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## Cyber Liability Insurance- A Protection to Cyber Losses

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### ABSTRACT

*The present world is interconnected with each other through various internet activities. The business of every country in the world has reached to digitalization. It is easy to share and connect information and to deal with business activities worldwide. Businesses are travelling via cyber sources which is the fastest source of communicating information and transferring data. In India, after the year 2000, most of the companies started e-activities. Now in India almost all the types of companies are using web networks and e-commerce has reached to its highest peak. But in the year 2010-11, India was ranked 10<sup>th</sup> among countries which were heavily cyber-attacked. According to the Ministry of State for Electronics and IT, India witnessed more than 27,000 cyber security threat incidents in the first half of 2017. Cybercrimes became the biggest problem as the company's information is no more secure and safe, due to which enterprises are facing many monetary losses. This kind of losses can be termed as Cyber Losses. So, there is a strong need for a tool which can indemnify the companies from such threats. Cyber Liability insurance is one of the Insurance under GIC, which is made to indemnify the losses which occur due to cybercrimes. Cyber-liability insurance is an insurance product used to protect businesses and individual users from Internet-based risks, and more generally from risks relating to information technology infrastructure and activities. Cyber liability policies have reached the world successfully but are still in the immature stage in India and are struggling.*

*There is thus an urgent need for the formulation of suitable techno-legal regulations and framework for various sectors, including cyber liability insurance in India. The purpose of this study is:*

- 1. To know what is cyber liability insurance,*
- 2. To know the benefits of cyber liability insurance, and*
- 3. To understand the challenges faced by cyber liability insurance in the Indian market.*

**Keywords:** *Cyber Liability Insurance, Cybercrimes, Cyber threats, indemnify, losses*

### Introduction

The digital age has brought with it many new challenges, especially related to cybersecurity. With the internet usage rising 402 million in 2017, India is now second only to China in the number of devices connected to the internet. This also, thus, make India uniquely vulnerable as Intelligence sources suggest that in the recent past, malicious activities against Indian networks have originated from hosts in 20 countries. This only emphasizes the amorphous nature of cyber-attack.

Cyber risks are steadily on an increase. Cybercrimes refer to any illegal activities using, or against, computer systems, computer networks, and the internet. Security or Data breaches affect millions of records every year and reports of breaches continue to rise at a dramatic rate. In order to protect companies and customers from cyber-attacks, insurers are offering the cyber liability insurance policy.

As the digital frontier expands, every single client, to a greater or lesser degree, is exposed. Companies with access to private and confidential information about their customers have a responsibility to keep it secure. The potential damages may be physical, financial or reputational.

Cyber Liability Insurance covers consumers of technology services or products. Most importantly, Cyber Liability Insurance cover liability for a data breach in which the client's personal information such as social security or credit card numbers is exposed or stolen by a hacker or other criminal who has gained access to your electronic network

### **Objective of the Study**

The main objective of this paper is to identify the benefits and challenges faced by cyber liability insurance.

1. To know what is cyber liability insurance,
2. To know the benefits of cyber liability insurance, and
3. To understand the challenges faced by cyber liability insurance in the Indian market.

### **Review of Literature**

Cyber Liability Insurance helps businesses survive data breaches and cyber attacks by paying for recovery expenses explained on the web site of insureon.com. They also said that the Small and Mid- Businesses are the major target of Cyber Attacks.

According to the study made by Internet security firm Kaspersky Labs, the average cost of a small business data breach is **\$86,500**. And while many small-business owners think they're not targets for hackers, the opposite is actually true. According to Property Casualty 360, **62 percent** of all cyber attacks hit small- and mid-sized businesses.

In the article published by Times of India, on Feb. 12, 2017 SBI managing Directors shared his views as "We have always seen maximum security in all our IT systems. We are now considering to avail cyber insurance covers for our customers".

Whereas in the same article MD of Bank of Baroda Said "We are here to ensure protection of our customers and hence we will definitely go for cyber insurance cover as and when it was required for the bank.

As per computer Weekly .com Cyber liability insurance cover (CLIC) has been available in the market for around 10 years, however most security professionals seem unlikely to have heard of it or know that it exists

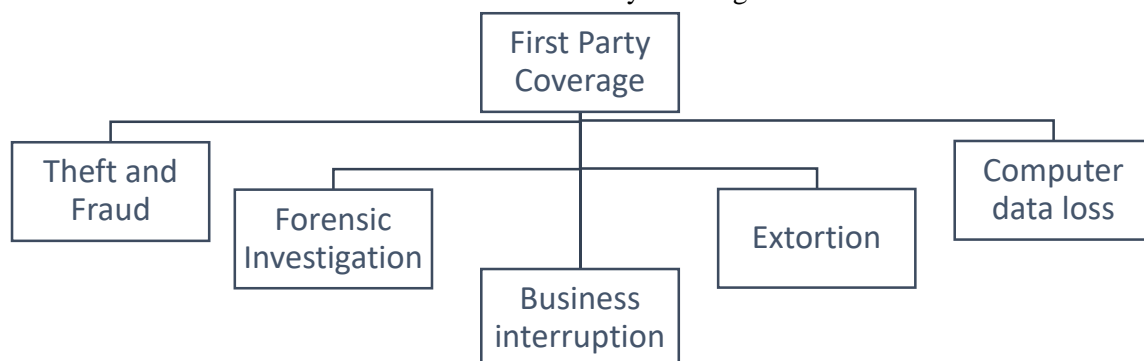
### **Research Methodology:**

This study is based on Secondary sources of information. Where various websites, journals and articles available are reviewed for providing qualitative information in the paper. Insurance companies websites are reviewed for the details of cyber liability procedures and premiums chart.

### **First-party coverage and Third-party coverage**

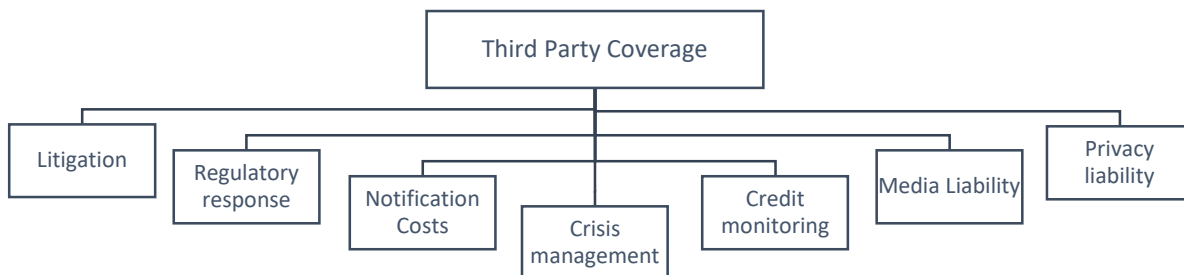
Before we talk about the coverage, we should know that there are two types of cyber liability insurance policies which the Insurers offer, first-party coverage and third-party coverage for cyber losses. First-party coverage insures for losses to the policyholder's own data or lost income or for other harm to the policyholder's business resulting from a data breach or cyber-attack. Third-party coverage insures for the liability of the policyholder to third parties, including clients and governmental entities — arising from a data breach or cyber-attack.

Chart 1: First Party Coverage



The above chart shows the types of First-party coverages available. It covers the destruction or loss of the policyholder's data as the result of a criminal or fraudulent cyber event, including theft and transfer of funds. It also covers legal, technical or forensic services necessary and the lost income and related costs. It provides coverage for the costs associated with the investigation of the threats and for the payments to extortionists who threaten to obtain and disclose sensitive information. Lastly, it also covers the physical damage to, or loss of use of, computer-related assets, including the costs of retrieving and restoring data, hardware, software or other information destroyed or damaged as the result of a cyber-attack.

Chart 2: Third Party Coverage



The above chart shows the types of Third-party coverages available. It covers the costs associated with civil lawsuits, judgments, settlements or penalties resulting from a cyber event. It covers the legal, technical or forensic services necessary and the costs to notify customers, employees or other victims affected by a cyber event. Also, crisis management and public relation expense are seen to. It provides coverage on the costs of credit monitoring, fraud monitoring and media liability. Lastly, it also provides coverage for liability to employees or customers for a breach of privacy.

#### ***What does it cover?***

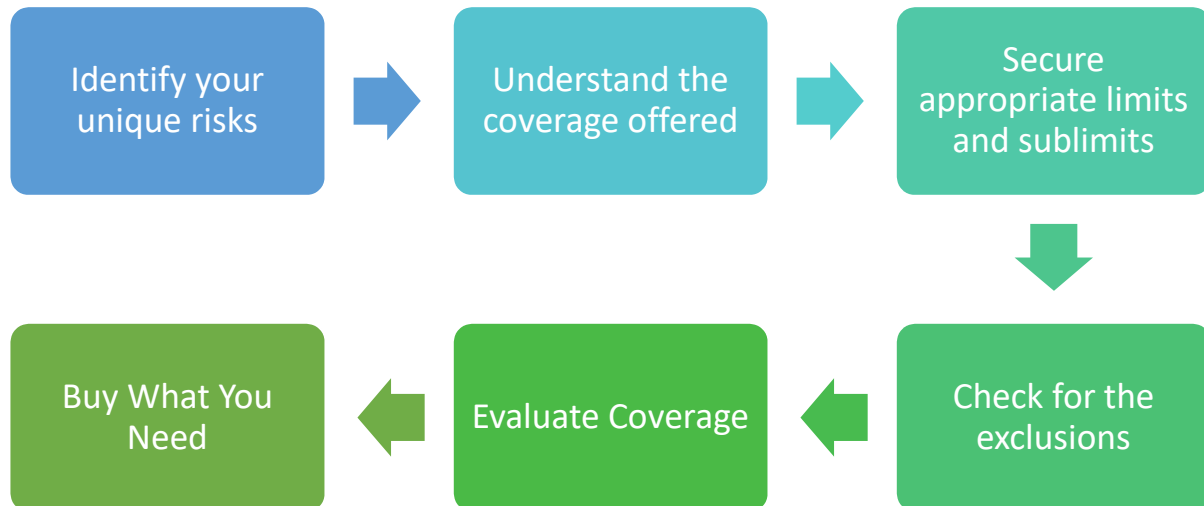
1. Investigation: A forensics investigation is necessary to determine the cause behind the cybercrime. It is also important to find out how to prevent the reoccurrence of such cybercrimes.
2. Business Losses: It includes risks that are covered by errors of negligence, monetary losses due to network downtime, business interruption, data loss recovery and costs involved in crisis management.
3. Lawsuits and extortion: It includes all the legal expenses associated with the theft of confidential information and intellectual property, legal settlements and regulatory fines.
4. Privacy and notification: This includes data breach notifications to customers and other affected parties.

#### ***Steps to be followed while taking a policy cover***

It is quite evident that not all policies are the same and the need for each policy differs. However, the core idea is the same: to get protection from the cyber-risks. The above chart shows the simple steps any company will follow to select a policy coverage for itself. At the very onset, a company must understand the nature and the extent of the risks it faces. For some businesses, like banks and retailers, the primary concern is the theft of personal financial information. On the other hand, the major risk to a utility or energy company is the disruption of critical businesses or physical operations through attacks on networks. Once the risk is identified, the company's need to understand the coverage, of first-party and third-party. The most important step is to compare the anticipated costs associated with a data breach with limits of liability available and the related costs. Once the limits and sub limits are taken into consideration, the company can evaluate the policy

coverage. It is also often considered to take up coverage for Acts and Omission by third party, Loss of information on Unencrypted devices and Regulatory actions along with the policy one intends to buy.

Chart 3: Steps taken to select a policy cover



### ***Premium Charged***

Currently in India, the total premium collected under Cyber Liability Insurance policies is around Rs.60 crore. The size of cybercrime covers sold in India begin somewhere between Rs.15 crore and the premium ranges from Rs.15 lakh to Rs.1 crore based on the size of the cover and risks involved. As demand grows, the premium will shrink, the Corporate Risks' managers are confident. In the coming years, it will be possible that every Individual needs a cyber risk policy. So much of our personal data is on our mobile, and if it gets stolen, then we are faced with the threat of cyber risk. A few general insurance companies such as Tata AIG, HDFC Ergo, Bajaj Allianz and ICICI Lombard provide cyber insurance policies.

### **Examples of claims admitted**

1. Stolen laptops: A retailer contracted with a third party service provider. A burglar stole two laptops from the service provider containing the data of clients of retailer.
2. Rogue employee: An employee learn that he may be terminated and in response, steals and sells off the information of various clients online.
3. Cyber extortion: Extremely common, this happens when a hacker demands extortion payments otherwise he would post the record from the company's servers to a blog available for all to see.
4. Spyware Virus: An email is sent to monitor the activities on the computer. If opened on the work computer, this can easily send screenshots of confidential data to anyone.
5. Small business hacked: Bank account details can be hacked of a small business firm. Also, customer information can be tracked and sold online.

### ***Recent cyber attacks***

Here are a few examples of recent cyber attacks

- In January 2014, as many as 110 million Target customer records were compromised.
- In April 2014, the security bug known as Heart bleed was discovered in the Open SSL cryptography library. Open SSL is software used by many websites to provide secure, encrypted data transfer for customers and businesses. This bug allowed user data to be accessed by other, non-authorized parties. Such data included usernames, passwords, and encryption keys.

- In August 2014, the New York Times reported that Russian hackers had gathered more than a billion Internet passwords.
- In May 2015, CareFirst BlueCross BlueShield had 1.1 million records compromised after hackers gained access to a database that members use to interact with the company's website and services.
- In March 2016, hackers stole the information of about 1.5 million customers from Verizon Enterprise Solutions.
- In May 2017, the WannaCry ransomware crypto-worm struck worldwide. It encrypted data and demanded ransom payments in the Bitcoin currency.
- In July 2017, Equifax experienced a massive data breach that compromised the personal information of 143 million Americans.

### **Need of cyber Liability Insurance in India**

There has been a huge increase in the number of cashless transactions post demonetisation. Considering the recent cyber-attacks and growing cashless transactions, the need for Cyber Liability Insurance is on a rise. While they are sure a necessity for businesses, cyber insurance providers are struggling to come up with products that can cover all the aspects, including investigation, liability, cost and insurance cover or claims, says SanchitVirGogia, Founder & CEO of research firm Greyhound Knowledge group. "Cyber insurance is complex. A forensic probe is an expensive exercise, so who will bear its cost remains a question. Even the factors that determine business losses vary and importantly the definition of "business loss" remain highly ambiguous."

The following Insurance companies are Providing Cyber Liability Insurance currently in India:

- New India assurance company
- National general insurance
- ICICI Lombard,
- Tata AIG,
- HDFC Ergo
- and Bajaj Allianz.

Recently in one of India's biggest ever security breaches, confidential data of 3.2 million debit card holders was compromised. Several nationalised banks were severely hit by the security breach. Consequently, banks either had to replace or ask users to change their ATM pins and security codes. Although the banks did not suffer any major financial losses, yet they had to block ATM cards of several customers. CEOs of several banks have already expressed their interests to opt for cyber insurance in order to protect their customers' confidential information. Insurers too are optimistic that the demand for cyber insurance will rise, especially after demonetisation and increase in cashless transactions. With incidences of cybercrime on a rise, demand for cyber insurance will evidently grow in the future.

Interestingly, even insurers, hotels, hospitals, automobile companies are on the hit-list of fraudsters and hackers as they have critical information of people such as their financials, and even their medical conditions (if any) on multiple servers around the world. No less than any bank, these databases are virtual repository of all details about consumers and are virtual goldmines for the likes of hackers, phishers and identity thieves.

Companies are taking several steps to safeguard the crucial client information. "We have been investing heavily in building up controls and safety of sensitive data. There are numerous checks and balances at IT, wherein the data is identified by the information security and risk control team of the company," explains Suresh Agarwal, Sr EVP & chief distribution officer, Kotak Life Insurance. While companies do their best to prevent frauds and data theft, at times, the customer proves to be the weakest link. This can be avoided if customers take adequate precautions. "Customers should ensure that they are using only secure sites for making payments. Plus, they should change their passwords regularly," advises Agarwal.



Banks have been advising their clients not to part with sensitive and personal information. Agarwal cautions customers against "any unreasonable offers or gifts that are offered on telephones or by unauthorised agents who have no identification of the company."

Not only BFSI sectors but also the small and medium scale businesses are becoming the major victim of cyber attacks. A report from Internet security firm Kaspersky Labs claims the average cost of a small business data breach is \$86,500. And while many small-business owners think they're not targets for hackers, the opposite is actually true. According to Property Casualty 360, 62% of all cyber-attacks hit small and medium-sized businesses.

According to a survey by global consultancy firm PwC along with CIO and CSO, the average number of information security incidents detected by respondents increased by 117% over the previous year, up from 2,895 last year to 6,284 this year. Further, the losses as a result of incidents of cybersecurity surged by 135% over the previous year, and the average cost per incident increased by close to 8%, added the report.

### Benefits

"In today's interconnected world, it is imperative for companies to have adequate security and data protection measures and top that protection through a cyber liability insurance policy," says M Ravichandran, president – insurance, TATA AIG General Insurance. "An insurance cover for cybercrimes is quite common internationally," says K G Krishnamoorthy Rao, MD and CEO, Future Generali India Insurance, which will shortly be introducing an insurance policy for cybercrimes in particular.

Speaking about the scope of cyber insurance, Krishnamoorthy Rao, CEO, Future Generali Insurance India believes, "Every company in the future, irrespective of the size of the firm, using technology for its operations will require cyber insurance to protect their businesses from online threats that is not covered in general insurance." Future Generali is in the process of filing a cyber-insurance product with the regulator.

### Challenges faced by Cyber Liability Insurance in the Indian Market

The whole liability insurance market in India is about Rs 2,000 crore, estimates a New Delhi insurance broker. "Cyber liability, as a standalone product, is between 3 to 5% of that. So in the scheme of things, it is not meaningful yet," says Kapil Mehta, co-founder of Securenow.

"The noise in the market is much more than the actual size of the market, as yet. Either their foreign clients are telling them that they ought to be buying this insurance, or they are concerned about these threats on their own," Mehta says of Indian companies. "They do come, spend a lot of time asking questions, go through the underwriting process, but often not go through the purchase, because these insurances are complicated and come with a lot of ifs and buts. And they're expensive."

Most companies are confused between cyber liability insurance coverage (CLIC) and the errors and omissions (E&O) insurance, Gogia said, citing data from an upcoming Greyhound survey, *State of Cyber Insurance 2017*. Some 68% of organisations surveyed mixed up CLIC and E&O with just 12% having clarity on cyber insurance. CLIC covers technology related losses, while E&O, also known as a professional liability insurance, protects against losses from negligence claims made by a client.

This specialist line of insurance, estimated to be a Rs 100 crore plus market, is growing rapidly, reckons Sushant Sarin, Executive Vice President, Commercial Lines at insurer Tata AIG General Insurance.

"We have seen a sudden and drastic spike in the number of engagements and queries... but conversions themselves have not moved up at the same rate," says Kiran Lokhande, Head of Liability Underwriting, at Bajaj Allianz General Insurance. The uptake in cyber liability covers has been 10 to 15% but that doesn't square up with the number of organizations that are exposed to the risk, he insists.

The stumbling block is low awareness in India. Insurance penetration in the country at 3.4 percent is about half the global average. And there's a high possibility of frivolous claims.

“This policy may suffer the same fate as the motor third-party insurance in India, where the claims remain pending for years as they are under litigation,” said Ashvin Parekh, insurance expert at Ashvin Parekh Advisory Services. There has to be an independent mechanism to assess loss and quantify compensation for cases of defamation, while bullying is more of a legal matter, he said.

Other challenges would be dealing with fraudulent claims, untraceable cyber hackers and fake news, he said. The pricing of the product will also be crucial as the volume of claims will be high. Claims will pile up if they get stuck in the court,” he said.

### ***Suggestions for the growth of cyber liability Insurance in India***

As we already discussed above that in India, the Cyber Liability Insurance market is struggling.

However, there is a strong need for safe and secure cashless transactions. Here are a few suggestions for the development of Cyber Insurance:

1. Government and insurance companies should take the initiative for providing awareness of cyber liability insurance to all its customers. Making people aware of this is the first initiative towards expanding this market.
2. Not only the BFSI sectors but also Small and Medium scale businesses should buy the cyber liability insurance as they are the major and easy victims of cyber hackers.
3. All Government Insurance companies should also take the responsibility to provide more and more cyber insurance as in India, only private players have taken an initiative to offer the cyber liability insurance.
4. There is also a strong need for all the banks and financial institutions to go for a cyber liability policy.
5. The government should enforce a special and separate law to take care of such cyber Attacks
6. The Government should take forward steps to make it compulsory for the entities who are dealing with cash less transactions.
7. The cyber insurance liability claims should be on fast track mobile courts to be build confidence among the policy holders.

### **Conclusion:**

Cyber insurance providing security to the country and indemnifying the cyber losses. The country is now in the digital phase where cash less economy is playing a major role. The personal and sensitive details are now travelling via E-sources. Hence there is need of tool which protect those information from Hackers. Cyber Insurance protecting the losses but still it is not known to all. The government and Insurance Companies are taking initiative to make awareness. Cyber liability insurance is a strong need of Today's Economy.

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