

# Constructing - and Deconstructing - An Effective Cyber Insurance Policy



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**Q11 Please explain some of the variations in policy language you see available in the cyber insurance market. Where do you see differences?**

**Erin Ayers**  
Editor  
ADVISEN

**Richard J. Bennett**  
Senior Counsel  
Chief Counsel, Cyber Risk  
CIGNA

**Q12 What are your "must-haves" for coverage and what do you usually find in the market?**

**Erin Ayers**

**Richard J. Bennett**  
Senior Counsel  
Chief Counsel, Cyber Risk  
CIGNA

**Erin Ayers**

**Erin Ayers**

**Today's Moderator**

**Erin Ayers**  
Editor  
ADVISEN

**Q13 Do you find that cyber insurance buyers understand the coverage they're getting and how can they get their arms around both their risk and the proper insurance response to it?**

**Erin Ayers**

**Richard J. Bennett**  
Senior Counsel  
Chief Counsel, Cyber Risk  
CIGNA

**Q14 What would you rather believe, buyers and insurers do to improve both understanding of their coverage and take to use of policies?**

**Erin Ayers**

**Richard J. Bennett**  
Senior Counsel  
Chief Counsel, Cyber Risk  
CIGNA

**Erin Ayers**

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**Q1) Please explain some of the variations in policy language you see available in the cyber insurance market. Where do you see differences?**



### Today's Moderator



**Erin Ayers**  
Editor  
Advisen

**Q4) Do you feel that cyber insurance buyers understand the coverage they're getting and how can they get their arms around both their risk and the proper insurance response to it?**



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**Q2) What do you look for in a policy for your clients? Can you explain the advantages of a diverse marketplace for cyber insurance buyers?**



**Q3) What are your "must-haves" for coverage and can it be readily found in the market?**



**Q5) What would you advise brokers, buyers, and insurers to do to improve both understanding of cyber coverage and take-up rate of insurance?**



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Thank you to Today's Panelists



### Attempt to Detail: The Most-Used of Cyber Coverage

- Determinants of at least one year of total coverage placement
- Business interruption coverage
- Coverage for Personal and Electronic Data
- Advancements
- Next steps - negotiation in the wake of the gaps for cyber

### Size of the US Cyber Market

Year	Revenue (\$B)	Policy Count
2016	1.1	1.1
2017	1.4	1.4
2018	1.8	1.8

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### What's New in the Market

• New policy language  
• New policy forms  
• New policy terms  
• New policy conditions  
• New policy exclusions  
• New policy coverages

### Cyber/Data Breach Policies

- "We act" vs "Cover"
- "Cover" vs "We act" vs "Cover" vs "Cover"
- "Cover" vs "Cover" vs "Cover" vs "Cover"
- "Cover" vs "Cover" vs "Cover" vs "Cover"
- "Cover" vs "Cover" vs "Cover" vs "Cover"

### Cyber Data Breach Policies

• "Cover" vs "Cover" vs "Cover" vs "Cover"

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# Today's Moderator



**Erin Ayers**  
Editor  
Advisen

## Today's Panelists



**Roberta D. Anderson**  
Partner  
K&L Gates



**Richard J. Bortnick**  
Senior Counsel  
Traub Lieberman Straus &  
Shrewsbury

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***Q1) Please explain some of the variations in policy language you see available in the cyber insurance market. Where do you see differences?***



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Sample policy language in the market varies widely. For example: Definition: Event, Occurrence

Policy #1: “NEWSWORTHY EVENT means an event that has been caused by a claim or loss, or incident that might reasonably lead to a claim or loss under one of the coverages, which the Assured has purchased, that has been publicized through any media channel, including television, print media, radio or electronic networks, the Internet, and/or electronic mail.”

Policy #2: “PRIVACY EVENT means any act, error or omission which, in the reasonable opinion of an Executive Officer did cause or is reasonably likely to result in the unauthorized disclosure or the unauthorized use of Protected Information.”

Policy #3: “- FIRST PARTY INSURED EVENT means: 1. a Computer Violation, Computer Fraud, Funds Transfer Fraud, E-Commerce Extortion or Computer System Disruption; or 2. with respect to Insuring Agreements D and E, a Wrongful Act. SINGLE FIRST PARTY INSURED EVENT means: 1. an individual First Party Insured Event; or 2. multiple First Party Insured Events that have as a common nexus, or are causally connected by reason of, any fact, circumstance, situation, event or decision. A Single First Party Insured Event will be deemed to have occurred at the time the first of such First Party Insured Events occurred whether prior to or during the Policy Period.

**Erin Ayers**  
Editor  
Adviser



***Q2) What do you look for in a policy for your clients? Can you explain the advantages of a diverse marketplace for cyber insurance buyers?***



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## *Only Cyber Policies Cover the Following*

### First Party Expenses and Loss

- Business Interruption
- Data Restoration
- Extortion (Data & Cyber)
- Voluntary Notification Coverage
- Public Relations & Risk Management Expense

### Third Party Liability

- Wrongful disclosure of PII, health information or confidential information
- Failure of computer system to guard against data breach

### Regulatory Proceedings

# *Cyber/Data Breach Policies*

"Buckets" of Coverage:

- Network security (first and third party coverages)
- Privacy (first and third party coverage, including regulatory investigation)
- Extortion/black mail
- E&O coverage
- Sustained during the policy period

# *Cyber/Data Breach Policies*

## Network Security

- Acts, errors, omissions, etc. that result in a breach of the insured's data security systems and causes third-party harms (theft/corruption of data, unauthorized access/use, denial of access, denial of access to another's computer system, use of system as a staging group for attacks)
- First party coverage for restoring or recreating data as a result of a network security breach



**Erin Ayers**  
Editor  
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***Q3) What are your "must-haves" for coverage and can it be readily found in the market?***



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K&L Gates



**Richard J. Bortnick**  
Senior Counsel  
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## *Attention to Detail: The Must-Haves of Cyber Coverage*

- Retroactive date of at least one year for initial coverage placements
- Business interruption coverage
- Coverage for Payment Card Industry (PCI) assessments
- And more - negotiation is the name of the game for cyber

**Erin Ayers**  
Editor  
Adviser



***Q4) Do you feel that cyber insurance buyers understand the coverage they're getting and how can they get their arms around both their risk and the proper insurance response to it?***



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***Q5) What would you advise brokers, buyers, and insurers to do to improve both understanding of cyber coverage and take-up rate of insurance?***



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**Erin Ayers**  
Editor  
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*Q6) Do you find that more cyber insurance claims are being denied based on policy language or exclusions and has this increased more recently? What do you expect to see from courts in the future?*



**Roberta D. Anderson**  
Partner  
K&L Gates



**Richard J. Bortnick**  
Senior Counsel  
Traub Lieberman Straus &  
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## *Size of the US Cyber Market*

<b>Year</b>	<b>Premiums Written (\$B)</b>	<b>Limits Placed (\$B)</b>
<b>2012</b>	1.3	317.9
<b>2013</b>	1.8	439.5
<b>2014</b>	2.1	516.5
<b>2015</b>	2.4	609.0

# *Thank you to Today's Panelists*



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1. Constructing - and Deconstructing - An Effective Cyber Insurance Policy

2. Cyber Risk: A New Paradigm for Risk Management

3. The Impact of Cyber Risk on the Insurance Market

4. The Role of Cyber Risk in the Insurance Market

5. The Future of Cyber Risk in the Insurance Market

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**Cyber/Data Breach Policies**

• Types of coverage  
• Policy structure, terms and conditions coverage  
• What to look for in a policy  
• Regulatory compliance  
• Third party coverage  
• Contractual liability & public policy

**Cyber/Third Party Policies**

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**Cyber Risk Network**

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**Size of the US Cyber Market**

Year	Revenue	Profit
2014	\$1.1B	\$0.2B
2015	\$1.2B	\$0.3B
2016	\$1.3B	\$0.4B
2017	\$1.4B	\$0.5B

**Attempt to Detail: The Most-Used of Cyber Coverage**

- Insureds/insurers of at least one year for initial coverage placement
- Business interruption coverage
- Coverage for first-time Cash Industry (CIDI) operations
- First-time negotiation in the market for the year for cyber