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Legal News Alert: Information Technology & Outsourcing is part of our ongoing commitment to providing up-to-the minute information about pressing concerns or industry issues affecting our clients and our colleagues.

If you have any questions about this alert, please contact your Foley attorney or any of the following Information Technology & Outsourcing Practice attorneys:

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Minnesota Is the First State to Impose New Liability for Security Breaches

One of the factors in many of the high-profile security breaches is the retention of certain forms of credit card data, specifically authorization and security codes for credit cards. This information, particularly when coupled with the credit card number, is a high-value target for identity thieves. Minnesota recently enacted a law, Minn. Stat. § 325E.64, related to security breaches that is the first of its kind. In light of recent security breaches involving credit card data, Minnesota has made it illegal for businesses to retain credit card security code data, a Personal Identification Number verification code number, or the full contents of the magnetic strip on a card for more than 48 hours after a transaction is authorized. This duty applies to merchants who accept credit cards as well as their third-party service providers.

If this data is retained, and there is a security breach, the person that directly, or indirectly through a service provider, violated this law is required to reimburse the financial institution that issued the payment card for the reasonable costs that were incurred by the financial institution to protect the information of the consumer, or continue to provide services to the consumer (including reissuance of a card). A financial institution also can recover any costs paid to cardholders from a person that violates this law.

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ABOUT FOLEY

The Information Technology & Outsourcing Practice has been engaged on outsourcing, software licensing, professional services, and telecommunications deals valued at billions of dollars. Having completed thousands of deals, we know and have developed solutions for the challenges and issues facing clients in procuring, implementing, and managing technology. Through our "best practice" approach, we effectively leverage our depth of knowledge to assist our clients in receiving the promised value from their technology investments and navigating around issues that frequently cause similar technology initiatives to fail. In the same way, our subject matter experts in data privacy and security, document retention, and technology use policies provide specialized knowledge to clients to ensure their business operations comply with applicable federal, state, and foreign laws and regulations.

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The restrictions on retention of information become effective on August 1, 2007 and the portion of the law that imposes liability becomes effective on August 1, 2008. Many other states are considering these laws and many more are expected to pass this year.