



Prepared by the Offices of
Senators Elizabeth Warren, Mark Warner, Brian Schatz,
and Representative Raja Krishnamoorthi

BREACH *of* TRUST:

CFPB's Complaint Database Shows
Failure to Protect Consumers
after Equifax Breach

May 7, 2019



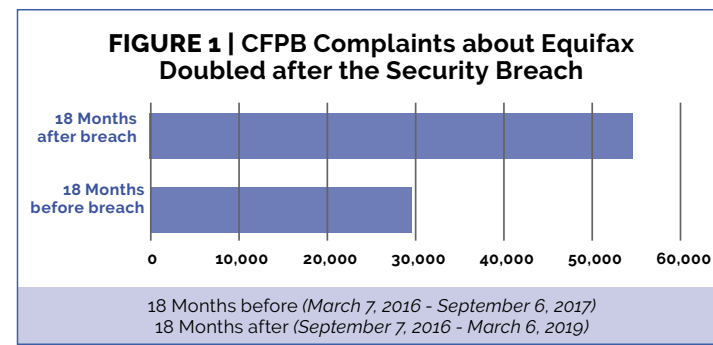
Contents

Executive Summary.....	1
Introduction	2
Findings.....	3
I. There has been a dramatic spike in the number of complaints filed against Equifax in the wake of the breach	3
II. Most complaints are related to Equifax’s post-breach failures.....	3
III. Other Consumer Complaints.....	4
Conclusion.....	5
Endnotes.....	6

Executive Summary

On September 7th, 2017, Equifax announced that it had allowed hackers to access sensitive personal information belonging to more than 143 million Americans in one of the largest security breaches of consumer data in history. In the wake of that breach, Equifax CEO Richard Smith promised that the company was “focused on consumer protection” and would “support all U.S. consumers, regardless of whether they were impacted by this incident.”¹ Mr. Smith said the company “recognize[d] we must do more. And we will.”²

This new analysis finds that more than 18 months after the breach was announced, consumers continue to file complaints against Equifax at a higher rate than before the breach. And the CFPB, under both Acting Director



Mulvaney and Director Kraninger, has refused to take action and protect consumers.

On November 2, 2018, Equifax’s Chief Information Security Officer stated, “Equifax has been off to a strong start in its transformation journey, especially with regard to enhancing our identity protection and authentication capabilities – but we’re eager to do more.”³ Based on the thousands of complaints the CFPB received from consumers, this report concludes that Equifax is still failing consumers whose data it retains, long after the catastrophic data breach. Specific findings of this new analysis of CFPB complaint data include:

- In the 18 months between September 7, 2017, when Equifax announced the breach of sensitive consumer information, and March 6, 2019, consumers filed 52,031 complaints related to Equifax.
- The majority of these complaints – 30,372 – were filed in one year between March 8, 2018, and March 7, 2019 – revealing that Equifax was still failing to address customer concerns long after the breach was revealed.

- Overall, complaints stemming from Equifax’s failure to respond effectively to consumer problems make up at least 82% of the complaints about the company in the last year. Specifically:
 - Over 18,000 complaints – representing 60% of all complaints about Equifax in this time period – are about incorrect information on consumer reports, revealing that consumers are still feeling the impact.
 - Nearly 7,000 complaints – representing almost 23% of all complaints about Equifax in this time period – involve a problem with Equifax’s investigation into a problem facing consumers, a symptom of ongoing customer service failures on Equifax’s part.
 - Over 5,000 complaints – representing 16% of all complaints about Equifax in this time period – involve other complaints about Equifax, including improper use of credit reports and problems with credit monitoring services.

There has been a shift in the type of CFPB complaints filed against Equifax in recent months. This shift indicates that consumers have encountered more and more difficulties with Equifax’s response to the breach, and that the problems it has caused millions of Americans do not appear to be fully resolved. Some of those problems include:

- Failing to address consumers’ problems over the course of months – and sometimes more than a year – despite consumers reaching out multiple times.
- Failing to remove incorrect information from credit reports despite consumers contacting Equifax multiple times, and despite both Experian and TransUnion removing the same information.
- Equifax sending broken or misleading web links that frustrate consumers and render them unable to extend credit monitoring services put in place to prevent further damage after the initial breach.

Equifax promised that it would take data security and consumer protection seriously, but this analysis of CFPB complaints against the company reveals that it has failed to do so. The CFPB’s job is to protect consumers from unfair, deceptive, or abusive acts and practices. In the wake of the 2017 breach at Equifax and the thousands of consumer complaints outlined in this report, the agency must take immediate action to do so.

Introduction

On September 7th, 2017, Equifax announced that it had allowed hackers to access sensitive personal information belonging to more than 143 million Americans in one of the largest security breaches of consumer data in history.⁴ After botching basic cybersecurity practices and failing to protect valuable consumer data, Equifax then mishandled the aftermath of the breach, failing to properly assist consumers, and in some cases, making the situation even worse. The company waited 40 days to alert consumers and regulators; initially asked that consumers waive their rights to file lawsuits just to receive free credit monitoring services; increased their profits through their partnership with LifeLock because of the ensuing rush for credit protection; and set up frustrating and ineffective call centers and other consumer support measures.⁵

The Consumer Financial Protection Bureau was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act in order to enforce federal consumer protection laws. The CFPB is responsible for protecting consumers from “unfair, deceptive, or abusive acts and practices.”⁶ The CFPB also has clear supervisory authority over large consumer reporting agencies, including Equifax.⁷

In a November 2017 response to a letter from Senator Warren, former CFPB Director Richard Cordray outlined the bureau’s authority over Equifax and its efforts to investigate the breach and assist consumers. He described the CFPB’s “authority...to review the data security practices of financial institutions...to determine whether such practices violate Federal consumer financial laws...which include prohibitions on unfair, deceptive, or abusive acts and practices.”⁸ He added that the CFPB “is the only Federal agency that has any supervisory authority over the larger consumer reporting companies.”⁹

Director Cordray also noted that the “recent breach at Equifax poses an enormous threat to consumers,” and given that risk, informed Senator Warren that the bureau was “currently looking into the data breach and Equifax’s response.”¹⁰ More specifically, he claimed that the bureau was “working with our Federal and state partners to respond to the problems at Equifax,” including through efforts with other banking regulatory agencies.¹¹ Director Cordray committed that the CFPB would “continue to examine and investigate

consumer reporting companies,” adding “a breach of this magnitude calls for a coordinated response.”¹²

Director Cordray was replaced when President Trump appointed Mick Mulvaney as Acting Director in November 2017, and Mr. Mulvaney served in that role until December 2018. Former CFPB Director Mick Mulvaney stated that the bureau “will be focusing on quantifiable and unavoidable harm to the consumer,” and that “quantitative analysis” would drive the work, stating, “there’s a lot more math in our future.”¹³ Mr. Mulvaney also told his employees that “we will be prioritizing[.]” based on the number of complaints received on certain issues.¹⁴ The CFPB’s consumer complaint database collects complaints from consumers around the country on a variety of issues, offering a quantitative look at the problems plaguing consumers. As Mr. Mulvaney noted, the database should serve as a guide for the bureau.

On April 30th, 2018, Senators Warren, Menendez, and Schatz issued a report summarizing CFPB consumer complaints against Equifax in the six months immediately following the announcement of the breach.¹⁵ The report revealed that consumers filed 21,921 complaints during the six months after the announcement, compared to just 11,973 in the six months prior.¹⁶ The report highlighted the breach’s life-altering impact on many Americans, including thousands who issued complaints about improper use of their credit reports; incorrect information on their reports; problems with security freezes and credit monitoring services; and Equifax’s failure to respond adequately to these issues.¹⁷

Several months after the release of that report, Kathy Kraninger was nominated to be the new director of the CFPB and confirmed by the Senate. In her hearing, Director Kraninger admitted that the Equifax fallout would “be with us for a long time,” and she noted that “ensuring the consumer is protected in that situation” is important.¹⁸

Over a year after that report, the CFPB still has not taken any action. Consumer complaints continue to pour into the CFPB. This updated report once again does the math. It analyzes data and individual complaints from the CFPB’s consumer complaint database in order to determine the continuing extent of the impact of the Equifax breach on consumers, the effectiveness of Equifax’s and the CFPB’s responses, and whether this data justifies a CFPB investigation.

Findings

I. There has been a dramatic spike in the number of complaints filed against Equifax in the wake of the breach

The results of this staff review of CFPB complaints about Equifax reveal that consumers filed 30,372 complaints in just over 12 months between March 8, 2018 and March 7, 2019.¹⁹ There have been more complaints filed against Equifax than have been filed against the two other major credit reporting agencies, Experian and TransUnion, during the same time period.²⁰ For comparison, in the 12 months immediately prior to Equifax announcing the breach, consumers filed only 19,603 complaints against Equifax.²¹ This represents a more than 50% increase in complaints after the breach.

The results of this review also reveal that in the 18 months after Equifax announced the breach, consumers filed 52,031 complaints about the company.²² During the same period before the announcement of the breach, consumers filed just over half that many complaints: 28,348.²³

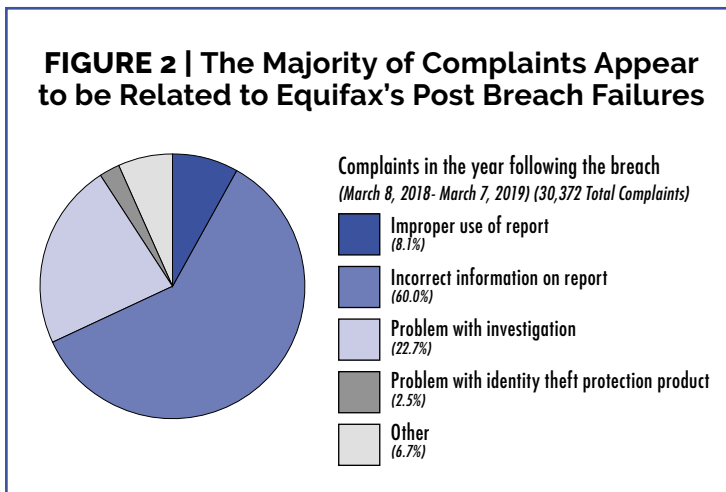
II. Most complaints are related to Equifax's post-breach failures.

This report also finds a spike in complaints related to Equifax's failure to assist consumers. Almost one in four complaints – nearly 23% – involved a problem with Equifax's investigation or inadequate assistance in the aftermath of the investigation.²⁴ And over 60% of complaints – over 18,000 total – were about incorrect information on consumer reports.²⁵ This indicates that Equifax has failed to remedy problems with reports that stemmed from the breach. Overall, complaints related to Equifax's failures to respond effectively to consumer problems make up at least 82% of all those filed in just over a year between March 8, 2018 and March 7, 2019.

a. Complaints about Inadequate Information on Credit Reports

Between March 8, 2018 and March 7, 2019, the CFPB received 18,242 complaints about incorrect information on an Equifax consumer's credit report, representing 60% of all complaints about Equifax in this time period.²⁶

A consumer credit report includes identifying information for the consumer; information on



consumer credit accounts, such as auto loans, mortgages, credit cards, and bank accounts; and a list of credit inquiries, often requests from lenders to obtain a copy of consumers' credit reports if they have applied for a loan. If a thief obtains a consumer's information and successfully opens a new credit card in the consumer's name, for example, that card and all the debt associated with it will appear on the victim's credit report. If the thief applies for and successfully takes out a loan, the inquiry from the lender and the loan, along with all debt associated with it, will appear on the victim's credit report. These are all forms of incorrect information on a consumer credit report.

In the first six months after Equifax announced the breach, these issues comprised approximately 34% of complaints.²⁷ But in the year since then, they accounted for over 60% of all complaints.²⁸ This uptick suggests that Equifax is not responding to consumer concerns about incorrect information added to their reports in the wake of the breach. The longer consumers go with incorrect information on their report, the worse the impact on their credit, and the more harmful the effects on their everyday lives.

For example, one consumer filed a complaint about a collection account that should not be on their report, and despite having "contacted [Equifax] several times," nothing had changed.²⁹ Another consumer said they had "sent a letter to the credit bureaus to no avail,"³⁰ while yet another had "disputed the" erroneous report,

yet "got no response." Several consumers urged the CFPB to "step up and fix the account."³¹

b. Complaints about Equifax Investigations into Problems Facing Consumers

Between March 8, 2018 and March 7, 2019, the CFPB also received 6,896 complaints about a concern with Equifax's investigation into a problem facing consumers, representing nearly 23% of all complaints about Equifax in this time period.³²

After failing to notify consumers of the breach for more than a month, Equifax consumer support services were shoddy and unhelpful, often leaving consumers confused and worse off than before they reached out. The company did not have an up-to-date crisis management plan, and it failed to follow those provisions it did have in place.³³ Victims of the breach were faced with an obstacle course riddled with frustrations, including difficulty reaching Equifax's call centers and accessing their security freeze PINs.³⁴ Equifax directed consumers to a special website, EquifaxSecurity2017.com, that had major security vulnerabilities.³⁵

This neglect of its responsibility appears to be an ongoing problem. In the six months after the breach, complaints over Equifax's failure to investigate and resolve consumer problems represented 15% of all consumer complaints, and in the year since they represented nearly 23% of complaints.³⁶ Equifax has had over a year and a half to address these problems, yet thousands of complaints about their efforts to do so continue to pour into the CFPB database every month.³⁷

For example, one consumer disputed "the same inaccuracies...with all 3" credit bureaus, and despite the two other bureaus removing the report, "Equifax...seems to be the one not doing their job and following the laws."³⁸

III. Other Consumer Complaints

The CFPB continues to receive a wide variety of complaints about Equifax. Between March 8, 2018 and March 7, 2019, the CFPB received 2,467 complaints regarding the improper use of an Equifax report.³⁹

Under the Fair Credit Reporting Act (FCRA), only certain individuals may request and receive a consumer credit report, and they can only do so for certain "permissible" reasons.⁴⁰ If a credit reporting agency provides a consumer's report to the wrong person or company, or to a permissible individual without the proper justification, this violates the FCRA. This category of complaints includes several sub-categories, such as "Reporting company used your report improperly" and "credit inquiries on your report that you don't recognize."⁴¹

After the Equifax breach, the data of more than 145 million Americans was at risk – for many consumers, that includes credit card numbers, names, birth dates, addresses, and driver's license numbers. When a thief obtains a consumer's information, they can use it to apply for a loan in the consumer's name, apply for a credit card, file fraudulent income tax returns, or even make purchases. If a thief uses a consumer's PII to apply for a credit card, for example, the financial institution will request the consumer's credit report from Equifax. That's just one example of how the Equifax breach could lead to a consumer complaint over improper use of their credit report.

Between March 8, 2018 and March 7, 2019, the CFPB also received 764 complaints about credit monitoring services, fraud alerts, security freezes, and other identity theft protection products.⁴²

Equifax set up enhanced alerts, security freezes, and credit monitoring after the breach – but appears to have done an ineffective job at implementing these protections. And these services came with their own set of problems for consumers. Equifax initially forced consumers to pay for a freeze, before relenting to pressure to waive the cost in light of the breach.⁴³ The company also initially demanded that consumers relinquish their rights to sue the company if they enrolled in TrustedID Premier, and placed consumers into an account that would automatically renew and charge customers the full price of the service after one year.⁴⁴ Equifax changed both of these approaches after widespread consumer complaints.⁴⁵

But the problems with Equifax's services after the breach didn't stop there. According to one consumer, after having their information exposed as part of the breach and signing up for a monitoring service from Equifax, they have been unable to extend the service. The consumer tried several times to extend the service, but "every time I click on their link and enter my information, it just logs me in and doesn't offer a means to proceed."⁴⁶ Eventually, despite attempting to contact Equifax, the consumer simply received a notification that their monitoring services had been cancelled.⁴⁷

Conclusion

More than 18 months after Equifax revealed the massive data breach, consumers continue to file complaints with the CFPB at higher-than-normal rates to help them deal with Equifax-related problems. The complaint data show that consumers have had thousands of complaints about their inability to get their problems resolved by Equifax – problems that were often created by the company's catastrophic breach in the first place. As part of its duty to consumers, the CFPB must conduct a thorough investigation of the breach, including the company's response and its efforts to work with consumers to mitigate the harm and repair any damage.

The CFPB also must continue working with federal and state agencies to address critical cybersecurity issues in the credit reporting industry. The bureau must use all tools at its disposal to get to the bottom of the causes of the breach and the depths of Equifax's failures to protect consumer data and respond adequately to the risks facing consumers. The American people have continued to use the CFPB's complaint process to make their voices heard, and right now, the agency appears to be ignoring those voices.

Congress must also act to reign in abuses in the credit reporting industry that continue to put consumers at risk. Congress should pass the SECURE Act, introduced by Senators Schatz and Warren in September 2017, which would make it easier for consumers to dispute and correct errors in their credit reports. In the six months since the data breach, more than 7,000 consumers filed complaints over incorrect information on their Equifax reports. The SECURE Act would help these consumers by increasing accountability for credit reporting agencies who willfully or negligently fail to fix incorrect information.

The bill would also give consumers the right to receive all documentation from credit reporting agencies, and would give consumers access to an additional credit score free of charge.

Congress should also pass the Data Breach Prevention and Compensation Act of 2019, re-introduced this week by Senator Warren, Senator Warner, and Congressman Cummings, which would require the Federal Trade Commission (FTC) to promulgate cybersecurity standards for credit reporting agencies and would impose strict penalties on companies like Equifax whenever they fail to adequately protect consumer data. This breach put nearly 150 million Americans at risk, and the litany of complaints in the CFPB's database demonstrate that it has hampered their ability to secure loans, buy houses, and even get jobs. But the breach hasn't even put a dent in Equifax's sky-high profits. This bill would force credit reporting agencies to adopt strict security measures to protect consumer data by imposing large penalties on any company that allows data to be accessed by unauthorized parties.

Endnotes

- 1 "Equifax, "Equifax Announces Cybersecurity Incident Involving Consumer Information," Sep. 7, 2017, <https://investor.equifax.com/news-and-events/news/2017/09-07-2017-213000628>.
- 2 *Id.*
- 3 Equifax, "Equifax Deepens Commitment to Consumer Identity Protection, Joins Cause to Evolve Verification Beyond Social Security Numbers," Nov. 2, 2018, <https://investor.equifax.com/news-and-events/news/2018/11-02-2018-120055323>.
- 4 *Supra* note 1.
- 5 Office of Senator Elizabeth Warren, "Bad Credit: Uncovering Equifax's Failure to Protect Americans' Personal Information," February 2018, https://www.warren.senate.gov/files/documents/2018_2_7_%20Equifax_Report.pdf.
- 6 Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5511(b)(2)
- 7 Defining Larger Participants of the Consumer Reporting Market, 12 C.F.R. § 1090.101.
- 8 Letter to Senator Warren from Former CFPB Director Richard Cordray, Nov. 21, 2017.
- 9 *Id.*
- 10 *Id.*
- 11 *Id.*
- 12 *Id.*
- 13 Wall Street Journal, "The CFPB Has Pushed Its Last Envelope," Mick Mulvaney, Jan. 23, 2018, <https://www.wsj.com/articles/the-cfpb-has-pushed-its-last-envelope-1516743561>.
- 14 *Id.*
- 15 Office of Senator Elizabeth Warren, "Breach of Trust: CFPB's Complaint Database Shows Consumers Need Help After Equifax Breach," April 2018, <https://www.warren.senate.gov/imo/media/doc/Breach%20of%20Trust%20Equifax%20Report.pdf>.
- 16 *Id.*
- 17 *Id.*
- 18 MarketWatch, "Trump's CFPB nominee suggests she would support action against Equifax," Steve Goldstein, Jul. 19, 2018, <https://www.marketwatch.com/story/trumps-cfpb-nominee-suggests-she-would-support-action-against-equifax-2018-07-19?ns=prod/accounts-mw>.
- 19 CFPB database. Complaints that include the word "Equifax" between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 20 *Id.* CFPB database. Complaints that include the word "Transunion" between March 8, 2018 and March 7, 2019. Complaints that include the word "Experian" between March 8, 2019 and March 7, 2019. Database accessed on April 30, 2019.
- 21 CFPB database. Complaints that include the word "Equifax" between September 7, 2016 and September 6, 2017. Database accessed on April 30, 2019.
- 22 CFPB database. Complaints that include the word "Equifax" between September 7, 2017 and March 6, 2019. Database accessed on April 30, 2019.
- 23 CFPB database. Complaints that include the word "Equifax" between March 7, 2016 and September 6, 2017. Database accessed on April 30, 2019.
- 24 CFPB database. Complaints that include the word "Equifax" between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 25 *Id.*
- 26 *Id.*
- 27 *Supra* note 15.
- 28 CFPB database. Complaints that include the word "Equifax" between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 29 CFPB database. Database accessed on March 25, 2019, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3140817>

- 30 CFPB database. Database accessed on March 25, 2019, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3138934>
- 31 CFPB database. Database accessed on March 25, 2019, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3139744>
- 32 CFPB database. Complaints that include the word “Equifax” between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 33 “Bad Credit: Uncovering Equifax’s Failure to Protect Americans’ Personal Information,” *Elizabeth Warren* (February 2018) ([available at https://www.warren.senate.gov/files/documents/2018_2_7_%20Equifax_Report.pdf](https://www.warren.senate.gov/files/documents/2018_2_7_%20Equifax_Report.pdf)).
- 34 *See id.*
- 35 *See id.*
- 36 *See id.*; CFPB database. Complaints that include the word “Equifax” between March 8, 2018 and March 7, 2019. Complaints that include the word “Equifax” between September 7, 2016 and September 6, 2017. Database accessed on April 30, 2019.
- 37 CFPB database. Complaints that include the word “Equifax” between March 1, 2019 and March 31, 2019. Database accessed on April 22, 2019.
- 38 CFPB database. Database accessed on March 25, 2019, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3136873>
- 39 CFPB database. Complaints that include the word “Equifax” between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 40 15 U.S.C. § 1681(b)
- 41 CFPB database. Database accessed on March 7, 2018.
- 42 CFPB database. Complaints that include the word “Equifax” between March 8, 2018 and March 7, 2019. Database accessed on April 30, 2019.
- 43 *See id.*
- 44 *See id.*
- 45 *See id.*
- 46 CFPB database. Database accessed on March 25, 2019, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3140291>
- 47 *Id.*



Prepared by the Offices of
Senators Elizabeth Warren, Mark Warner, Brian
Schatz, and Representative Raja Krishnamoorthi

BREACH *of* TRUST:

CFPB's Complaint Database Shows
Failure to Protect Consumers
after Equifax Breach

