

## United States Senate

WASHINGTON, DC 20510-4606

September 26, 2016

The Honorable Mary Jo White  
Chair  
U.S. Securities & Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549

Dear Chair White:

I write to you about important federal securities matters pertaining to the Yahoo breach that may have affected 500 million accounts, and the associated lack of disclosure by the company to the public.

Last week, it was reported that Yahoo suffered a major breach in 2014, compromising more than 500 million accounts. Press reports indicate Yahoo's CEO, Marissa Mayer, knew of the breach as early as July of this year.<sup>1</sup> Despite the historic scale of the breach, however, the company failed to file a Form 8-K disclosing the breach to the public.

Furthermore, Yahoo has been engaged in an effort to sell its Internet business, including the unit affected by the breach, to Verizon since at least July 25, 2016, yet Yahoo reportedly did not inform Verizon of the breach until September 20, 2016. More puzzlingly, the company noted in a proxy statement as recently as September 9, 2016 that, "To the knowledge of Seller, there have not been any incidents of, or third party claims alleging, (i) Security Breaches, unauthorized access or unauthorized use of any of Seller's or the Business Subsidiaries' information technology systems."<sup>2</sup>

Disclosure is the foundation of federal securities laws, and public companies are required to disclose material events that shareholders should know about via Form 8-K within four business days. Data security increasingly represents an issue of vital importance to management, customers, and shareholders, with major corporate liability, business continuity, and governance implications. A breach of the magnitude that Yahoo and its users suffered seems to fit squarely within the definition of a material event. Additionally, Yahoo's September filing asserting lack of knowledge of security incidents involving its IT systems creates serious concerns about truthfulness in representations to the public. The public ought to know what senior executives at Yahoo knew of the breach, and when they knew it.

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<sup>1</sup> Maghumita Murgia, Tim Bradshaw, and David Lynch, *Marissa Mayer knew of Yahoo breach probe in July*, FINANCIAL TIMES, September 23, 2016, available at <https://www.ft.com/content/d0d07444-81aa-11e6-bc52-0c7211ef3198>.

<sup>2</sup> Yahoo, Form PREM14A Preliminary Proxy Statement, filed on September 9, 2016, available at <https://investor.yahoo.net/secfiling.cfm?filingID=1193125-16-706578&CIK=1011006>.

I encourage you to investigate whether Yahoo and its senior executives fulfilled their obligations to keep investors and the public informed, and whether the company made complete and accurate representations about the security of its IT systems. Additionally, since published reports indicate fewer than 100 of approximately 9,000 publicly listed companies have reported a material data breach since 2010,<sup>3</sup> I encourage you to evaluate the adequacy of current SEC thresholds for disclosing events of this nature. I would also appreciate answers to the following questions:

1. What steps are you taking to ensure investors are receiving timely and accurate information in compliance with federal securities laws with respect to cybersecurity?
2. What is your plan to address what appear to be deficiencies in disclosure with respect to cyber events?

As always, I appreciate your service in this important role. Thank you for your timely consideration of this matter.

Sincerely,



Mark R. Warner  
United States Senator

cc: Commissioner Kara M. Stein  
Commissioner Michael S. Piwowar

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<sup>3</sup> Tatyana Shumsky, Materiality of Yahoo's Data Breach Not Yet Known, WALL STREET JOURNAL, September 22, 2016, available at <http://blogs.wsj.com/cfo/2016/09/22/materiality-of-yahoos-500-million-user-data-breach-not-yet-known/>.