



CYBER RISK INSURANCE:

Policies, Claims and Coverage



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CYBER INSURANCE

What's On the Horizon



Cyber Insurance

- New standard coverage forms specific to cyber liability
- New endorsements for business owner policies
- Typically divided into products geared towards First Party “Cyber Crime” or Third-Party Liability



First-Party Policies

First-Party Policy Covers:

- Fraudulent input
- Negligent preparation or modification of data in a policyholder's system
- Cyber-attacks
- Fraudulent communications
- Impairment of services
- Misappropriation of records due to attack or hacking

Losses May Include:

- Legal services
- Forensic services
- Costs of notifying affected individuals
- Crisis management or public relations services
- Business interruption expenses

Third-Party Policies

Third-Party Policy Covers:

- Invasion of privacy
- Libel, slander or defamation
- Negligence
- Violations of state or federal privacy laws

These Losses Might Include:

- Damage to computer systems or content
- Lost or damaged data
- Impairment or interruption in services or access
- Lost business opportunities
- Unauthorized access of a customer's account

New Exclusions - CGL

- Geared to risks of data breaches, disclosure of personal or confidential information, and notification and credit monitoring for those allegedly impacted by a data breach
- Example for Coverage B – Personal and Advertising Injury Liability

Access Or Disclosure Of Confidential Or Personal Information

Personal and advertising injury” arising out of any access to or disclosure of any person’s or organization’s confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person’s or organization’s confidential or personal information.

New Exclusions - Umbrella

- Coverage A –

Access Or Disclosure Of Confidential Or Personal Information and Data-Related Liability – Limited Bodily Injury Exception Not Included

This insurance does not apply to:

Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

- Coverage B –

This insurance does not apply to:

Personal and advertising injury” arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

Potential Issues

- Nefarious online activity evolve quickly than insurers, insureds, regulators, courts
- Will insurers seek to them consistent with policyholders' reasonable expectations? Filings with regulators?
- Are the policy provisions vague and ambiguous?
 - Arising out of
 - “Any access or disclosure”
 - “Nonpublic information”

