The Rapid Evolution of Cyber Liability

May 29, 2014

University of Connecticut School of Law
Cyber Liability

• Introductions
• The State of Cyber
  – Claim Trends
  – Insurance Market
• Evolving Cyber Exposures
  – The Cloud
  – Data Security and Internal Procedures
  – BYOD
• Developing Legal Environment
  – Healthcare
  – Payment Card Industry
  – NIST
  – Litigation
Cyber Liability

Sony hack had just happened...
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• The Panel:
  – Charles Bellingrath, Product Leader for Privacy, Network Security, Technology and Media Liability at ARC Excess & Surplus of New England
  – Christopher Novak, Co-Founder and Global Director of the Investigative Response Unit at Verizon
  – Robert Wice, U.S. Focus Group Leader for the Technology, Media and Business Services team at Beazley

• Moderator:
  – Jason Glasgow, CyberRisk Product Manager at Travelers
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State of the Cyber Market

“I do not think that means what you think it means.”

• What do we mean by Cyber?
• What does the market for Cyber look like?
• What coverage is available?
State of the Cyber Market

“I was on a bus that flipped over 17 times.”

- Claim trends
  - Retail
  - Healthcare
  - Those two obscuring where the real action is?
## Cyber Liability

### Breach Count by Data Variety & Motive

<table>
<thead>
<tr>
<th></th>
<th>Payment</th>
<th>Bank</th>
<th>Credentials</th>
<th>Personal</th>
<th>Medical</th>
<th>Classified</th>
<th>Copyrighted</th>
<th>System</th>
<th>Internal</th>
<th>Secrets</th>
<th>Other</th>
<th>Unknown</th>
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<tbody>
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<td>Financial</td>
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<td>2</td>
<td>7</td>
<td>10</td>
<td>6</td>
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<td>1</td>
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<td>3</td>
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<td>2</td>
<td>4</td>
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<tr>
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<td>14</td>
<td>6</td>
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<td>1</td>
<td>2</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td>8</td>
</tr>
</tbody>
</table>
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Attack Targeting

Figure 38: Attack targeting

- Overall:
  - Opportunistic: 25% (487)
  - Targeted: 75%
- Small:
  - Opportunistic: 26% (199)
  - Targeted: 74%
- Large:
  - Opportunistic: 27% (176)
  - Targeted: 73%

Legend:
- Financial
- Espionage
- Other
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Timespan of Events

Overall

Compromise (n=180)
- 11%
- 13%
- 60%
- 13%
- 2%
- 1%

Exfiltration (n=39)
- 15%
- 18%
- 36%
- 3%
- 10%
- 18%

Discovery (n=221)
- 0%
- 1%
- 9%
- 11%
- 12%
- 62%

Containment (n=49)
- 2%
- 2%
- 18%
- 41%
- 14%
- 22%
- 4%

Professional Liability Underwriting Society
Cyber Liability

State of the Cyber Market

“Come on, guys! It’s all ball bearings these days!”

- Is there an industry that doesn’t need Cyber?
- Cyber a standard purchase?
- Coverage overlap?
- CGL changes?
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Evolving Exposures

- The Cloud
- Internal Cyber Protocols
- Vendor Selection
- Mobile Devices
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Protecting Healthcare Data
- HIPAA
- HITECH
- HHS Audits
- OCR Enforcement
- Impact of PPACA?
The Payment Card Industry

- Standard that is applied to:
  - Merchants
  - Service Providers (Third-party vendor, gateways)
  - Systems (Hardware, software)
- That:
  - Stores cardholder data
  - Transmits cardholder data
  - Processes cardholder data
- Applies to:
  - Electronic Transactions
  - Paper Transactions
PCI DSS Overview:

- **Issuing Bank**
  Bank that issues payment cards to consumers (cardholders)

- **Acquiring Bank**
  Contracts for payment services with merchant; merchant must validate PCI DSS compliance with its “acquirer”; acquirer reports compliance status to card associations

- **Merchant**
  Entity that sells goods/services and accepts cards; responsible for safeguarding credit card data and complying with the PCI DSS

- **Service Provider**
  Entity that provides all or some of the payment services for the merchant; responsible for safeguarding credit card data and complying with the PCI DSS

Recently released Version 3.0 is more process-based, less point-in-time.

PCI contractual penalties.
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Cyber Regulatory Environment, Non-Healthcare Division

- Kentucky joining the club!
- Thanks a lot, Florida!!
- NIST framework for information sharing
- FFEIC guidance
- SEC examination of registered advisors
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Cyber Legal Environment
- PCI challenge cases
- Sony case – CGL case
- DSW Shoes – Crime case

Claims
- What’s the typical claim?
- Big guys – more info; but are small and mid-size easier targets?