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New California Law Mandates "Reasonable" Security Measures for All Personal Data Concerning California Citizens

In the latest of what seems to be a never ending series of California laws protecting the privacy and security of California residents, California has enacted the first over-arching data security law in the United States. The bill is broadly written, and requires companies that own or license personal information about a California resident, and do not encrypt that data, to: 1) implement and maintain reasonable security procedures and practices to protect the information from unauthorized access, destruction, use, modification or disclosure; and 2) to the extent the company provides personal information to third parties, to require by contract that the third party implement and maintain similar security measures.

Personal information means an individual's first name or first initial in combination with last name, plus any one of the following: social security number, drivers license or California ID, account number, credit card number, access code or password gaining access to financial information or information regarding the individual's medical history.

The statute does not specifically state that it applies to data held by employers, but such an interpretation seems possible. "Owning or licensing" personal information includes, **but is not limited to** information that a business retains as part of the business' internal customer account or for the purpose of using that information in transactions with the person to whom the information relates. A "transaction" is undefined, but could potentially apply to salary or benefits transactions with employees.

This statute conceivably applies to every company that has customers or employees in California. The main exception is that all companies who are already enacting security measures under the provisions of the Gramm-Leach-Bliley financial privacy statute (GLB) or the Health Insurance Portability and Administration Act (HIPAA) or other state or federal laws that impose stricter privacy compliance are exempt from complying with this law.

The statute does not require any specific level of security, just a level of security appropriate to the nature of the information.

We are working with many companies in data privacy and security compliance, including, meeting statutory requirements and the best practices established by the Office of Privacy Protection for the State of California and ISO/IEC 17799. If you have any questions regarding the implications of this statute, or privacy or security compliance generally—contact your Seyfarth Shaw attorney.

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