

# Cyber Liability Insurance and How to Respond to a Breach

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## Today's Agenda

- Overall Insurance Program
- Understanding Cyber Insurance
- Third and First Party Coverage
- Cyber Breach Statistics
- Hypothetical Claim Scenario
  - Data Breach Response Cycle
  - Liability Response
- Ways to Protect Against Cyber Breach
- Other Claim Examples

# Overall Insurance Program

## Four Primary Coverage Segments

### Property & Casualty

- Property
- General Liability
- Commercial Auto
- Workers Compensation
- Umbrella Liability

### Management Liability

- Directors & Officers Liability
- Employment Practices Liability
- Fiduciary Liability
- Cyber Liability

### Mortgage Insurance

- Mortgage Impairment
- Mortgage E&O Coverage
- Force Placed Coverage
- Real Estate Owned (REO) Coverage

### Other Specialty Insurance

- Financial Institutions Bond
- Employed Lawyers Professional Liability
- Professional Services Liability
- Trust Department E&O
- Lenders Liability
- IRA/Keogh Coverage

## Overall Insurance Program

### Focus of Today's Discussion

#### Property & Casualty

- Property
- General Liability
- Commercial Auto
- Workers Compensation
- Umbrella Liability

#### Management Liability

- Directors & Officers Liability
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- Cyber Liability

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# What is Cyber Insurance?

Liability for the loss of information (PII, PHI, PCI)



## General Liability

- Liability for bodily injury that occurs on your premises



## Commercial Auto

- Liability of your car being damaged
- Liability of bodily injury or property damage during an accident



## Property

- Liability of damage to your property by a covered cause of loss



# What Coverage is Provided by Cyber Insurance?

## Insuring Agreements

### Third Party Liability Insuring Agreements

### First Party Insuring Agreements

Network and Information Security Liability

Crisis Management Event Expenses

Communications & Media Liability

Security Breach Remediation & Notification Expenses

Regulatory Defense Expenses

Business Interruption and Extra Expenses



## Third Party Liability Insuring Agreements

### Coverage Overview

**Network and Information Security Liability** – Covers claims brought by customers, consumers or outside business entities for damages they incurred as a result of the insured company's breach.

**Communications & Media Liability**– Provides coverage for losses related to libel, slander, defamation and other media torts through electronic means.

**Regulatory Defense Expense** – Provides coverage for fines and penalties imposed by state privacy statues as well as federal privacy regulations. These claims can be brought by a State's Attorney General, Federal Trade Commission and the Federal Communications Commission.

# What Coverage is Provided by Cyber Insurance?

## Insuring Agreements

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### First Party Insuring Agreements

Crisis Management Event Expenses

Security Breach Remediation & Notification Expenses

Business Interruption and Extra Expenses





## First Party Insuring Agreements

### Coverage Overview

**Crisis Management Event Expenses** – Provides coverage for public relations services to mitigate potential negative publicity after a data breach incident.

**Security Breach Remediation & Notification Expenses** – Provides coverage for certain first party expense costs after a data breach incident.

- Determine what persons were affected
- Develop notification materials
- Send mailings or other communications
- Set up a call-center if applicable
- Provide credit monitoring services
- Comply with any other notification laws

**Business Interruption & Extra Expenses** – Provides actual loss of income related to a data breach. It can also pay for additional expenses an insured incurs after a data breach that are only required because of the breach.

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## Cyber Breach Statistics

Two Studies

### Net Diligence Claims Study, 2014

- Average cost per record breached - \$956
- Average cost of “Crisis Services” - \$366,484
- Average cost of Legal Defense - \$698,797
- Average cost of Legal Settlement - \$558,520
  
- 72% of claims occurred in companies between 0-\$2B in revenue

### AIIG Study

- Human Act/Error - Careless/Negligent Employee – 75%+ of events

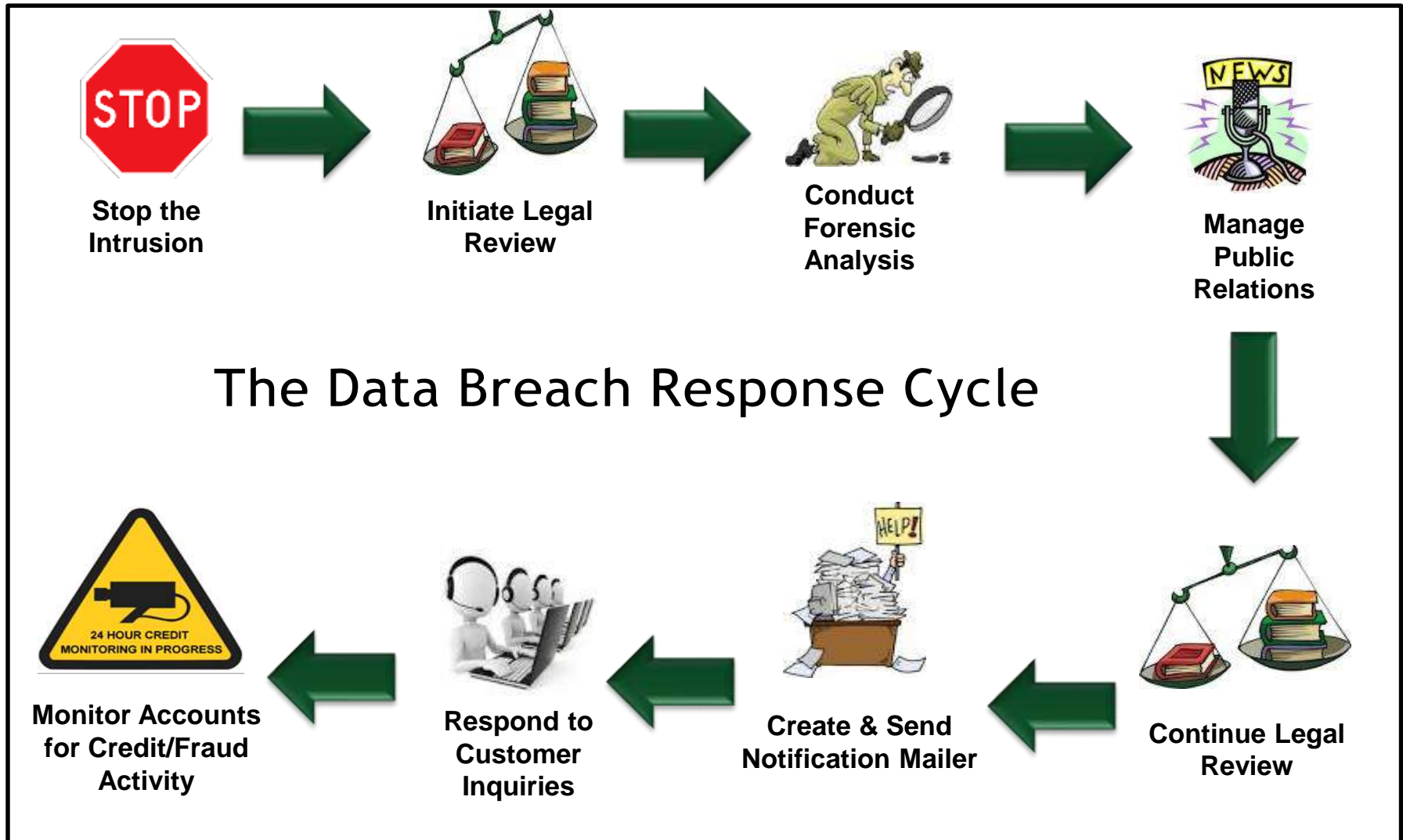
## Hypothetical Claim Scenario

### Phishing Scam

- On Monday morning John, a branch employee at XYZ Bank, receives an urgent email from what he believes to be the bank president.
- Still a little dazed from the long weekend, which included a Mets game 7 World Series victory, John clicks on a link to read the urgent message.
- Once John clicks on the link a virus is launched that captures login credentials of 50-100 other employees.
- Within hours these credentials are used to access over 10,000 confidential records.

# The Data Breach Response Cycle

## Phishing Scam



## Liability Response

### Phishing Scam



### Network & Information Security

One week after XYZ Bank notifies its customers that their account information has been “breached”, a class action suit is brought against XYZ Bank, alleging that it failed in its duty to properly secure and protect its customers’ confidential financial information.

XYZ Bank has branches located in multiple states. As a result, one month after XYZ notifies its customers the Attorney Generals in these states bring regulatory action against the insured for failing to protect customers’ confidential financial information.

# How do you Protect Against Cyber Breach

“Build a Moat and a Castle”

What does a Moat consist of?

- Internal Policies and Procedures
- Firewalls
- Internal Validation
- Virus Protection
- Vulnerability Scans
- Intrusion Detection

What does the Castle consist of?

- Cyber Insurance Policy



## Cyber Insurance

### Key Coverage Items

- Definition of “Personally Identifiable Information”
- First Party Cost Sublimits
- Data Owner vs. Data Vendor
- Service/Vendor Contracts



## Other Claim Scenarios

### Examples

#### ***Third Party Malware***

A community bank stores sensitive customer information in its computer system. This system is compromised when a third party sends a malware program via email to a number of employees. This software intrudes into the system when an employee unwittingly opens the email attachments, allowing the third party access to the system. Contact and credit information for over 5,000 bank customers is captured out of the system.

#### ***Regulatory Action***

A bank with locations bordering multiple states suffers a major data breach involving hundreds of customers. As a result the Attorney Generals in these states bring a regulatory action against the insured.

#### ***Rogue Employee***

A senior financial analyst at an insured's subprime lending division used a thumb drive to download over two million records, accessing approximately 20,000 customer profiles each week and selling each download for \$500. The Court required that notification be made to everyone in the accessed database, over ten million people. Forty-two class actions followed and the overall settlement provided the consolidated class with \$40 Million dollars.

## Questions?

