

November 10, 2009

**STATE REGULATOR FILES FINAL  
MASSACHUSETTS DATA SECURITY REGULATIONS  
RETAINS MARCH 1, 2010 EFFECTIVE DATE**

The Office of Consumer Affairs and Business Regulation (OCABR) filed final Data Security Regulations on November 4, 2009, retaining the March 1, 2010 effective date. As reported in prior Alerts, persons who have access to personal information regarding Massachusetts residents in connection with business or employment must have a written information security plan in place by the effective date. The requirements of the Regulations were summarized in the Alert we published on September 25, 2009. Click [here](#) for a copy of that Alert.

The only change to the Regulations in the final version was a small adjustment to the provision regarding service providers: as anticipated, OCABR clarified that there will be a 2-year grace period for bringing existing service provider contracts into compliance with the contract requirement in the Regulation (requiring that the service provider expressly commit to maintain appropriate safeguards). On October 30, 2009, the U.S. District Court for the District of Columbia ruled that the Red Flags Rule does not apply to attorneys. The ruling was issued in a proceeding initiated by the American Bar Association after the FTC publicly announced its view that lawyers are subject to the Rule because they bill their clients after services are rendered. The case is American Bar Association v. Federal Trade Commission, No. 09-1636 (D.D.C. Oct. 30, 2009). As of this writing, the FTC has not yet indicated whether it will appeal the District Court ruling.



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