



## GROUP LIFE

# Independent Producers Appointed with Sun Life and Health Insurance Company (U.S.)

## New York DFS Cybersecurity Regulation

We would like to make sure the independent producers appointed with Sun Life and Health Insurance Company (U.S.) ("Sun Life") in New York are aware of the Cybersecurity Regulation of the New York Department of Financial Services ("DFS"), and to offer some basic information. You should consider the Regulation and seek advice from your legal and compliance professionals, but we hope the following, in Q&A format, is helpful to you as a starting point.

### Who is subject to the NY DFS Cybersecurity Regulation?

The Regulation applies to all "Covered Entities," which are defined to include any person or entity licensed by the NY DFS under the insurance law, the banking law, or the financial services law. Therefore, all NY licensed insurance companies, producers, adjusters, reinsurance intermediaries and others are Covered Entities subject to the requirements of the Regulation.

It is important to note that licensed entities, such as insurance agencies, and the licensed individuals who work for them, such as individual producers, are all Covered Entities under the Regulation.

The citation for the Regulation is 23 NYCRR 500.

### Are there exemptions for independent producers of a licensed insurance company, such as Sun Life?

Yes, there are several exemptions under the Regulation, which you should review carefully.

First, an individual who is a NY DFS licensee (and therefore a Covered Entity) and an employee or agent of another Covered Entity (e.g., a licensed producer or insurance company), is exempt from the Regulation if the individual is covered by the cybersecurity program of the other Covered Entity. However, this exemption does not apply to the

individual independent producers appointed with Sun Life because they are not covered by Sun Life's cybersecurity program. An individual licensee may qualify for this exemption if he/she is covered by another Covered Entity's cybersecurity program.

Second, the Regulation has "Limited Exemptions," for so-called small businesses. The Limited Exemptions may be available if you meet one of the following tests:

- (a) fewer than 10 employees, including any independent contractors, of the Covered Entity or its Affiliates located in NY or responsible for business of the Covered Entity; or
- (b) less than \$5 million in gross annual revenue in each of the last three fiscal years from NY business operations of the Covered Entity and its Affiliates; or
- (c) less than \$10 million in year-end total assets (according to GAAP), including assets of all Affiliates.

Note that these Limited Exemptions may be difficult to meet for a small business that is part of a larger family of Affiliates.

It is also very important to note that if one of these Limited Exemptions applies to you, you still have significant compliance obligations under the Regulation, but you will not be required to meet some of the requirements of the Regulation.



**If I'm subject to one of the exemptions, is there anything I need to do?**

Yes, there is. First, you will need to file a Notice of Exemption on the form attached to the Regulation. The filing is to be effected through an account you would set up on the NY DFS portal for this purpose. If you are an individual employee or agent who is exempt because you are covered by the cybersecurity program of another Covered Entity, then you would also, individually file for your exemption.

Second, if you are exempt from the Regulation under the Limited Exemptions, you would be exempt from several of the required provisions of the Regulation, but you would still need to comply with other, significant requirements as follows:

Section	Requirement
Section 500.02	Develop and maintain a Cybersecurity Program
Section 500.03	Adopt a written Cybersecurity Policy
Section 500.07	Restrict Access Privileges
Section 500.09	Conduct Risk Assessments
Section 500.11	Maintain a Third Party Service Provider Policy
Section 500.13	Limit Data Retention
Section 500.17	File Notices with DFS, including 72 hour notification of certain Cybersecurity Events, and annual filing of a Compliance Certificate

These requirements will require significant planning and effort on behalf of Covered Entities that are subject to the Limited Exemptions.

**What is the compliance deadline?**

The Regulation was effective March 1, 2017, but it has transition dates that require compliance with certain sections of the Regulation beginning August 28, 2017, and roll out the compliance requirements for other sections over the next two years.

You should consult with your legal and compliance professionals for guidance on whether you qualify for any of the above exemptions and your compliance obligations under the Regulation.



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