

# ConsumersUnion®

THE ADVOCACY DIVISION OF CONSUMER REPORTS

September 13, 2018

House Financial Services Committee  
2129 Rayburn House Office Building  
Washington, DC 20815

Dear Representative:

Consumers Union, the advocacy division of Consumer Reports,<sup>1</sup> strongly opposes HR 6743, the Consumer Information Notification Requirement Act (Luetkemeyer). As consumers learned following the Equifax data breach, the massive security failure that led to the theft of the personal information of over 145 million people, the United States has a shockingly inadequate data security infrastructure. This bill, if passed, would further weaken existing protections for data held by financial institutions. This would leave consumers even more vulnerable to identity theft, which led to \$17 billion in losses last year.<sup>2</sup>

The primary outcome of HR 6743 is to preempt useful, state-level data security and data breach notification protections—several of which were enacted in the wake of the Equifax data breach—and replace them with a lower standard of security. For example, following the breach, the New York State Department of Financial Services (NYDFS) extended its tough cybersecurity standards to companies like Equifax.<sup>3</sup> These new rules augment existing data security protections under the Gramm-Leach-Bliley Act (GLBA),<sup>4</sup> and establish new reporting requirements and oversight procedures.<sup>5</sup> Failure to comply with these rules could cause the credit bureaus to lose their ability to do business in New York State.<sup>6</sup> This bill would scrap these important new protections designed to prevent the next major data breach.

Companies should be held to a strong notification standard: to alert consumers and the authorities immediately to any breach, unless there is a reasonable assessment that sensitive data has not been compromised. This bill would instead establish an unacceptably high bar for notification of consumers in the event of a data breach at a financial institution. As a result, many breaches would leave people in the dark, even if the breached information could cause consumers embarrassment, distress, or

---

<sup>1</sup> Consumer Reports is the world's largest independent product-testing organization. It conducts its policy and mobilization work in the areas of telecommunications reform, as well as financial services reform, food and product safety, and other areas. Using its dozens of labs, auto test center, and survey research department, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

<sup>2</sup> *Identity Fraud Hits All Time High with 16.7 Million Victims in 2017, According to New Javelin Strategy & Research Study*, JAVELIN (Feb. 6, 2018), <https://www.javelinstrategy.com/press-release/identity-fraud-hits-all-time-high-167-million-us-victims-2017-according-new-javelin>.

<sup>3</sup> New York State Department of Financial Services 23 NYCRR 201 (June 25, 2018), [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NSText\\_A\\_23\\_NYCRR\\_201.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NSText_A_23_NYCRR_201.pdf).

<sup>4</sup> 15 U.S.C. § 6801 et seq.

<sup>5</sup> NYDFS, *supra* note 3, at 2-4.

<sup>6</sup> *Id.* at 4.

**Headquarters Office**  
101 Truman Avenue  
Yonkers, New York 10703-1057  
(914) 378-2029

**Washington Office**  
1101 17th Street, NW #500  
Washington, DC 20036  
(202) 462-6262

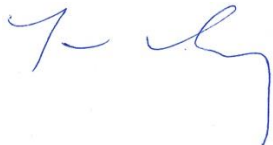
**West Coast Office**  
1535 Mission Street  
San Francisco, CA 94103-2512  
(415) 431-6747

**South West Office**  
11801 Domain Blvd, 3<sup>rd</sup> Floor  
Austin, TX 78701  
(512) 477-4431

reputational harm.<sup>7</sup> This undermines protections in a number of states, including California, that require notification in the event of any unauthorized acquisition of data.<sup>8</sup>

As Consumers Union noted in a recent editorial to mark the one-year anniversary of the Equifax data breach (attached), state legislators have made some progress to help improve security requirements following the breach, but significant gaps remain. Instead of securing stronger standards, this bill would actually weaken existing protections. On behalf of the more than 6 million consumers represented by this organization, Consumers Union urges you to reject this bill.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Maureen Mahoney', with a long, sweeping tail on the final letter.

Maureen Mahoney  
Policy Analyst  
San Francisco, CA

Attachment: Consumers Union, *Don't Let Equifax Put Americans at Risk Again*, CONSUMER REPORTS (Sept. 7, 2018), <https://www.consumerreports.org/data-theft/dont-let-equifax-crisis-go-to-waste-equifax-data-breach/>.

---

<sup>7</sup> United States Government Accountability Office, *Data Protection: Actions Taken by Equifax and Federal Agencies in Response to the 2017 Breach* at 4 (August 2018), <https://www.warren.senate.gov/imo/media/doc/2018.09.06%20GAO%20Equifax%20report.pdf>.

<sup>8</sup> Cal. Civ. Code § 1798.82.