January 4, 2016

Dear Readers,

Happy New Year! Please find below the latest edition of the Cloud Computing Committee’s SciTech Cloud News. Please do not hesitate to contact me with any questions, comments, or contributions (including suggested articles for the next newsletter) to make this most valuable for you.

Sincerely,
Jastin Mostowtt
Editor
Jastin.Mostowtt@BankoftheWest.com

<table>
<thead>
<tr>
<th>Bennett B. Borden</th>
<th>Joe Pennell</th>
<th>Eric A. Hibbard</th>
<th>Arash Heidarian</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Committee Co-Chair</strong></td>
<td><strong>Committee Co-Chair</strong></td>
<td><strong>Committee Vice Chair</strong></td>
<td><strong>Committee Vice Chair</strong></td>
</tr>
<tr>
<td>Chief Data Scientist and Chair, Information Governance Group</td>
<td>Partner, Business &amp; Technology Sourcing Group</td>
<td>CTO Security and Privacy</td>
<td>Senior Corporate Counsel</td>
</tr>
<tr>
<td>Drinker Biddle &amp; Reath LLP</td>
<td>Mayer Brown LLP</td>
<td>Hitachi Data Systems</td>
<td>Amazon Web Services</td>
</tr>
<tr>
<td><a href="mailto:bennett.borden@dbr.com">bennett.borden@dbr.com</a></td>
<td><a href="mailto:JPennell@mayerbrown.com">JPennell@mayerbrown.com</a></td>
<td><a href="mailto:Eric.Hibbard@hds.com">Eric.Hibbard@hds.com</a></td>
<td><a href="mailto:heidaria@amazon.com">heidaria@amazon.com</a></td>
</tr>
</tbody>
</table>

**Data Privacy**

**The European Union Agrees to Overhaul Data Privacy Law**
*Lexology (Nelson Mullins Riley & Scarborough), December 23, 2015*

The General Data Protection Regulation (“GDPR”), which governs the use and privacy of EU citizens’ data, and the Data Protection Directive, which governs the use of EU citizens’ data by law enforcement, compose the new data privacy laws which should be effective in early 2018. The article addresses the regulations’ expansion of liability, a strengthened right to be forgotten, a new requirement for a Data Protection Officer, a requirement for a centralized authority in each Member State, and expanded consent requirements.

**U.S. Jurisprudence Hurting U.S.-EU Data Privacy Relations**
*Lexology (Quarles & Brady), December 9, 2015*

This article opines that U.S. court decisions differ from the ideals of the EU in that U.S. decisions have not been granting individuals whose privacy rights have been violated an adequate remedy. For example, in the recent Seventh Circuit decision of *Silha v. ACT, Inc.* the Court dismissed the case because of Plaintiffs’ lack of injury. Such rulings create doubts in Europe that the U.S. provides sufficient protection of individuals’ data privacy, making Europeans less willing to transfer data from Europe to the U.S.
## School Data Privacy: Challenges and Best Practices

*JD Supra (Shipman & Goodwin), November 16, 2015*

This article suggests best-practices for schools to implement to protect the data privacy of their students and employees, which can be applied to many industries. Best practices include: (1) Appoint a Chief Privacy Officer, an IT or HR employee who is in charge of privacy matters; (2) Conduct periodic privacy assessments, either by the Privacy Officer or an external consultant; (3) Establish a data privacy and governance committee to assist the Privacy Officer; (4) Periodically review privacy policies; (5) Develop vendor screening/contract review process; (6) Consider how best to communicate privacy issues with parents (general notifications on the school’s website is recommended and (7) Provide staff training.

## Data Security

### Wyndham and FTC Settle Case over “Unfair” Data Security Practices

*JD Supra (Mintz Levin), December 11, 2015*

The case of *Wyndham v. FTC* that began in 2008 when the FTC sued Wyndham for data security breaches reached a proposed settlement after the Third Circuit found against Wyndham, holding that the FTC’s authority to take action against a company’s unfair practices extends to enforcement of data security practices. The proposed settlement informs companies what they should expect from the FTC if they have a data breach due to a failure to maintain reasonable data security standards. The various settlement provisions are discussed in greater detail, including Wyndham agreeing to six tasks for the next 20 years.

### FCC Data Security Enforcement Continues

*The National Law Review (Jackson Lewis), November 12, 2015*

An agreement from the cable company Cox Communications to pay $595,000 to the FCC ends the first data security enforcement action brought by the FCC against a cable operator. The action was brought when a hacker revealed personally identifiable information about Cox customers, leading the FCC to find that Cox did not take adequate data security measures. As part of the settlement, the FCC required Cox take the following measures to ramp up their data security: (1) Designate a senior corporate manager; (2) Conduct privacy risk assessments; (3) Implement a written information security program; (4) Maintain reasonable oversight of third party vendors; (5) Implement a more robust data breach response plan; and (6) Provide privacy and security awareness training to employees and third-party vendors.

### Data-Security Assessments? You’re Going to Want a Lawyer for That

*JD Supra (Patterson Belknap Webb & Tyler), October 21, 2015*

With so many data-breaches occurring today, companies are hiring cybersecurity forensics firms to conduct comprehensive data security audits. This article addresses the question: Is the retention of a forensics firm best done through legal counsel? Considerations include (1) whether a plaintiff might attempt to use a company’s internal documents to find if a company is liable for negligence or breach of contract because it failed to take reasonable measures; and (2) if attorneys are assisting cybersecurity forensics specialists, the information obtained by the audit may be covered under attorney-client privilege. Companies contemplating a data audit should enlist outside counsel to engage the outside cybersecurity forensics firm, direct the scope and depth of the audit, and analyze and present the audit results.
**Market News & Developments**

**Amazon Cloud Gets More Business-Friendly**  
*Fortune, December 7, 2015*  
Microsoft Azure, the cloud computing active directory, had of late been the most popular cloud active directory for businesses, as it allows companies to access all Microsoft business-gearied programs with a single sign-on. Amazon Web Services, however, has created a version of an active directory, which also includes Microsoft-based applications with a single sign-on, thus enticing companies to utilize Amazon and bringing more competition for Microsoft.

**Microsoft Azure Cloud Evolves For Intelligent Machine Learning**  
*Forbes, November 11, 2015*  
This article describes what Microsoft is planning for the future of its cloud computing to keep up with the competition. Microsoft Azure is expanding with a new program called Azure Stack. The goal is to create a system in which businesses can track assets to better control business and to interact with data in the cloud world.

**Public Sector News**

**DoD Cybersecurity Rules Expand Contractors’ and Other DoD Awardees’ Obligations to Safeguard Sensitive Data and Report Cyber Incidents**  
*Lexology (Orrick, Herrington & Sutcliffe), December 2, 2015*  
The DoD published two new rules: The August Rule and the October Rule. The rules apply to companies with new DoD procurement contracts, companies with subcontracts under such DoD contracts, and companies that have been awarded other types of agreements with the DoD. As a whole, the two rules expand contractors’ and subcontractors’ safeguarding responsibilities and obligations to report and investigate cyber threats, modify the scope of data that they must safeguard, establish requirements for using cloud computing, limit disclosure of and access to government data, and expand and make mandatory DoD’s previously voluntary cyber incident reporting system for defense industrial base agreement holders.

**Backgrounder: Using FedRAMP to Navigate the Cloud**  
*FierceGovernmentIT, November 20, 2015*  
The Federal Risk and Authorization Management Program has been developing a program to make cloud computing easier for federal CIOs. For example, FedRAMP provides information on each cloud model, including the benefits and drawbacks of public, private, and hybrid clouds and a list of cloud service providers and models to choose from. FedRAMP suggests agencies define their requirements and consider legal and compliance issues before they conduct a procurement, and recommends a three-step process for agencies to assess their needs: (1) Learn about the benefits of cloud computing and explore how other agencies have used it; (2) Assess current and future IT needs; and (3) Evaluate the current cloud computing environment.
Governance & Agreements

GSA Mulls New Cloud Acquisition Vehicle
*FCW, November 10, 2015*
Because the GSA’s current cloud purchase agreements have or will soon expire, the agency is now considering a cloud-specific contract, which may be a government-wide acquisition contract or an indefinite-delivery, indefinite-quantity contract for cloud. The goal is for GSA’s customers to have a more efficient way to access cloud services.

Expanding Cybersecurity Safeguarding Requirements, Reporting Obligations, and Cloud-Based Security: A Brief Guide to Understanding DoD’s Interim Rule for Contractors
*JD Supra (McCarter & English), November 6, 2015*
This article addresses in further detail the DoD’s August Rule. This article serves to summarize and explain the rule’s two primary components: (1) safeguarding “covered defense information” and reporting cyber incidents, and (2) cloud computing. It also suggests that, although changes may be made to this interim rule, critical attention should be paid to the more precise 72-hour cyber incident reporting procedures, the reporting requirements of all subcontractors, and the inclusion of new contractual clauses when covered defense information is at issue.

Big Data

Big Data Gets Its First Official Standard at the ITU
*PCWorld, December 18, 2015*
The United Nations ITU has just released its first ever international standard for big data. The standard describes the requirements, capabilities, and uses of cloud-based big data, including collection, visualization, analysis and storage, and security. Many believe, however, that vendors have already established many universal recommendations on their own prior to the establishment of this standard.

6 Predictions For Big Data Analytics And Cognitive Computing In 2016
*Forbes, December 15, 2015*
While the predictions for big data differ, there is agreement that the industry and technology will continue to grow. This article makes certain predictions, including that big data analytics will continue to be further embedded in new areas and that the risks, including possible ethics violations, will continue to increase as the industry expands.

Law Schools Get Expanded Research Platform
*eCampus News, December 14, 2015*
LexisNexis Legal & Professional announced the upcoming release of new modules to Lexis Learn, the interactive teaching tool for legal research. This is part of the commitment to offer modern, next-generation legal research solutions that harness the power of Big Data through natural language processing and machine learning.