



David A. Paterson
Governor

STATE OF NEW YORK
EXECUTIVE DEPARTMENT
CONSUMER PROTECTION BOARD

Mindy A. Bockstein
Chairperson and Executive Director

FTC/TJX Companies, Data Brokers and Other Settlements

In two separate proposed agreements, TJ Maxx and Marshalls (the “TJX Companies” or “TJX”), and its data brokers Reed Elsevier and its Seisint subsidiary (the “Data Brokers”), have agreed to settle charges brought by the Federal Trade Commission (“FTC”) stemming from a massive security breach that occurred over a year ago. The breach, which resulted in identity thieves gaining access to data for at least 316,000 customers, occurred when hackers accessed credit card information belonging to millions of customers. Pursuant to the settlement agreements, the TJX Companies and the Data Brokers will implement comprehensive information security programs and obtain audits by independent third-party security professionals every other year for 20 years. The agreements will be subject to public comment for 30 days, after which the FTC will decide whether to make them final.

These proposed settlements are typical of security breach settlement cases brought by the FTC under Section 5 of the Federal Trade Commission Act (“FTCA”). Generally, these settlements mandate a comprehensive security program and require 20-year audits. The FTC is not authorized to seek fees under the FTCA.

The settlements bring to 20 the number of complaints in which the FTC has charged companies with security deficiencies in protecting sensitive consumer information. This proactive approach taken by the FTC to security breaches and cyber crime in general demonstrates that companies collecting sensitive consumer information have a responsibility to keep it secure, and will be held accountable to high standards of protection relating to electronically-held personal data.

Consumers can obtain background on this matter from the FTC’s website at <http://www.ftc.gov>.

In a consumer class action lawsuit brought against the TJX Companies, which is separate from the FTC settlement action, notices about compensation eligibility began going out last month to millions of customers whose credit card information may have been compromised in the security breach. The notices are part of a proposed settlement under review by the federal court in Boston handling the lawsuit against TJX.

Also, apart from the FTC actions, the TJX Companies agreed to pay Visa \$42 million for losing 65 million Visa transaction records. Further, the TJX Companies agreed to pay MasterCard \$24 million for losing the records of 29 million MasterCard transactions. TJX has also paid a fine in the amount of \$880,000 for violating the payment card industry’s self-imposed rules for securing data files. It remains to be seen what additional penalties and liabilities TJX will face.

