

KING & SPALDING

Client Alert

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New Cybersecurity and Privacy Initiatives Announced In President Obama's Final Budget

On February 9, 2016, in connection with his annual budget request, President Obama announced a \$19 billion Cybersecurity National Action Plan (CNAP) that the White House has described as a “capstone” to seven years of addressing cybersecurity challenges. Representing an increase of more than 35 percent in funding from fiscal year 2016 for federal cybersecurity efforts, CNAP would “put[] in place a long-term strategy to ensure the federal government, the private sector, and American citizens can take better control of our digital security.”

CNAP initiatives, which focus on encouraging the private sector and individuals to develop and adopt cybersecurity best practices, include, among other things:

- Establishing, by Executive Order, a Commission, comprised of 12 “strategic, business, and technical thinkers from outside of government”—supported by the National Institute of Standards and Technology (NIST)—and tasked with issuing a report by the end of 2016, recommending steps to be taken over the next 10 years to: (i) strengthen cybersecurity while protecting privacy; (ii) fostering public safety and security; (iii) developing new technical controls; and (iv) bolstering public-private partnerships at all levels of government to promote cybersecurity best practices;
- Launching a new National Cybersecurity Awareness Campaign to encourage the adoption of multifactor authentication;
- Offering cybersecurity training to more than 1.4 million small businesses and their stakeholders;
- Developing a Cybersecurity Assurance Program that would test and certify networked devices within the “Internet of Things” to ensure they meet security standards;

- Soliciting feedback regarding improvements in critical infrastructure to assist NIST in the ongoing development of its Cybersecurity Framework; and
- Engaging major health insurers and healthcare stakeholders to take steps to ensure that personal health data is “safe, secure, and available to guide clinical decision-making.”

CNAP also outlines several initiatives intended to enhance the cybersecurity practices within the federal government, including:

- Overhauling government information technology and the management of government cybersecurity through a permanent \$3.1 billion Information Technology Modernization Fund;
- Creating a new Chief Information Security Officer position housed within the Office of Management and Budget (OMB) to coordinate cybersecurity efforts across agencies;
- Enhancing the federal cybersecurity workforce through additional recruitment, education and training, and scholarship and student loan forgiveness opportunities; and
- Enhancing the reliability of the nation’s critical infrastructure, including the electric grid, through efforts between the Department of Homeland Security, the Department of Commerce, the Department of Energy, companies, and sector-wide organizations.

While much of CNAP focuses on cybersecurity, the President also issued an Executive Order creating a permanent Federal Privacy Council chaired by the Deputy Director of OMB. This body is comprised of 24 “Senior Agency Officials for Privacy,” each designated by a different federal government agency and tasked with developing and coordinating federal policies and approaches for safeguarding the privacy of US citizens and federal employees.

While Republicans in Congress have declared most of the President’s budget “dead on arrival,” it is possible that some of the measures outlined in CNAP may find bipartisan support, particularly in this election year, and in the wake of major cybersecurity and privacy failures in both the public and private sectors.

Recommendations

The President’s budget proposal demonstrates the Administration’s increased focus on cybersecurity and privacy issues within the federal government and its willingness to encourage the development and adoption of better cybersecurity practices within the private sector. Companies should continue to assess their own cybersecurity- and privacy-related activities, and should consider whether involvement in any of the described CNAP initiatives would be beneficial. King & Spalding will continue to monitor the progress of the President’s proposed budget and the ultimate fate of the proposed programs.

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King & Spalding's Data, Privacy, and Security Practice

With more than 60 Data, Privacy & Security lawyers in offices across the United States, Europe, and the Middle East, King & Spalding is able to provide substantive expertise and collaborative support to clients across a wide spectrum of industries and jurisdictions facing privacy and cybersecurity-based legal concerns. We apply a multidisciplinary approach to such issues, bringing together attorneys with backgrounds in corporate governance and transactions, healthcare, intellectual property rights, complex civil litigation, e-discovery, government investigations, government advocacy, insurance recovery, and public policy. Our Data, Privacy & Security Practice has unparalleled experience in areas ranging from providing regulatory compliance advice, to responding to security incidents including data breaches and cybersecurity incidents, interfacing with stakeholders and the government, engaging in complex civil litigation (such as class actions), handling state and federal government investigations and enforcement actions, and advocating on behalf of our clients before the highest levels of state and federal government.

King & Spalding's Government Advocacy and Public Policy (GAPP) Practice

King & Spalding has claimed the top spot in the National Law Journal's 2015 "Influence 50," an annual survey of 50 leading lobbying practices in the United States. With government activity reaching into more areas of our clients' business than at any time in recent memory, our GAPP team works with clients to develop and implement strategies to maximize opportunities, minimize risks and accomplish their strategic goals. We provide a full range of government relations services to technology and innovation companies around the world, focusing on addressing domestic and international public policy issues that arise as ongoing and rapid changes take place in the areas of the Internet, e-commerce and technology. King & Spalding's GAPP practice has been praised by *Chambers USA* for bringing "value and a broad skill set, including strong advocacy abilities, to every engagement" and earned King & Spalding recognition as government relations "Law Firm of the Year" in the 2013 edition of *U.S. News & World Report's* "Best Law Firms" survey.

If you have any questions about the President's new cybersecurity and privacy initiatives, or related issues, please contact **Phyllis B. Sumner** at +1 404 572 4799, **J.C. Boggs** at +1 202 626 2383, **Nicholas A. Oldham** at +1 202 626 3740, **Alexander K. Haas** at +1 202 626 5502, **Claudia A. Hrvatin** at +1 202 661 7950, or **Thomas Randall** at +1 212 556 2195.

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 900 lawyers in 18 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality and dedication to understanding the business and culture of its clients. More information is available at www.kslaw.com.

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