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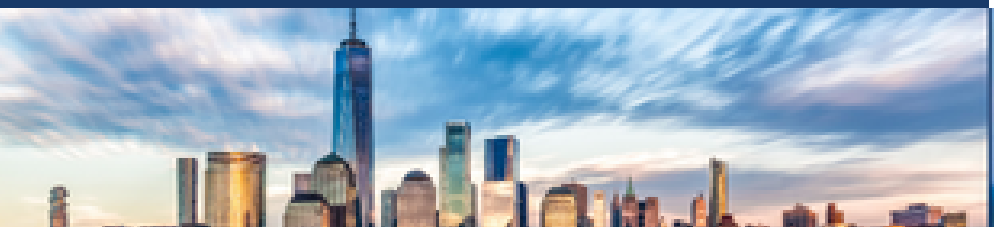

Compliance With a New Federal Privacy Standard Is On the Horizon

Later today, the White House is expected to issue an Executive Order, under the International Emergency Economic Powers Act (IEEPA), designed to prohibit certain foreign adversaries from receiving Americans' personal data. While the Order does not provide a general cybersecurity framework, it is an acknowledgement of the need to protect the personal data of Americans from foreign actors.

A Department of Justice Fact Sheet notes that the "bulk sensitive data" generated by Americans, and which foreign governments are buying, pose a detriment to national security. The fact sheet announces the issuing of Advanced Notice of Proposed Rulemaking (shortened to "ANPRM" in the fact sheet) that will set forth more specific aspects of the initiative after a public comment period.

The Fact Sheet notes that countries identified as "Countries of Concern" are employing "advanced technologies" including big-data analytics, artificial intelligence and high-performance computing to "manipulate, use, and act on sensitive data to enable nefarious activities.

The Fact Sheet provides a skeleton of the anticipated framework. Some highlights include:

- **"Countries of Concern"** are defined in the fact sheet as including China, Russia, Iran, North Korea, Cuba and Venezuela.

- **"Covered Persons"** will include four categories:
  - Entities owned, controlled or subject to the jurisdiction of a country of concern;
  - Foreign individuals who are employees or contractors for such an entity;
  - Foreign individuals who are employees or contractors for a country of concern;
  - Foreign residents of a country of concern.

- **"Covered Persons"** will also include specific designated entities or individuals as covered persons depending on certain criteria.

- **"Sensitive Personal Data"** includes:
  - covered personal identifiers;
  - geolocation and related sensor data;
  - biometric identifiers;
  - human multi-omic data;
  - personal health data; and
  - personal financial data.

- Specific transactions will be prohibited, to the extent that data is being shared.

By way of example, considering that Volvo, Motorola, Smithfield Foods, GE Appliances and AMC are owned by Chinese conglomerates, an enormous number of companies will likely fall under the definition of Covered Person as contemplated within the fact sheet.

The Executive Order would prohibit the bulk transfer of this data to identified countries through otherwise legal means. Any repercussions for violations of the finalized protocols will presumably stem from the IEEPA, which include civil and criminal penalties.

To be clear, there are no legal obligations that are being imposed by the Order, but once the final rules are issued, compliance will become mandatory and compliance programs – which are already noted in the Fact Sheet – should be implemented immediately.

Ruskin Moscou Faltischek will continue to monitor the status of this new rule and is prepared to assist businesses in staying apprised of further developments on this issue. If you have any questions regarding this or any other cybersecurity related questions, please contact:

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