

## [Banking and Finance Law Daily Wrap Up, CONSUMER CREDIT—Members of Congress want answers, investigation into Equifax breach and stock sales, \(Sept. 13, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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By [Colleen M. Svelnis, J.D.](#)

A group of 36 U.S. Senators led by Jack Reed (D-RI) and John Kennedy (R-La) have sent a letter asking the Securities & Exchange Commission, the Justice Department, and the Federal Trade Commission to investigate the sale of nearly \$2 million in Equifax securities held by high-level Equifax executives shortly after the company learned of a massive cybersecurity breach. The [letter](#) was addressed to Jay Clayton, Chairman of the SEC, Attorney General Jeff Sessions and Maureen Ohlhausen, the acting head of the FTC. Equifax has stated that the three executives were not notified of the breach when they sold shares and exercised options.

The massive data breach, announced by Equifax on September 7, lasted from mid-May through July and compromised the personal information of up to 143 million Americans. The information accessed primarily included names, Social Security numbers, birth dates, addresses, and driver's license numbers. In addition, credit card numbers for approximately 209,000 U.S. consumers, and certain dispute documents with personal identifying information for approximately 182,000 U.S. consumers, were accessed. Equifax discovered the unauthorized access on July 29, 2017 (see [Banking and Finance Law Daily](#), Sept. 8, 2017).

In their [letter](#), the Senators express concern about potential insider trading violations: "As part of your investigations, we request that you conduct a thorough examination of any unusual trading, including any atypical options trading, for violations of insider trading law. To the extent that your investigations uncover any information regarding whether Equifax management employed reasonable measures to ensure the security of the now compromised data prior to this cyber breach, we would appreciate your sharing these details."

**More information sought.** Democrats on the House of Representatives Energy and Commerce Committee have [sent](#) a letter to Equifax Chairman and CEO Richard Smith seeking more information about the data breach. "Your company profits from collecting highly sensitive personal information from American consumers—it should take seriously its responsibility to keep data safe and to inform consumers when its protections fail," the members wrote in the letter.

According to the [letter](#), the members "have a number of questions about whether Equifax took appropriate steps to safeguard the personal information of consumers." The Committee members asked what Equifax is doing to make consumers whole, how the breach occurred, and what the company is doing to safeguard against security breaches in the future. The members also expressed concern that it took Equifax more than a month to disclose the data breach to the public and that consumers continue to report difficulties they face in merely getting information about whether their personal information was compromised. Additionally, they stated concerns "about the amount of time it took for Equifax to notify the public of the breach and about the way Equifax is providing information to consumers."

The Representatives' letter also requested answers to the following questions prior to the hearing:

- How did Equifax determine that offering credit monitoring services for one year—provided by Equifax itself—would be adequate to make consumers whole?
- How much money per year would an affected customer pay Equifax to extend the "complimentary" credit monitoring services beyond one year? How much money would Equifax make after one year on credit monitoring services that would be unnecessary but for Equifax's failure to safeguard consumer data?

- What measures is the company taking to investigate the sale of stock in the aftermath of the company's discovery of the data breach, including whether these or other executives sought to delay the announcement of the data breach?

**State AG plans to sue.** Massachusetts Attorney General Maura Healey has [announced](#) her intent to sue Equifax over its failure to protect sensitive and personal information in the breach which affected almost three million Massachusetts residents. "In all of our years investigating data breaches, this may be the most brazen failure to protect consumer data we have ever seen," said Healey, stating that her office "is acting as quickly as possible to hold Equifax accountable for the risks that millions of consumers now face." The Massachusetts Consumer Protection Act requires the AG's Office to send a five-day notice to companies it intends to sue. According to the release, Healey's office intends to allege in its lawsuit that Equifax did not maintain the appropriate safeguards to protect consumer data in violation of Massachusetts consumer protection and data privacy laws and regulations.

Companies: Equifax Inc.

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