

April 01, 2019



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Cybersecurity, Privacy & Data Governance

India Tries to Capture the Value of Consumer Data for E-Commerce and the Internet of Things

March 19, 2019

By [Jon Neiditz](#) and [John Brigagliano](#)

After almost four years of the largest and most ambitious effort in history to transform a nation with technology, India is looking ahead to protecting the data that it is generating...[read more](#)

Keep Your Eye on Biometrics: Illinois High Court Waves *Six Flags* at Spokeo

February 12, 2019

By [Vita Zeltser](#), [John Brigagliano](#), [Amanda Witt](#), [Jon Neiditz](#), and [Ronald Raider](#)

Attention all who collect fingerprints and other biometric information of Illinois residents: a private right of action is now available for a mere technical violation of the Illinois Biometric Information Privacy Act ("BIPA")...[read more](#)

The Three Wishes to Save Your Digital Advertising From the CNIL

January 22, 2019

By [Jon Neiditz](#)

When you rub the magic lamp and are offered three wishes for your digital advertising program, how can you use them to avoid €50,000,000 fines from the French CNIL?...[read more](#)

GDPR-Inspired Data Protection Heads to South America: Brazil's New Data Protection Law Updated to Authorize an Enforcement Authority

January 14, 2019

By [Amanda Witt](#) and [John Brigagliano](#)

On July 10, 2018, the Brazilian Federal Senate approved a General Data Protection Regulation ("Lei Geral de Proteção de Dados" or "LGPD"). The bill, was largely inspired by the European General Data Protection Regulation ("GDPR")...[read more](#)

Employee Benefits

Group Health Plan Section 111 Reporting is Back

March 28, 2019

By [Mark Stember](#)

Self-insured plan sponsors thought they had seen the last of Group Health Plan Section 111 Reporting in 2009, but like a character in a movie it's baaaccckkk...[read more](#)

IRS Restores Retiree Lump Sum Windows

March 8, 2019

By [Sterling Perkinson](#)

Today, the IRS announced that it is reconsidering its position on retiree lump sum windows and that it will not challenge retiree lump sum windows as violating its required minimum distribution (RMD) regulations until it issues further guidance on this issue...[read more](#)

Appointing an Authorized Representative for Claims and Appeals

March 7, 2019

By [Mark Stember](#) and [Karen Martinez](#)

On February 27, 2019, the U.S. Department of Labor (DOL) issued an Information Letter in response to an inquiry from The Justus Group, L3C (Justus) regarding its ability to act as an authorized representative for ERISA claimants and receive notices and information with respect to that claim and/or appeal...[read more](#)

Supreme Court Invalidates West Virginia Income Tax Scheme

February 23, 2019

By [Mark Stember](#)

Earlier this week the United States Supreme Court, in a per curium opinion, struck down a West Virginia income tax scheme that exempts from tax the retirement benefits of certain state officials while taxing the retirement benefits of similarly-situated federal officials...[read more](#)

IRS Clarifies Ability of Employers to Recover Mistaken HSA Contributions

February 6, 2019

By [Mark Stember](#)

Health Savings Accounts (HSAs) are tax-favored accounts that are designed to help eligible individuals participating in a high-deductible health plan save for medical expenses...[read more](#)

Court Requires Employer to Pay Dependent Life Insurance Benefits

January 28, 2019

By [Mark Stember](#)

A recent United States District Court opinion highlights the importance of providing summary plan descriptions and certificates of coverage for insured benefits...[read more](#)

Energy

State of the Bioeconomy

Biofuels Digest | January 3, 2019

By [Wayne Lee](#) and [Mark Riedy](#)

At present, the bioeconomy continues to attract debt and equity interest. VCs, Private Equity Groups and Strategic Partners are providing equity at the technology holding company level in the form of private placements to develop a myriad of new technologies...[read more](#)

Wyoming Becomes Second State to Create Fintech Regulatory Sandbox

March 5, 2019

By [Eamonn Moran](#)

On February 19, Wyoming Governor Mark Gordon signed HB 57, which creates a regulatory sandbox program in the state for companies to test innovative financial products and services. Wyoming becomes the second state in the country to introduce a regulatory sandbox program...[read more](#)

Fintechs Contribute to Rapid Growth in Personal Loans

February 25, 2019

By [Eamonn Moran](#)

In a recent article reported by CNBC, the unsecured personal loan market reached a record high last year, surging 17 percent year-over-year to \$138 billion. Personal loans encompass three main categories: debt consolidation, home improvement financing, and retail...[read more](#)

State Attorneys General Criticize the CFPB's Proposal to Create a Fintech Regulatory Sandbox and Revise its No-Action Letter Policy

February 13, 2019

By [Eamonn Moran](#)

In December 2018, the CFPB issued proposed revisions to its 2016 final policy on issuing No-Action Letters, along with a proposal to create a new Product Sandbox...[read more](#)

Fintech to Remain a Policy Priority Area for the House Financial Services Committee

January 30, 2019

By [Eamonn Moran](#)

Rep. Maxine Waters (D-CA), Chairwoman of the House Financial Services Committee, recently delivered her first policy speech in the 116th Congress. In her remarks, Chairwoman Waters included fintech as one of the priority areas for committee focus and scrutiny during the next two years...[read more](#)

Federal Reserve Reportedly Has Reservations About OCC and FDIC Fintech Initiatives

January 15, 2019

By [Eamonn Moran](#)

Press reports indicate that the Federal Reserve has concerns and reservations about providing fintech companies with access to the banking system through bank charters...[read more](#)

Changes Ahead in the Consumer Card Payment Experience: JPMorgan Chase to Launch Contactless Cards

The Risk Management Association | January 8, 2019

By [Eamonn Moran](#)

The consumer card payment experience is about to undergo some transformative changes. Chase, the consumer banking division of JPMorgan Chase & Co., has announced that it will soon issue cards with a so-called contactless feature, which will allow consumers the option of tapping them at stores' payment terminals rather than inserting the chip...[read more](#)

Franchising

Loss of Trademark: A Franchisor's Worst Nightmare

New York Law Journal | March 6, 2019

By [Rupert Barkoff](#)

Franchise agreements are essentially fancy trademark license agreements. The heart of the franchise agreement is the licensing by a franchisor to a franchisee of the use of the franchisor's system, which includes the franchisor's trademarks...[read more](#)

Investment Management

Industry Groups, State and Federal Securities Regulators Grapple with Fiduciary Standards for BDs, Private Fund Advisers

March 25, 2019

By [Investment Management & Broker-Dealer Team](#)

Last April, the SEC released proposed rules related to the standard of care that broker-dealers ("BDs") owe their customers and issued proposed guidance related to the standard of care that investment advisers ("IAs") owe their clients...[read more](#)

OCIE Reminds Investment Advisers of Transfer Agent Compliance Risks

February 27, 2019

By [Ali Fenno](#), and [John Sanders](#)

The handling of shareholder funds by transfer agents has long been an examination priority of the SEC's Office of Compliance Inspections and Examinations. Recently, OCIE issued a Risk Alert highlighting common compliance issues and best practices for TAs...[read more](#)

Form 13F Filing Deadline Looms for Advisers

February 4, 2019

By [John Sanders](#)

For new and growing investment advisers, 2019 may bring an additional filing obligation. Section 13(f) of the Securities Exchange Act of 1934 has long required certain investment advisers to file reports of their holdings with the SEC...[read more](#)

State Regulators Begin Imposing State-Specific Fiduciary Standards on BDs and IAs

January 28, 2019

By [Lauren Jackson](#), [Ali Fenno](#), and [John Sanders](#)

Broker-dealers ("BDs") and investment advisers ("IAs") have witnessed a flurry of regulatory activity in recent years aimed at defining the duties each owes to its customers and clients and establishing civil and/or regulatory liability for a failure to fulfill those obligations...[read more](#)

SEC Works to Resume Normal Operations, Issues Post-Shutdown Guidance

January 28, 2019

By [Lauren Jackson](#), and [John Sanders](#)

After limiting its operations during the partial federal government shutdown, the SEC is working to resume normal operations this morning...[read more](#)

SEC Risk Alert Provides Electronic Messaging Guidance to RIAs

January 15, 2019

By [Ali Fenno](#) and [John Sanders](#)

The SEC's Office of Compliance Inspections and Examinations (the "OCIE") recently issued a risk alert (the "Alert") regarding electronic messaging by registered investment advisers ("RIAs")...[read more](#)

Real Estate Investment & Development

'Opportunity Zones' Gaining Steam in the Triangle. Here's Where They Are.

Triangle Business Journal | February 4, 2019

By [John Livingston](#)

"Clients have been asking about how they might be able to utilize the opportunity zone program," says John Livingston, a Raleigh-based partner at the law firm of Kilpatrick Townsend...[read more](#)

Securities

Want to Test the Waters? All Issuers May Soon Get Their Chance

March 18, 2019

By [Isabelle Dinerman](#)

On February 19, 2019, the Securities and Exchange Commission (SEC) proposed a rule that would permit all issuers to take advantage of the "test-the-waters" accommodation that has been available to emerging growth companies under the Jumpstart Our Business Startups Act (JOBS Act) since 2012...[read more](#)

The SEC Announces Significantly Increased Fee Rates for 2019

March 14, 2019

By [Isabelle Dinerman](#)

On March 12, 2019, the Securities and Exchange Commission (SEC) announced that, on April 16, 2019, SEC fee rates applicable to most securities transactions will be raised from the current rate of \$13.00 per million to the new fee rate of \$20.70 per million. The current fee rate will continue to apply to filings of securities offerings made through April 15, 2019...[read more](#)

Top Takeaways in the World of Securities Regulation

February 28, 2019

By [David Eaton](#) and [David Stockton](#)

David Eaton and David Stockton participated in the "Advanced Securities Law" seminar sponsored by the State Bar of Georgia in Atlanta. Mr. Eaton chaired the program and Mr. Stockton presented on Securities Laws Applicable to Communications of Corporate Earnings. The panel provided timely updates and insights into trends and developments in the securities law area...[read more](#)

Avoid Amended Filings with this Form 10-K Pre-Filing Checklist

February 6, 2019

By [Aaron Kaslow](#)

Don't press that button to file your Form 10-K until you have completed this checklist. Missing signatures, typographical errors, incomplete exhibits, and incorrect dates are among the most common reasons for the filing of amendments to Form 10-K...[read more](#)

Keep Your Eye On The Non-GAAP Ball

January 15, 2019

By [David Stockton](#)

A recent enforcement action by the SEC against ADT, Inc. shows that compliance with Non-GAAP financial measure regulations still needs some work and that the SEC is still closely watching the area...[read more](#)

Tax

'Hyatt 3' Oral Argument And Potential State Tax Implications

Law 360 | January 17, 2019

By [Jeffrey Reed](#)

On January 9, the United States Supreme Court heard oral argument in *Franchise Tax Board v. Hyatt*, a case addressing whether state agencies possess sovereign immunity from suit in sister state courts...[read more](#)

Georgia's New Economic Nexus Sales Tax Law - What You Need to Know

January 10, 2019

By [Jeffrey Reed](#)

Georgia enacted economic nexus sales tax legislation in the spring of 2018. The law just became effective on January 1, 2019. Modeled after the South Dakota law the United States Supreme Court declined to strike down in *South Dakota v. Wayfair*, Georgia's law has some unique features and enforcement mechanisms compared to the equivalent laws enacted by other states. For anyone who missed the legislation when it was passed, or needs a refresher now that the law has become effective, this alert provides a high-level summary, along with a few observations...[read more](#)

Technology Transactions

Outsourcing in the USA

Lexology | February 1, 2019

By [Technology Transactions Team](#)

Outsourcing is common across many industries and sectors in the United States. The most common types of outsourcing include...[read more](#)

Augmented Reality, Advertising, and Practical Legal Considerations

January 30, 2019

By [Farah Cook](#)

New technologies, new media, and new methods of engaging consumers continue to disrupt the advertising industry. The "song remains the same," so to speak, with the new technology of augmented reality...[read more](#)

Firm News

[Kilpatrick Saw 'Exceptionally Good' Year, Leaping Forward in Revenue and Profits](#)

[Lauren Jackson Named One of Triad Business Journal's 40 Under 40](#)

[Kilpatrick Townsend Achieves Recognition for 2019 Georgia Super Lawyers](#)

[Kilpatrick Townsend Attorneys Named 2019 North Carolina Super Lawyers](#)

[Kilpatrick Townsend Adds Kathryn Shipe to Atlanta Office](#)

[Kilpatrick Townsend Attorneys Selected To Business North Carolina Magazine's 2019 "Legal Elite"](#)

[Kilpatrick Townsend Elects Hanna Sundberg as Partner](#)

Recent Transactions

WSFS Financial Corporation Acquires Beneficial Bancorp, Inc.

March 1, 2019

Represented Beneficial Bancorp, Inc., the parent holding company of Beneficial Bank, in its \$1.3 billion acquisition by WSFS Financial Corporation, the parent holding company of Wilmington Savings Fund Society, FSB.

Delta Dental of California and Moda, Inc. Form Strategic Partnership

February 28, 2019

Represented Delta Dental of California, a national dental plan system, in its \$152.4 million purchase of a 49.5% stake in Moda, Inc., a Portland, Oregon-based health insurance company.

Hudson Capital Properties Refinances Hudson Ridge Apartments

February 1, 2019

Represented Hudson Capital Properties, a national, multi-family real estate company, in its \$56 million refinance of Hudson Ridge, an apartment complex in Atlanta, Georgia.

Hudson Capital Properties Sells Preserve at Dunwoody

January 30, 2019

Represented Hudson Capital Properties, a national, multi-family real estate company, in its \$43 million sale of the Preserve at Dunwoody, an apartment complex in Atlanta, Georgia.

Trimont: Caesars Palace Las Vegas Hotel and Casino

December 26, 2018

Represented Trimont Real Estate Advisors, a commercial mortgage loan servicer, global real estate asset manager, and underwriter, in connection with the Caesars Palace Las Vegas \$1.55 Billion CMBS loan.

Teall Capital Invests in Complex Sports and Entertainment

November 1, 2018

Represented Teall Capital, a private equity company based in Winston-Salem, North Carolina and Atlanta, Georgia, in connection with its investment in Dallas and Denver-based Complex Sports and Entertainment, a company that partners with professional sports teams, college athletic departments and venue owners to create unique fan experiences year round and to provide new sources of revenue for owners of stadia and facilities.

New Corporate Attorneys



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To view our latest Quarterly IP Digest, please click [here](#).

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