

## Insurance Coverage and Recovery Practice Group



### Proven Track Record of Assisting Policyholders to Manage Emerging Cyber Security Risks

The fast-evolving cyber threat landscape and interconnectivity of all areas of business have created new and unique risks that were largely nonexistent just years ago. The rate of malicious attacks has also increased, with many in the cybersecurity industry ominously warning that it is not a question of “if,” but “when,” a business will suffer a data breach. Moreover, as regulators around the world have turned their focus to cybersecurity, the costs associated with responding to data breaches continue to rise.

Traditional forms of insurance, such as commercial general liability policies, now typically include varying forms of exclusions for losses arising from a data breach. Therefore, to protect against these hard-to-quantify risks, many businesses purchase stand-alone cyber policies. But just like the risks they are meant to cover, cyber policies are relatively new and the available policy forms vary significantly and are constantly evolving. As a result, negotiating terms for these policies, assisting with insurance claims analysis, and, if necessary, litigating coverage disputes for a cyber claim requires specialized knowledge and experience. Having represented clients in the pursuit of insurance recoveries following some of the largest ever cybersecurity incidents, King & Spalding’s Insurance Coverage and Recovery Practice Group has been on the front lines of this emerging area of cyber insurance and is uniquely-positioned to advise businesses on how to manage risk and maximize recovery under these policies.

#### Our Approach

Because King & Spalding’s insurance practice only represents policyholders, we remain free of the conflicts of interest hindering other firms. We are also able to leverage the knowledge and experience of our nationally-recognized Data Privacy & Security Practice Group to identify emerging risks and effectively manage a response in the event of a data breach. King & Spalding provides a full range of services to help our clients obtain coverage tailored to their particular cyber risk profile, navigate cyber-specific coverage issues in the event of a data breach

or cyber-related third-party claim, and maximize the insurance recovery in the event of a coverage dispute. These services include:

### **Underwriting and Negotiating the Policies**

- Advising clients on how to effectively navigate the cyber insurance application and underwriting process, which can require a company to make broad representations about its internal data security practices and its compliance with privacy laws, to avoid disclosing privileged or legally-sensitive information.
- Negotiating advantageous policy terms and conditions tailored to our clients' business practices and the types of sensitive information they store and transmit. We have experience with crafting coverage solutions for clients in a broad range of industries, including finance, retail, energy, medical, hospitality and manufacturing. Our close relationships with experienced insurance brokers give us deep knowledge into the best pro-policyholder language currently available on the market.
- Analyzing potential coverage for cyber events under cyber policies and other traditional lines of insurance such as general liability ("GL"), commercial general liability ("CGL"), directors and officers ("D&O") and errors and omissions ("E&O") policies to ensure no gaps in coverage.

### **Presenting the Insurance Claim and Maximizing the Recovery**

- Guiding clients through the fast-paced cyber incident response process to maximize coverage for costs that quickly accumulate after a data breach, while protecting the attorney-client privilege.
- Assisting in responding to insurers' reservation of rights letters and helping the insured present the claim in a way to avoid common pitfalls that unnecessarily raise coverage issues.
- Advising on coverage issues relating to third-party claims such as class actions and regulatory investigations that may arise in the wake of a data breach.
- Providing strategic advice, in the event that a coverage dispute arises, to recover available insurance proceeds in the most cost-efficient manner.

### **Recent Representative Matters**

- Representing Equifax, Inc. in successful pursuit of insurance recoveries for losses arising out of 2017 data breach and subsequent litigation and regulatory investigations around the world.
- Representation of Home Depot, Inc. in successful pursuit of insurance recoveries arising out of 2014 cybersecurity incident.

- Successful representation of Delta Air Lines, Inc. in pursuit of insurance for losses arising out of 2016 network outage.
- Representation of Scientific Games Corporation with Technology E&O/Cyber liability claims.
- Representation of international hotel company is pursuing insurance coverage for cybersecurity incident.
- Representation of international beverage company on claims and issues arising out of data privacy events.
- Current and prior representation of numerous other clients on hundreds of cyber insurance policy reviews, and assisting with insurance claims analysis.

In some jurisdictions, this may be considered "Attorney Advertising."