

# Think Privacy

## Not so random thoughts

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# SOCIAL MEDIA

- How is your company using Social Media?
- Do you have a social media policy?
- Is your company using internal collaboration sites?
- If so, are they sharing customer information?
- What controls do you have in place if you are allowing your registered representatives to use social media?

# OPT OUTS

- Do you offer the appropriate Opt Outs/Opt Ins to support the way your company shares information?
- GLBA?
- FCRA?
- California SB1?
- On Line?
- Do Not Call/Do Not Email/Do Not Fax?

# MODEL PRIVACY FORM

- Do you plan to adopt the Model Privacy Form?
- Does it say enough, too much or just right?
- State Insurance Laws conflict with new Federal Model Privacy form – so what do you do?

# ENVIRONMENTAL SCANS

- Do you regularly perform Environmental Scans?
- Do you review your internal procedures when you read about a privacy situation to ensure that you do not have the same problem?

# AUTHORIZATIONS

- Are you sure your business folks are getting the right authorizations to obtain an individual's information, including a consumer report?
- Do they send the appropriate adverse action letters?

# RISK ASSESSMENTS

- Are you performing risk assessments?
- If so, are you reporting the results to senior management?
- Are they self-assessments?
- If so, does internal audit validate the results?

# TRAINING

- What type of training do you do? CBT? Live Presentations? Webinars? A combination?
- Is it annual?
- Is it working?
- Do you train your vendors or do you rely on your vendors to do it?

# INFORMATION INCIDENTS

- Are you tracking information incidents?
- Are you determining the root cause of these incidents and correcting them?
- Are you documenting all of the remediation?
- How are you tracking everything?
- Are you sure your employees know what to do when there is an information incident?
- How do you train them?

# EMPLOYEES ACCESSING DATA

- Do you monitor employee access to PII/PHI?
- Have you had instances where employees have improperly accessed data?
- Would you treat is as a breach?

# DATA BREACH

- Do you have a team ready to handle a data breach?
- Who is on your team?
- Have you performed a mock data breach?
- Have you entered into a contract with a vendor to provide services such as credit monitoring? Call center duties? Mailings?
- What about HIPAA Breach Law?
- What about proposed Federal Breach Law?

# BREACH COMES TO INSURANCE...

- Have you read the Healthnet case filed by Connecticut Attorney General Richard Blumenthal?
- Did you know that it is the first HIPAA case filed by a state AG under the HITECH Act?

# EMPLOYEE USE OF CORPORATE TECHNOLOGY

- Do you monitor employee email, instant messaging, cell phones, etc.?
- What do your policies and procedures tell employees?

# NATIONAL PRIVACY LEGISLATION

- What would it look like?
- Would we all be subject to FTC jurisdiction?
- What happens to state law?
- Will it ever pass?

# AGENTS

- Is it your responsibility to tell agents how to protect personal information?
- If so, how do you do it?
- Are you concerned that you are providing legal advice?
- Do you have privacy language in your contracts with agents or registered representatives?

# SERVICE PROVIDER CONTRACTS

- Do you have privacy and security provisions in all your service provider contracts?
- What do you do when you have an established relationship and need the service provider to execute a privacy agreement or amendment and they won't?

# CUSTOMER AUTHENTICATION

- What customer authentication controls do you have in place?
- One factor; Two Factor; or Three Factor?
- Have you read *Shames-Yeakel v. Citizens Financial Bank*?

# INFORMATION DESTRUCTION

- How do you ensure information saved on printers, copiers, faxes, etc. is destroyed once it leaves your hands?
- Do you have a robust document destruction policy?
- Does it cover electronic media as well as paper?
- What destruction language do you include in your contracts with business partners?
- Can you comply?

# MASSACHUSETTS

- Who is (or isn't) a third party vendor?
- Do you really need to change your contract?
- What do you do if a vendor doesn't have a written information security policy already in place?

# CONGRATS TO MISSISSIPPI

- Now the 46<sup>th</sup> State to enact breach law.
- Effective July 1, 2010
- 2010 MS H 583

# NEW FTC COMMISSIONERS

- Welcome Julie Brill and Edith Ramirez to the FTC
  - Ms. Brill is North Carolina's senior deputy attorney general and chief of consumer protection and antitrust.
  - Ms. Ramirez is a partner at the Los Angeles-based Quinn Emanuel Urquhart Oliver & Hedges.
- Does this mean a new point of view on privacy?

# Department of Commerce Inquiry

On April 20, 2010, the Department of Commerce (“DOC”) launched an inquiry into “the impact of current privacy laws in the United States and around the world on the pace of innovation in the information economy.” They want to understand “whether current privacy laws serve consumer interests and fundamental democratic values.” To this end, the DOC poses a number of questions, including:

- Is the notice and choice approach to consumer privacy outmoded? Would consumers be better served by a “use-based” model?
- How does compliance with myriad state privacy laws affect business activities and online operations?
- How do international privacy laws and regulations impact global Internet commerce, compliance costs, product development process and Internet users?
- What jurisdictional conflicts do companies and regulators face as a result of privacy laws? What is their impact on trade and foreign investment?
- How does the U.S. privacy framework affect business innovation, accountability and compliance related to the use of personal information?
- What is the state of the development, use and acceptance of privacy-related technologies?
- How do privacy laws impact startup ventures and small and medium-sized entities?