

Scott A. Sinder
202 429 6289
ssinder@steptoe.com



1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com

January 3, 2019

TO: The Council of Insurance Agents & Brokers

FROM: Scott A. Sinder
Eva V. Rigamonti
Joshua M. Oppenheimer

RE: **NYSDFS Cybersecurity Rule – Exemption Re-Filings Due by February 15th**

The New York Department of Financial Services (NYSDFS) recently made clear that that the cybersecurity rule's (the "Rule")¹ assessment of exemption status is an annual requirement. All covered entities that previously filed for an exemption must **re-file their Notice of Exemption** if they wish to keep their exempt status, and must do so **prior to submitting their annual Certification of Compliance due by February 15, 2019**. NYSDFS began sending out email notifications about this requirement on December 31, 2018.

The Notice of Exemption and the Certification of Compliance – both due annually – are two separate submissions, and the Notice of Exemption must be filed *before* the Certification of Compliance. It is advised that covered entities file their Notice of Exemption in January to allow time for NYSDFS to process the Notice prior to the subsequent Certification of Compliance filing due by February 15, 2019.

The Rule provides four different exemptions for certain covered entities. Some exemptions require the exempt entity to file a Notice of Exemption, and some require the exempt entity to still file a separate Certification of Compliance. For a more full explanation of the

¹ New York Department of Financial Services, Final Rule, Cybersecurity Requirements for Financial Services Companies, 23 NYCRR Part 500, available at http://www.dfs.ny.gov/legal/regulations/adoptions/rf23-nycrr-500_cybersecurity.pdf.

different exemptions and which still require a Certification of Compliance, see our February 21, 2017 memorandum.²

Both the Notice of Exemption and the Certification of Compliance must be filed electronically via the NYSDFS cybersecurity portal. Make sure you have your identifying number (i.e., NYS License number, NAIC/NY Entity number, NMLS number or Institution number) available when you make your filing. A look-up feature is included in the portal for anyone who does not know which number to use. Access to the portal and additional information on how to file can be found here: <https://www.dfs.ny.gov/about/cybersecurity.htm>.

After filing, you will receive an email that includes a receipt number for all filings you complete. The receipt will indicate the year the filing was made. The receipt will also indicate the type of filing made: Notices of Exemption will have a receipt number that begins with the letter “E.” Certifications of Compliance will have a receipt number that starts with the letter “C.” It is suggested that you maintain a copy of this email in your records for future reference.

² [\[Link to Memo\]](#) We plan to update the memo to incorporate relevant information contained in Frequently Asked Questions published on the NYSDFS website, as well as to clarify the Rule’s exemptions. We will circulate a revised version in the near future.