

# MANUSCRIPTED FORMS: TAKING A DEEP DIVE INTO EXCESS LIABILITY, D&O AND CYBER





Property and casualty insurers typically use similar or even identical language in their standard insurance policies, which are drafted by advisory organizations such as ...



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A Verisk Analytics Business



... the Insurance  
Services Office and the  
American Association of  
Insurance Services.





This reduces the regulatory burden for insurers as policy forms must be approved by states.



Court interpretations become more predictable as courts elaborate upon the interpretation of the same clauses in the same policy forms.



It also allows agents and consumers to more readily compare policies.



Certain lines of insurance, such as excess liability, directors and officers, cyber insurance and others, are written as manuscript policies ...



... which are either custom-drafted from scratch or written from a mix of standard and nonstandard forms.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
<b>SAMPLE FORM</b>	

By analogy, policy endorsements that are not written on standard forms are known as manuscript endorsements.



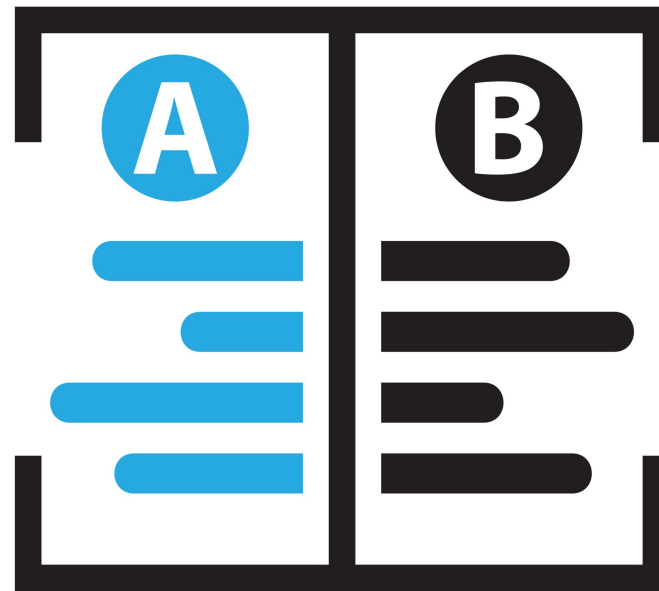




**Directors & Officers  
Liability  
INSURANCE**

# CYBER INSURANCE

A man in a dark suit, white shirt, and patterned tie, wearing glasses, is pointing his right index finger directly at the viewer. He is holding a white folder or tablet in his left hand. The background is a blurred office setting with various semi-transparent icons overlaid, including padlocks (some open, some closed), email envelopes, and stylized human figures. The overall color scheme is blue and white.



## COMPARISON



# Summary Comparison Worksheets- Explanation



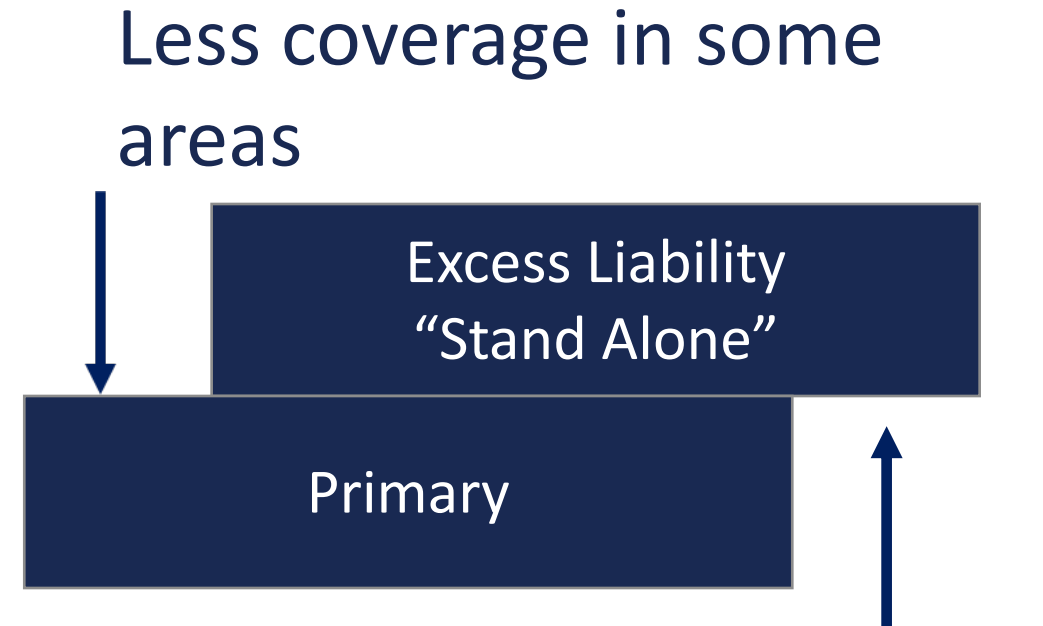
# UMBRELLA/EXCESS DIAGRAMS



# UMBRELLA/EXCESS DIAGRAMS



Same coverage



# UMBRELLA/EXCESS LIABILITY

Coverage Format	
Form is Umbrella (U), Excess Liability (E)	E
Occurrence (O) or Claims-Made (CM)	O
Pay on Behalf (P) or Indemnity (I)	P

# UMBRELLA/EXCESS LIABILITY

Defense Provisions	
Affirmative Duty to Defend	*
Defense Limited to Claims to Which Coverage Applies	*
Defense Costs Included Within (I) or Outside (O) Policy Limits	O

# UMBRELLA/EXCESS LIABILITY

Who Is Insured	
Insured and Spouse	*
Partnership/Joint Ventures	*
Limited Liability Companies – Includes Members and Managers	-
Directors and Officers	*
Shareholders	*
Additional Insureds Covered by Underlying Insurance	*

# UMBRELLA/EXCESS LIABILITY

Exclusions	
Aircraft Liability	*
Employment-Related Practices	*
ERISA	*
Liquor Liability	*
Pollution	*
Product Recall	*
Professional Services	*

# UMBRELLA/EXCESS LIABILITY

Exclusions	
Property Damage	*
War	*
Watercraft Liability	*
Personal and Advertising Liability	*
Infringement Copyright, Patent, Trademark, or Trade Secrets	*
Material Published with Knowledge of Falsity	*



**Directors & Officers  
Liability  
INSURANCE**

# DIRECTORS AND OFFICERS LIABILITY

Policy Form	
Claims Made	*
Primary (P), Excess	P

# DIRECTORS AND OFFICERS LIABILITY

Insuring Agreements	
Individual Liability	*
Pay on Behalf (P), Reimbursement (R)	P
Corporate Reimbursement	*
Pay on Behalf (P), Reimbursement (R)	P

# DIRECTORS AND OFFICERS LIABILITY

Who is Insured	
Directors and Officers	*
Past (P) and Future (F)	P, F
Employees	*
Volunteers	*
Estate, Heirs	*
Legal Representatives and Assigns	*
Subsidiaries	-

# DIRECTORS AND OFFICERS LIABILITY

Defense Provisions	
Affirmative Duty to Defend	*
Insurer (A), Insured (B) Chooses Counsel	A

# DIRECTORS AND OFFICERS LIABILITY

Limit of Liability	
Dedicated Limit – Each Coverage	-
Combined Limit – All Coverages	*
Includes Defense Costs and Expenses	*

# DIRECTORS AND OFFICERS LIABILITY

Retention/Deductible Provisions	
Applies to Each Individual Claim	*
Includes Defense Costs and Expenses	*
Single Deductible Applies to Related Claims	*

# DIRECTORS AND OFFICERS LIABILITY

Exclusions	
Bodily Injury	*
Cost of Complying with Order or Injunctive	*
Discrimination	*
ERISA	*
Fines and Penalties	*
Insured Versus Insured	*
Corporation Versus Individual Insured	*

# DIRECTORS AND OFFICERS LIABILITY

Exclusions	
Intentional/Willful Acts	*
Criminal, Fraudulent, Dishonest Acts	*
Willful Violations	*
Personal Injury	*
Emotional Distress/Mental Anguish	*
False Arrest/Detention	*
Libel/Slander	*

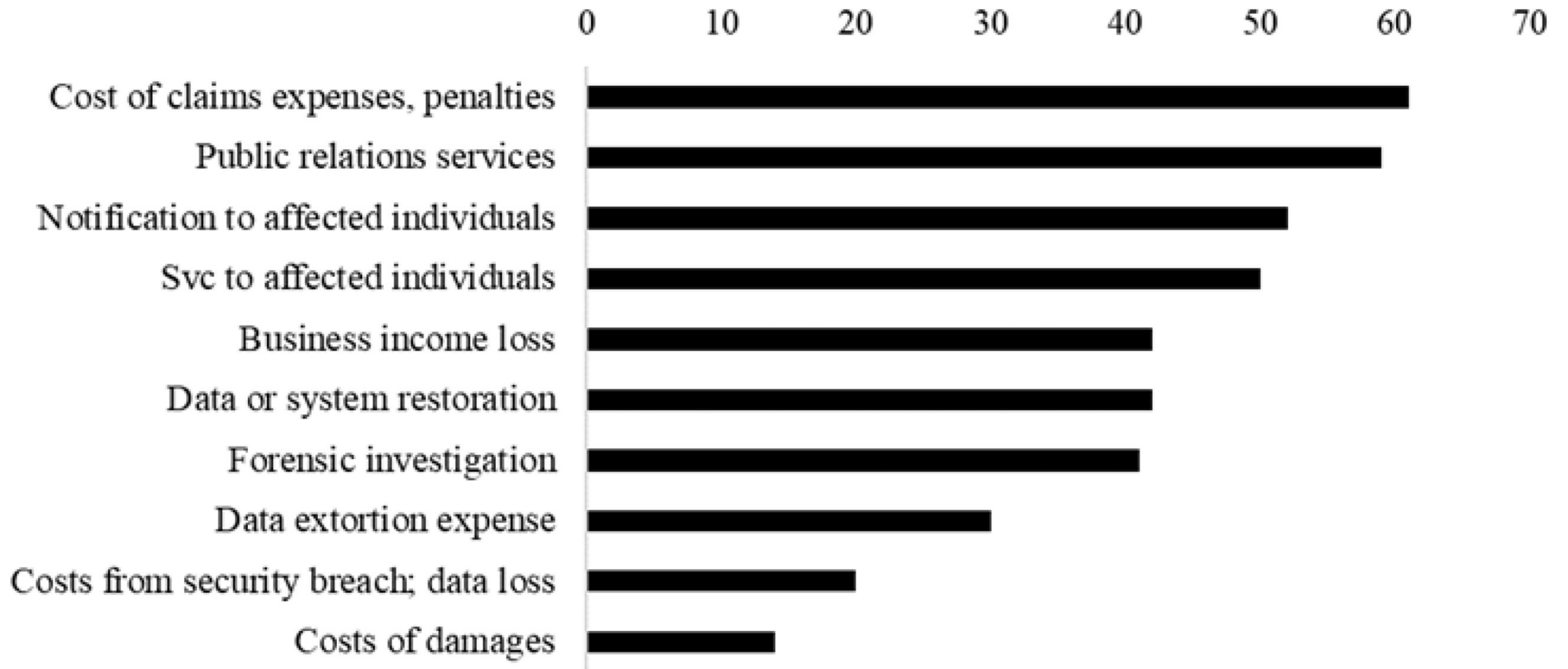
# DIRECTORS AND OFFICERS LIABILITY

Exclusions	
Pollution	*
Prior/Pending Litigation	*
Property Damage	*
Taxes	*
Wages/Salaries	*

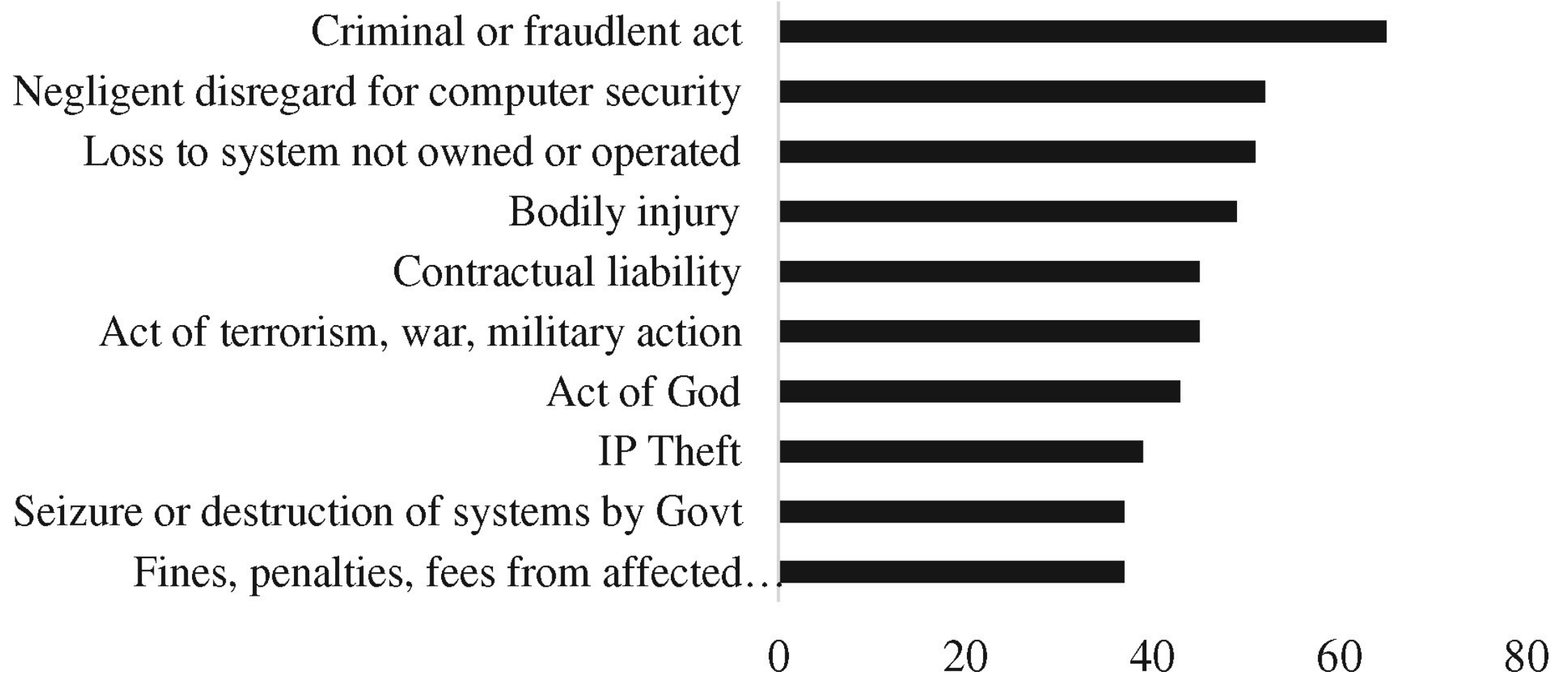
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# MOST COMMON COVERED LOSSES



# MOST COMMON EXCLUSIONS



Policy Element	Coverage	Yes/No
Privacy	Liability coverage for clients	
	Liability coverage for employees	
	Regulatory fines	
	Breach notification costs	

Policy Element	Coverage	Yes/No
Data Breach	Remediation costs	
	PR costs	
	Costs to set up breach hotline call center	
	Costs for credit monitoring services	
	Reputation damage (lost revenue due to clients leaving)	
	Loss of intellectual property	

Policy Element	Coverage	Yes/No
General Cyber Incident	Remediation costs (internal)	
	Remediation costs (external)	
	Hardware replacement	
	Forensic costs	
	Data recovery costs	

Policy Element	Coverage	Yes/No
Security Liability	Penalties associated with unintentional spreading of malware	
	Loss of service to network for authorized third parties	
	Costs associated with security incidents not caused by negligence	

Policy Element	Coverage	Yes/No
Cyber Extortion (e.g. Ransomware)	Ransom costs	

Policy Element	Coverage	Yes/No
Cyber Fraud	Losses due to phishing	
	Losses due to social engineering attacks	
	Losses due to other forms of cyber fraud	

Policy Element	Coverage	Yes/No
Business Interruption	Losses due to inability to access network or critical system	
	Losses due to attacks by malicious third-party	
	Losses due to downtime for systems restoration	

Policy Element	Coverage	Yes/No
Mobile Workforce	Network use from mobile devices	
	Network use by remote employees	

Policy Element	Coverage	Yes/No
Compliance	Costs related to PCI violation	
	Costs related to HIPAA violation	
	Costs related to SOX violation	
	Costs related to GLBA violation	
	Costs related to FISMA violation	

Policy Element	Coverage	Yes/No
Extended Coverage	Acts of terrorism	
	Acts of war	
	Epidemics	

Policy Element	Coverage	Yes/No
Additional Support Options	Access to training and awareness materials	
	Guidance or assessment to help improve security posture	
	Incident management	
	Breach Coaching	

# Recap

