Office of the Information and
Privacy Commissioner of Alberta

PERSONAL INFORMATION PROTECTION ACT
Breach Notification Decision

Organization providing notice under section 34.1 of PIPA	The International Council of Shopping Centers (Organization)
Decision number (file number)	P2019-ND-064 (File #006576)
Date notice received by OIPC	September 18, 2017
Date Organization last provided information	October 17, 2017
Date of decision	May 13, 2019
Summary of decision	There is a real risk of significant harm to the individuals affected by this incident. The Organization is required to notify those individuals whose personal information was collected in Alberta, pursuant to section 37.1 of the *Personal Information Protection Act* (PIPA).
JURISDICTION	
Section 1(1)(i) of PIPA "organization"	The Organization is a global trade association, and is an "organization" as defined in section 1(1)(i) of PIPA.
Section 1(1)(k) of PIPA "personal information"	The incident involved all or some of the following information: • name, • address, • telephone number, • email address, and • payment card number, expiry date and verification code. This information is about identifiable individuals and is "personal information" as defined in section 1(1)(k) of PIPA. To the extent the personal information was collected in Alberta, PIPA applies.
DESCRIPTION OF INCIDENT	
❑ loss ☒ unauthorized access ❑ unauthorized disclosure	
Description of incident	• On August 18, 2017, the Organization received a report regarding payment card activity that caused it to investigate and subsequently identify unauthorized computer code that was added to the code that operates the checkout page of the website at www.icsc.org.

	• The Organization initially reported that the code may have been present and capable of capturing information entered during the checkout process from March 24, 2017 to August 18, 2017. • Additional findings from the investigation indicate that the code may have also been present and capable of capturing information entered for a short period on August 21, 2017.
Affected individuals	The Organization reported it was "…notifying 12,149 individuals, including 79 Alberta residents".
Steps taken to reduce risk of harm to individuals	• Removed the code. • Initiated an internal review and engaged independent forensic experts to assist with the investigation and remediation of systems. • Notified payment card networks. • Provided a call center that potentially affected individuals can contact with any questions they may have. • Implemented additional security measures and monitoring at the firewall, code, and server level.
Steps taken to notify individuals of the incident	The Organization reported that it notified all affected individuals by letter on September 15, 2017 and provided additional information to certain affected individuals on October 16, 2017.
REAL RISK OF SIGNIFICANT HARM ANALYSIS	
Harm Some damage or detriment or injury that could be caused to affected individuals as a result of the incident. The harm must also be "significant." It must be important, meaningful, and with non-trivial consequences or effects.	The Organization reported that "The affected individuals could potentially experience financial loss from fraudulent payment card charges; however, the payment card networks have rules that prohibit them from requiring consumers to pay for fraudulent charges that are timely reported". In my view, a reasonable person would consider that the contact and financial information at issue could be used to cause the significant harms of identity theft and fraud. Email addresses could be used for phishing purposes, resulting in increased vulnerability to identity theft and fraud.
Real Risk The likelihood that the significant harm will result must be more than mere speculation or conjecture. There must be a cause and effect relationship between the incident and the possible harm.	The Organization reported: *Given that in Canada there is zero liablity [sic] for fraudulent credit card purchaes [sic] made on an individual's credit card, there is no risk of significant harm to the affected individuals in Alberta arising from this incident. The affected individual will be made whole by their credit card issuer. There may be some inconvenience associated with a replacement card, but that is not significant harm. ICSC is reminding the potentially affected individuals to remain vigilant to the possibility of*

	fraud by reviewing their account statements and credit reports for unauthorized activity. In my view, a reasonable person would consider that the likelihood of harm resulting from this incident is increased because the personal information was compromised due to the malicious action of an unknown third party (deliberate intrusion). Further, the information may have been exposed for almost five months. The Organization can only speculate that affected individuals will not be held responsible for any credit card fraud and misuse. Even if this were the case, it does not necessarily mitigate the potential harm from identity theft or other forms of fraud.

DECISION UNDER SECTION 37.1(1) OF PIPA

Based on the information provided by the Organization and given the circumstances of the incident, I have decided that there is a real risk of significant harm to the affected individuals.

A reasonable person would consider that the contact and financial information at issue could be used to cause the significant harms of identity theft and fraud. Email addresses could be used for phishing purposes, resulting in increased vulnerability to identity theft and fraud. The likelihood of harm resulting from this incident is increased because the personal information was compromised due to the malicious action of an unknown third party (deliberate intrusion). Further, the information may have been exposed for almost five months. The Organization can only speculate that affected individuals will not be held responsible for any credit card fraud and misuse. Even if this were the case, it does not necessarily mitigate the potential harm from identity theft or other forms of fraud.

I require the Organization to notify the affected individuals whose personal information was collected in Alberta, in accordance with section 19.1 of the *Personal Information Protection Act Regulation* (Regulation).

I understand the Organization notified all affected individuals by letter on September 15, 2017 and provided additional information to certain affected individuals on October 16, 2017. The Organization is not required to notify the affected individuals again.

Jill Clayton
Information and Privacy Commissioner