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US Privacy Data Privacy Law Compliance Checklist

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The rapidly evolving patchwork of state data privacy laws has created increasing compliance obligations for businesses who operate in the United States. Currently, 20 states have passed comprehensive data privacy laws in the US: California, Virginia, Colorado, Connecticut, Utah, Iowa, Indiana, Tennessee, Texas, Florida, Montana, Oregon, Delaware, New Hampshire, New Jersey, Kentucky, Nebraska and Rhode Island (the "US Consumer Privacy Laws"). The laws in California, Virginia, Colorado, Connecticut, Utah, Florida, Texas and Oregon are currently effective. As such, businesses are encouraged to review the nuances of each applicable law to identify its specific obligations, consider the business impacts of these requirements and effectively implement a compliant program with minimal disruption.

While each state approaches data privacy regulation in different ways, the obligations imposed and the rights created under the US Consumer Privacy Laws are similar in many respects.

The following table summarizes the primary tasks a business will need to complete to achieve compliance with the US Consumer Privacy Laws. Businesses can expect some states to further refine these data privacy laws through issuing regulations and providing additional guidance in the coming months. As such, businesses will need to maintain the ability to adjust to new developments under these (and other) state privacy laws while implementing the requirements set forth under this checklist.

Action

- ☐ **Determine Whether Your Business is Subject to the US Consumer Privacy Laws.** Entities must determine whether they meet the jurisdictional threshold of the US Consumer Privacy Laws and whether such laws apply to the personal information processed by the business.
- ☐ **Perform Data Mapping Analysis.** Understand how your company collects, processes and shares covered personal information, including sensitive personal information, to determine your data privacy obligations.
- ☐ **Assess Cybersecurity Posture and Implement Appropriate Cybersecurity Controls.** Evaluate cybersecurity program and identify gaps, if any, between current cybersecurity policies, practices and controls and the statutory requirements. Implement necessary additional policies, practices and controls.
- ☐ **Negotiate Existing or New Contracts with Vendors**. Enter into appropriate contracts with vendors that comply with the US Consumer Privacy Laws' content and data restriction requirements.
- ☐ **Conduct Data Protection Assessments**. Engage relevant stakeholders and conduct data protection risk assessments (where required) to evaluate the risks and operational impacts of consumer rights regarding processing for targeted advertising or profiling, the sale of personal data or the processing of sensitive data.
- ☐ **Develop Processes to Facilitate Consumer Requests and Ensure Permissible Processing.** Develop (or update) mechanisms for accepting, tracking, verifying and honoring consumer requests, and collecting and retaining personal information.
- ☐ **Implement Mechanisms to Enable Consumer Opt-Out of the Sharing or Sale of Personal Information.** Provide consumers with a compliant means to exercise their opt-out rights where the business sells their personal information, uses it for targeted advertising or uses it for profiling purposes.
- ☐ **Implement Consent Mechanism for Collecting Sensitive Information or Personal Information of Minors**. Businesses that collect sensitive personal information or personal information from minors should develop appropriate mechanisms to obtain consent before the collection of such information.
- ☐ **Revise Privacy Policies and Other Privacy Notices.** Revise privacy policy and other consumer notices to properly reflect the business's personal data processing activities, communicate the new rights available to consumers and facilitate that exercise of such rights.
- ☐ **Provide Training Program.** Train employees who are responsible for handling consumer inquiries to verify and handle those requests in a timely and consistent manner.
- ☐ **Retain Records of Consumer Request.** Implement processes and procedures to maintain accurate records of consumer requests received and processed for the required retention period.
- ☐ **Provide Consumers the Right to Appeal.** Develop and implement processes to provide consumers the opportunity to appeal a denial of requests to exercise their rights (e.g., the right to correct, delete, etc.) and to the extent required, provide consumers the opportunity to notify applicable regulators.

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