**CSBS Nonbank Model Data Security Law**

**Compliance Checklist**

**(As of 07/20/2023)**

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| **CSBS Nonbank Model Data Security Law [replace with appropriate title]** |
| The purpose of this Act is to set forth data security standards and establish guidelines for investigating and notifying the agency head regarding security events. It is applicable to all financial institutions under the authority of the Commissioner, as specified in Section 2 (b) [update language as necessary]. The Act aims to regulate the handling of customer information within these financial institutions. |

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| **Section 4 – Standards for Safeguarding Customer Information** | **Y/N** | **Notes** |
| 1. Develop, implement, and maintain a comprehensive, written information security program that includes all elements set forth in Section 5 below. The program may include numerous policies, procedures, and standards.
 |[ ]   |
| 1. The program should achieve the following objectives:
2. Ensure the security and confidentiality of customer information;
 |[ ]   |
| 1. Protect against any anticipated threats or hazards to the security or integrity of such information; and
 |[ ]   |
| 1. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.
 |[ ]   |

| **Section 5 – Elements** | **Y/N** | **Notes** |
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| 1. **Qualified Individual** – Designate a “Qualified Individual” responsible for overseeing and implementing the program who may be an employee, affiliate, or service provider. If an affiliate or service provider is used, then the institution shall:
 |[ ]   |
| 1. Retain responsibility for compliance;
 |[ ]   |
| 1. Designate a senior member of your personnel responsible for direction and oversight of the Qualified Individual; and
 |[ ]   |
| 1. Require the service provider or affiliate to maintain an information security program that complies with this Act.
 |[ ]   |
| 1. **Risk Assessment** – The risk assessment should:
* Identifyreasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information; and
 |[ ]   |
| * Assess the sufficiency of any safeguards in place to control these risks.
 |[ ]   |
| 1. The risk assessment shall be written and include:
 |[ ]   |
| * 1. Criteria for the evaluation and categorization of identified security risks or threats the institution faces;
 |[ ]   |
| * 1. Criteria for the assessment of the confidentiality, integrity, and availability of information systems and customer information, including the adequacy of existing controls in the context of identified risks or threats the institution faces; and
 |[ ]   |
| * 1. Requirements describing how identified risks will be mitigated or accepted based on the risk assessment and how the information security program will address the risks.
 |[ ]   |
| 1. Additional risk assessments should be periodically performed to reevaluate identified risks and reassess the sufficiency of safeguards in place to control the risks.
 |[ ]   |
| 1. **Control Design and Implementation** – Design and implement safeguards to control risks identified through the risk assessment process.
 |[ ]   |
| 1. Implement and periodically review access controls to authenticate and permit access only to authorized users and limit authorized users’ access to only customer information needed to perform duties or, in the case of customers, to access their own information.
 |[ ]   |
| 1. Identify and manage the data, personnel devices, systems, and facilities needed to achieve business purposes.
 |[ ]   |
| 1. Encrypt all customer information in transit and at rest if feasible. If not, alternative compensating controls reviewed and approved by the Qualified Individual may be used.
 |[ ]   |
| 1. Adopt secure development practices for in-house developed applications, including procedures for testing the security of externally developed applications utilized to transmit, access, or store customer information.
 |[ ]   |
| 1. Implement multi-factor authentication for any individual accessing any information systems unless the Qualified Individual has approved the use of reasonably equivalent or more secure access controls in writing.
 |[ ]   |
| 1. Develop, implement, and maintain procedures for the secure disposal of customer information in any format no later than two years after the last date the information is used unless necessary for business purposes, required by law or regulation, or targeted disposal is not feasible. The data retention policy should be reviewed periodically to minimize unnecessary retention of data.
 |[ ]   |
| 1. Adopt procedures for change management.
 |[ ]   |
| 1. Implement policies, procedures, and controls designed to monitor and log authorized user activity and detect unauthorized access or use of customer information.
 |[ ]   |
| 1. **Key Control Testing** –
2. Regularly test or otherwise monitor key controls identified during the risk assessment process.
 |[ ]   |
| 1. Monitoring and testing for information systems should include continuous monitoring or periodic penetration testing and vulnerability assessments. At a minimum, penetration tests should be performed annually. Vulnerability assessments should be performed at least every six months, when there are changes to operations or business arrangements, and where there are circumstances known or believed to have a material impact on the information security program.
 |[ ]   |
| 1. **Training and Expertise** – Implement policies and procedures to ensure personnel are able to enact the information security program.
 |[ ]   |
| 1. Security awareness training should be provided for all personnel that is updated as necessary to reflect risks identified by the risk assessment.
 |[ ]   |
| 1. Qualified information security personnel should be employed by you or engaged via outsourcing from an affiliate or service provider to manage information security risks and to perform or oversee the information security program.
 |[ ]   |
| 1. Information security personnel should receive security updates and training.
 |[ ]   |
| 1. Key information security personnel should take steps to maintain current knowledge of changing information security threats and countermeasures.
 |[ ]   |
| 1. **Service Providers** – Oversee service providers by:
2. Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for customer information;
 |[ ]   |
| 1. Requiring service providers by contract to implement and maintain safeguards; and
 |[ ]   |
| 1. Periodically assessing service providers based on the risk they present and the continued adequacy of their safeguards.
 |[ ]   |
| 1. **Program Adjustments** – Evaluate and adjust the information security program for:
* Key control testing and monitoring results;
 |[ ]   |
| * Material changes to operations or business arrangements;
 |[ ]   |
| * Risk assessment results; and
 |[ ]   |
| * Any circumstance that may have a material impact on the program.
 |[ ]   |
| 1. **Incident Response Plan** – Establish a written incident response plan to respond to, and recover from, any security event materially affecting the confidentiality, integrity, or availability of customer information. The plan shall address:
 |[ ]   |
| 1. Goals of the incident response plan;
 |[ ]   |
| 1. Internal processes for responding to a security event;
 |[ ]   |
| 1. Definition of clear roles, responsibilities, and levels of decision-making authority;
 |[ ]   |
| 1. External and internal communications and information sharing;
 |[ ]   |
| 1. Identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;
 |[ ]   |
| 1. Documentation and reporting regarding security events and related incident response activities; and
 |[ ]   |
| 1. Evaluation and revision as necessary of the plan following a security event.
 |[ ]   |
| 1. **Board Reporting** – Qualified Individual should report in writing to the board or equivalent governing body, annually at a minimum, the following:
 |[ ]   |
| 1. Overall status of the information security program;
 |[ ]   |
| * Compliance with this Act; and
 |[ ]   |
| 1. Material matters related to the program, such as:
 |[ ]   |
| * Risk assessment;
 |[ ]   |
| * Risk management and control decisions;
 |[ ]   |
| * Service provider arrangements;
 |[ ]   |
| * Results of testing;
 |[ ]   |
| * Security events or violations and management’s responses thereto; and
 |[ ]   |
| * Recommendations for changes.
 |[ ]   |
| 1. **Business Continuity and Disaster Recovery** – Establish a written plan addressing business continuity and disaster recovery.
 |[ ]   |

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| **Section 6 – Effective Date** | **Y/N** | **Notes** |
| Sections [XXXX] are effective as of [when]. |[ ]   |

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| **Section 7 – Exceptions** | **Y/N** | **Notes** |
| Does the entity maintain customer information concerning fewer than [insert number] thousand consumers?*Please note, per the FTC Safeguards Rule, the following exceptions apply for entities which maintain customer information for fewer than five thousand consumers:*1. *Section 5(b)(1) – A* ***risk assessment*** *is required but is not required to be in writing.*
2. *Section 5(d)(2) –* ***Continuous monitoring, penetration testing, and vulnerability assessments*** *are not required; however, the institution must still regularly test or otherwise monitor the effectiveness of the information security program.*
3. *Section 5(h) – A written* ***Incident Response Plan*** *is not required.*
4. *Section 5(i) –* ***Annual written board reporting*** *is not required.*
 |[ ]   |

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| **Section 9 – Notification of a Security Event** | **Y/N** | **Notes** |
| **Notification to the Commissioner** – Evaluate whether the financial institution has experienced a security event and if so, does it meet the following criteria for notification: |[ ]   |
| 1. Customer information involved is of [insert number] or more consumers residing in this [state] and
 |[ ]   |
| 1. Either of the following:
 |  |  |
| 1. A notice is required to be provided to any government body, self-regulatory agency, or any other supervisory body pursuant to any state or federal law
 |[ ]   |
| 1. A reasonable likelihood of materially harming:
 |[ ]   |
| * 1. Any consumer residing in this [state]; or
 |[ ]   |
| * 1. Any part of the normal operation(s) of the financial institutions
 |[ ]   |
| The Commissioner is notified within 72 hours from a determination that a security event has occurred. |[ ]   |
| This notification is sent in accordance with the format and requirements specified by the Commissioner. |[ ]   |
| **Notice Regarding Security Events of Service Providers -** If the security event occurs in a system maintained by a service provider and the financial institution becomes aware of it, treat the event as if it happened within the financial institution itself, following the same procedures outlined above. |[ ]   |