



June 27, 2019

## NEW YORK LEGISLATURE PASSES SHIELD ACT

On June 17, 2019, the New York legislature passed the Stop Hacks and Improve Electronic Data Security Act ("SHIELD Act"), which updates New York's existing Information Security Breach and Notification law ("Data Breach" law). The bill is currently waiting to be delivered and signed into law by the New York Governor.

If signed into law, the SHIELD Act will amend New York's current Data Breach law by (i) expanding the definition of "private information" to include more sources of personal consumer information that a business may maintain, (ii) removing the requirement that a business must conduct business in New York to be subject to the SHIELD Act, (iii) increasing the penalties for violating the SHIELD Act and (iv) adding new data security protection requirements.

Financial institutions will find some relief if the SHIELD Act is signed into law, as the SHIELD Act amends the current Data Breach law to exempt entities that provide notice to affected consumers pursuant to the Gramm-Leach-Bliley Act from the SHIELD Act's affected consumer notice requirement, except that this exemption does not apply to the notice that must be provided to the New York attorney general, the department of state and the division of state police. The new data security requirements also provide a safe harbor for any business subject to the Gramm-Leach-Bliley Act.

In the past month, Maine and Nevada have also enacted consumer data privacy legislation that applies to internet and website providers. The Nevada law excludes a financial institution or an affiliate of a financial institution subject to the Gramm-Leach-Bliley Act. We track data privacy laws on both the state and federal level, including the New York SHIELD Act. Financial privacy laws and more are covered by our firm's Marketing and Privacy Digest. □

✧ *Mike Tomkies and Lindsay Valentine*

**LOOKING FOR A MARKETING AND PRIVACY COMPLIANCE RESOURCE?** We publish an easy-to-use reference, our **MARKETING AND PRIVACY DIGEST** that compiles the state laws governing financial privacy, fair credit reporting, telemarketing /automatic dialing and announcing devices, telephone monitoring and recording, electronic signatures and restrictions on the use of social security numbers by financial service providers. Creditors, marketers and servicers should find this resource invaluable to marketing and privacy program development and regulatory compliance. **Contact us for details.**

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