

(11) Virtual currency address

The term “virtual currency address” means a unique public cryptographic key identifying the location to which a virtual currency payment can be made.

(Pub. L. 107–296, title XXII, § 2240, as added Pub. L. 117–103, div. Y, § 103(a)(2), Mar. 15, 2022, 136 Stat. 1039; amended Pub. L. 117–263, div. G, title LXXI, § 7143(b)(2)(N), Dec. 23, 2022, 136 Stat. 3661.)

Editorial Notes

REFERENCES IN TEXT

Section 659 of this title, referred to in par. (5)(A), was subsequently amended, and section 659(a) no longer defines the term “incident”. Reference to term, “incident”, as defined in this chapter deemed to be a reference to that term as defined in section 650(12) of this title, see section 7143(f)(2) of Pub. L. 117–263, set out as a Rule of Construction note under section 650 of this title.

AMENDMENTS

2022—Par. (2). Pub. L. 117–263, § 7143(b)(2)(N)(i), (ii), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “The term ‘cloud service provider’ means an entity offering products or services related to cloud computing, as defined by the National Institute of Standards and Technology in NIST Special Publication 800–145 and any amendatory or superseding document relating thereto.”

Pars. (3) to (5). Pub. L. 117–263, § 7143(b)(2)(N)(ii), redesignated pars. (4) to (6) as (3) to (5), respectively. Former par. (3) redesignated (2).

Par. (6). Pub. L. 117–263, § 7143(b)(2)(N)(ii), (iii), redesignated par. (7) as (6) and substituted “section 650 of this title” for “section 651 of this title”. Former par. (6) redesignated (5).

Par. (7). Pub. L. 117–263, § 7143(b)(2)(N)(iv), added par. (7). Former par. (7) redesignated (6).

Par. (8). Pub. L. 117–263, § 7143(b)(2)(N)(iv), (vi), redesignated par. (13) as (8) and struck out former par. (8). Prior to amendment, text of par. (8) read as follows: “The terms ‘cyber threat indicator’, ‘cybersecurity purpose’, ‘defensive measure’, ‘Federal entity’, and ‘security vulnerability’ have the meanings given those terms in section 1501 of this title.”

Par. (9). Pub. L. 117–263, § 7143(b)(2)(N)(v), (vi), redesignated par. (16) as (9) and struck out former par. (9). Prior to amendment, text of par. (9) read as follows: “The terms ‘incident’ and ‘sharing’ have the meanings given those terms in section 659 of this title.”

Par. (10). Pub. L. 117–263, § 7143(b)(2)(N)(v), (vi), redesignated par. (18) as (10) and struck out former par. (10). Prior to amendment, text of par. (10) read as follows: “The term ‘Information Sharing and Analysis Organization’ has the meaning given the term in section 671 of this title.”

Par. (11). Pub. L. 117–263, § 7143(b)(2)(N)(v), (vi), redesignated par. (19) as (11) and struck out former par. (11). Prior to amendment, text of par. (11) read as follows: “The term ‘information system’—

“(A) has the meaning given the term in section 3502 of title 44; and

“(B) includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers.”

Par. (12). Pub. L. 117–263, § 7143(b)(2)(N)(v), struck out par. (12). Text read as follows: “The term ‘managed service provider’ means an entity that delivers services, such as network, application, infrastructure, or security services, via ongoing and regular support and active administration on the premises of a customer, in the data center of the entity (such as hosting), or in a third party data center.”

Par. (13). Pub. L. 117–263, § 7143(b)(2)(N)(vi), redesignated par. (13) as (8).

Par. (14). Pub. L. 117–263, § 7143(b)(2)(N)(v), struck out par. (14). Text read as follows: “The term ‘ransomware attack’—

“(A) means an incident that includes the use or threat of use of unauthorized or malicious code on an information system, or the use or threat of use of another digital mechanism such as a denial of service attack, to interrupt or disrupt the operations of an information system or compromise the confidentiality, availability, or integrity of electronic data stored on, processed by, or transiting an information system to extort a demand for a ransom payment; and

“(B) does not include any such event where the demand for payment is—

“(i) not genuine; or

“(ii) made in good faith by an entity in response to a specific request by the owner or operator of the information system.”

Par. (15). Pub. L. 117–263, § 7143(b)(2)(N)(v), struck out par. (15). Text read as follows: “The term ‘Sector Risk Management Agency’ has the meaning given the term in section 651 of this title.”

Par. (16). Pub. L. 117–263, § 7143(b)(2)(N)(vi), redesignated par. (16) as (9).

Par. (17). Pub. L. 117–263, § 7143(b)(2)(N)(v), struck out par. (17). Text read as follows: “The term ‘supply chain compromise’ means an incident within the supply chain of an information system that an adversary can leverage or does leverage to jeopardize the confidentiality, integrity, or availability of the information system or the information the system processes, stores, or transmits, and can occur at any point during the life cycle.”

Pars. (18), (19). Pub. L. 117–263, § 7143(b)(2)(N)(vi), redesignated pars. (18) and (19) as (10) and (11), respectively.

§ 681a. Cyber incident review**(a) Activities**

The Center shall—

(1) receive, aggregate, analyze, and secure, using processes consistent with the processes developed pursuant to the Cybersecurity Information Sharing Act of 2015 (6 U.S.C. 1501 et seq.) reports from covered entities related to a covered cyber incident to assess the effectiveness of security controls, identify tactics, techniques, and procedures adversaries use to overcome those controls and other cybersecurity purposes, including to assess potential impact of cyber incidents on public health and safety and to enhance situational awareness of cyber threats across critical infrastructure sectors;

(2) coordinate and share information with appropriate Federal departments and agencies to identify and track ransom payments, including those utilizing virtual currencies;

(3) leverage information gathered about cyber incidents to—

(A) enhance the quality and effectiveness of information sharing and coordination efforts with appropriate entities, including agencies, sector coordinating councils, Information Sharing and Analysis Organizations, State, local, Tribal, and territorial governments, technology providers, critical infrastructure owners and operators, cybersecurity and cyber incident response firms, and security researchers; and

(B) provide appropriate entities, including sector coordinating councils, Information Sharing and Analysis Organizations, State,

local, Tribal, and territorial governments, technology providers, cybersecurity and cyber incident response firms, and security researchers, with timely, actionable, and anonymized reports of cyber incident campaigns and trends, including, to the maximum extent practicable, related contextual information, cyber threat indicators, and defensive measures, pursuant to section 681e of this title;

(4) establish mechanisms to receive feedback from stakeholders on how the Agency can most effectively receive covered cyber incident reports, ransom payment reports, and other voluntarily provided information, and how the Agency can most effectively support private sector cybersecurity;

(5) facilitate the timely sharing, on a voluntary basis, between relevant critical infrastructure owners and operators of information relating to covered cyber incidents and ransom payments, particularly with respect to ongoing cyber threats or security vulnerabilities and identify and disseminate ways to prevent or mitigate similar cyber incidents in the future;

(6) for a covered cyber incident, including a ransomware attack, that also satisfies the definition of a significant cyber incident, or is part of a group of related cyber incidents that together satisfy such definition, conduct a review of the details surrounding the covered cyber incident or group of those incidents and identify and disseminate ways to prevent or mitigate similar incidents in the future;

(7) with respect to covered cyber incident reports under section¹ 681b(a) and 681c of this title involving an ongoing cyber threat or security vulnerability, immediately review those reports for cyber threat indicators that can be anonymized and disseminated, with defensive measures, to appropriate stakeholders, in coordination with other divisions within the Agency, as appropriate;

(8) publish quarterly unclassified, public reports that describe aggregated, anonymized observations, findings, and recommendations based on covered cyber incident reports, which may be based on the unclassified information contained in the briefings required under subsection (c);

(9) proactively identify opportunities, consistent with the protections in section 681e of this title, to leverage and utilize data on cyber incidents in a manner that enables and strengthens cybersecurity research carried out by academic institutions and other private sector organizations, to the greatest extent practicable; and

(10) in accordance with section 681e of this title and subsection (b) of this section, as soon as possible but not later than 24 hours after receiving a covered cyber incident report, ransom payment report, voluntarily submitted information pursuant to section 681c of this title, or information received pursuant to a request for information or subpoena under section 681d of this title, make available the in-

formation to appropriate Sector Risk Management Agencies and other appropriate Federal agencies.

(b) Interagency sharing

The President or a designee of the President—

(1) may establish a specific time requirement for sharing information under subsection (a)(10); and

(2) shall determine the appropriate Federal agencies under subsection (a)(10).

(c) Periodic briefing

Not later than 60 days after the effective date of the final rule required under section 681b(b) of this title, and on the first day of each month thereafter, the Director, in consultation with the National Cyber Director, the Attorney General, and the Director of National Intelligence, shall provide to the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a briefing that characterizes the national cyber threat landscape, including the threat facing Federal agencies and covered entities, and applicable intelligence and law enforcement information, covered cyber incidents, and ransomware attacks, as of the date of the briefing, which shall—

(1) include the total number of reports submitted under sections 681b and 681c of this title during the preceding month, including a breakdown of required and voluntary reports;

(2) include any identified trends in covered cyber incidents and ransomware attacks over the course of the preceding month and as compared to previous reports, including any trends related to the information collected in the reports submitted under sections 681b and 681c of this title, including—

(A) the infrastructure, tactics, and techniques malicious cyber actors commonly use; and

(B) intelligence gaps that have impeded, or currently are impeding, the ability to counter covered cyber incidents and ransomware threats;

(3) include a summary of the known uses of the information in reports submitted under sections 681b and 681c of this title; and

(4) include an unclassified portion, but may include a classified component.

(Pub. L. 107-296, title XXII, § 2241, as added Pub. L. 117-103, div. Y, § 103(a)(2), Mar. 15, 2022, 136 Stat. 1040.)

Editorial Notes

REFERENCES IN TEXT

The Cybersecurity Information Sharing Act of 2015, referred to in subsec. (a)(1), is title I of div. N of Pub. L. 114-113, Dec. 18, 2015, 129 Stat. 2936, which is classified generally to subchapter I (§1501 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

¹ So in original. Probably should be “sections”.

§ 681b. Required reporting of certain cyber incidents

(a) In general

(1) Covered cyber incident reports

(A) In general

A covered entity that experiences a covered cyber incident shall report the covered cyber incident to the Agency not later than 72 hours after the covered entity reasonably believes that the covered cyber incident has occurred.

(B) Limitation

The Director may not require reporting under subparagraph (A) any earlier than 72 hours after the covered entity reasonably believes that a covered cyber incident has occurred.

(2) Ransom payment reports

(A) In general

A covered entity that makes a ransom payment as the result of a ransomware attack against the covered entity shall report the payment to the Agency not later than 24 hours after the ransom payment has been made.

(B) Application

The requirements under subparagraph (A) shall apply even if the ransomware attack is not a covered cyber incident subject to the reporting requirements under paragraph (1).

(3) Supplemental reports

A covered entity shall promptly submit to the Agency an update or supplement to a previously submitted covered cyber incident report if substantial new or different information becomes available or if the covered entity makes a ransom payment after submitting a covered cyber incident report required under paragraph (1), until such date that such covered entity notifies the Agency that the covered cyber incident at issue has concluded and has been fully mitigated and resolved.

(4) Preservation of information

Any covered entity subject to requirements of paragraph (1), (2), or (3) shall preserve data relevant to the covered cyber incident or ransom payment in accordance with procedures established in the final rule issued pursuant to subsection (b).

(5) Exceptions

(A) Reporting of covered cyber incident with ransom payment

If a covered entity is the victim of a covered cyber incident and makes a ransom payment prior to the 72 hour requirement under paragraph (1), such that the reporting requirements under paragraphs (1) and (2) both apply, the covered entity may submit a single report to satisfy the requirements of both paragraphs in accordance with procedures established in the final rule issued pursuant to subsection (b).

(B) Substantially similar reported information

(i) In general

Subject to the limitation described in clause (ii), where the Agency has an agree-

ment in place that satisfies the requirements of section 681g(a) of this title, the requirements under paragraphs (1), (2), and (3) shall not apply to a covered entity required by law, regulation, or contract to report substantially similar information to another Federal agency within a substantially similar timeframe.

(ii) Limitation

The exemption in clause (i) shall take effect with respect to a covered entity once an agency agreement and sharing mechanism is in place between the Agency and the respective Federal agency, pursuant to section 681g(a) of this title.

(iii) Rules of construction

Nothing in this paragraph shall be construed to—

(I) exempt a covered entity from the reporting requirements under paragraph (3) unless the supplemental report also meets the requirements of clauses (i) and (ii) of this paragraph;¹

(II) prevent the Agency from contacting an entity submitting information to another Federal agency that is provided to the Agency pursuant to section 681g of this title; or

(III) prevent an entity from communicating with the Agency.

(C) Domain name system

The requirements under paragraphs (1), (2) and (3) shall not apply to a covered entity or the functions of a covered entity that the Director determines constitute critical infrastructure owned, operated, or governed by multi-stakeholder organizations that develop, implement, and enforce policies concerning the Domain Name System, such as the Internet Corporation for Assigned Names and Numbers or the Internet Assigned Numbers Authority.

(6) Manner, timing, and form of reports

Reports made under paragraphs (1), (2), and (3) shall be made in the manner and form, and within the time period in the case of reports made under paragraph (3), prescribed in the final rule issued pursuant to subsection (b).

(7) Effective date

Paragraphs (1) through (4) shall take effect on the dates prescribed in the final rule issued pursuant to subsection (b).

(b) Rulmaking

(1) Notice of proposed rulmaking

Not later than 24 months after March 15, 2022, the Director, in consultation with Sector Risk Management Agencies, the Department of Justice, and other Federal agencies, shall publish in the Federal Register a notice of proposed rulmaking to implement subsection (a).

(2) Final rule

Not later than 18 months after publication of the notice of proposed rulmaking under paragraph (1), the Director shall issue a final rule to implement subsection (a).

¹ So in original. Probably should be “subparagraph”.