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Operationalizing Privacy Law in the Transactional Realm

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DPIA/PIAs and ROPAs

Challenges & Recommendations

Challenge

Assessing current state to anticipate the impact to the business

Recommendations

- Understanding current vendors/customers
 - Retrospective
 - Going forward
- Setting the stage
 - Clarify expectations
 - Establish a realistic workflow in light of resources and bandwidth
 - Frame to account for impact on closing impending deals as exemplar
- Identifying templates or systems to deploy for a repeatable process

Challenge

Educating leadership and individual contributors

Recommendations

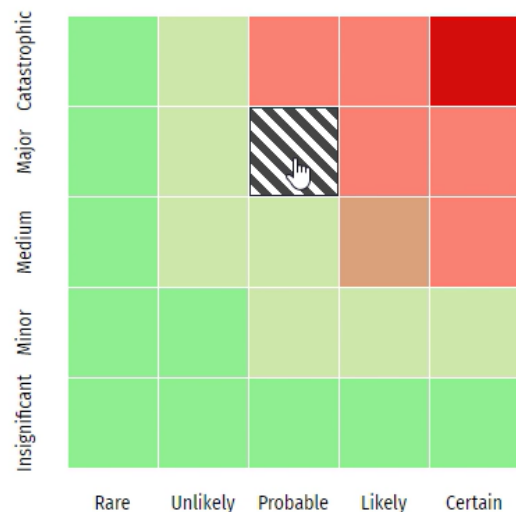
- Provide an overview of the law's requirements and risk examples in plain English
- Share examples of past contracts and the would-be impact
- Ensuring appropriate stakeholder are aligned and collaborate on the process
 - Include data architecture, InfoSec, privacy, business owners as working groups
 - Make it a practically-driven process with dry runs and walk-throughs to test the procedures against operational realities

Challenge

Understanding assessments

RISK SCORE

IMPACT 4 - MAJOR	LIKELIHOOD 3 - PROBABLE	RISK SCORE 12	MODERATE
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Recommendations

- Determine the impact the potential risk will have, along with the likelihood of its occurrence
- Making the subjective objective
 - Create grids with input from those involved
 - Weighing the risks and mitigating factors

Challenge

A template for each jurisdiction?

Recommendations

- Synthesizing regulatory schemes
 - Various triggers based on jurisdiction
- Determine the high watermarks
 - SPI definitions
 - High-risk processing activities
- Anticipating changes

Data Processing Addendums and Vendor Management

Challenges & Recommendations

Challenge

How to determine current state of compliance

Recommendations

- Understanding existing vendors
 - Mapping, data architecture, retention schedules assist with vendor types
 - Conduct interviews with business owners
- Developing objective measures
 - Create checklists, including jurisdictional nuances

Challenge

Managing different forms: 13 (and counting) different templates?

Recommendations

- Conduct baseline and retrospective analysis
- Determine a go-forward approach
- Don't ignore privacy policies

Challenge

Managing different forms: Everyone has their preferred DPA

Recommendations

- Navigate negotiations with pragmatism
- Including relevant jurisdictional deviations
- Implement Master Agreement or DPA controls
 - Consider checklists and decision trees
- How to address clickwrap DPAs

Challenge

Managing ongoing compliance

Recommendations

- DPA ownership
 - Will grow stale without dedicated ownership
 - Education to facilitate resource dedication
- Ensure ongoing compliance and safe harbor
 - Third-party processor/service provider due diligence
 - Period reviews, assessments on use, etc.
 - Working with InfoSec; building on existing tools
- Develop processes for new vendors
- No due diligence – no defense

Data Mapping

Inventory/Data

Challenges & Recommendations

Challenge

Creating a baseline inventory – dealing with different definitions based on jurisdiction

Recommendations

- System considerations
- Third-party solutions vs. in-house
- Avoiding and managing gaps
- Ongoing education

Challenge

Maintaining an accurate inventory

Recommendations

- Consider technological solutions
- Determine ownership
- Conduct annual reviews
- Incorporate ongoing assessments; collaboration between legal and IT

Q&A / Contact

Questions & Contacts



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