ <https://www.consumerfinance.gov/about-us/blog/identity-theft-protection-following-equifax-data-breach/>.

⁷ <https://www.consumerfinance.gov/about-us/blog/servicemembers-should-secure-their-identity-after-equifax-data-breach/>.

⁸ <https://www.consumerfinance.gov/about-us/blog/top-10-ways-protect-yourself-wake-equifax-data-breach/>.

⁹ http://www.consumerfinance.gov/askcfpb/search/?selected_facets=tag_exact%3Aidentity+theft.

Pippin can be reached at (202) 435-7552. We look forward to working with you on this and other consumer financial protection matters of importance to you and your constituents.

Sincerely,



Richard Cordray
Director

Getting this framework right is an important problem right now. Thanks for coming about it. RC