



CYBER RISK IN THE INDUSTRY

Matthew Montgomery

Senior Associate

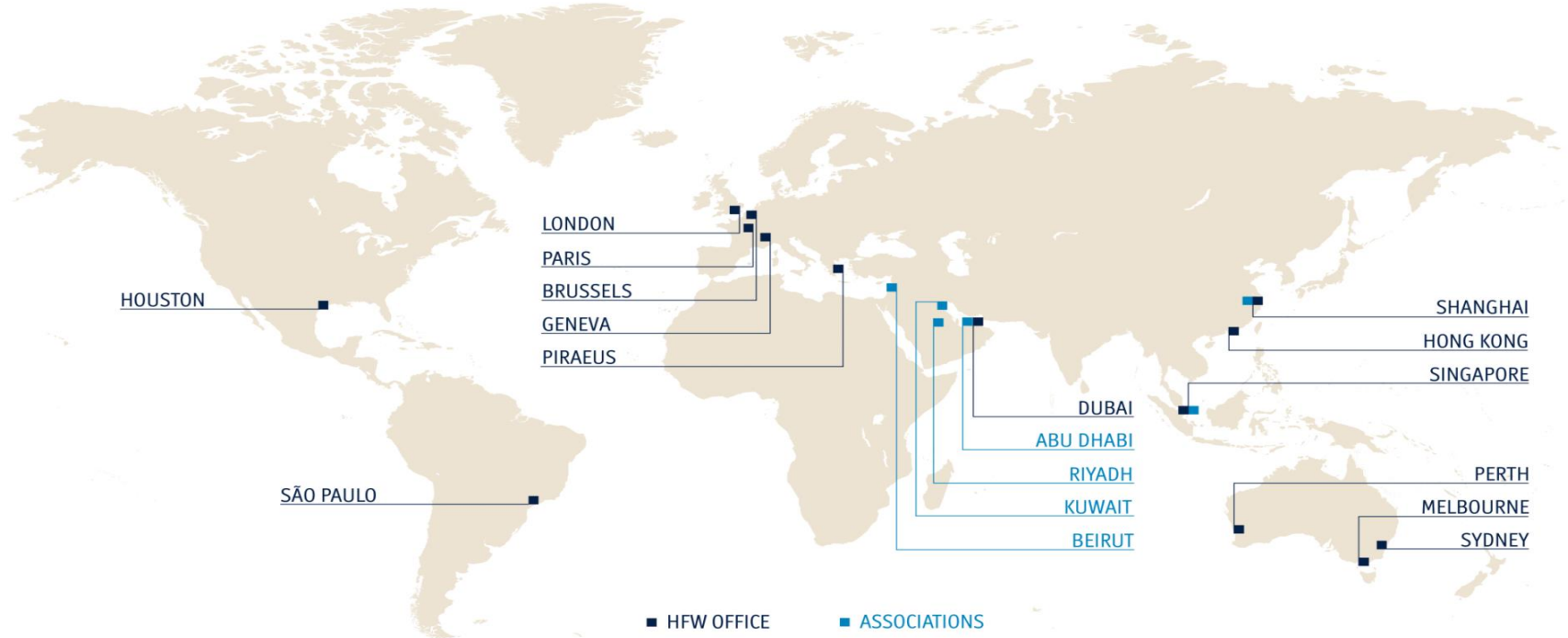
(P): +44 0207 7264 8403

(E): matthew.montgomery@hfw.com



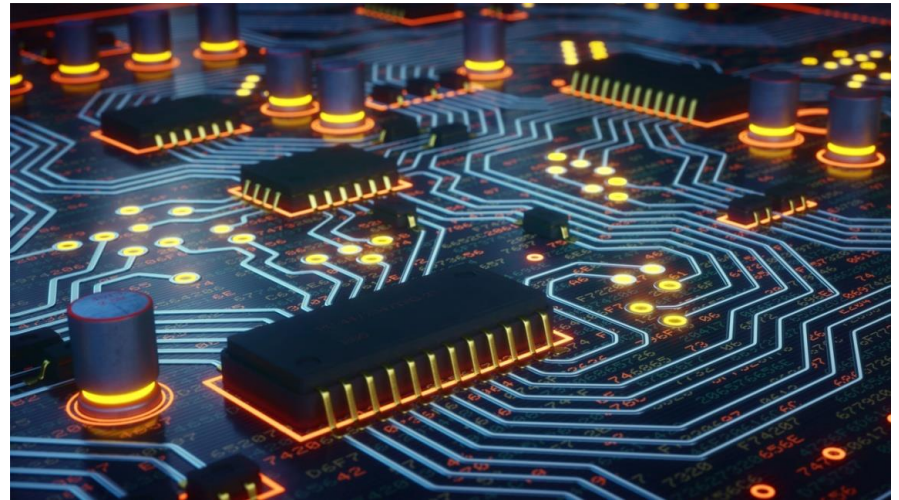
INTRODUCTION

With over 500 lawyers working across Asia, Australia, the Middle East, Europe and the Americas, we provide a global and seamless service 24 hours a day. We are dynamic, entrepreneurial and leaders in our specialist areas. We are unapologetically, true sector experts. Clients come to us because of our deep industry expertise, and our ability to talk their language. We think about the commercial solution first, and then underpin our advice with a solid foundation of legal expertise.





- Market knowledge
- Types of claims - Cyber extortion / Cyber fraud
- Insurance and recovery actions





MARKET KNOWLEDGE

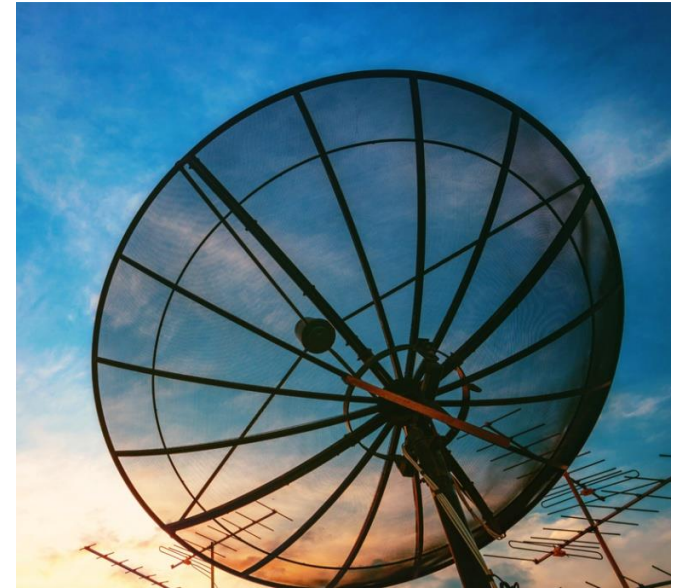
- Potential threats
- Potential impacts
- Crew and staff training
- GDPR issues





TYPES OF CLAIMS

- Not seeing the 'taking over bridge' casualty scenarios
- We are seeing:
 - Systems Outage
 - Invoice fraud
 - Cyber extortion
- Also seeing a demand for clauses dealing with cyber risks in contracts



HFW

CYBER EXTORTION / CYBER FRAUD

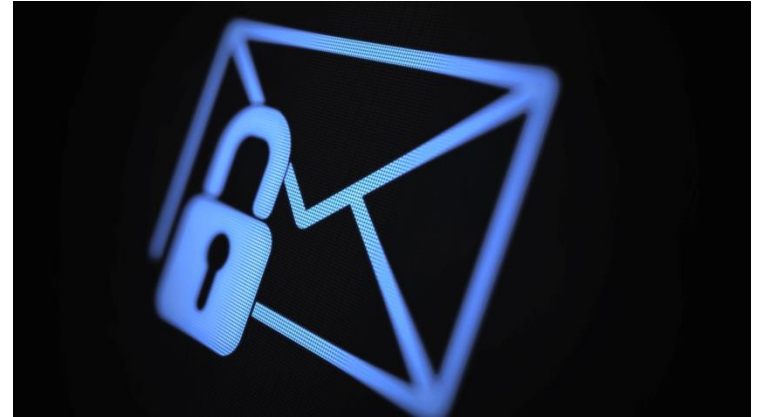
- Ransomware
- Theft of data – IT forensics, notification requirements, fines
- Demand for bitcoin ransom
- Increasingly common
- Legality of paying a ransom?



- Legality of payment of ransom
- Masefield AG v Amlin Corporate Member Ltd [2010 & 2011]
 - Not unlawful
 - Not against public policy
 - Only way to remove people from harm's way
- **!! ALERT!! Don't pay a terrorist!**
- Terrorism Act 2000 – reasonable cause to suspect that the money may be used for the purposes of terrorism
- Insurer also caught if reimburses assured



- Fraudulently induced into remitting funds to a third party criminal
- Cyber fraud
 - Viruses
 - Social engineering / phishing
 - Identity fraud
- BIMCO log
- What do you do?





CYBER FRAUD OPTIONS

- Act fast!
- Have your bank immediately contact the receiving bank, placing them on notice
- Contact your bank's Account Manager
- Contact your bank's internal fraud services department
- Court options:
 - Consider jurisdiction(s)
 - Freezing Order
 - Production Order



HFW

INSURANCE



INSURANCE INTERACTION OF COVER

- Interaction between insurances in marine sector
- Historically none of the traditional lines (H&M / K&R / P&I) likely to respond to a cyber extortion event
- Some K&R now responding
- Cyber insurance is not marine specific – does not cover any physical damage
- In a 'take over the bridge' scenario leading to a casualty then H&M may respond provided clause 380 exclusion not operable
- P&I should also respond in the usual way





INSURANCE ADDITIONAL CONCERNS

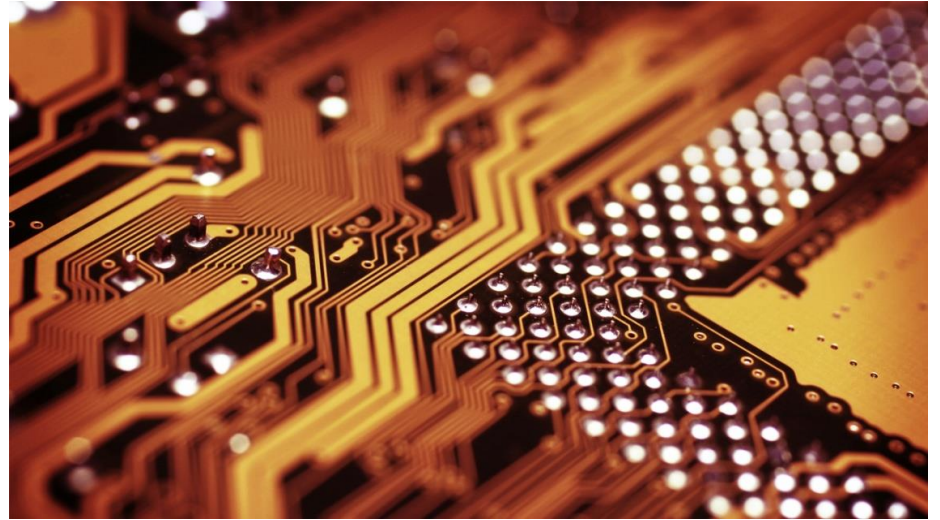
- Lack of statistical data
- Lack of clarity on regularity issues
- Cost of data analysis
- Recovery prospects





CONCLUSION FINAL COMMENTS

- Use BIMCO Guidelines to understand risks / identify system vulnerabilities
- Review insurances and ensure effective cover in place
- Contingency plans
- Be prepared to move quickly





© 2017 Holman Fenwick Willan LLP. All rights reserved

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice.

Beirut Brussels Dubai Geneva Hong Kong Houston Kuwait London Melbourne Paris Perth Piraeus Riyadh São Paulo Shanghai Singapore Sydney
