You, the Cloud and Cyber Liability

Presented by M. Malki| inTouch Insurance Services

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Who is exposed to Cyber Attacks?

- **Who is exposed to Cyber Attacks??**
- **Cyber attacks are not exclusive to large companies. Even Small companies are a target!**
- **Half of all companies that have experienced data breaches have fewer than 1,000 employee.**
- **What is a target for a data breach:**
  - ***Electronic records of clients, vendors, employees?***

Exposures: First Party

- **Damages to you (partial list)**
  - ***Loss of digital assets***
  - ***Non-physical business interruption***
  - ***Cyber extortion/terrorism***
  - ***Forensic expenses***
  - ***Notification/PR***

Exposures: Third Party

- Damages to other parties (partial list)
  - *Regulatory investigations*
  - *Penalties/civil fines*
  - *Legal expenses*
  - *Judgment/settlements from data breaches*

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Claims Scenarios

- Unintended disclosure-31%
- Physical loss of paper records-24%
- Portable devices-13%
- Hack/Malware-11%
- Insider-9%
- Payment card-3%
- Unknown-2%
- Stationary device-1%

**Actual statistics reported by Beazley for 2013-2014*

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Real World Claim Examples

A report issued on September 27, 2012 stated that a dishonest employee accessed and misused Center 4 Health Enlightenment Enrichment Empowerment Renewal Services (CHEERS') client names, Social Security numbers, and birth dates. She, her sister, and her husband filed 180 tax returns under stolen identities and claimed over $1 million in tax refunds.

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Real World Claim Examples

On May 21, 2010, Local Coffee owner was notified by one of his customers that their card had been compromised after they had used it there. That customer's credit union, Randolph-Brooks, had reportedly notified them that they were canceling the customer's debit card because there had been some fraudulent charges on debit cards that had been used at a few restaurants in the area. Responding quickly to protect their customers, Local Coffee stopped using their system immediately, called the police to report the incident reverted to dial-up.

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Policy Coverages

- **Negligence, fraud, breach of contract, invasion of privacy**
- **Personal Injury allegations; mental anguish, emotional distress, humiliation**
- **Loss of business advantage due to effect of fraudulent charges on FICO scores**
- **Failure to implement and maintain reasonable security procedures**

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What to do?

- **Be the first line of defense**
- **Make IT a priority and not an afterthought**
- **Work closely and regularly with your IT Dept or Contractor**
- **Ask questions about what you are doing internally**
- **Use breach simulator software regularly**
- **Auto update all your software**
- **Formulate an internal crisis response plan, discuss with your staff and review it regularly**

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Secure Cyber/Privacy Coverage

- **Stand alone policies issued since 1997**
- **Available as endorsements on existing policies**
- **Fairly affordable**
- **Coverage options have become broader**
- **Retention levels are still low**

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Why does Cyber Deception coverage matter to my client?

- Unlike hacking, there is little or no anti- cyber deception technology available
- Your client has little knowledge of security protocols used by:
  - *business partners – vendors*
  - *customers*
- This is a new growth opportunity for criminals
- Your client can focus on their own security protocols and not their business partners

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Cyber Insurance

Cyber coverage can mean different things to different people. Most commonly, cyber coverage is some combination of four components.

1. **Errors and Omissions - Covers claims arising from errors in the performance of your services.**
2. **Media Liability - Advertising injury claims such as infringement of intellectual property, copyright/trademark infringement and libel and slander.**
3. **Network Security - A failure of network security can lead to many different exposures, including a consumer data breach, destruction of data, virus transmission and cyber extortion.**
4. **Privacy - Breach of records**

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Network Security and Privacy Liability Coverage

What's unique about the privacy and network security coverages is that in most cases both first-party costs and third-party liabilities are covered.

First party coverage applies to direct costs for responding to a privacy breach or security failure.

Third party coverage applies when business and/or individuals sue or make claims against you and/or regulators who demand information from you and even investigate you.

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Risks with the Highest Exposures

1. Social Networks
2. Healthcare
3. E-commerce companies
4. Property Managers/Real Estate Brokers
5. Retailers, Wholesalers with internet sales sites
6. Certified Public Accountants
7. Schools, Universities, etc.
8. Law Firms

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Insurance Coverage Options

Network Security Liability

Covers sums that insured is legally obligated to pay as damages and claims expenses arising out of computer attacks caused by failures of security including theft of client information, identity theft, negligent transmission of computer viruses and denial of service liability.

1. Unauthorized access of the insured's computer systems (hacker)
2. Unauthorized use of insured's computer systems by authorized person (Rogue Employee or Malicious Insider)
3. Denial of service attack
4. Transmission of malicious computer code, malware or virus
5. Alteration, destruction, deletion of data on insured's computer system

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Insurance Coverage Options

First Party Liability

Covers direct first party losses that an insured may incur in connection with a privacy or security breach

- **A. Privacy Notification Expenses – means the reasonable and necessary cost of notifying those persons who may be directly affected by the misappropriation of personal non-public information***
  - **Costs of providing for a stipulated period of time and with the prior approval of the company, credit monitoring or other similar services that may help protect them against fraudulent use of the record.**
- **B. Forensic costs to investigate a security breach**
- **C. Public relations/crisis management expenses**
- **D. Data recovery expenses (costs to recover, replace, restore lost or damaged data)**
- **E. Business interruption expenses**
  1. ***Income loss and or extra expense***
  2. ***Hourly wait deductible and dollar deductible***

Normally provided if required by a breach of privacy regulations or laws (some carriers provide voluntary notification expense coverage but with prior consent)

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Insurance Coverage Options

Internet / Media Liability

- **A. Electronic content coverage – Information disseminated on website or through internet by the insured.**
- **B. Copyright/Trademark**
- **C. Personal Injury – Libel, slander, defamation, invasion of privacy.**
- **D. Advertising Injury**

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Insurance Coverage Options

Cyber Extortion

A. Expenses incurred in responding to an extortion demand
B. Extortion payment (not all policy forms cover this)

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Insurance Coverage Options

Key Coverage Issues

A. Employee Claims
B. Personal Injury (emotional distress)
C. Independent Contractors
D. Data in any format and any location (Cloud)
E. Third Party Vendors (on or off site)
F. Theft of Confidential Corporate Information
G. Contractual Liability
H. Regulatory Coverage
I. PCI Fines and Penalties
J. Funds Transfer- Crime
K. Worldwide coverage
L. Insurance company pre-arranged breach response services

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Limitations for Cyber/Privacy Coverage:

- Policies with an encryption exclusion
- Narrow wording of description of operations
- Exclusions for rogue employees
- Coverage limitations outside your network (cloud)
- Exclusions for reputational harm
- Limitations on 1st Party Business Income

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When it's a trick and not a hack, how is your client protected?

Cyber Deception occurs when a criminal disguises himself as a vendor, client or employee and tricks the insured's employee into transferring funds to an account under their control. With Hiscox's new Cyber Deception endorsement, your client is protected from such an attack.

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Insurance Coverage Options

The Exclusions: What's Not Covered?

1. **Policies may exclude coverage for "claims" when:**
   - ***A. Failure to maintain or upgrade their security***
   - ***B. Failure of software security to match that reported on application***
2. **Unencrypted device or Wireless Signal Exclusion**
3. **Actions of independent contractors or third party vendors**
4. **Personal Injury Exclusion**
5. **Withdrawal of software or technical software by a vendor**
6. **Chargeback Exclusion (offset by Credit Card company for loss)**
7. **Actions by Rogue Employees**
8. **PCI - fines/penalties and recertification costs**
9. **Reputational harm**
10. **Loss of future revenue**
11. **Costs to improve internal technology systems**
12. **Lost value of your own intellectual property**

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Thank You.

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