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**MEMORANDUM**

February 22, 2017

To Our Clients and Friends

Re: NY DFS Finalizes Cybersecurity Requirements

The New York Department of Financial Services (DFS) has finalized its cybersecurity regulation. The final regulation requires financial services companies<sup>1</sup> to establish and maintain a cybersecurity program designed to protect consumers' nonpublic information and information technology systems of regulated institutions. The regulation will take effect on March 1, 2017. Financial services companies will generally have until September 1, 2017 to comply with the requirements, and longer for certain provisions.

The DFS made minimal changes from the proposal released in December, 2016. The final regulation:

- Exempts charitable annuity societies, risk retention groups not chartered in New York, accredited and certified reinsurers. Certain captive insurance companies are also exempt from most of the requirements.
- Clarifies that business operations of both a company and its affiliates count toward qualifying for the limited exemptions for companies with fewer than 10 employees located in or responsible for New York business or less than \$5 million in gross annual revenue for the last three fiscal years.
- Requires companies to maintain for five years systems that can reconstruct material financial transactions, and audit trails designed to detect and respond to cybersecurity events<sup>2</sup> for 3 years.
- Requires notice to the superintendent promptly, but no later than 72 hours of determining a cybersecurity event occurred that requires notice be provided to any government, self-regulatory or other supervisory body, or has a reasonable likelihood of materially harming any material part of the company's normal operations.

A copy of the DFS's Cybersecurity Requirements for Financial Services Companies and our prior memoranda on this regulation are available on our website at <http://www.schwartzandballen.com/news.html>

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox, Heidi Wicker or Magda Gathani at (202) 776-0700.

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<sup>1</sup> A financial services company is covered by the requirements if it operates under a license, registration, charter, certificate, permit, accreditation or similar authorization under New York Banking Law, Insurance Law, or Financial Services Law.

<sup>2</sup> "Cybersecurity event" means any act or attempt, successful or unsuccessful, to gain unauthorized access to, disrupt or misuse an Information System or information stored on an Information System.