



CYBER LIABILITY:
TRENDS AND DEVELOPMENTS: WHERE WE
ARE AND WHERE WE ARE GOING

Where We Are

- 2014 was the year of the data breach
- 47 States, the District of Columbia, Guam, Puerto Rico and the Virgin Islands have enacted legislation requiring private or government entities to notify individuals of security breaches of personally identifiable information
- Brian Krebs reports daily on hacking
- The hackers are getting better at a faster rate than we are getting at detecting the hackers
- Many small and medium businesses at risk because of uncertainty over their security and cyber-attack threats

2014 Cyber Insurance – A Look Back

- Cyber Products
- Underwriting
- Sales
- Claims

Cyber/Data Privacy Products

First Party Coverage

- Breach Response
 - Forensics
 - Notification
 - Legal representation
- Crisis Management
- Reconstitution of electronic records
- Property coverage
 - Computer systems
 - Machinery
 - Business interruption
 - Lost profits

Third Party Coverage

- Response to regulatory investigation
- Defending against lawsuits

Market issues

- Varying products by company
- Varying policy language vary by company

Underwriting Cyber

- What were the major underwriting concerns regarding cyber threats in 2014?
- Have they changed?
- How are those concerns being addressed in the underwriting process?
- Where was the underwriting data coming from?

Who Was Buying Cyber

- Big Companies v. Small to Midsize Companies
- Was it industry specific?
- What were the driving forces for the purchasing decisions?
- What products were sold?
- How much is dependent on the agent/broker?
- Stand Alone Policies v. Endorsements
- Is any of this changing?

What Did the Claims Look Like

Employees

- Negligence
 - Lost laptop, USB or smartpone
 - Phishing victim
 - Allowing access to passwords
- Personal Profit
 - Espionage
 - Corporate earnings/M&A activity
- Revenge

Third-Parties

- Personal Profit
- Hacktivists
- Foreign States
- Bad Actors

Looking Forward – Current Trends

- Products
 - Growth of cyber towers
 - Expansion of coverage afforded
 - First Party
 - Third Party

In what way will the coverage expand?

Are there any risks that have become uninsurable?

- Underwriting
 - Choosing risks
 - Pricing
 - Overlapping coverage and its impact on placement
 - Position in the tower
 - Willingness to manuscript policies

- Industries at Risk
 - Retail
 - Healthcare
 - Educational institutions
 - Manufacturing
- Cloud providers

Where are we going

- Severity of data breaches
- Dawn of cyber-attacks that result in physical damage to property and persons
- Increasing regulation on state and federal levels
- “Other Insurance”
- Competition in the marketplace
- Uniform cyber policies
- Articulation of damages for the loss of PII and PHI
 - Statutory
 - *Clapper* decision

Questions

- Will a Federal Notification Statute be enacted?
- Will uniform policy language and definitions be developed?
- What direction are we heading?