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# Internet Gaming:
# The New Face of Cyber Liability

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# What's at Risk?

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- $300 billion in intellectual property theft so far in 2013
- $188 per record
  - How many records are on your networks or that you outsource?
- $9.4 million average loss per incident
  - Are you able to self-insure this exposure today?

# What is Cyber Liability?

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"Cyber liability" is becoming the common phrase for network & privacy liability that affects all businesses. Also know as "information liability", it includes:

- Network Liability – unauthorized access / use of an entity's network. Employees, trusted third parties, or outsiders can steal identity information, critical business information, transmit malicious code, and participate in a denial of service attack – to name a few. The risk includes paper documents and electronic media.
  - Third Party Liability / Risk – responsibility to others
  - First Party Liability / Risk - what can happen to you
- Privacy Liability – violation of privacy laws or regulations that permit individuals to control the collection, access, transmission, use, and accuracy of their personally identifiable information. Includes personally identifiable non-public information and confidential corporate data.

# Legislation

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- Health Insurance Portability and Accountability Act (HIPAA) – provision for security & privacy of health data
- Gramm Leach Bliley Act (GLBA) – addresses consumer financial privacy
- Fair and Accurate Credit Transactions Act (FACTA) – provision for secure disposal of information
- Federal Trade Commission (FTC) - enforcement action
- Breach notification laws – various state laws

# Background

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**December 2011 –** The Department of Justice issues a letter stating: *"The Department's Office of Legal Counsel ("OLC") has analyzed the scope of the Wire Act, 18 U.S.c § 1084, and concluded that it is limited only to sports betting,"* U.S. Deputy Attorney General James Cole

# Legislation Moving Forward

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- Delaware, Nevada and New Jersey passed internet gaming laws
- Several more states expected to introduce legislation this year
- Federal Government could also move on internet gaming regulations

*Internet Gaming is coming and it's time to prepare*

# What's the rush?

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1. Huge growth – Internet gaming to grow at over 38% while overall gaming to grow at 15%
2. $6 billion dollars per year spent by Americans on internet gaming despite Unlawful Internet Gaming Enforcement Act (2006)
3. Indian Country revenue expect to increase from $5 to $20 billion, but…
4. Indian Country traditional gaming revenue could decrease $7 billion

# What do we need to know?

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- As Risk Managers, Internet Gaming presents us new and dynamic exposures which we need to properly manage
- As casinos enter into online gaming, our responsibility is to protect the data used for internet gaming…credit cards, identity of players, etc.
- In 2011, the average cost incurred by a company due to a data breach was $5.5 million…in 2013, average is now $9.4 million!

*It is worth our time to prepare and make plans*

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## No Worries – We are Outsourcing!

### Business Insurance Survey, 2013:

**Data breaches were more likely to occur when the data has been outsourced, according to 70% of the surveyed businesses.** At least 85% of the companies responding to the survey reported that they share customer and employee records with third parties by providing billing, payroll, employee benefits, Web hosting, or other information technology services. **Despite this outsourcing exposure, 62% of the surveyed businesses do not require third parties to cover costs associated with a data breach in their contracts.**

**Remember – the data is technically yours even though it is in the care, custody and control of another party**

# What are the Threats?

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1. Unauthorized access to or use of your data or software
   - "Bots" are constantly attacking systems
2. Computer viruses that damage or impair your data or covered systems
3. Attacks on covered systems resulting in the inability to perform or gain access to e-business activities
4. Libel, slander, disparagement, copyright infringement and public disclosure of private information
5. Theft of money, securities, data, software or computer resources
6. E-business extortion

# Claim Examples

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## Cyber exposures and claims are already present for gaming operations:

1. Conference attendees noticed suspicious charges after staying at a Casino Hotel. Forensic investigation discovered a data breach. 1st party and 3rd party claims
2. A casino upgraded IT system for player tracking system. Data backed up to external hard drive which was stolen from IT vendor. Significant notification expenses which was into six figure costs
3. Credit card vendor hired by casino incurred a data breach. Liability of notification passed onto casino

# Addressing the Threats

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1. Design and set up proper gaming platforms
2. Work with experts on the technology needed
3. Hire the right people with the right experience to manage the systems
4. Have a sound infrastructure in place for financial transactions
5. Develop appropriate contracts with liability transfer and hold harmless provisions – outsourcing does not necessarily eliminate all risk.
6. Create strong policy on security and privacy
7. Conduct formal risk assessments on your systems
8. Transfer risk with your insurance policy

# Insurance

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## We should consider risk transfer through insurance…

What do I need to know?

# Insurance Market

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## Insurance Market is very small

TRAVELERS

ZURICH

TRIBAL FIRST

OnPoint UNDERWRITING

CHUBB GROUP OF INSURANCE COMPANIES

CHUBB

CNA

# Other Policies for Protection

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## Is there protection in other insurance policies we currently have in place?

1. General Liability – Definition of “personal injury”; careful on exclusion for “customers of insured organization”
2. Employment Practices Liability(EPL) – Could extend to “employment related” breach of privacy; further could extend to 3rd Party provisions

# Other Policies for Protection

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## Is there protection in other insurance policies we currently have in place?

3. Fiduciary Liability – Be certain HIPAA civil money penalties are covered and no additional exclusions exist
4. Crime Insurance – Typically for “tangible” loss; provisions for “computer fraud” and “funds transfer fraud”

# Key Elements of Cyber Insurance Coverage

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1. Breadth of coverage…The internet has no boundaries.
2. Loss of business income and cost for extra expenses
3. Dependent business income
4. Intangible property (software, data) – Intellectual Property
5. PR expenses – Consultants, PR campaigns, media expenses
6. Liability protection to include vicarious liability
7. Cloud failure (newer coverage consideration)
8. Computer theft
9. Extortion
10. Rewards

# Cyber Coverage Parts – What to look for

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- **3rd Party - Liability**
  - Privacy Injury – privacy rights violations
  - Privacy Regulatory Proceeding – cost to notify others of breach
  - Network Security Liability – theft of other's information, infection of third-party, damage to other's network, other's inability to access your network
  - Content Injury or Broad Form Media – advertising materials, trademark infringement, copyright infringement
  - Cyber Terrorism – computer attacks that are acts of terrorism

- **1st Party - Liability**
  - Network Extortion – payment for extortionist's demand to prevent network loss or implementation of a threat
  - Network loss/damage – cost to recreate or restore to pre-loss condition
  - Business Interruption & Extra Expense – loss of income and extra expense
  - Event Management – cost to retain public relations services
  - Electronic Theft – loss of money, goods, security, trade secrets, intangible property

# How do I know??

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First - Work with a competent insurance broker/advisor who understands the true differences of insurance for gaming enterprises and Indian Country

Second - Conduct a formal review of all your insurance policies. Example: At Cottingham & Butler, client and prospective client policies are put through our Risk Management Analysis to determine risk exposures…This becomes a working, breathing document to which is reviewed with management – Thus, offering a level of additional protection showing due diligence was done

Third - You could actually read the policy…

Fourth - You'll know what you have when you have a law suit…Which is the worst time to find out!

# Summary

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1. There is a need for cyber liability protection
2. Transferring risk through insurance is a small cost – "what if" is very expensive
3. Insurance policies are not equal – Review them!
4. Each loss is unique and different
5. Most costs are pre-claim – allegations of security breach without known damages
6. No one is immune – large or small, does not discriminate by industry

# QUESTIONS

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