

C o r p o r a t e P r a c t i c e G r o u p

## OCABR Issues Amendments to Massachusetts Identity Theft Regulations

On August 17<sup>th</sup>, the Massachusetts Office of Consumer Affairs and Business Regulation (“OCABR”) announced amendments to the Standards for the Protection of Personal Information of Residents of the Commonwealth (“OCABR Standards”)<sup>1</sup> that aim to maintain protections to consumer identity while adding flexibility for compliance by small businesses. The amendments come in response to concerns expressed by small business leaders that the proposed OCABR Standards were too onerous for small businesses that may not handle a large amount of personal information about consumers. Compliance with the amended OCABR Standards has been extended from January 1, 2010 to **March 1, 2010**. The OCABR Standards were promulgated pursuant to the new Massachusetts Data Security Law<sup>2</sup>, which became effective on February 3, 2008.

The amended OCABR Standards take a risk-based approach to data security. Under this approach, a business, in developing a comprehensive written information security program, should take into account its size, nature of its business, the kinds of records it maintains, and the risk of identity theft posed by its operations. Language added to the OCABR Standards acknowledges that the size of a business and the amount of personal information it handles plays a role in the comprehensive written information security plan a business should create. The amended OCABR Standards require safeguards which are appropriate to the size, scope and type of business handling the information; the amount of resources available to the business; the amount of stored data; and the need for security and confidentiality of both consumer and employee information. The amendments make clear that the regulations are risk-based in implementation as well as in enforcement (as had been the case in earlier versions of the regulations). In addition, the amended OCABR Standards are technology-neutral, recognizing that technical feasibility plays a role in what many businesses, especially small businesses, can do to protect data. A public hearing on the amended OCABR Standards will be held on Tuesday, September 22, at 10 a.m. at the Massachusetts Transportation Building, located at 10 Park Plaza in Boston.

To help covered entities comply with the provisions of Massachusetts’ New Data Security Law and the amended OCABR Standards, The Rogers Law Firm (“TRLF”) has partnered with aNetworks, a full-service IT firm, to provide a free data compliance seminar on September 16<sup>th</sup> from 8:00 a.m. to 9:00 a.m. at the Sheraton Braintree Hotel. Mark Rogers, an attorney with The Rogers Law Firm, will detail the regulations and how they impact Massachusetts-based companies. He will discuss the compliance structure as well as outline the steps you will need to take to be in compliance with these new regulations. The seminar will also discuss the Federal Trade Commission’s Red Flags Rule (effective **November 1, 2009**) and how it will impact the

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<sup>1</sup> 201 CMR § 17.00 *et seq.*

<sup>2</sup> “An Act Relative to Security Freezes and Notification of Data Breaches”, M.G.L. c. 93H, c. 93I.

data security policies and procedures of many businesses. Online registration for the seminar is available by visiting <http://events.anetworks.net/signup.asp?EventID=4>.

TRLF and aNetworks have also developed a Data Security Compliance Program, which offers a comprehensive assessment of an organization's data security infrastructure and provides specific recommendations to ensure compliance with all applicable laws and regulations. The Data Security Compliance Program consists of three components:

- i) development of a written identity theft prevention program;
- ii) assessment and implementation of technical security requirements; and
- iii) on-site education for members of an organization's workforce.

Additionally, TRLF offers **Fixed Fee Assurance** for the Data Security Compliance Program. **Fixed Fee Assurance** means TRLF can provide a fixed fee cost in advance as opposed to open-ended billable hours. This allows clients to project their legal costs more accurately. If you are interested in learning more about TRLF's Data Security Compliance Program, please contact Nicole Ferrairo at The Rogers Law Firm at 781.794.1600 or [nferrairo@therogerslawfirm.com](mailto:nferrairo@therogerslawfirm.com).



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The Corporate Practice Group at The Rogers Law Firm provides legal services to both large and small for-profit and not-for-profit corporate entities. In addition to having a specialty group dedicated to corporate law, we recognize that our clients, now more than ever, need to be able to project and control costs, which is why we have introduced **Fixed Fee Assurance**. This means we can provide a fixed fee cost for most legal projects in advance as opposed to open-ended billable hours, allowing you to better budget and plan for your legal bill from the outset.