Gross Orad Schlimoff & Co.
Incorporated Law Firm

7 Menachem Begin Rd.
Ramat-Gan 5268102, Israel
Tel: 972-3-6122233
Fax: 972-3-6123322
Web Site: www.goslaw.co.il

Cyber Insurance Update Regarding Developments in Israel

New Bill for Cyber Protection and the National Cyber Directorate (Authorities to Strengthen Cyber Defense)

On 7th November 2021, the Israeli Knesset (Parliament) approved in first reading the bill for amending the Privacy Protection Law (Protection of Privacy Bill) (Amendment 14), 2021 (**the Bill**), which constitutes another step in adapting the Privacy Protection Law (**PPL**) to the technological arena. The Bill should be submitted in the framework of second and third readings to the Knesset in the coming months.

The Bill consists of three main elements: (i) expanding the administrative enforcement measures of the Privacy Protection Authority (**the Authority**); (ii) reducing the scope of the duty for database registration; and (iii) adapting terms relating to the protection of personal data to technological developments.

First, the Bill expands the administrative enforcement measures available to the Authority in respect of financial sanctions that may be imposed, focusing on the size of the database and the type of data it contains. Pursuant to the provisions of the Bill, a "Database Officer" may substitute the financial sanction imposed by the Authority with an administrative notice or an undertaking to refrain from another violation, both are subject to approval by the Attorney General. It is also proposed that the Authority will receive broad powers for inspectors and investigators, as well as enforcement

Second, the Bill partially reduces the duty to register a database, taking into consideration the bureaucratic burden and impositions on the Authority and on the "Database Owner", that divert resources from core activities designated to protect privacy. Thus, the proposal is to register a database based on criteria of size and sensitivity.

Third, it is proposed to revise the terms and definitions of the PPL, establishing a more modern law that expands the protection of privacy, similarly to the GDPR. For example, the term "Sensitive Information" was replaced by the definition "Particularly Sensitive Information", while adding additional types of information which may be considered as sensitive.

The Privacy Protection Authority published work paper regarding the role of the DPO

On 25th January 2022, the Authority published its recommendations for organizations and companies in respect of the appointment of a Data Protection Officer (**DPO**) in organizations and the conditions for such role. The Authority also published a "guidance kit" which includes practical recommendations for companies which intend to appoint a DPO.

The Authority recommends that a DPO is appointed in organizations which provide data-driven services and/or that their operation imposes an increased privacy risk. According to the Authority, there are several organizations which are obliged to appoint a DPO by virtue of the Israeli Law, however a voluntary appointment of a DPO may assist organizations in doing business with foreign entities that are subject to the GDPR.

Pursuant to the Authority, a DPO is the officer responsible for privacy protection within the organization, in terms of work procedures and compliance. The Authority emphasizes that the DPO may be appointed internally or as an outsourced vendor, bearing in mind the size of the organization. According to the Authority, the DPO should be privacy-oriented in terms of professional experience and skills, both academically and technologically.

The Authority further recommends that the role of the DPO shall include the following responsibilities: (i) regulating the data management procedures within the organization; (ii) supervising and monitoring privacy-related issues within the organization; (iii) providing guidance and training to employees; and (iv) involvement in all "material" issues relating to protection of personal data within the organization.

The Opinion of the Israeli Bar Association's Ethics Committee Regarding the Protection of Confidential Data

On 1st February 2022, the National Ethics Committee of the Israeli Bar Association (**the Committee**) issued an official opinion in relation to the duty of ethical confidentiality in respect of attorney-client privilege (**Confidentiality Duty**).

As the Confidentiality Duty requires an attorney to protect the information of its clients and in view of the recent developments in the cyber field, the Committee issued designated guidelines with respect to the following:

(i) Use and purchase of services - an attorney shall use technological measures in accordance with the level of sensitivity of the client's information and the degree of impact on the client, and refrain from free of charge email applications.

(ii) Protection and security of all digital measures in use, including email and workstations, and verifying the use of security measures.

(iii) Participation in training; and

(iv) Preparation for a cyber incident to ensure rapid recovery and protection, including conducing back-ups in respect of confidential information.

GOS Cyber Department handles cyber claims for insurers and reinsurers in the framework of Cyber Policies issued to various organizations. From our experience, cyber claims include, in many cases, also privacy aspects, where there is concern that the threat actors exfiltrated sensitive or personal data, thus reporting duties may apply. Bearing in mind the fact that the PPL was regulated 40 years ago, we welcome updated legislation designated to reduce the inherent gaps.

Contact persons:
Sigal Schlimoff Rechtman, Adv. – Sigal@goslaw.co.il
Omer Shalev, Adv. – Omer@goslaw.co.il
Maya Salomon – maya@goslaw.co.il

Gross Orad Schlimoff & Co.
7 Menachem Begin Rd.
Ramat-Gan 5268102, Israel
Tel: 972-3-6122233
Fax: 972-3-6123322
Web Site: www.goslaw.co.il