

Date: February 14, 2019

To: United States Senate Committee on Banking, Housing and Urban Affairs
Chairman Mike Crapo (R-Idaho) and Ranking Member Sherrod Brown (D-Ohio)

From: William Perkins, PhD

Re: Comments Regarding Data Privacy, Protection, and Collection

I would like to thank the Committee for the opportunity to provide my comments. All five questions mentioned in your request for comments are relevant. I will focus on question five

5) What could be done through legislation, regulation, or by implementing best practices so **a consumer can easily identify and exercise control of data** that is being (a) collected and shared by data brokers and other firms and (b) used as a factor in establishing a consumer's eligibility for credit, insurance, employment, or other purposes.

Along with almost 150 million other Americans, Equifax lost my personal financial data in 2017. Below are ten letters that I have sent to Equifax from September 8, 2017 until September 12, 2018. In every letter I made the same request – delete all data about me from Equifax databases and stop gathering new data about me. Essentially I want the “right to be forgotten.” Equifax offered to freeze my account; that is not what I asked for.

The tenth letter summarizes the previous letters and captures my frustration with Equifax. I sent a copy of each letter to several of my elected officials including my US Senators and Representative, the Texas governor, and my Texas Senator and Representative. Some of these officials did acknowledge receiving my letters. The only change I have made to these letters was to remove my address and phone number.

Besides sending the letters, I called Equifax several times after the breach was announced and asked to have my data deleted. I filed an online complaint with the FTC. And I met with the Legislative Director for my US Representative. On April 24, 2018, I testified about this topic before the Texas House Investments and Financial Services Committee in Austin in a hearing on “Study the Impact and Risks that a Large-scale Security Breach of a Credit Bureau has on Texans.” In addition, I attended the U.S. House Financial Services Committee hearing entitled “After the Breach: the Monetization and Illicit Use of Stolen Data” in Washington, DC March 15, 2018 and the U.S. Senate Committee on Banking, Housing, and Urban Affairs hearing entitled “An Overview of Credit Bureaus and the Fair Credit Reporting Act” in DC July 12, 2018. In these hearings there was a great deal of bipartisan concern for the lack of security in the Equifax system and the lack of response by federal and state agencies.

I have worked in marketing research for thirty years and have used financial information in projects, always following the FTC's "permissible purposes" rules, outlined in the Fair Credit Reporting Act of 1970. The credit reporting agencies make money not only by selling your credit score, but by selling an enormous amount of marketing data about you to companies.

Most Americans do not understand the quantity of data being gathered about them or the types of data being gathered about them. I would like to re-gain control of my personal data. The California Consumer Privacy Act of 2018 (CCPA) provides a good template for re-gaining control. These are the major consumer provisions, in my words:

1. A consumer has the right to know **that information is being collected** about them.
2. A consumer has the right to know **what information is being collected**, where it is collected from, and the purposes for collecting it.
3. A consumer has the right to know **if a business sells or discloses their information** to a third party. A business should not sell the information for children and teens.
4. A consumer has the right to **opt out of allowing their information to be sold or disclosed**.
5. A consumer has the right to **request that a business delete any personal information** it has collected about them.
6. And if a consumer exercises these rights, a **business cannot discriminate against the consumer**.

Could consumers opt out of Equifax? I understand that financial data, such as that sent from a credit card company to a credit reporting agency, are required to make creditworthiness decisions, to buy a house, buy a phone, get a job, etc. But there are several credit agencies. Consumers would need to consider the consequences of opting out of Equifax or Experian or TransUnion. Their financial lives would go on if they opted out of one of these.

The previous CEO of Equifax, Richard Smith, made this same point when he testified before the U.S. House Committee on Energy and Commerce, Subcommittee on Digital Commerce and Consumer Protection, in October 3, 2017.

Frank Pallone: Will Equifax give consumers an easy and free method to choose not to share their data in this way, even if the consumer already has a business relationship with the third party?

Richard Smith: Yeah, Congressman, I'd envision as this evolves over time, the consumer will have the ability to invite into their world who they want to have access and who they do not. It'll be their choice, their power, not ours, to make that decision.

That is exactly what I am asking for - follow his recommendation and give me the ability to control of my data, including opting out. I ask you to develop a US version of the CCPA.

September 12, 2018

Mark Begor
CEO Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Begor,

This is my tenth letter to Equifax since September 8, 2017. All of my letters have made the same request: delete all data about me from Equifax databases and stop gathering new data about me.

Equifax has ignored these requests to delete my file. I have received your offers to freeze my account. That is not what I am asking for.

Why I am asking to have my file deleted -

- Ex-CEO Richard Smith testified before the U.S. House Committee on Energy and Commerce in October 2017. He stated that consumers should have control over their own data, “it’ll be their choice, not ours” to decide who has access to their personal data. That is exactly what I am asking you to do, follow his recommendation and give me the ability to control of my data.
- The data breach violated the Fair Credit Reporting Act of 1970, specifically section 604, Permissible Purposes. Your own web site demands that users of Equifax data sign a “permissible purpose certification” explaining who should have access to my data and for what purposes. You violated the federal rule as well as your own rule.
- Equifax has ignored the growing wave of concern about data security. Europe has implemented the General Data Protection Regulation, California has passed the California Consumer Privacy Act of 2018 – both increase consumer data privacy with stronger rules concerning how companies must ask permission to use our data and allow consumers to opt out of data gathering (GDPR Article 17). I am demanding the “right to be forgotten.”
- And of course, you simply have not shown the capacity to secure my personal financial data. I realize that your business model relies on free access to my data. You make money off of me, selling my data to companies. I receive nothing in return. I want out of your insecure, unfair system.

In April 2018 I testified before the Texas House Investments and Financial Services Committee in Austin. I told them that I had written letters to Equifax asking to opt out. I told them that

Equifax has never addressed my request. I expressed my frustration that evidently Equifax does not consider my request worthy of a response.

In addition, I attended U.S. House Financial Services Committee hearing entitled "After the Breach: the Monetization and Illicit Use of Stolen Data" in Washington, DC March 15, 2018 and the U.S. Senate Committee on Banking, Housing, and Urban Affairs hearing entitled "An Overview of Credit Bureaus and the Fair Credit Reporting Act" in DC July 12, 2018. In both hearings there was a great deal of bipartisan concern for the lack of security in the Equifax system and the lack of response by federal agencies.

From my experience over the last year, I have learned that consumers will not receive a fair hearing from Equifax. Even after sending numerous letters, Equifax has not even acknowledged my request to delete my files from your system. You took my personal financial data and mishandled it. I was not given a choice about being pulled into your data system. I want out.

And I have been disappointed in the response from federal and state agencies and elected officials. It has been a year since the breach was announced and there have been no fines, no legislation, and no federal enforcement actions. The FTC and CFPB have not acted. Some legislative committees have held hearings. Some of my elected officials have sent me a form letter at least acknowledging receiving a copy of my letters sent to Equifax. I understand that we are in a period of reducing financial regulation as much as possible. The message consumers hear is that you are on your own, good luck.

To me it appears that Equifax got away with the largest data breach in U.S. history, scot-free.

William Perkins

CC:

Senator John Cornyn
517 Hart Senate Office Building
Washington, DC 20510

Senator Ted Cruz
Russell Senate Office Building 404
Washington, DC 20510

U.S. Representative Michael Burgess, District 26
2336 Rayburn House Office Building
Washington, DC 20515

Governor Greg Abbott
P.O. Box 12428
Austin, TX 78711-2428

Texas Senator Kelly Hancock, District 9
9121 Belshire Drive, Suite 200
North Richland Hills, TX 76182

Texas Representative Giovanni Capriglione, District 98
P.O. Box 770
Keller, TX 76244

June 6, 2018

Mark Begor
CEO Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Begor,

This is my ninth letter to Equifax since September 8, 2017. All of my letters have made the same request: delete all data related to me from Equifax databases and stop gathering new data about me. Equifax has ignored my requests. I am asking for the 'right to be forgotten.'

As stated in the Equifax 2017 annual report:

We are subject to various data protection, privacy and consumer credit laws and regulations in the foreign countries where we operate. Examples of the most significant of these laws include, but are not limited to, the following:

- In Europe, we are subject to the European Union ("EU") Data Protection Regulation ("GDPR"),...The GDPR establishes multiple new requirements that are generally stricter and more comprehensive than those of the U.S.....

The GDPR is now in force. Focus on Article 17 – Right to erasure ('right to be forgotten'):

The data subject [*me*] shall have the right to obtain from the controller [*Equifax*] the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies: (*a number of reasons are listed including the following*)

- the personal data have been unlawfully processed

By allowing the data breach, Equifax violated both the GDPR and the US Fair Credit Reporting Act of 1970 – my personal data was unlawfully made available to unauthorized parties.

Don't Americans deserve the same data protections afforded to Europeans? Again I am asking you to delete all data about me from Equifax databases. I would appreciate a response.

Copies of this letter will be sent to my elected officials and my contact in the media.

William Perkins

April 25, 2018

Mark Begor
CEO Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Begor,

This is my eighth letter to Equifax since September 8, 2017. All of my letters have made the same request: delete all data related to me from Equifax databases and stop gathering new data about me. Equifax has ignored my requests.

Yesterday, I testified before the Texas House Investments and Financial Services Committee in Austin. I told them that I had written seven letters to Equifax asking to opt out and I explained the reasoning behind my request. And I told the committee that Equifax has never addressed my request. I expressed my frustration that evidently Equifax does not consider my request worthy of a response.

Your company has offered freezing and monitoring. That is not what I am asking for. Why not give consumers options about who controls our personal financial data – this was suggested by Richard Smith, former Equifax CEO, when he testified before the U.S. House Committee on Energy and Commerce, October 3, 2017:

Frank Pallone: Will Equifax give consumers an easy and free method to choose not to share their data in this way, even if the consumer already has a business relationship with the third party?

Richard Smith: Yeah, Congressman, I'd envision as this evolves over time, the consumer will have the ability to invite into their world who they want to have access and who they do not. It'll be their choice, their power, not ours, to make that decision.

I am simply asking that you implement what Richard Smith recommended.

Copies of this letter will be sent to my elected officials and my contact in the media.

William Perkins

February 13, 2018

Paulino do Rego Barros, Jr
Interim CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Barros,

This is my seventh letter to Equifax since September 8, 2017. All of my letters have made the same request: delete all data related to me from Equifax databases and stop gathering new data about me. Equifax has ignored my requests.

While I still am making that same request, let's discuss another path as well.

In January, I met with staff from my U.S. Representative, Michael Burgess, in DC. He is a member of the House Committee on Energy and Commerce, Subcommittee on Digital Commerce and Consumer Protection. Richard Smith, former Equifax CEO, testified before this committee on October 3 in DC.

The committee is developing legislation to address the issues brought up by the Equifax data breach. They may follow Richard Smith's recommendation that consumers have choices about how their data will be used. As Smith testified before the committee:

Congressman, I'd envision as this evolves over time, the consumer will have the ability to invite into their world who they want to have access and who they do not. It'll be their choice, their power, not ours, to make that decision.

I have a suggestion: Equifax should form a "consumer advisory council" which would provide on-going input into how you make Mr. Smith's vision a reality, how you manage and secure data in the future to balance consumer and corporate needs. Show that you are a good corporate citizen.

A council would help you understand consumers' concerns and let Congress know that you are serious about following up on the data breach. I would appreciate hearing from you about this idea.

Copies of this letter will be sent to my elected officials and my contact in the media.

William Perkins

December 18, 2017

Paulino do Rego Barros, Jr
Interim CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Barros,

This is my sixth letter to Equifax since September 8, 2017. All of my letters have made the same request: delete all data related to me from Equifax databases and stop gathering new data about me.

In response, Equifax has twice sent me a letter explaining TrustedID Premier. You are not listening.

Listen to Richard F. Smith, former Equifax CEO, when he testified before the U.S. House Committee on Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection, October 3, 2017:

Frank Pallone: Will Equifax give consumers an easy and free method to choose not to share their data in this way, even if the consumer already has a business relationship with the third party?

Richard Smith: Yeah, Congressman, I'd envision as this evolves over time, the consumer will have the ability to invite into their world who they want to have access and who they do not. It'll be their choice, their power, not ours, to make that decision.

I agree with Richard Smith. The time has come. I do not want Equifax to have access to my data.

As I have asked in every previous letter, contact me and I will be glad to talk with anyone from Equifax about my decision to "uninvite" Equifax into my world.

Copies of this letter will be sent to my elected officials and my contact in the media. My U.S. Representative, Michael Burgess, is a member of the House Committee on Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection. He attended the hearing October 3 in Washington.

William Perkins

7 it is a service to them and that is the only product the service
8 will be able to get.

9 Mr. Pallone. Now will Equifax give consumers an easy and
10 free method to choose not to share their data in this way, even
11 if the consumer already has a business relationship with the third
12 party?

13 Mr. Smith. Yes, Congressman. I would **envision** as this
14 evolves over time the consumer will have the ability to invite
15 into their world who they want to have access and who they do not.
16 It will be their choice, their power not ours to make that
17 decision.

18 Mr. Pallone. Now last week, the interim CEO announced that
19 by January 31st of 2018 Equifax would make locking and unlocking
20 of a person's Equifax credit report free forever. A credit report
21 lock is already included in TrustedID Premier and other services
22 like credit monitoring and identity theft insurance. Will that
23 still end after 1 year?

November 28, 2017

Paulino do Rego Barros, Jr
Interim CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Barros,

This is my fifth letter to Equifax since September 8, 2017. I am making a simple request: delete all data related to me from Equifax databases and stop gathering new data about me.

As the attached “permissible purpose certification” – printed from the Equifax website – states, Equifax must not release my credit information except for specific permissible purposes as defined by the Federal Fair Credit Reporting Act. You have violated the very rule you demand that your clients follow.

Your data breach exposed very sensitive information about me, including:

- First and last name
- Social Security Number
- Date of birth
- Addresses
- Phone numbers
- Driver’s license number

This detailed information would allow someone to easily perpetrate fraud. Given your inability to secure my private data, I want to opt out of Equifax completely.

As noted previously, I am sending copies of this letter to my elected officials and my contact in the media. I have not received a response from Equifax regarding my request to delete my file.

William Perkins



ACTION REQUIRED - Prescreen Permissible Purpose Certification

**EQUIFAX INFORMATION SERVICES LLC
PERMISSIBLE PURPOSE CERTIFICATION (PRESCREEN)**

Project # (Internal Use ONLY)

The specific purpose for which prescreen credit information will be used:

- Insurance
- Credit
- Other:

Nature of Your Business:

- | | | |
|--|---|---|
| <input type="checkbox"/> Apartment | <input type="checkbox"/> Communications | <input type="checkbox"/> Medical Services |
| <input type="checkbox"/> Auto - New | <input type="checkbox"/> Credit Repair | <input type="checkbox"/> Mortgage Broker |
| <input type="checkbox"/> Auto - Used | <input type="checkbox"/> Credit Reporting Agency | <input type="checkbox"/> Mortgage Lender |
| <input type="checkbox"/> Bank | <input type="checkbox"/> Credit Union | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Broker (Non-Mortgage) | <input type="checkbox"/> Financial Services | <input type="checkbox"/> Retailer |
| <input type="checkbox"/> Collections | <input type="checkbox"/> Hospital | <input type="checkbox"/> Utility |
| Type: | <input type="checkbox"/> Insurance | <input type="checkbox"/> Other |
| <input type="checkbox"/> College/University | <input type="checkbox"/> Investigative/Detective Agency | |

Client certifies that in connection with the above project it will order consumer reports, as defined by the Federal Fair Credit Reporting Act, 15 U.S.C. §1681 et. seq., as amended (the "FCRA"), only when Client intends to use the consumer report in accordance with the FCRA and all state law FCRA counterparts and for the FCRA permissible purpose of extending such consumer a firm offer of credit or insurance (as that term is defined in the FCRA). Client further certifies that it will use each consumer report ordered from Equifax for the foregoing purpose and for no other purpose and that it will not share with, or provide to, any third party such consumer reports, except as otherwise permitted by Equifax.

Certified By:

Client:

Name and Title:

Date:

Mailing Address:

Email Address:

Phone:

Vendor/Third Party Information:

Please provide name and mailing address for any third party entity (third party processor, mail shop, etc.) receiving data on your behalf for this project. Note: please utilize the second page if you need additional space to provide the information requested below.

Name: FIS

Name:

Mailing Address: 11601 Roosevelt Blvd, TA-60
St. Petersburg, FL 33716

Mailing Address:

Please return signed and completed form to HSIdeas.ProDirect@FISGlobal.com

October 28, 2017

Paulino do Rego Barros, Jr
Interim CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Barros,

This is my fourth letter to Equifax since September 8, 2017. I received your offer for monitoring and protection through TrustedID Premier. That does not address what I am asking you to do.

Equifax has violated the Fair Credit Reporting Act of 1970. Please review Section 604 Permissible Purposes of Consumer Reports which states that “Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances **and no other.**” The Act goes on to define those circumstances. Your data breach does not fit any of those situations.

Equifax has not complied with Section 604. Therefore, I am requesting that your company remove all data related to me from Equifax databases and stop gathering new data about me. Delete marketing information as well as financial data about me.

The Federal Trade Commission does not require Equifax to gather information about me. You have permission, through the FCRA, to disseminate information about me only in the circumstances defined under Permissible Purposes.

As noted previously, I am sending copies of this letter to my elected officials and my contact in the media. I am not asking for a freeze or a lock or monitoring or protection – I want to opt out of Equifax completely.

William Perkins

- (ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;
- (C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and
- (D) the communication is not provided to any person except—
 - (i) to the employer or an agent of the employer;
 - (ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;
 - (iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;
 - (iv) as otherwise required by law; or
 - (v) pursuant to section 628.
- (2) **Subsequent disclosure.** After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (b)(2)(D) an investigative consumer report need not be disclosed.
- (3) For purposes of this subsection, the term "self-regulatory organization" includes any self-regulatory organization (as defined in section 3002(b) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

§ 604. Permissible purposes of consumer reports
[15 U.S.C. § 1681b]

- (a) *In general.* Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:
 - (1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a Federal grand jury.
 - (2) In accordance with the written instruction of the consumer to whom it relates.

- (3) To a person which it has reason to believe
 - (A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or
 - (B) intends to use the information for employment purposes; or
 - (C) intends to use the information in connection with the underwriting of insurance involving the consumer; or
 - (D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or
 - (E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or repayment risks associated with, an existing credit obligation; or
 - (F) otherwise has a legitimate business need for the information
 - (i) in connection with a business transaction that is initiated by the consumer; or
 - (ii) to review an account to determine whether the consumer continues to meet the terms of the account.²
 - (G) executive departments and agencies in connection with the issuance of government-sponsored individually-billed travel charge cards.³
- (4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that
 - (A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;
 - (B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the con-

² As written in the jointly drafted 2007 amendments that added section 604(c)(3)(G), Subsection (F)(ii) should read with "or" instead of a period, and the rest of subsection (G) should conform to the style of the rest of section 604(c)(3). An alternative would have been to add a new section 604(c)(7) allowing a permissible purpose for a consumer report "To executive departments and agencies . . ."

October 14, 2017

Paulino do Rego Barros, Jr
Interim CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dear Mr. Barros,

This is my third letter to Equifax since September 8, 2017. In the first two letters, addressed to Mr. Smith, I requested that your company remove all data related to me from Equifax databases and stop gathering new data about me. I never heard from Mr. Smith's office.

However, I have started hearing from my elected officials. A copy of each the first two letters and a copy of this letter have been sent to the officials below. And I have been in contact with a member of the media in New York.

Let me ask one last time to have your office call me and I will give them the required information to confirm by identity. I am not asking for a freeze or a lock – I want to opt out of Equifax completely.

William Perkins

September 22, 2017

Richard F. Smith
Chairman and CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dick –

This is my second letter to you about this matter. Remove any and all data related to me from Equifax databases. Do not gather or hold new data related to me. I am not asking Equifax to freeze my account. I am telling you to delete any information Equifax has about me now and to stop gathering information on me.

Have your office call me and I will give them the minimally required information to confirm by identity.

William Perkins

September 8, 2017

Richard F. Smith
Chairman and CEO
Equifax
1550 Peachtree Street NE
Atlanta, GA 30309

Dick -

Remove any and all data related to me from Equifax databases. Do not gather or hold new data related to me.

Have your office call me and I will give them the minimally required information to confirm by identity.

William Perkins