

MAYER | BROWN

**GLOBAL  
INSURANCE  
INDUSTRY**  
YEAR IN REVIEW  
**2019**

EXCERPT

An abstract graphic design consisting of multiple parallel lines that form a series of overlapping, interlocking shapes resembling a zig-zag or a stylized 'M' shape. The lines are light blue and set against a darker blue background.

## Cybersecurity

A number of new data protection laws were passed in the US in 2019. These laws highlight a few growing trends, but what these trends have in common is the expansion of the requirement to have more stringent data security requirements in place. Outside of the US, a number of countries, including the Cayman Islands and Brazil, have adopted their own GDPR-like laws, furthering the influence of the EU General Data Protection Regulation (“**GDPR**”) outside of the EU.

In July 2019, New York passed the Stop Hacks and Improve Electronic Data Security Act (“**SHIELD Act**”). The SHIELD Act amends New York’s existing data breach notification law and adds a number of new requirements. The most significant change is the addition of new data security requirements. The SHIELD Act requires companies to adopt reasonable safeguards to protect the security, confidentiality and integrity of private personal information. Unlike most state data security laws, the SHIELD Act imposes more specific requirements, including the requirement to conduct risk assessments, test key controls, train employees, and dispose of information after it is no longer needed. These specific security requirements continue the trend of other recent US data security laws, such as the NY DFS Cybersecurity law, to impose more specific security requirements. The SHIELD Act also expands New York’s existing data breach notification obligations. Specifically, the definition of “private information” now includes additional elements, such as biometric information. The SHIELD Act also broadened the definition of “breach” and expanded the territorial scope of the law.

2019 also saw a trend of new data protection laws focused on data brokers. Vermont started this trend when its data broker law went into effect in January 2019. Vermont’s law requires businesses collecting and selling data about Vermont residents to annually register with the Secretary of State and provide certain information, and also imposes minimum security requirements for data brokers. California continued this trend with its recent passage of A.B. 1202, which also requires certain businesses that sell data about California consumers to annually register as data brokers with the California Attorney General. However, unlike the Vermont law, the California law does not have a specific data security component.

Another trend we saw emerge in 2019 was the emergence of laws relating to the security of internet of things (“**IoT**”) devices. California’s Internet of Things Security Law, which was signed into law in September 2019, requires all connected devices that are sold or offered for sale in California to have reasonable security measures in place. Specifically, the security measures must be appropriate to the nature and function of the device, appropriate to the information that the device may collect, and designed to protect the device from unauthorized access. Oregon followed shortly thereafter with its own IoT law, which has security requirements that are similar to California’s law. Both laws became effective on January 1, 2020.

A number of countries have also started passing GDPR-like laws, revealing the influence of the GDPR outside of the EU. The Cayman Islands' Data Protection Law, 2017 ("**DPL**") came into force in September 2019. The DPL is modeled after the GDPR and contains many of the same requirements of the GDPR, such as providing a number of rights to data subjects to their personal data. However, there are key differences between the two laws, including consent requirements and the issuance of fines. Brazil has also passed a similar General Data Protection Law, the Lei Geral de Proteção de Dados Pessoais ("**LGPD**"), which takes effect in August 2020. Like the DPL, the LGPD was heavily inspired by the GDPR but contains a number of differences, including breach notification requirements and fines. ■

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