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On September 6, 2017, the New York State Department of Financial Services (“DFS”) issued new FAQs regarding the requirement for individual licensees to file for an exemption from Part 500 of the Cybersecurity Regulation. When the regulation was issued more than six months ago, it was believed individual licensees were not required to file for an exemption. However, the recent FAQs provide otherwise. Individual licensees have until **September 27, 2017 to file online**.

Background

The Cybersecurity Regulations became effective on March 1, 2017 (though the Regulations provide for transition periods in certain circumstances). The Regulations provide that any individual or nongovernmental partnership, corporation, branch, agency, association or other entity operating under a license under New York insurance laws (among others) (“Covered Entities”) are required to formally assess their cybersecurity risks and maintain a cybersecurity program to address such risks. Under these Regulations, Covered Entities are required to comply with a number of detailed requirements.

Limited Exemptions

Certain Covered Entities are entitled to a limited exemption if the Covered Entity has:

- Fewer than 10 employees, including any independent contractors, of the Covered Entity or its affiliates located in New York or responsible for business of the Covered Entity;
- Less than \$5,000,000 in gross annual revenue in each of the last three fiscal years from New York business operations of the Covered Entity and its affiliates; or
- Less than \$10,000,000 in year-end total assets, calculated in accordance with generally accepted accounting principles, including assets of all affiliates.

As stated above, this exemption is limited; Covered Entities must still:

- Establish and maintain a cybersecurity program and written cybersecurity policy;
- Limit user access privileges to information systems;
- Conduct a periodic risk assessment of information systems;
- Implement written policies and procedures to ensure security of information systems that; are accessible by third party service providers;
- Limit data retention; and
- And report any cybersecurity events to DFS within 72 hours.

Covered Entities that already comply with HIPAA's Security Standards may already be performing the above requirements.

If a licensed individual is an employee, agent or representative of a Covered Entity and is covered by the cybersecurity program of the Covered Entity, such individual is exempt from the Regulation.

Action

Any Covered Entity that qualifies for an exemption must file a Notice of Exemption online with DFS by September 27, 2017. Below are instructions for the filing:

- Log on to <http://www.dfs.ny.gov/about/cybersecurity.htm>
- Click on the orange box "Cybersecurity Filing"
- Click on "Submit Cybersecurity Notice of Exemption"
- Click on "Create Account." Complete all required fields and click "Save"
- Check your email for your temporary password. You'll be prompted to set your own password. Sign in to your account.

- Click on the Cybersecurity link
- Click "Submit Cybersecurity Notice of Exemption"
- Enter your license number, NAIC number or name in the field, click "Next" and choose the appropriate choice for your exemption. Click "Next."
- Complete the contact person information fields and click "Submit"
- You should receive an email with your confirmation number

New York licensees should contact their IT Departments or IT vendors to assure compliance with these requirements, even if they are they qualify for the exemption.

For more information, view the full regulation at <http://www.dfs.ny.gov/legal/regulations/adoptions/dfsrf500txt.pdf>

View the FAQs at http://www.dfs.ny.gov/about/cybersecurity_faqs.htm