February 24, 2014

Mr. Gregg W. Steinhafel
Chairman, President and Chief Executive Officer
Target Corporation
1000 Nicollet Mall
Minneapolis, MN  55403

Dear Mr. Steinhafel:

The Committee on Oversight and Government Reform is continuing its longstanding oversight of federal policy with respect to data security. Recent major data breaches at several U.S. retailers have called into question the adequacy of our data security regulatory regime.¹ The Committee is specifically concerned that current data breach notification requirements may fail to provide consumers with timely warning and sufficient notice that their private information may be at risk.

As I am sure you appreciate, the extraordinary breadth of the Target data breach warrants appropriate scrutiny. The Committee is particularly interested in the process by which firms that hold private consumer data first learn of a breach, and subsequently notify the public of a breach. As you are aware, notification requirements are currently governed by a patchwork of State regulations and federal sector-specific statutes.² It is conceivable that such a byzantine system fails to provide consumers with maximum protection for their private information.

While law enforcement agencies are continuing their investigation into the Target breach, several facts have been publically established:

- On the evening of December 12, 2013, the Department of Justice notified Target of suspicious activity involving payment cards used at Target stores.

On December 15, 2013, Target confirmed that criminals had infiltrated its system, had installed malware on its point-of-sale network, and had potentially stolen guest payment card data.

On December 16 and 17, 2013, Target began notifying payment processors and card networks, and began preparing to publicly notify its customers of the breach.

On December 19, 2013, Target made a public announcement of a data breach.\(^3\)

In testimony before the Senate Judiciary Committee, Target’s Executive Vice President and Chief Financial Officer stated that Target did not have “any knowledge” that the offending malware had been installed on its systems prior to DOJ’s December 12\(^{th}\) notification.\(^4\) However, such a statement does not clarify when Target first learned that it may have been the victim of a data security breach – i.e., that there was a pattern of suspicious activity involving payment cards used at Target stores. Anecdotal evidence supports the possibility of such early warning; KrebsOnSecurity, a highly-regarded security blog, cited “sources at two different top 10 credit card issuers” when it broke news of the breach on December 18, 2013.\(^5\)

The Committee recognizes that Target was a victim of a malicious attack. However, the Committee also recognizes that Target’s actions necessarily affect many downstream stakeholders – including banks, credit unions, and most importantly, American consumers. To enable the Committee to better understand Target’s policies with respect to data breach notification, and the operation of data security regulation generally, we request that you provide the following information:

1. All documents and communications from November 1, 2013, to December 13, 2013, between or among employees or agents of Target Corporation referring or relating to any suspicion of a data breach.

2. All documents and communications from November 1, 2013, to December 19, 2013, between or among employees or agents of Target Corporation referring or relating to any potential notification of a data breach.

3. All documents and communications since December 12, 2013, referring or relating to any instruction from a federal agency to not provide information to Congress.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set

\(^3\) Privacy in the Digital Age: Preventing Data Breaches and Combating Cybercrime: Hearing Before the S. Comm. on the Judiciary 113th Cong. (2014) (statement of John Mulligan, Executive Vice President and Chief Financial Officer, Target Corporation).

\(^4\) Id.

forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

Please provide all responsive material as soon as possible, but no later than 5:00 p.m. on March 10, 2014. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers to receive all documents in electronic format.

If you have any questions about this request, please contact Brian Daner or Ali Ahmad of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

[Signature]

Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee’s preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

   (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

   \[\text{BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,}\]
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph in the Committee’s schedule to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been
located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

**Schedule Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.