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**Lying, Stealing, New Types of Fraud: The importance and  
Critical Details of Crime Insurance**

1:15 PM - 3:15 PM

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Massachusetts Association  
of Insurance Agents



# Lying, Stealing, New Types of Fraud: The Importance and Critical Details of Crime Insurance

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# Most Critical Insurance Aspects

- “Loss Sustained” or “Discovery” basis??
- Any overlap with cyber?
- Importance of strong Third Party
- (“Client Property”) coverage; and,
- Importance of Computer Fraud/Funds
- Transfer Fraud Coverage (new expansion language available).

# Typical Insuring Agreements

- Employee Theft
- Employee Theft – Client Premises
- Computer and Funds Transfer Fraud
- Inside the Premises (Money, Securities and Other Property)
- Outside the Premises (Money, Securities and Other Property)
- Depositors Forgery or Alteration
- Credit, Debit or Charge Card Forgery
- Money Orders/Counterfeit Currency
- Investigative Expenses
- Computer Systems Restoration (Optional)
- Identity Recovery Expenses Reimbursement (Optional)

# Insuring Agreements Amplified

- Employee Theft
- (acting alone, or in collusion)
  - “Money” (defined). (Is Bitcoin - or other cryptocurrency - “money”?)
  - “Securities” (defined);
  - “Other” Property – variously defined,
  - but must be in TANGIBLE FORM.



# Insuring Agreements Amplified

- Employee Theft – Client Premises
  - By the “insured’s” identifiable employee(s);
  - On “client’s premises”;

[What about premises other than “client premises”???

See policy Condition – “Ownership of Property”]

-- What about employees working remotely?

# Insuring Agreements Amplified

- **Computer (and Funds Transfer) Fraud**
  - Use of any computer (not defined) to fraudulently cause a transfer of “money”, “securities” or “other property” from inside the premises;
  - Transfer to a person or place outside the premises;
  - Includes transfer instructions from an insured’s transfer account to a financial institution;
  - Social Engineering Fraud (or, “Impersonation Fraud”, or “Deception”) Extension [coercing an employee to transfer money fraudulently];
  - Do not confuse with Internet fraud, or “cyber” insurance coverages.

# Insuring Agreements Amplified

- INSIDE the Premises
- (Money, Securities and Other Property)
  - “Theft”, disappearance or destruction;
  - Damage to “other property”: robbery of a custodian inside, or safe burglary inside;
  - Damage to premises (or exterior) resulting from “theft”, “robbery” or “safe burglary”; (If insured is owner, or liable for premises damage);
  - Loss/Damage to locked safe, vault, cash register, cash box/drawer located inside, involving unlawful entry.



# In s u r i n g   A g r e e m e n t s

## A m p l i f i e d

- O U T S I D E t h e P r e m i s e s
- (M o n e y, S e c u r i t i e s, O t h e r P r o p e r t y)
  - T h e f t, d i s a p p e a r a n c e, o r d e s t r u c t i o n i f i n c u s t o d y o f a “m e s s e n g e r” o r a r m o r e d v e h i c l e .

# Insuring Agreements Amplified

- Depositors Forgery or Alteration

- “Forgery” or alteration of outgoing checks, drafts, promissory notes
- (or similar), that are made or drawn upon the “insured”; or,
- Made or drawn upon an agent of the “insured”, or drawn
- upon an “insured’s” account, [or purportedly so];
- Mechanical/electronically produced signatures
- are the same as handwritten;
- Reasonable defense expenses of “insured”
- covered (the only such coverage in the basic crime policy).

# Insuring Agreements Amplified

- Credit, Debit or Credit Card Forgery
  - Forgery or alteration of written instruments which occur in conjunction with any credit, debit or charge card(s) issued to the “insured” or “employee” for business use;
  - [Many insurers won’t write this coverage – a separate, monoline policy is available from MGA Frates, in Oklahoma City, on AIG paper;]
  - Would this cover other forms of payment, such as from an app, or with Apple Pay?

# Insuring Agreements Amplified

## 8. Money Orders/ Counterfeit Paper Currency

- Covers money orders issued by post office, express company or bank in any country, accepted by insured in good faith;
- Counterfeit paper currency of any country acquired during regular course of business;
- Set limit (maybe policy sub-limit) and 0 deductible.

# Insuring Agreements Amplified

## 9. Investigatory Expenses

- Expenditures to establish amount of loss and existence of loss in other insuring agreements, if deductible for those agreements exceeded;
- May be included for full limits coverage, or a sub-limit.
- [For financial institutions, this is called “Claims Expense” or “Audit Expense”];



# In s u r i n g   A g r e e m e n t s

## A m p l i f i e d

### 10 . C o m p u t e r   S y s t e m s   R e s t o r a t i o n E x p e n s e s   ( O p t i o n a l )

- As defined, resulting directly from coverage in specified insuring agreements, excess of those agreements' deductible amounts;
- Also available in some cyber policies.

# Insuring Agreements Amplified

## 11. Identity Recovery Expense Reimbursement (Optional)

- Must show an “Identity theft” for specific insured parties and discovered during policy period;
- Must be reported within specified period; and,
- Policy sub-lim it will likely apply;
- No coverage for funds lost.

# Important [General] EXCLUSIONS

- Acts of employees, managers, directors,
- trustees or partners (except when
- covered under Dishonesty Insurance Agreement – see definition of “employee”);
- Government actions/acts by authorities;
- Indirect losses (loss of income/interest; liability claims; cost of establishing loss);

# Important [General] EXCLUSIONS

- Legal Expenses (except for certain forgery expenses);
- Nuclear/War;
- Acts of partners (watch out for law firms and other partnership business types);
- Inventory Shortages (must otherwise prove loss);
- Intellectual property (intangible property);

# Important [General] EXCLUSIONS

- Trading Losses;
- Mathematical Losses;
- Most Fire-Related Losses;
- Money Operated Devices;
- Motor Vehicles/Equipment/Accessories;
- Transfer/Surrender of Property/Voluntary Parting of Title/Possession;
- Others by endorsement.



# Important Policy CONDITIONS

## ■ Cancellation

- Insurer can generally cancel coverage, for any reason, with sixty (60) days prior written notice (10 days for premium non-payment). [But this provision may be superseded by applicable statutory law];

# Important Policy CONDITIONS

- Cancellation As To Any
- (Individual) Employee (Read it!)
  - Immediately, upon discovery by the named insured (including any partner, member, manager, officer or director) of “theft” or any other dishonest act committed by the employee (whether before or after becoming employed by the named insured). It is possible to amend this, based upon circumstances.

# Important Policy CONDITIONS

## ■ Merger, Purchase, Acquisition

- Must give insurer written notice and obtain insurer's written consent to extend to additional employees or premises;
- May be additional premium charge, but only if new merger/acquisition results in 15%, or greater, increase in number of employees, assets or revenues thus acquired [% varies with insurer];

# Important Policy CONDITIONS

## ■ Duties in the Event of Loss

- Notify insurer as soon as possible, but not later than ninety (90) days after discovery (time frame
- varies by policy);
- Provide detailed, sworn Proof of Loss Form within 120 days;
- Cooperate with insurer; notify police if there is a violation of law.

# Important Policy CONDITIONS

- Employee Benefit Plans – “ERISA Bonding”
  - Employee Dishonesty insurance required for all benefit plans (regulatory exceptions for municipal, church, federally chartered banks and sole proprietor plans);
  - Employee Dishonesty limits for each plan: 10% of the assets of each plan (PLUS anticipated employer contributions), subject to minimum amount of \$1,000; maximum of \$500,000 [\$1,000,000 per plan required as of 1/1/2008, for plans with employer stock as an investment option, or when used to “match” employee contributions];
  - Policy deductible amounts generally do not apply (but make sure, by endorsement).



# Important Policy CONDITIONS

- Examination of “Insured’s”  
Books/Records

Insurer has the right to examine and audit named insured books/records in relation to the crime policy, during policy period and for up to three (3) years afterward (also applies to newly acquired organizations);

# Important Policy CONDITIONS

- **Extended Period to Discover Loss**
  - Sixty (60) days after termination/cancellation/  
• non-renewal, except for covered employee  
• benefit plans (one year) [time frames vary by  
individual policy]. “Loss Sustained” or  
“Discovery”);
  - Does not apply if this policy replaced, in whole  
• or in part, by other insurance.

# Important Policy CONDITIONS

- Ownership of Property/Interests Covered (“Third Party” Coverage):
  - Owned or leased by “insured”;
  - Owned by insured’s “client”, and held
  - by insured on its premises;
  - For which insured is legally liable, except
  - for Client Property Insuring Agreement.  
Policy is for insured’s benefit solely.

# Important Policy CONDITIONS

## ■ Other Insurance

- No coverage for loss recoverable or recovered under other insurance or indemnity;
- Prevents pyramiding of limits if more than one source of covered claim ;
- Details vary by insurer/policy form .

# Important Policy CONDITIONS

- Special Limits of Insurance
  - Such as for precious metals; semi-precious or precious stones; pearls, furs, or “special articles”, manuscripts, drawings, records of any kind or cost of reconstructing them, or reproducing and related information



# Important Policy CONDITIONS

- Policy Territory

Generally, anywhere in the world. (If it's not this broad, it should be negotiated);

# Important Policy CONDITIONS

## ■ Valuation

- Loss of money: face value;
- Loss of securities: value at close of business on day loss was discovered;
- Loss or damage to “other property” (see definition): replacement cost, subject to limit/comparable replacement cost/cost to repair or replace;
- See qualification language, by individual policy.

# Selected Important Policy DEFINITIONS

- “Employee” (a “natural person”) – see detailed definition; (see also, “Who is not an employee”: Ind. Contractors);
- “Property”, or “Other Property”
- [must be in tangible form];
- “Theft” – unlawful taking of “money”, “securities” or “other property”, to the deprivation of the insured;
- “Robbery” – use of threatened bodily harm, or commission of an obviously unlawful act.

# Selected Important EXTENSIONS

[May be included, or available without cost, or available for additional cost, depending upon the insurer]

- Investigatory Costs/Audit Expense – An additional amount to cover accounting costs or auditing expenses related to a covered claim;
- Computer Fraud – Extends coverage to outsider access to computer systems and networks (still, no coverage for losses involving intangible property);

# Selected Important EXTENSIONS

[May be included, or available without cost, or available for additional cost, depending upon the insurer]

- Extortion – Covers release of property to a non-employee, if threats made to cause bodily injury and/or damage to property;
- Loss of Guests' Property – Primarily for hospitality risks;
- If the exposure exists, coverage for “virtual currency” (Bitcoin);
- Social Engineering Fraud (also called “Impersonation Fraud”);
- Partners as employees (to override partnership exclusion);



# Selected Important EXTENSIONS

[May be included, or available without cost, or available for additional cost, depending upon the insurer]

- Board members/trustees as employees;
- Trading Loss Coverage (generally applies to financial institutions);
- Credit/Debit/Charge Card Coverage (for such cards issued to employees);
- Include salespersons' samples;

# Selected Important EXTENSIONS

[May be included, or available without cost, or available for additional cost, depending upon the insurer]

- Other endorsements by design, via negotiation, or as mandated by underwriters. It's extremely important to be able to understand individual insureds' exposures, and overlay them with the scope of coverage provided.

# Alternate Forms of “Crime” Insurance

## ■ Financial Institutions

- Form 14: stockbrokers/investment bankers
- Form 15: finance companies
- Form 23: credit unions
- Form 24: commercial banks and savings banks
- Form 25: insurance companies

NOTE: Many different modification endorsements and negotiated coverage changes are possible. Generally the larger and more complex the risk, the more willing the underwriter is to negotiate favorable language, and the more endorsements will apply to coverage