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Dear Readers,

Please find below the latest edition of the Cloud Computing Committee’s *SciTech Cloud News*. Do not hesitate to contact me with any questions, comments, or contributions (including suggested articles for the next publication) to make this most valuable for your practice.

Sincerely,
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**Data Security**

**A Primer on the SHIELD Act: New York’s Move to Adopt More Stringent Data Security Requirements, Part II**

*The National Law Review (Proskauer Rose), March 13, 2018*

As related to cybersecurity, New York’s SHIELD Act requires companies to adopt “reasonable safe-guards to protect the security, confidentiality, and integrity of private information.” In regards to data breaches, it broadens the definition and provides alternate means and additional information requirements for notifying affected individuals of a breach. This article describes some examples of appropriate safeguards and alternative ways a company can ensure compliance.
Lawyers Have an Ethical Duty to Safeguard Confidential Information in the Cloud
ABA Journal, April 2018
In *Harleysville Insurance Co. v. Holding Funeral Home* the Court ruled that by failing to password-protect its cloud storage box, counsel had inadvertently disclosed evidence to the opposing counsel and thus it should not be interpreted that it waived privilege when opposing counsel accessed this box. The Court found the counsel acted reasonably, noting the unique URL of 32 randomly assigned characters created by Box. The key to this ruling was “reasonable.” This article revisits two 2012 updates to the ABA Model Rules of Professional Conduct as related to this case: The rules now require (1) “reasonable efforts” to avoid the “inadvertent or unauthorized” disclosure and access to client information, and (2) for lawyers to not only keep abreast of the law but technology, as well.

New Cloud Security Report Reveals Rising Cybersecurity Concerns and Lack of Expertise
Business Wire, March 27, 2018
The recently released 2018 Cloud Security Report reveals that cloud security concerns increased by 11% as compared to last year’s survey. Other key takeaways from the survey include: the biggest threat to cloud security is misconfiguration of cloud platforms, visibility into infrastructure security is the greatest security control challenge, training and certification of current IT staff is the most popular way to meet an organizations cybersecurity needs, and encryption of data at rest is the most effective cloud security technology. There has also been an overall decrease in organizations’ belief that traditional security tools are sufficient, and nearly half of organizations expect cloud security budgets to increase.

Data Privacy

Congress Enacts Law Clarifying Reach of Warrants for Overseas Data
JDSupra (WilmerHale), March 27, 2018
The Clarifying Lawful Overseas Use of Data Act (CLOUD Act) requires providers of electronic communication services or remote computing services to produce data sought by the government under the Stored Communications Act for data located both within and outside the U.S. It also creates guidelines for foreign governments requesting data stored in the United States. This article provides detail on both aspects of this new Act.

Europe’s Tough New Data-Protection Law
The Economist, April 5, 2018
This article discusses the pros and cons of the General Data Protection Regulation (GDPR), which will be released by the European Union this coming May. The goal of GDPR is to improve the storage and use of data by companies. It will give individuals more control over their information and encourage companies to be more careful handling this data. This regulation will apply to companies around the world that collect or process the personal data of EU residents.

Market News & Developments

Too Much Corporate Money Is Evaporating Into The Cloud, Survey Suggests
Forbes, February 15, 2018
A recent survey reveals that nearly one-third of the money spent on cloud services is wasted. One potential cause of this overspending is that people from different groups in the same company unilaterally implement cloud services, resulting in duplicate subscriptions by the same company. Company executives also tend to associate cloud services with cost-cutting, and thus don’t worry about controlling expenses in that area. Finally, increases in data usage beyond limits set lead to a massive cost increase when data is not properly tracked. Companies must take care to set up the appropriate tracking and resources to control over-spending on cloud services.

**How Cloud Computing Is Changing Management**
_Harvard Business Review, February 8, 2018_

This article opines that cloud computing is changing the management of companies. The cloud allows for faster sharing of information, data collection, and analysis. As such, companies have a more flexible work structure and can make more specific changes. It also increases the ease at which companies create products and services, as companies have increased communication with customers. It is important to maintain a constant relationship between management theory and applied technology. The article also addresses the shift to cloud-native organizations.

**How to Choose Your Cloud Provider: AWS, Google or Microsoft?**
_ZDNet, February 22, 2018_

This article gives CIOs and other cloud decision makers five suggestions to consider when choosing a cloud provider for their company: (1) Make the most of the range of options; (2) Remain flexible to meet new business demands; (3) Stay open to give your clients choices; (4) Pick the provider that’s right for your business; and (5) Push as much to the cloud as possible.

**Public Sector News**

**Contractors Have a Lot to Say About the Pentagon's JEDI Cloud Procurement**
_Washington Business Journal, March 26, 2018_

The Pentagon will be releasing responses to questions and comments received from contractors regarding the draft of their Joint Enterprise Defense Infrastructure (JEDI). The goal of the program is to establish a 10-year contract to enhance the Pentagon’s IT systems. Contractors are competing to land this contract, but there is speculation that Amazon Web Service is the most likely selection. Noted concerns include too aggressive an implementation timeline and various aspects of the Federal Acquisition Regulation.

**What is FedRAMP? How Cloud Providers Get Authorized to Work with the U.S. Government**
_CSO, April 2, 2018_

FedRAMP was designed to ensure that cloud service providers (CSPs) used by federal agencies met specific, legally mandated service requirements. Cloud providers looking to serve federal agencies should consult the GSA’s “Guide to Understanding FedRAMP” document, which includes a FedRAMP requirements checklist (included in this article). This article also includes steps for a CSP to become FedRAMP compliant.

**5 Ways the 2018 Omnibus Promotes IT Modernization, Cybersecurity**
_Federal News Radio, March 26, 2018_
Recent laws from Congress, such as the 2018 Omnibus Spending Bill and Modernizing Government Technology Act, have designated substantial money into IT-related initiatives. Further spending this year includes money to the Federal Citizen Services Fund for the Electronic Government Fund, which will be used to support cloud computing security. The IT Oversight and Reform Fund received substantial funding to “enhance transparency, data collection, analytics, and technical assistance in federal IT investment.” The Homeland Security Department also received funding for cybersecurity, as did the National Cybersecurity and Communications Integration Center (NCCIC), in addition to others mentioned in this article.

**Governance & Agreements**

**Licenses, SaaS, and the Cloud**  
*JDSupra (Burns & Levinson), April 4, 2018*  
Legal issues to consider for software developers seeking to become a cloud service provider include a tendency for vendors to shortcut changes to standard license agreements by amending existing license terms to refer to SaaS environment. Providing a license grant to software over the web is also not recommended. These businesses should also be aware of data maintenance and ownership, service levels, location of cloud services and data transfers, in addition to indemnification, liability caps, and disclaimers when moving to a SaaS model.

**Here’s the Legal Lowdown on Document Management Software**  
*ABA Journal, February 16, 2018*  
This article strives to help small to midsize law firms select legal cloud-based software and, in particular, document management software. Solo and small-firms with fewer documents are recommended to utilize the document management features built into most law practice management systems. Mid-sized firms with more documents may want to use stand-alone document management systems, such as iManage, Worldox and Netdocs, which provide more advanced features and include strong document versioning, audit trails and OCR conversion from scans.

**Lawyers More Influential than IT Staff in Cloud Deployments**  
*Computer Weekly, April 3, 2018*  
A recent survey revealed that lawyers have more of an influence on an organization’s cloud decisions in the Asia-Pacific region than do IT professionals and consultants. Accordingly, Microsoft and Linklaters released a whitepaper to provide lawyers with cloud-related information and tools to facilitate their decision making in this area. It is important that attorneys dealing with cloud-related decisions stay up to date on the latest technological advancements and legal and regulatory issues.

**California Proposes Legislation to Impose Sales and Use Tax on Services**  
*The National Law Review (Greenberg Traurig), February 13, 2018*  
If passed, this proposed tax would include IT-support and cloud computing services. However, businesses with less than $100,000 of gross receipts in the previous four quarters would be exempt. Sellers of cloud-computing services and California businesses utilizing these and other included services should continue to monitor the progress of this proposed legislation.