

# Data privacy laws: coming to a market near you?

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### **Today's Moderator**



**Rebecca Bole** – Director of Editorial Strategy & Products, Advisen Ltd.





Iain Ainslie
Technology & Cyber Underwriter
ACE European Group



**Bridget Treacy**Managing Partner
Hunton & Williams London



**Ken Munro**Partner
Pen Test Partners



Iain Ainslie is Technology and Cyber underwriter at ACE European Group where he is responsible for Technology Professional Indemnity, Cyber and Privacy Insurance, predominantly for the UK, Ireland, US & Canadian markets albeit with a worldwide territorial scope.

Iain is a Certified Project Manager and a Master of Business Administration (MBA) and has worked in the London Insurance Market for more than 27 years, 21 of which were within information technology where his roles included application development, project management, infrastructure management, Head of IT and consultancy.





Bridget Treacy is the Managing Partner of Hunton & Williams' London office and leads the UK Privacy and Information Management practice. Her practice focuses on all aspects of privacy and information governance for multinational companies, including data breach, cloud computing, big data and analytics, behavioural targeting and cross border data transfers. Bridget is the only lawyer ranked as a "star individual" for data protection in Chambers and Partners 2012 and 2013 Guides, which describes her as a "...superb but approachable lawyer," who continues to impress sources with "her incredible amount of knowledge on the subject." Bridget is a frequent speaker on privacy-related issues, is editor of the specialist privacy journal "Privacy and Data Protection", and has contributed to a number of published texts including Data Protection for Financial Firms: A Practical Guide to Managing Privacy and Information Risk (2010).





Ken has been working in IT security for over 15 years. He writes for various newspapers and industry magazines, in an effort to get beyond the unhelpful scaremongering put about by many security vendors.

He runs a firm of penetration testers, otherwise known as ethical hackers, who specialise in helping organisations understand and quantify risk to their business.

Ken speaks widely on computer security, and takes great pleasure in highlighting vulnerabilities in software and hardware



### Privacy: Not just data breach

So, what does the broader landscape look like?

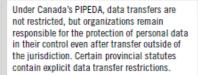


### Privacy regulation: global developments

What notable developments in privacy regulation are you seeing in the key regions outside of USA?



### Data Privacy Regulation is Global



The EU Directive prohibits the transfer of personal data from the EU to a jurisdiction outside of the European Economic Area unless (1) the European Commission has made an adequacy finding with respect to that country or transfer (including the Safe Harbor); (2) the data exporter provides adequate safeguards (e.g., standard contractual clauses or BCRs); or (3) a derogation applies (e.g., consent).



Mexico has adopted an accountability model containing multiple exceptions to the requirement to obtain consent, including for (1) cross-border transfers between affiliated companies; (2) transfers necessary by virtue of a contract that is in the individual's interest; and (3) transfers to cloud computing service providers, subject to specific safeguards.

In Latin America. EU-style omnibus laws often contain requirements that are similar to those found in the EU Directive.

Macau and Malaysia have implemented heavily influenced data protection laws across the Middle East and Africa. For example, data transfer restrictions in the former Portuguese colony of Angola are similar to

those of Portugal.

EU-style transfer restrictions, prohibiting cross-border transfers except (1) with consent: (2) if the recipient country is an approved jurisdiction; or (3) if another exemption applies.

Some APEC nations, including Australia, New Zealand, and the Philippines, have adopted accountability models for cross-border data transfers. In Australia, data transfers are permitted where the data exporter has made its own adequacy decision.



Legal and compliance



Reputation: Post- and pre-breach

initiatives





Investment: Investing in the right technology while ensuring it is fit for purpose



Reticence/low risk appetite: Is being too conservative on technology a concern?



### What is good practice for risk managers?

How can senior management be prepared for questions about their organisations' privacy?



### **Probing questions**

- Ask these questions of your client or IT department
- Which systems on your network do you NOT update/patch on a monthly basis, and why don't you patch them?
- How many systems on the network have blank, default or easily guessed passwords?
- Which applications on the network store customer or credit card data WITHOUT encryption?



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