



Data Privacy and Sovereignty: Global Challenges in the Cloud

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Agenda

- **Sense of Urgency**
- **Data Privacy & Sovereignty Laws**
- **Shared Concerns**
- **Global Challenges in the Cloud**
- **Data Privacy vs. Data Security**
- **NetApp's Global Program**
- **Intersection of Trust & Technology**

In the News...

EU Data Protection Regulation (GDPR)

EU Passes New Regulation

EU unanimously approved stricter data protection regulations – applies to any company doing business in EU – December 2015

Digital Privacy Act – Canada addresses new technology (cloud) – Canada imposes stronger accountability with greater sanctions

– January 2016

“The scramble is on as commissioners seek to determine “adequacy” of the **new EU-US Privacy Shield** – is it a cosmetic version of Safe Harbor?

– February 2016

Latin American countries enforce new Privacy Acts restricting the collection, processing and transfer of personal data to the U.S. - Is LatAm the new EU? – Jan 2015

Privacy guardians warn multinationals to respect laws

Ten data protection authorities from around the world reiterated that US multi-national corporations are overlooking privacy values and legislation when they place personal data in the cloud. US companies concerned about security but not privacy.

– Washington, D.C., October 2015

Canadian Data Protection Laws

- Privacy Act
- Personal Information Protection and Electronic Documents Act (PIPEDA)
- Digital Privacy Act 2016
- Provincial and Sectoral Laws
- Data Sovereignty Obligations
- Cybersecurity Regulations
- Anti-SPAM Laws (CASL)
- Data Breach Regulations



Global Data Protection Laws

European Union

- General Data Protection Regulation (GDPR)
- Country specific data privacy laws
- Cloud computing directive
- Data sovereignty obligations
- Cybersecurity directive
- Anti-SPAM laws
- NIS Regulations
- Data breach regulations

Asia Pacific Rim

- Country-specific privacy laws
- APEC cyber privacy code
- Cross Border Privacy Rules (CBPR)
- Restrict marketing activities
- Restrictions on cloud computing
- Data breach regulations

Russia

- Data Protection Act
- Data sovereignty law
- Federal law on advertisement
- Russia code on administration of personal data
- Storage of all Russian data within Russian Federation

Latin America

- Cross-border transfer restrictions
- Country-specific privacy laws
- Cloud computing regulations
- OAS cybersecurity guidelines
- Data breach regulations

U.S. Data Protection Laws

- **Federal Privacy Act (Consumer)**
- **NIST Regulations**
- **Cybersecurity Executive Order (Voluntary)**
- **Data breach regulations**
- **HIPAA/HITECH**
- **Regulated industries**
- **State Privacy Laws**
- **Privacy Shield**



Foremost on Our Customers Minds...And Ours

- How to move to the cloud/new technology
- Compliance with data privacy laws
- Data location and sovereignty
- Data breach remediation and contingency plans
- Government access
- Loss of control
- Data security
- Accountability and liability
- Data retention and destruction capability



Challenges in the World of Cloud Computing

- **Global restrictions**
- **Compliance with data privacy/sovereignty laws**
- **Data location, jurisdiction, and cross-border data flow**
- **Data control and/or ownership**
- **Data that could or should live in the cloud (and type of cloud)**
- **Data breach remediation and contingency plans**
- **Security – encryption and tokenization**
- **Use of third parties**
- **Litigation and eDiscovery**



Five Challenges in Canada

1. Role of cloud computing provider

- Data controller vs. data processor
- Obligations/joint accountability
- Use of third parties

2. Determine which data protection/sovereignty laws apply

- Establishments in Canada?
- Equipment in Canada?
- Uses equipment outside Canada, but processes personal data of Canadian citizens

3. Provincial/International data transfers/flows

- Strict regulations (BC and Nova Scotia)
- Transparency
- Data subject consent

4. Classification of Data

5. Records Management

Data Privacy Versus Data Security

- Data security is NOT data privacy
 - Privacy – legal collection, use, sharing , storage & transfer of data
 - Security – fortress around the data
 - Companies can have world class security, but no data privacy
 - ISO 27018 addresses security, but not data privacy
 - All cloud vendors can address security – few can address privacy
 - Legal Privacy Impact Assessment - critical decision mechanism
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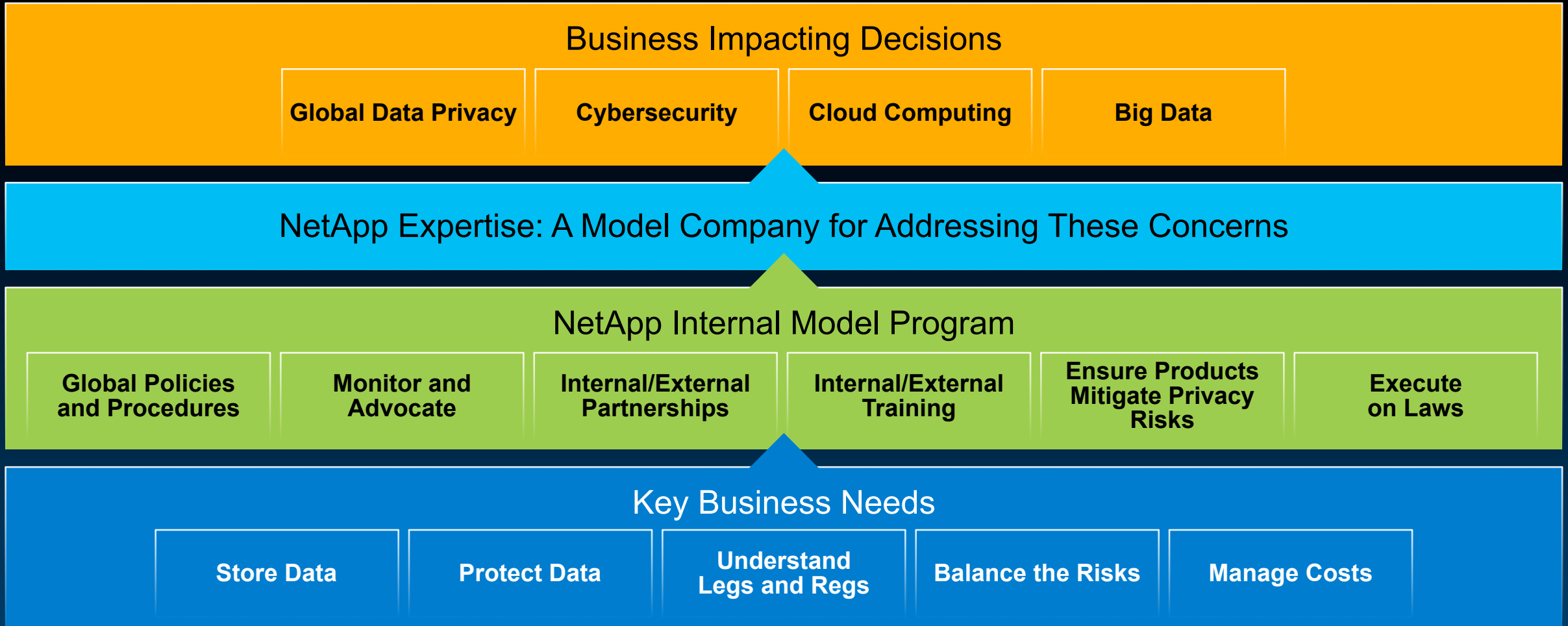


How Do You Mitigate the Risks?

- **Clear and explicit policies and procedures**
- **Data Privacy Impact Assessment (PIA)**
- **Data Privacy Agreements/Model Contractual Clauses**
- **Know the difference between privacy and security**
- **Restricted access to data**
- **Well defined data ownership – Data Controller vs. Data Processor**
- **Classify data – what should/should not live in the cloud**
- **Transparency – Opt Ins/Opt Outs**
- **Vetted third parties**
- **Know your risk tolerance**

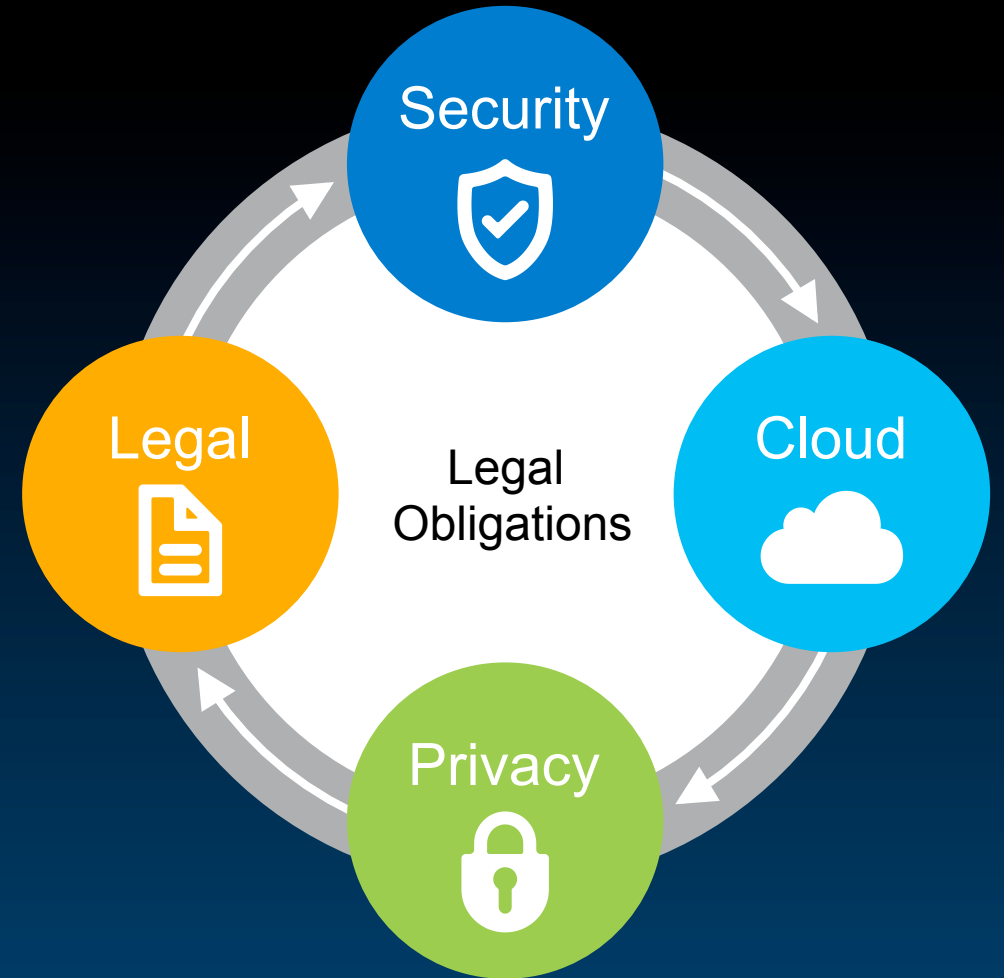


How NetApp® Addresses These Concerns



Summary – Intersection of Trust and Technology

- **Decide what data can reside in the cloud vs. on-premises**
- **Understand the legal requirements and challenges**
- **Develop data protection savvy program**
- **Understand data privacy and data security are NOT the same – assess both**
- **Chose a “trusted advisor” who will partner to mitigate risks**
- **Determine your risk acceptance level**





Questions?



Thank you.