

# Risk Management Newsletter

## Countdown to GDPR

This issue is very much focused on the present but with one eye on the (very near) future. Below we review how Cyber Crime has continued to evolve and affect our clients. We also include a piece which considers the implications of the impending GDPR legislation to directors and senior management - prior to it's implementation in May.

### Cyber Crime continues to cost Irish businesses money

There has been a recurring theme to the main losses affecting our clients over the past few years - the vast majority were related to Cyber Crime. It continues to be the biggest area of cybersecurity-related financial loss to our clients, particularly incidents where fund transfer fraud occurs.

Cyber crime is now a bigger business than the illicit drugs trade globally. It is an all-encompassing term for a number of methods of defrauding businesses and individuals out of money. Below is a brief summary of the most common types of cyber crime that have resulted in a financial loss to our clients:

Type	For example...	Percentage of incidents	Average financial loss
CEO fraud	...an employee believes they are acting on the email instructions of their CEO and are tricked into transferring funds to criminals.	10%	€22,167
Fund transfer fraud	...criminals intercepting and hijacking an email exchange between two parties where funds are due to be transferred, such as between client and supplier.	57 %	€52,917
Extortion / Interruption / system damage	...computer systems taken down by Ransomware attacks, threat of extortion / files being deleted and cost of repair of systems afterwards.	23%	€17,092 Typical outage: 1 to 4 days
Telephone hack	...criminals routing premium rate calls through your phone system and racking up exorbitant bills	10%	€9,093

We first started tracking these losses back in 2015, and have noticed an increase in the amounts being stolen. A typical loss back then would have consisted of low five-figure sums of money. Criminals have become more emboldened and targeted in their attacks with two of our clients having lost six-figure sums in the past 6 months.

As usual we include some examples of cyber losses on the last page of this newsletter

The impending EU General Data Protection Regulation (GDPR) brings with it serious considerations for management of Irish businesses. **Caoimhe Gormley** and **Michelle Boland** of **AIG** discuss the insurance implications for directors.

*This is an excerpt from an article featured in Irish Broker Magazine, but which is relevant to all types of Irish firms. It is reprinted with permission and with thanks to AIG and Irish Broker Magazine.*

### GDPR and Cyber Liability Insurance

Cyber Liability insurance provides two very important aspects of coverage in response to GDPR. Firstly, it protects against the insurable elements of GDPR and secondly provides first response and event management support. The insurable elements of GDPR include cover for potential fines, notification costs and third party liability claims. Broad standalone Cyber Liability policies will cover regulatory fines to the extent they are insurable by law. Notification to the supervisory authority and individuals following a breach which is likely to result 'in a high risk to the rights and freedoms of individuals' will be both expensive and time consuming, these costs are insurable including follow up credit and ID monitoring. A Cyber Liability policy will cover the defence costs and liability claims resulting from a confidential information breach. The first response and event management support provides a coordinated approach to a data breach including IT, Legal and PR assistance.

It has never been so important given the introduction of GDPR and the increase in cyber-attacks globally that businesses consider a well-designed and broad coverage Cyber Liability policy, not only to cover those risks arising from a breach of GDPR but also for the immediate access to experts provided for under these policies. For any business that already purchases Cyber Liability insurance consideration must also be given to ascertaining if the existing limits of indemnity are sufficient as the financial consequences of a data breach will almost certainly increase under GDPR. GDPR creates a significant exposure for not only Cyber Liability insurance, but also Directors & Officers Liability Insurance. With accountability as a core theme in the new regulation, Cyber Liability is no longer the only relevant insurance to consider and emphasis should also be placed on Directors & Officers Liability insurance.



GDPR takes effect on **25**  
**May 2018**

This is our final newsletter prior to GDPR taking effect on 25 May. We have been privileged to have some superb contributors on the topic since 2016 including law firms, IT specialists and even the office of the Data Protection Commissioner themselves.

Past editions of our newsletter are available online - <http://www.olearyinsurances.ie/articles-and-newsletters>.



#### GDPR in the Boardroom and Directors & Officers Insurance

The principal aim of Directors and Officers insurance is to protect the personal assets of directors and officers. The policy also responds to meet the potentially crippling defence costs in the event of an allegation of wrongful management, in addition to judgements and settlements. Directors and Officers exposure exists across the spectrum; from large financial institutions, small family-run SMEs with a local customer base, sports organisations with a large list of members, to charitable organisations.



The quality of directors and officers decision making is constantly being tested by new and evolving threats, such as cyber-attacks, and resulting changes in regulation, for example GDPR. The role of the board is critical in identifying and managing cyber exposure so as to limit its effect on the business. **Directors are becoming increasingly concerned that in the event of a cyber breach, some blame will inevitably lie at their door.** Increased scrutiny on management is likely to focus on whether the board approved the right level of funding for IT security, applied the correct rigour in analysing cyber exposure and whether the right level of insurance cover was purchased.

The cyber threat is an evolving one and is clearly imposing additional responsibilities on directors, but what remains unclear is what the resulting ramifications will be for company executives. The financial impact of a data breach can be huge; as such directors should be concerned about both their fiduciary obligation to the company and its shareholders, as well as directors' own personal assets which are at risk in the event of a claim for alleged wrongful management. In a situation where a cyber incident has a material effect on a company's shareholder value, or indeed reputational value, then litigation will almost certainly ensue, particularly if there is a lapse on the part of the board to insure the cyber exposure.

Given the potential personal exposure for directors and management of companies, the purchase of a broad Directors & Officers Liability policy, in conjunction with a Cyber Liability policy, should be strongly considered when having the discussion about preparation for GDPR from an insurance perspective. Cases have been brought against executives of various US companies following cyber hacks, for example Target and Home Depot. It will be interesting to see what follows for directors of Irish and European organisations following the introduction of GDPR in May 2018. Expensive data breaches are now a fact of corporate life, and it seems inevitable that cyber-related D&O litigation will follow, as both aggrieved shareholders and customers seek retribution and regulators start to use their enhanced powers.

**This article was originally written with the insurance industry in mind. For insurance advice please do not hesitate to contact O'Leary Insurances to discuss - our contact details are overleaf.**



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Thank you for reading our newsletter. Below are links to our own social media pages. Follow these to keep abreast of important updates.

LinkedIn: <https://goo.gl/u06ncG>

Twitter: @OLearyInsurance

Facebook: <https://goo.gl/DILziV>

**Below are a selection of cyber incidents that we have come across recently. As usual, these are all real-life Irish cases.**

### Theft of personal data

A services firm had an employee on secondment to one of their clients. The employee in question is alleged to have deliberately shared information approximately 4-5 years ago to third parties, possibly for financial gain. Their client recently discovered the loss and is now taking legal action.

### Cyber crime

A firm had a client based overseas and were due to transfer monies to them. They could not get their client on the phone to verify their bank details and were under time pressure so they transferred the funds. It turned out that they had been exchanging emails with criminals purporting to be their clients for some time. A six-figure sum of money was lost and the banks involved were unable to freeze the funds in time.

### Phishing email results in loss

What appeared to be an email between two colleagues in a small firm transpired to be fraudulent - a criminal was impersonating an employee. A bank transfer was processed on the back of these emails and the firm lost over € 10,000 as a result.

If you wish to discuss further please contact us.

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For new clients please contact [cyber@oli.ie](mailto:cyber@oli.ie) - we have 8 offices around Ireland to respond to your needs.

### About O'Leary Insurances

#### Insurance Brokers & Consultants, Est. 1961

From an initial complement of three staff in 1961, originally founded by Archie O'Leary, O'Leary Insurances has successfully grown & developed into an Insurance Brokerage which specialises in providing a high level of customer service throughout Ireland.

With over two hundred employees now operating from eight locations nationwide, O'Leary Insurances provides a comprehensive insurance broking service to all sectors of the Irish Economy. As part of this insurance broker service, we have consistently maintained our strong emphasis on professionalism and personal attention through all of our products, building on our hard-earned reputation for dependability and commitment.

Our highly trained and experienced personnel would be delighted to be of service to you and would welcome the opportunity to discuss both your [Personal Insurance](#) and [Business Insurance](#) requirements with you. We are confident that our knowledge and expertise can assist you in the management of your insurance needs and can assure you of our very best attention in meeting the challenges of the future.

**Disclaimer – as insurance brokers we cannot provide legal advice.**

Thank you for reading.

