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M E M O R A N D U M

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To Our Clients and Friends

Re: Massachusetts Security Breach Law

The Commonwealth of Massachusetts has amended its security breach laws to impose additional requirements on companies that experience security breaches. The legislation takes effect in 90 days.

The new law sets forth specific information that a company experiencing a security breach must provide to consumers, including the type of personal information compromised. If the security breach includes a social security number, the company experiencing the breach must offer credit monitoring services at no cost for a period of at least 18 months (42 months, if the company is a consumer reporting agency) to individuals whose social security number was disclosed in the breach of security or is reasonably believed to have been disclosed. A company that experiences a security breach may not require a consumer to waive the right to a private right of action as a condition of the offer of credit monitoring services. The company must also provide a certification to the Massachusetts attorney general and the director of the office of consumer affairs that the company's credit monitoring services comply with Massachusetts law.

If a company that experiences a breach of security is a subsidiary of another entity, the company is required to disclose the name of its parent in its notice to consumers, the attorney general and the office of consumer affairs.

The new law also provides that a consumer reporting agency may not charge a fee to any consumer who places, lifts or removes a security freeze from a consumer report. Previously, a fee of up to \$5 could be charged to consumers (except those who were victims of identity theft). In addition, a consumer reporting agency may not offer a paid product to prevent unauthorized access or restrict access to a consumer's credit unless the consumer reporting agency notifies the consumer of the availability of obtaining a

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security freeze without charge and provides information to the consumer on how to obtain a security freeze.

A copy of the Massachusetts legislation is available on our website at <http://schwartzandballen.com/news.html> For more information, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.