

# INVESTOR'S BUSINESS DAILY®

## Personal Finance

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### Should You Join Lawsuits Mushrooming In Equifax Hack?

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- 9/13/2017

In a season of disastrous hurricanes, beleaguered credit bureau **Equifax** ([EFX](#)) is in the volatile eye of a storm of angry consumers and investors. The credit reporting company has been hit by more than 30 lawsuits in the U.S., according to Reuters news service, including at least one suit accusing the company of securities fraud. And it appears to have backed off one maneuver that inflamed consumer ire.

The suits stem from the [massive theft of personal identification information from](#) Equifax that the firm disclosed last week. The data breach took place from mid-May through July, Equifax said.

Are you mad enough at Equifax to wonder how to start or join a lawsuit? Think you might feel that way if you discover that someone has bought, say, a new television and charged it to your name and address? And you begin to suspect the cyber crook got his information about you from Equifax?

You can either start your own suit or join someone else who has already done so. If you do an online search for phrases like "Equifax lawsuit how to join," you'll find news reports of people and lawyers who've already taken action. After a few more search steps, you'll have lawyers' contact information and you can reach out.

You can also ask your own lawyer to recommend an appropriate counsel.

One thing you can bet on is that multiple lawsuits will be filed independently of each other. "The class action lawyer who represents the biggest damaged person or the biggest sheer number of victims will likely be appointed class counsel," said Chicago securities fraud lawyer Andrew Stoltmann. "Eventually all will be consolidated into one (case)."

Once someone is appointed class counsel, that lawyer in discovery gets to ask Equifax for the names and contact information of the people whose data was stolen from the credit reporting service. That pilferage involved information for as many as 143 million U.S. consumers, the firm says.

The class-action counsel can then contact those people and invite them to join the suit.

A class-action lawsuit will likely take three to six years, Stoltmann says.

### **Was Your Data Stolen?**

In the first days after Equifax disclosed the data hack, people on social-media sites accused Equifax of not only endangering the financial health and peace of mind of millions of Americans, but also of forcing them to waive their right to sue the company if they wanted to find out from Equifax if their data had been among the information stolen. Critics said that the waiver came about when people logged in to use two Equifax websites. To proceed, users had to agree to the sites' terms of use, which include the waiver and the site user's consent to submit to arbitration instead.

In apparent response to social-media criticism, Equifax reportedly had said it did not plan to hold victims of the data breach to their waiver and arbitration agreement. But securities fraud attorney Andrew Stoltmann told IBD that Equifax would still be free to hold victims to the waiver. "It's my understanding that this is simply what they have said and the company isn't bound by it if they haven't taken the binding arbitration agreement out."

Apparently in part to quell criticism, Equifax says it has deleted the waiver and arbitration agreement. Spokeswoman Meredith Giffanti told IBD via email, "To confirm (IBD's question), enrolling in the free credit file monitoring and identity theft protection products that we are offering as part of this cybersecurity incident does not prohibit consumers from taking legal action.

We have already removed that language from the Terms of Use on the site [www.equifaxsecurity2017.com](http://www.equifaxsecurity2017.com). The Terms of Use on [www.equifax.com](http://www.equifax.com) do not apply to the TrustedID Premier product being offered to consumers as a result of the cybersecurity incident. Again, to be as clear as possible, we will not apply any arbitration clause or class action waiver against consumers for claims related to the free products offered in response to the cybersecurity incident or for claims related to the cybersecurity incident itself."

### **Is There A Silver Lining?**

Equifax and the other two major national credit reporting services may seek a silver lining in this attack by selling products and services to consumers who want to protect their personal data. Credit freezes, for one, are subject to fees, which can vary depending on your home state. Nick Sloane of Sloane Wealth Management said, "I anticipate (Equifax) will actually try to profit from this incident by selling upgraded stuff, like more frequent access to credit reports or extending the monitoring for a fee."

Sloane adds that he does not believe that inquiring about the status of one's data with Equifax would expose a consumer to additional security risk. But, he adds, he's not sure any consumer should believe Equifax if it says your data was not hacked. "I don't think it is 'unsafe' to do so," he said. "My comment is ... I would not believe them either way (why should you; they took how long to inform the public?)."

Even if your data wasn't already hacked, you should consider security steps like a credit freeze, Sloane adds. "If companies who have sensitive consumer information get their sites hacked (Target (TGT) comes to mind), then of course this will happen again. I really think it does not matter if you found out that you were or were not part of a data breach after it happened; it is likely going to occur to you and to me at some point."

### **When Equifax Was Hacked**

Equifax disclosed the data breach last week. The company indicated that it realized it had been hacked on July 29.

The data theft involved files that included people's names, Social Security numbers, birth dates, addresses and in some cases driver's license numbers. "It poses an identity-theft threat to tens of millions of people," said Jocelyn Baird, associate editor of NextAdvisor, a consumer information website.

Equifax shares sold off on Friday and Monday. They closed down nearly 21% on Monday from their Sept. 7 closing price. They rallied nearly 2% Tuesday.