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Cyber Insurance

“Cutting Edge” Developments

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Cyber Insurance – Brief Overview

- Coverage Can Be Found In Many Different Places
 - Stand-alone cyber policies
 - Tech E&O and professional liability policies
 - Property Policies
 - Crime Policies
- Covered Risks (Generally)
 - First party losses resulting from cyber events
 - Third party claims for damages
 - Regulatory investigations and actions
- Bespoke Coverage – Not An Off-the-Shelf Product
 - No standard language; each insurer has its own
 - Highly negotiable and changing every year

Basic Business Interruption Coverage

- Lost net profits and extra expenses
- Sustained during the Period of Restoration
- As a direct result of
- An actual and necessary interruption of the
- Insured's Computer System
- Caused by a Security Breach
- Subject to a Waiting Period

Business Interruption “Bells & Whistles”

- Waiting Period and Period of Restoration lengths
- Partial interruption or slowdown
- Voluntary and intentional shutdown
- Dependent business interruption
- System failure caused by an act, error or omission of the insured
- System failure caused by an act, error or omission of a dependent business
- Removal of exclusions for contracts and “consequential losses”

Social Engineering Losses

- Imposter causes Insured to transfer funds to fraudulent bank account
- Significant litigation over ambiguous crime policies
 - Losses “directly caused”
 - “use of any computer”
- Cyber vs. Crime
- Sub-limits
- Additional coverage – expected payment not received

GDPR and CCPA

- Will basic regulatory action coverage apply?
- Scope of coverage – limited to data breach or all violations?
 - Related underwriting requirements
- Can fines and penalties be covered?
 - Regulators' views
 - Choice of law provisions

Other considerations

- Loss of third-party confidential corporate information
- Contractual liability and indemnification obligations
- Bodily injury and property damage
- Vendor and counsel arrangements
- Notice and consent

Contact Information



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