Data Security for the Credit Union Board

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Data Security!

- Everyone is under attack constantly!
- Must be part of the credit union's security plan.
- Board must be involved (but not in the weeds).
- Credit union's efforts to combat cybercrime must be part of the Board's annual review and regular reports.
- National Association of Corporate Directors Report:
  - 14% of public company directors have high understanding of risks.
  - 17% have no understanding.

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Data Security - Who Cares?

- NCUA
  - Uptick in IT matters in Exam Reports and DORs.
- State Regulators
  - Especially the State of New York!
- Insurers
  - Haven't seen anything as of yet but with increasing liability expect it.
- State AG's
  - Often investigate large breaches to determine possible liability.
- Members!

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Types of Data Security Claims

- Breach (penetration) of Your Systems
- Intentional/Unintentional Disclosure by Employees
- Theft of Information by Third Party
- Breach of Someone Else's System

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2017 Data Breaches – Banking/Credit/Financial

- 1,579 breaches in the US in 2017 – Up 22.4%
- 134 breaches were in Banking/Credit/Financial Industry.
- 66 – Hacking (phishing, ransom/malware, etc.).
- 18 – Insider theft.
- 15 – Employee error, negligence or improper disposal.
- 11 – Accidental web/internet exposure.
- 9 – Exposure by subcontractors third parties.

*Source – ITRC 2017 Annual Data Breach Year-End Review

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Data Security - Cost

- Average Cost of a data breach in 2016 = $3.8M.
- Average Cost per record =$158.
- Malicious Attacks cost far more to remediate.
- 26% chance of occurrence in your CU in next 24 months.

*Source - IBM Phenomenon 2016 Study

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Data Security – 2017 Top Five Breaches

- Yahoo – 1.5B records.
- Equifax – 145.5M records.
- America's Joblink Alliance – 5.5M records.
- Sonic Drive-In - 5M records.
- Dow Jones & Co. – 2.2- 4M records.

*Source – Credit Union Times 1/24/18

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Data Security – Recent Cases

- Wyndham Worldwide:
  - Claims based upon failure of directors to implement appropriate data security measures and timely disclose data breaches.
  - Dismissed on grounds applicable to derivative actions and directors actions in addressing data security issues.
- Target Corporation:
  - Claims based upon failure of directors to manage the implementation of appropriate data security measures and timely disclose data breaches.
  - Dismissed on grounds applicable to derivative actions and directors actions in addressing data security issues.

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Data Security – Recent Cases (cont'd.)

- Home Depot:
  - Claims based upon directors breach of their fiduciary duties by "knowingly and in conscious disregard of their duties failing to ensure that Home Depot took responsible measures to protect its customers' personal and financial information".
  - Dismissed in November 2016.
    - Court found that directors decisions need to be reasonable not perfect.
    - This was finding was arguably based on insufficient pleading of bad faith claim.

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Data Security - Board Duties

- Duty of Care
  - Did board act in a deliberate and knowledgeable way in identifying and exploring alternatives?
  - Requires more than a passive acceptance of information presented.
  - Very fact specific analysis.

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Data Security - Board Duties (cont'd.)

- Duty of Loyalty
  - Often interpreted as incorporating a duty to exercise oversight.
  - Breach can arise from failure to implement or monitor!
- Directors have direct liability for failure to fulfill these duties

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Data Security - Board Duties (cont'd.)

- Business Judgment Rule applies if directors:
  - Act on an informed basis;
  - In good faith; and
  - With the honest belief that action (or inaction) is in best interests of CU.
  - Does not apply in circumstances where directors:
    - Abdicate their function.
    - Just fail to act.

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Data Security – What to Do

- Development, implementation and promotion of a security culture.
  - Appropriate resources
  - Integration with all business lines and functions
  - Accountability
- The board or a committee should be committed to:
  - Overseeing this process;
  - Ensuring that management effectively carries out the objectives; and
  - Holding senior management accountable.

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Data Security – What to do.

- Management should report to the board at least annually on the following:
  - Risk assessment process, including threat identification and assessment
  - Risk management and control decisions, including risk acceptance and avoidance
  - Third party service provider arrangements
  - Results of testing
  - Security breaches or violations of law or regulations and management's responses to same
  - Recommendations for updates to the IT security program

*Source – FFIEC Information Technology Examination Handbook, September 2016

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Data Security – Questions to ask.

- What information do we maintain?
- Where are we vulnerable?
- What safeguards do we have in place?
- How does that compare to our peers?
- Is that sufficient?
- What is our response plan?

*Source – Multistate AG Investigative Inquiry, January 2015

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Data Security – Necessary Policies

- Annual comprehensive risk assessment.
- Employee use of social media.
- Employee training regarding e-mail usage, passwords, etc.
- Security Policy Review and Updates.
  - Technology and threats are changing constantly – so must policies.
- Vendor Compliance – remember Target!
- Clean Desk.

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Data Security – Necessary Policies (cont'd.)

- Integration of Merger Policy.
  - If you are the surviving credit union, what are you inheriting?
  - If you are the merging credit union, what are you exposing your members' assets to going forward?
- Review all existing policies to determine if related IT security issues are addressed or need improvements.

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Data Security - Insurance Issues

- Do you understand your coverage?
- Have you shopped around?
  - Cost may depend not only on provider but on how much info you have, systems, etc.
- Is there class action coverage?
- Does it include Response? If so, how much?

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