Catherine Crosby Long is a shareholder and **Keith Andress** is managing shareholder in the Birmingham, Ala., office of law firm Baker Donelson. **Alisa Chestler** is a shareholder in the Washington, D.C., office of Baker Donelson. For more information, visit www.bakerdonelson.com.

Have You Assessed Your Cyber-Preparedness Lately?

Not long ago, the average American could not define terms like "data breach," "hack" or "cybersecurity." However, hardly a day passed in 2015 without a cyberattack covered by the national news. As a result, consumers are increasingly aware of the need to ensure that their personally identifiable information is secure. This article explores the basic tenets of an effective cybersecurity policy, including the need for regular security assessments and an incident response plan.

In 2015, healthcare companies became the primary target of identity thieves and hackers, with Premera Blue Cross and Anthem experiencing security breaches that exposed millions of consumers' personally identifiable information to unauthorized users. The Office of Personnel Management suffered a breach that exposed fingerprint information from more than 5.6 million current and former federal employees had been stolen, along with personnel files from more than 21.5 million employees. From government to education, healthcare to financial services, no industry was safe from hackers.

President Obama signed the 2016 Consolidated Appropriations Act on Dec.18, 2015, which included the Cybersecurity Act of 2015 — the most significant federal legislation to date addressing cybersecurity and cyber threats. The act included the Cybersecurity Information Sharing Act, intended to encourage private entities to report — voluntarily — any hacks, suspected hacks or other cyber threat indicators to the Department of Homeland Security, which is now the "go-to" agency for reporting cyber threats.

Given the extensive coverage of data breach and hacking incidents over the past few years, most companies should have the basic elements of a cybersecurity policy in place: maintain an effective firewall, appropriately train employees on privacy and security principles, regularly update password and authorization requirements, encrypt credit card information, monitor networks and limit employee access to non-essential information. Once these basic principles are implemented, periodic assessments should be performed to ensure security protocols are actually working.

In June 2015, the Federal Financial Institutions Examination Council released a Cybersecurity Assessment Tool following the council's pilot assessment of 500 institutions during the preceding year. The Cybersecurity Assessment Tool incorporates the National Institute of Standards and Technology Cybersecurity Framework utilized by a variety of different industries and companies of every size, and begins with an assessment of five categories: 1) technologies and connection types; 2) delivery channels; 3) online/mobile products and technology services; 4) organizational characteristics; and 5) external threats.

An institution's "maturity" in the following five domains is then evaluated: a) cyber risk management and oversight; b) threat intelligence and collaboration; c) cybersecurity controls; d) external dependency management; and f) cyber incident management and resilience.

After the assessment and evaluation have been completed, institutions should identify areas that need improvement, develop strategies to advance maturity, and address gaps in their cybersecurity preparedness. Each time new products are introduced or services offered, a security assessment should be performed. Companies should also ensure third-party vendors and service providers have implemented sufficient security protocols and are consistently evaluating their preparedness for a potential cyberattack.

The Cybersecurity Assessment Tool's emphasis on the exchange of threat intelligence and collaboration in response to a data breach, however, can prove complex for financial institutions. Although information disclosed in a cyber-incident report to DHS may mitigate legal concerns, loose privacy protections could risk the entity's goodwill among its customers, who may regard sharing of their private information with law enforcement as a significant breach of trust. Accordingly, entities would be wise to consult with counsel to determine the appropriate scope of any disclosure to DHS and to formulate an internal protocol for information sharing.

Although effective security protocols can minimize risk, no individual or company is completely safe from a hack or data breach. As a result, companies should prepare a economic growth. Confidence is primarily driven by the labor market, stock prices and home prices.

The strength in the labor market, paired with home prices up 5.5 percent last year, should continue to support confidence. Lower oil prices also gave most consumers a good feeling as their transportation costs were reduced. The wild card here is the stock market. Investors saw mediocre returns last year (only 1.4 percent return from the S&P 500) along with higher volatility. Weak markets and an increase in volatility may shake consumer confidence this year.

The Fed has kept interest rates low for seven years. We believe interest rates will be on the rise throughout 2016, ending the year at 1 percent. However, from a historical perspective, the Fed policy remains extremely expansionary, affording consumers and businesses access to inexpensive capital.

Perhaps China is getting a bad rap; it seems to be blamed for any problem ranging from stock market volatility to global warming. However from our point of view, it is not all bad. The United States imports more goods from China than from any other country. As China devaluates its currency, the yuan, those everyday goods we import become cheaper, which is good for consumers. As China's economy slows to a more sustainable level, the demand for energy and commodities wanes and prices are reduced. Again, this is good for the U.S. consumer.

The strength in the labor market, paired with home prices up 5.5 percent last year, should continue to support confidence.

Not everything outside of the United States is necessarily a negative story, as some would lead consumers to believe. With low interest rates and a quantitative easing program, Europe could experience economic growth in the 1.5 percent to 2 percent range. This may not sound like much, but remember in 2014, Europe grew at a 0.8 percent pace and last year at 1.5 percent.

Headwinds

It is not all rosy. Some headwinds lead to slower growth and some may not have a significant impact on our economy directly, but rather they may spook risk markets. Stocks are included in this category.

The recent U.S. manufacturing data is suggesting an oncoming economic contraction. For two quarters now, the ISM Purchasing Managers Index has been below 50, indicating a contraction. The good news is the non-manufacturing data is solidly in growth territory, albeit trending south. Back to the bad news, historically the manufacturing data leads the non-manufacturing data. Once again, we think the current data supports a tortoise-like economy in the United States.

The Fed has a tough job: maximize employment, stabilize prices, support global markets, normalize interest rates. Oh, and do not send us into a recession. Many recessions have been blamed on the Fed for creating a policy error, which is typically viewed as moving too fast or too soon. At this time we do not see a policy error at hand. The Fed plans to move at a measured pace and it does not look like it will threaten a tortoise-like expansion.

Issues in the global economy will constrain growth in the United States. and, as we mentioned, China is slowing. It will have an impact on other emerging markets as well as the United States to a lesser extent. We do not believe the Chinese stock market gives us any indication of economic fundamentals due to the speculation in their markets and government intervention. However the massive volatility of their stock markets sends a violent reaction to markets around the globe. If downward pressure continues, it could negatively impact consumer confidence in the United States.

Energy is also an important variable. Even though low energy prices are good for the consumer's wallet, tension in the Middle East may create an uneasy global economy. And while much of this will not significantly affect the U.S. economy, it may affect our markets in the short run.

A Slow and Steady 2016

In 2016 we anticipate GDP growth between 2.2 percent and 2.5 percent. We think this will be supported by the labor market once again as businesses create new jobs.

Domestic equity returns may once again be challenged, profits are in question and valuations may contract. We expect 3 percent earnings growth which should lead to total returns in the 4 percent to 6 percent range.

We also believe interest rates will be on the move this year, expecting both short-term and long-term rates to increase. Fed funds should end the year at 1.25 percent.

The moral to our economic story is slow and steady, which will not be all bad on a relative basis. Our economy expanding at an approximate 2.3 percent pace will allow the Fed to normalize interest rates and companies will find a way to be profitable and continue to hire workers, supporting consumption.