



# Cyber Insurance Disputes

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# Cyber Insurance Disputes

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# Discussion Points

Claim Aspects that can give rise to Dispute:

- Positioning – Cyber Insurance Policy Coverage
  - Misrepresentation at or pre Inception
  - Ransomware – to pay or not to pay
  - Incident Response verses Improvement/Betterment
  - Business Interruption – direct losses
- 
- Q&A



# Types of Cyber events

## Cyber Incident

“any malicious act or suspicious event that: Compromises, or was an attempt to compromise, the Electronic Security Perimeter or Physical Security Perimeter of a Critical Cyber Asset, or, Disrupts, or was an attempt to disrupt, the operation of a Critical Cyber Asset.”

## Data Breach

“loss or unauthorized access or disclosure of personal information resulting from a breach of the organization’s security safeguards.”

# Cyber Insurance - What is Covered (Standard Coverage)?

Cyber Events	Insured Losses – First Party	Insured Losses – Liability
	Directly paid or incurred by the Insured	Arising from a Claim or Investigation targeting the Insured
Data Breach	<ul style="list-style-type: none"> <li>• Emergency Response Costs</li> <li>• Event Management Costs</li> <li>• Notification Costs</li> <li>• Monitoring Costs</li> <li>• Recovery Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• Regulatory Fines and Penalties</li> <li>• Defence Costs</li> <li>• Investigation Costs</li> </ul>
Cyber Attack	<ul style="list-style-type: none"> <li>• Emergency Response Costs</li> <li>• Event Management Costs</li> <li>• Diverted Funds</li> <li>• Recovery Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• Defence Costs</li> <li>• Investigation Costs</li> </ul>
Human Error	<ul style="list-style-type: none"> <li>• Emergency Responses Costs</li> <li>• Event Management Costs</li> <li>• Recovery Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• Defence Costs</li> <li>• Investigation Costs</li> </ul>
Insured's Systems Disruption	<ul style="list-style-type: none"> <li>• BI Loss</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
PCI Non-compliance	<ul style="list-style-type: none"> <li>• Emergency Response Costs</li> <li>• Event Management Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• PCI Penalties</li> <li>• Defence Costs</li> <li>• Investigation Costs</li> </ul>
Electronic Media Claim	<ul style="list-style-type: none"> <li>• Emergency Response Costs</li> <li>• Event Management Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• Defence Costs</li> </ul>
Extortion	<ul style="list-style-type: none"> <li>• Extortion Response Costs</li> </ul>	<ul style="list-style-type: none"> <li>• Damages</li> <li>• Defence Costs</li> </ul>

# Cyber Insurance Disputes

## Misrepresentation at or pre Inception

***Key - Information provided on proposal forms or as part of the Placing/Underwriting process***

- *Maturing market with wider claims experience*
- *Better understanding of risk and an understanding of exposure (Carrier)*
- *Increased understanding and desire to manage / off set risk (Corporate)*
- *Hardening market – perhaps becoming harder to place risk for larger multi-national*
- *Increase in Package Policy's for SME market with reduced/simplified Underwriting criteria*
- *No business' IT environment or security profile is perfect*

***Result – Insurers are looking more closely at the information provided at Inception and will potentially avoid, delay or reduce claims payments if material misrepresentation***

# Cyber Insurance Disputes

Ransomware – to pay or not to pay

***Key – most prevalent Cyber threat and a growing contributor to claim spend and exposure for Underwriters***

- *Recent uptick in targeted attacks post COVID*
- *More sophisticated, decryption and exfiltration of data*
- *Operational risk, inability to trade leading to greater desire to engage*
- *Increased extortion demands – EUR Thousands to Millions*
- *Focus on potential Sanction risks – violation of OFAC regulations and similar (responsibility on Insurers)*
- *Insurers increase compliance and requirement for DD/investigative activity prior to being able to support*

***Result – potential for dispute around both grounds for and ability to pay and recover from Insurers***

# Cyber Insurance Disputes

## Incident Response verses Improvement / Betterment

***Key – Containment, Investigative, Mitigation and Recovery actions will inevitably require a level of improvement***

- *Emergency or Incident Response actions focused on containment, mitigation and recovery*
- *Investigative enquiry will support recovery and lead to recommendations for improvement*
- *All of the above often managed in a 'Crisis' environment*
- *Most Policy's whilst supporting the recovery of systems and data, will not pay for improvements/betterment*
- *There is often a need for increased visibility, hardening and rebuilding systems as part of the response*

***Result – Potential for dispute in attribution of costs and identification of drivers for cost. Key that Corporates engage and work with Insurers and their representatives from the outset***

# Cyber Insurance Disputes

## Business Interruption – Direct Losses

***Key – Cyber attacks can often lead to both direct and indirect financial loss, not all of which will be covered by an Insurance Policy***

- *Cyber Insurance Policy's normally restrict cover to 'direct' losses that stem from a Cyber event*
- *Net or Gross Profit basis of cover with Extra Expense, often limited to the 'Period of Restoration'*
- *Short Maximum Indemnity Periods – 3 or 6 months with time Deductible or Waiting Period*
- *Policy may not extend to cover Reputational Loss unless it can be proven as direct*
- *Impact of a Cyber event is often short, difficult to quantify and new to a business*
- *Overlap with Incident Response activity – Extra Expense*

***Result – Potential for dispute around quantification, other circumstances and true/supportable impact on a business, particularly wider reputational or long term impacts of a Cyber event***

# Q&A

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# Crawford Cyber Solution

- ✓ Launched in 2015
- ✓ Innovative, first to market
- ✓ Truly global, scalable
- ✓ Rapid growth, over 30 carriers
- ✓ Over 2000 cyber claims handled to-date

## Complete End-to end Turnkey Solution

 <b>First Notification of Loss</b>	 <b>Claims Management</b>	 <b>Crawford Incident Mgr</b>	 <b>Specialist Provider</b>	 <b>One Global Process</b>
<ul style="list-style-type: none"> <li>• Single global intake centre</li> <li>• Dedicated telephone number</li> <li>• Available 24/7/365</li> <li>• 200 languages</li> <li>• Guaranteed response</li> </ul>	<ul style="list-style-type: none"> <li>• Dedicated resource</li> <li>• Trained and experienced team</li> <li>• Triage to specialists as required</li> <li>• Management of claim</li> </ul>	<ul style="list-style-type: none"> <li>• Local crisis manager</li> <li>• Expert led</li> <li>• Single coordinator</li> <li>• Selected individuals</li> <li>• Triage to specialists as required</li> </ul>	<ul style="list-style-type: none"> <li>• Contracted network</li> <li>• Extensive range of services</li> <li>• Best-in-class</li> <li>• Experienced</li> <li>• Fast response</li> <li>• Completed due diligence</li> </ul>	<ul style="list-style-type: none"> <li>• Timely</li> <li>• Consistent</li> <li>• Flexible</li> <li>• Solution driven</li> <li>• Global breadth</li> </ul>

Backed with a £50m liability

# Crawford & Company – Superior Scale

The world’s largest publicly listed independent provider of global claims management solutions

Organised across global service lines:

<p><b>Crawford Claims Solutions</b> P&amp;C adjusting</p>	<ul style="list-style-type: none"> <li>• <b>50,000</b> Field resources</li> <li>• <b>70</b> Countries</li> <li>• <b>1.2 million</b> P&amp;C claims managed</li> </ul>
<p><b>Global Technical Services</b> Large, specialty &amp; complex claims</p>	<ul style="list-style-type: none"> <li>• <b>400+</b> Global technical adjusters</li> <li>• <b>\$5.8 billion</b> Indemnity dollars</li> <li>• <b>40,000+</b> Claims managed</li> </ul>
<p><b>Contractor Connection</b> Managed repair</p>	<ul style="list-style-type: none"> <li>• <b>6,000</b> Contractors in network</li> <li>• <b>\$2.5 billion</b> Total project costs</li> <li>• <b>350,000</b> Assignments</li> </ul>
<p><b>Broadspire</b> Third Party Administration</p>	<ul style="list-style-type: none"> <li>• <b>\$1 billion</b> Managed medical spend</li> <li>• <b>\$2.9 billion</b> Claims paid</li> <li>• <b>425,000</b> Claims managed</li> </ul>

 **\$18+** Billion  
Claims payments annually

 **1.7** Million  
Claims handled worldwide

 **9,000**  
Total employees

 **CRD A&B**  
Listed on NYSE

**PURPOSE** Restoring and enhancing lives, businesses and communities

**VISION** To be the leading provider and most trusted source for expert assistance, serving those who insure and self-insure the risks



# Our Purpose

Restoring and enhancing lives, businesses and communities.

# Our Vision

To be the **leading provider** and most **trusted source** for **expert assistance**, serving those who insure and self-insure the risks of businesses and communities anywhere in the world.

Crawford & Company  
Loss resolution for carriers,  
brokers and corporates

# Our Corporate Expertise

- We are the nominated by some of the largest multi-nationals in the world across virtually every industry sector
- Major corporates trust Crawford to deliver a service which aligns with their values, treats their customers and colleagues with the utmost care and protect their brand reputation
- Our Global Markets division is involved in multi-national, cross-class programs for insurers, brokers and corporate clients across a range of specialist areas for over 40% of the Fortune 500 group of companies

