



Cyber Insurance 2017:

Ensuring Your Coverage is Sound

Thursday, March 23, 2017

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Introductions



Presenters



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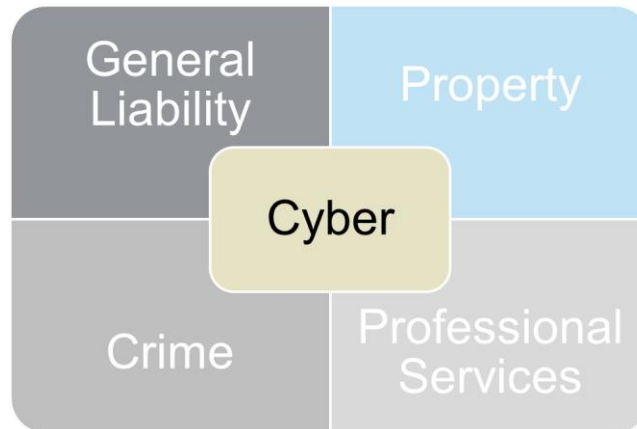
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Scope of Insurance Coverage



| Defense Costs + Damages + Regulator Fines | Insured's Loss | Expenses Paid to Vendors |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Liability Sections</p> <ul style="list-style-type: none"> • Failure of Network Security • Failure to Protect / Wrongful Disclosure of Information, including employee information • Privacy or Security related regulator investigation • All of the above when committed by an outsourcer • Wrongful Collection of Information (some policies) • Media content infringement / defamatory content | <p>First Party Sections</p> <ul style="list-style-type: none"> • Network-related Business Interruption • Extra Expense • System Failure Business Interruption (some policies) • Dependent Business Interruption (some policies) • Intangible Asset damage | <p>Expense / Service Sections</p> <ul style="list-style-type: none"> • Crisis Management • Breach-related Legal Advice • Call Center • Credit Monitoring, Identity Monitoring, ID Theft Insurance • Cyber Extortion Payments |

Intersection with Other Lines



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5

Sources of Third Party Claims Against Insureds Arising From a Cyber Incident

- Customers
- Shareholders
- Regulatory Agencies
- Other Third Parties (e.g., Financial Institutions)

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6

Insurance Coverage for Third Party Claims



■ Commercial General Liability Insurance

- Property Damage
 - Limited to claims for damage to tangible property
 - Electronic data typically specifically excluded
- “Personal Injury”
 - Requires “publication” of materials that violates a person’s right of privacy
 - New endorsements attempt to exclude all coverage for claims arising from access to or disclosure of confidential or personal information
 - *Portal Healthcare* – private data that is found on the Internet has been “published”

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7

Insurance Coverage for Third Party Claims



■ *Travelers Indem. Co. of Am. v. Portal Healthcare Sols., L.L.C.*, 644 F. App'x 245, 246 (4th Cir. 2016)

- Patients found their own medical records using Google.
- Class Action alleged post of confidential records.
- Travelers argued that publication is more than placing information before the public, and no third party viewed the information.

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8

Insurance Coverage for Third Party Claims



- Held: “Travelers has a duty to defend Portal.”
 - Portal’s conduct “would have given unreasonable publicity to, and disclose[d] information about, patients’ private lives, because any member of the public with an internet connection could have viewed the plaintiffs’ private medial records.”
 - “[T]he insurer must use language clear enough to avoid ambiguity if there are particular types of coverage that it does not want to provide.”

Insurance Coverage for Third Party Claims



- Directors and Officers Liability Insurance
 - Coverage for Individual D’s & O’s
 - Derivative Actions, Shareholder Class Actions
 - Regulatory Agency Claims
 - Claims by Other Third Parties
 - Coverage for Company
 - Publicly Traded vs. Non-Public
 - Securities claims only for publicly traded
 - Anti-trust, Unfair Trade Practice and FTC exclusions may limit coverage

Submission Timeline

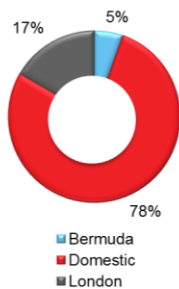


Items Necessary for a Successful Submission

- Insurance Requests
- Application - X's and O's
- Underwriting Meeting
 - Culture
 - Incident Response
 - Training
 - What data do you hold
 - Information Security

Global Cyber Insurance Marketplace

Aon Client Premium Spend



- AIG
- Allianz
- Arch
- Argo
- Aspen
- AXIS
- AWAC
- BCS
- Beazley
- Berkshire Hathaway
- Chubb
- CNA
- CV Starr
- Endurance
- Nationwide
- Hartford
- HCC
- Hiscox
- Ironshore
- Liberty
- Mutual
- QBE
- RLI
- RSUI
- SCOR Re
- Swiss Re
- Travelers
- XL- Catlin
- Zurich



- ANV
- Ascent
- Aspen
- AIG
- Axis
- Barbican
- Beazley
- Brit
- CFC
- Chubb
- Emerging Risks
- Hannover Re
- HCC
- HDI Gerling
- Hiscox
- Kiln
- Liberty
- Markel
- Munich Re
- Novae
- Principia
- Sceimus
- SCOR
- Swiss Re
- Talbot
- Zurich



- AIG
- Chubb
- Markel
- Argo
- Aspen
- AWAC
- AXIS
- Endurance
- Iron-Starr
- XL - Catlin

Q1 2017 Market Snapshot



Capacity

Capacity is continuing to grow across geographies

- Over 65 Insurers providing E&O / Cyber capacity
- Capacity is available in US (primary and excess), London (primary and excess) and Bermuda (excess only, generally excess of \$50M)
- From a primary perspective, there continues to be a growing number of Insurers developing appetites for large, complex risks
- There is over \$500M in theoretical capacity available in the E&O / Cyber market place



Coverage

Coverage continues to evolve and become more valuable

- Coverage breadth and limit availability continues to expand
- Insurers continue to differentiate their offerings with new or enhanced coverage components
- Breach response coverage continues to increase and expand to meet Insured's needs
- Insurers continue to build out pre-breach offerings as part of their policy package



Claims & Losses

Stronger data is being gathered as more breaches are reported

- Increased ransomware activity and business interruption concerns
- Complexity of breaches has driven an increase in incident response expenses incurred by Insureds
- Claims and loss data has expanded coverage offerings and improved actuarial data for loss modeling purposes
- Increasingly punitive legal and regulatory environment
- Plaintiff's bar continues to advance proof of "damages" theories in security / privacy context
- Open privacy-related litigation can take years to conclude



Retentions

Retentions have normalized since 2015 pressures

- Retentions of all levels are available in the market, but can vary greatly based on industry class, size and unique exposures
- Adjusting retentions can lead to increased coverage and / or increase flexibility in limits and pricing



Pricing

Pricing trends are stable

- Depending on loss history and claims experience, pricing has stabilized and is competitive
- Renewal premiums are commensurate with exposure and breadth of coverage
- Excess rate environment is competitive

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13

Cyber Policies – Consistently Inconsistent

■ Considerations

- What is my primary policy First Party coverage trigger? How does this affect excess coverage?
- What are the notice provisions?
- Are all coverages subject to a retroactive date?
- How many retentions apply to my policy?
- What is the definition of computer system?
- Does the policy include regulatory fines & penalties and PCI assessments? Are they sublimited or are full limits available?
- Notable non-standard exclusions:
 - Unencrypted device exclusions
 - Failure to maintain minimum security standards
 - Unsupported technology exclusion
 - Technology "wear and tear" exclusions
- Is there appropriate coverage for:
 - System failure – is coverage available?
 - Business / network interruption – is there an hourly sublimit?
 - Cyber terrorism – is there affirmative coverage or silence?

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14

Coverage Limits for Cyber Insurance Coverage



- **Aggregate Limits**
- **Per Claim Limits**
- **Pay Particular Attention to Sublimits**
 - May apply to “Sections” of Coverage (Third Party, First Party and Expense Coverage Sections)
 - May apply to specific coverages within “Sections” of Coverage (Business Interruption, Crisis Management, Breach Notification, etc.)

Retentions/Deductibles for Cyber Insurance Coverage



- **Usually Per Claim Retentions**
- **Particular Issues for Business Interruption Coverage**
 - “Waiting Periods”
 - Coverage Cut-Off (Really a Limits issue)

Definition of Personally Identifiable Information



- Primarily Impacts Third Party Liability Coverage when there is a breach or misappropriation of data
- Broad Definition:
 - *Information by which a person can be uniquely identified, including but not limited to: a name, address, telephone number, social security number, account number or password.*

Definition of Personally Identifiable Information (cont'd)



- More Limited Definition
 - *A person's first name or initial, and last name, in combination with any of the following:*
 - a. *Their social security number, driver's license number or other personal identification number;*
 - b. *Their account number;*
 - c. *Their credit or debit card number; or*
 - d. *Any individually identifiable health information, pursuant to HIPAA.*

Definition of Personally Identifiable Information (cont'd)



- **Breach of Contract**
 - Can be particularly problematic for data vendors that store third party data
- **Known Network Security Vulnerabilities**
 - “Should Have Known” vs. “Actual Knowledge”
- **Acts of foreign governments/enemies**

Exclusions in Cyber Insurance Coverage (cont'd)



- **Unauthorized or Wrongful Collection of Data**
 - Potential Significant Impacts on Data Aggregators and Data Vendors
- **Unencrypted Devices**

The Evolving Cyber Threat



(Across all industries, our clients are continuing to invest in deploying digital technologies to stay competitive and drive quality and efficiency objectives)

