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Cybersecurity in the EU: New Compliance Requirements in the Spotlight

By [Orestis Omran](#), [Nora Wouters](#) on March 18, 2013

On February 7, 2013 the European Commission published its long awaited cyber security package, consisting of the [Cybersecurity Strategy for the EU](#) and the proposal for a [Directive on Network and Information Security](#). The EU affirmed its commitment to reinforcing critical infrastructure protection from cyber threats by suggesting legislation, which is going to affect a significant portion of the industry, including the financial sector. The new legislation is also going to apply to a respectable number of US companies operating in Europe.

Cybersecurity Strategy

The Cybersecurity Strategy for the EU reiterates the Digital Agenda's fundamental acceptance, namely that the EU's core values (such as the protection of fundamental rights, the need to provide open access for all, democratic and efficient multi-stakeholder governance and the establishment of shared responsibility to ensure security) apply to the digital world as well. This creates an internationally unique approach to cybersecurity, the particulars of which should be regarded as a compromise of the need to uphold fundamental rights with the promotion and protection of business interests. The basic targets of the cybersecurity strategy include, in particular, cyber resilience, the reduction of cyber crime and the development of the required industrial and technological resources, and are spelled out as priorities in the road to a uniform coherent EU-wide cybersecurity policy.

Proposal for a Directive

The proposal for a Directive addresses EU and US financial markets operators amongst critical infrastructure operators from the energy, banking, transportation and health sectors, who fall within the scope of application of the proposed legislation and would be required to comply with a number of new requirements to achieve network safety from cyber attacks. They will have to take appropriate technical and organizational measures to protect their IT systems from cyber intrusions, notify all security incidents and inform the public (if deemed necessary by the competent Cybersecurity Authority). In addition, information on the security measures taken will have to be submitted to the Cybersecurity Authority, while companies will be required to undertake a security audit by a qualified independent audit or national authority and comply with standards and/or technical specifications as those will be determined by EC implementing acts.

Required Action

The cybersecurity package comes as a response to the increasing awareness about network security in Europe. It is suggested that market participants in the financial industry, as well as operators of other critical infrastructure, already take the necessary steps to ensure the protection of their networks from cyber attacks in order to avoid the severe financial and reputational consequences that the latter involve. More particularly, they need to install the most updated technical solutions while at the same time try to manage and mitigate the risks through a review and amendment of their contractual documentation in cooperation with skilled attorneys, the designation of effective self compliance schemes, including a cybersecurity policy, and the purchase of insurance coverage that best fits the nature of their business.

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