

## **UPDATE TO MASSACHUSETTS IDENTITY THEFT REGULATIONS**

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In a prior memorandum, we described the new Massachusetts regulations which require all businesses holding personal information of Massachusetts residents to adopt certain procedures to provide security against data theft. The Massachusetts Office of Consumer Affairs and Business Regulation has now filed an amended version of the regulations, which can be found at 201 Code of Massachusetts Regulations 17.00. The changes come in response to widespread criticisms that the regulations are excessively burdensome and will be difficult to implement, particularly by smaller business. Most importantly, the date for compliance with the regulations has again been delayed, this time from May 1, 2009 to January 1, 2010. There are two additional amendments:

- (i) The requirement that third party vendors provide a written certificate confirming that a written security program is in place has been deleted in favor of a provision that businesses “take all reasonable steps” to ensure that third party vendors provide personal security information protection at least as stringent as required by the regulations.
- (ii) Encryption requirements for wireless devices are now limited to data that contains “personal information” rather than all data transmitted wirelessly.

Given the current economic situation and sentiment against placing additional burdens on struggling businesses at this time, the regulations may undergo additional revisions and/or further delay prior to the January 1, 2010 implementation date. We will keep you informed of further changes. In the meantime, we remain available to answer your questions and assist you in complying with the complex provisions of these regulations.