

# FTA Border and Biosecurity Compliance Program

September/October 2017

**Risk Management**  
Lessons learnt from Hanjin & GSS;  
the Maersk cyber-attack

Presented by:  
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Insurance Logical Pty Ltd trading as  
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Insurance Logic Pty Ltd, ABN 44 002 859 252, holds Australian Financial Services License Number 237633, is a Principal Member of the National Insurance Brokers Association and is a network broker of Steadfast Group Limited.

# Before We Start



We Understand Logistics Insurance

## GENERAL ADVICE WARNING

This is the fine print for the presentation by James Cotis of Logical Insurance Brokers. This is obviously a PowerPoint presentation, and this is just an aid to the presentation; so don't overstate its importance. Any case studies presented are also just aids to understanding certain concepts. Any reference to your circumstances is entirely coincidental. James is going to say more in the presentation, some of it may be important and will put these PowerPoint notes & case studies into context. This is also pretty obvious but some need to be told this, so this is what this is now doing. Therefore, any advice contained in this presentation is general advice only.

What does all of this mean? Again it is pretty obvious, James is a General Insurance Broker and he is saying general things about the topics, not specific things that you can take and apply to your own circumstances and expect James to be responsible for any stuff-up. Common sense suggests that if you want to rely on what someone says, you should obtain from them specific advice where you make the facts clear to them and they are aware that you are clearly going to make decisions based on what he/she said, whether orally or in writing. Of course, you pay for this.

Got it?

Good, now let's get on with it.

With thanks to Peter Bobbin – The Argyle Partnership

# Managing Risks – Liability



SOLAS

Certificates of Origin

Rotterdam Rules

Piggy Backing

TAs

Hague-Visby Rules

Asbestos

Territorial Laws

Australian Border Force

ChAFTA

Australian Trusted  
Trades Program

INS

Admiralty Law

Standard Trading Terms and Conditions

TCO

Salvage

Bill of Lading

General Average

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# Managing Risks – Liability



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# Managing Risks – Liability

Issues arising included:

- Additional freight payments to carrier in order to release the cargo;
- Additional freight payments to “replacement carrier” to complete the carriage;
- Repacking and possible customs costs where cargo was stranded on route;
- Additional storage costs;
- Legal costs.
  
- Terminals insisting on additional payments (no legal basis)
- Stevedores requiring cash in advance terms and demanding payment of arrears



# Managing Risks – Liability

- Container deposits required prior to release of cargo
- Insolvency acts to preclude recovery of moneys (eg deposits)
- Container parks receiving empties stopped receiving soon after the events (by end of September 2016)
- Cross border issues operated to exacerbate the challenges.



# Managing Risks – Liability

We have a simple approach to incidents:

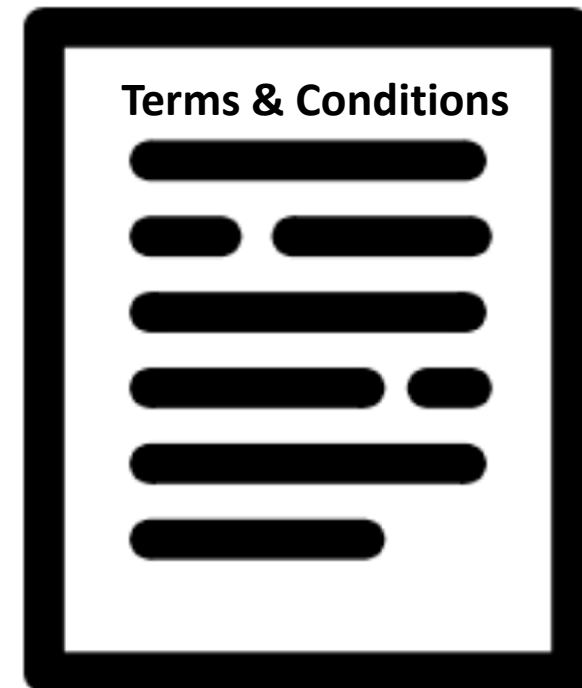
- Do not admit liability at any time (unless your insurers provide consent)
- Communicate with cargo interests early and keep them informed
- Commercial documents
  - Terms and Conditions, Bill of Lading
  - Carriers
- Cargo interests marine cargo insurance policies
- Communicate an “Intent to Claim” to your contracting parties to put them on notice of the incident
- Liability insurance





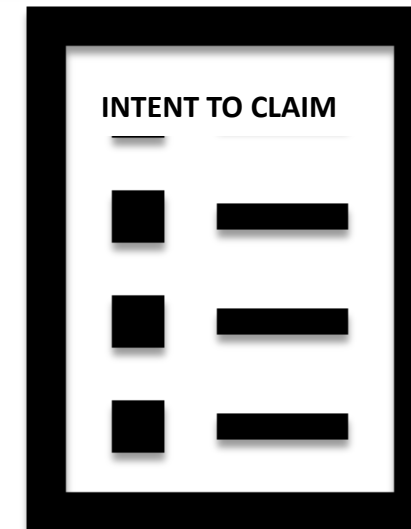
# Managing Risks – Liability

- Do not admit liability at any time (unless your insurers agree)
- Commercial documents (Terms and Conditions; Bill of Lading)



# Managing Risks – Liability

- Cargo interests marine cargo insurance policies
- Communicate an “Intent to Claim” to your contracting parties to put them on notice of the incident
- Liability insurance



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# Managing Risks – Liability

1. “This policy excludes cover if the insured transit is interrupted or terminated due to the insolvency or financial default of the carrier, whether or not loss or damage has been occasioned to the cargo...”
2. “Insolvency Exclusion Endorsement  
The exclusion of loss damage or expense arising from insolvency or financial default of the owners managers charterers or operators of the vessel or aircraft (as applicable).”

# Managing Risks – Liability

“In no case shall this insurance cover loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, **at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware**, that such insolvency or financial default could prevent the normal prosecution of the voyage.”

“If the insured transit is interrupted or terminated due to the insolvency or financial default of the carrier, **we will pay you the extra costs of freight and/or storage to forward the cargo to its intended destination, or to return the cargo to the place from which it was dispatched, up to a maximum of 10% of the insured value of the cargo.**”



# Managing Risks – Liability

- Communicate an “Intent to Claim” to your contracting parties to put them on notice of the incident
- Liability insurance



# Managing Risks – Liability

Our clients understood:

- Not to admit liability;
- Rely on their commercial documents;
- Communicate early and often with cargo interests;
- Encourage their clients to notify their cargo insurers;
- Send intent to claim notices to contracting parties;
- Notify their liability insurers.



# Managing Risks – Liability

- Forwarder's contractual relationship with the cargo interests
- Cargo interests marine cargo insurance policy.



# Managing Risks – Liability

- Forwarders & STCs
- Cargo interests & cargo insurers



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# Managing Risks – Liability

Hanjin container deposit charges

- Deposits returned?
- Escrow (bond)



# Managing Risks – Liability



FTA Membership & Hanjin/GSS

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## Managing Risks – Liability

18%

Those who had no cover in place

32%

Those who had a policy in place but it was ineffective

21%

Those who had cover arranged with an overseas insurance broker/insurer

29%

Those who had varying quality of cover in place but their insurance advisers didn't understand the cover or the industry's activities

## Managing Risks – Liability



1. “This policy excludes Insolvency (whether or not officially declared) and/or financial default a carrier. “Insolvency” shall include the inability to pay debts as and when they fall due”.
2. “Special Conditions and Exclusions insolvency or financial default by a carrier.”

## Managing Risk – Liability

18%

Those who had no cover  
in place

32%

Those who had a policy  
in place but it was  
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the industry's activities

# Managing Risks – Liability

## Lessons Learnt:

- Periodically review your commercial documentation, including STCs
- Do not guarantee service/rates without understanding the risk to your business
- Communicate any known risk in financial stability of carriers
- Periodically review your insurance arrangements for adequacy, including:
  - Understanding the cover on offer
  - Querying the limits &/or sub limits available
  - Checking policy exclusions

## In the event of an incident:

- Report to your insurance advisers / insurers without delay
- Stay informed and act quickly
- Regularly communicate with the cargo interests

Moving slowly or doing nothing isn't an option



# Managing Risks – Cyber

## WHAT IS CYBER CRIME?



Cybercrime is a dishonest or criminal activity online or by phone that can include instances of deceptive conduct like malicious software or viruses, online or phone scams, theft of critical business information, fake overpayments, fake invoicing, hacking your business to obtain your customer's details or access your supplier's computer network.  
- Office of the NSW Small Business Commissioner, August 2017

# Managing Risks – Cyber

More than 20% of Australian businesses experiencing cyber crime,  
and 40% of all attacks directed at SME's.

Some of the common events include:

- a hack attack
- breach of privacy
- ransomware
- denial of Service attacks
- lost or stolen iPad, iPhone, laptop or USB drive



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# Managing Risks – Cyber



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# Managing Risks – Cyber

- All Australian offices of global law firm DLA Piper
- Cadbury chocolate factory in Hobart
- Yahoo
- Australia Red Cross
- Reckitt
- Merck & Co
- British Airways
- Beiersdorf AG (Nivea skin-cream maker)
- Nuance Communications Inc (speech software maker)
- FedEx Corp.



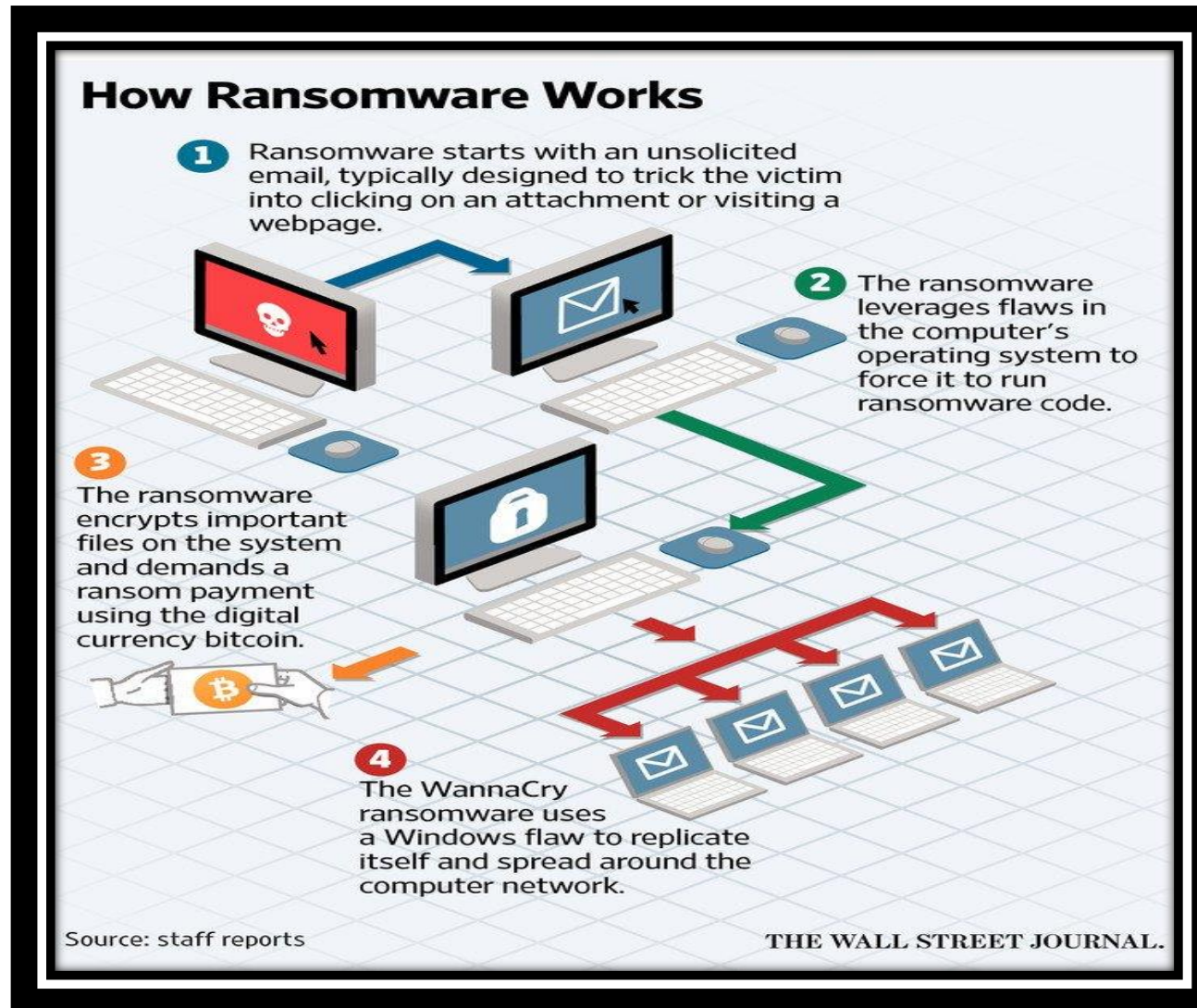
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# Managing Risks – Cyber

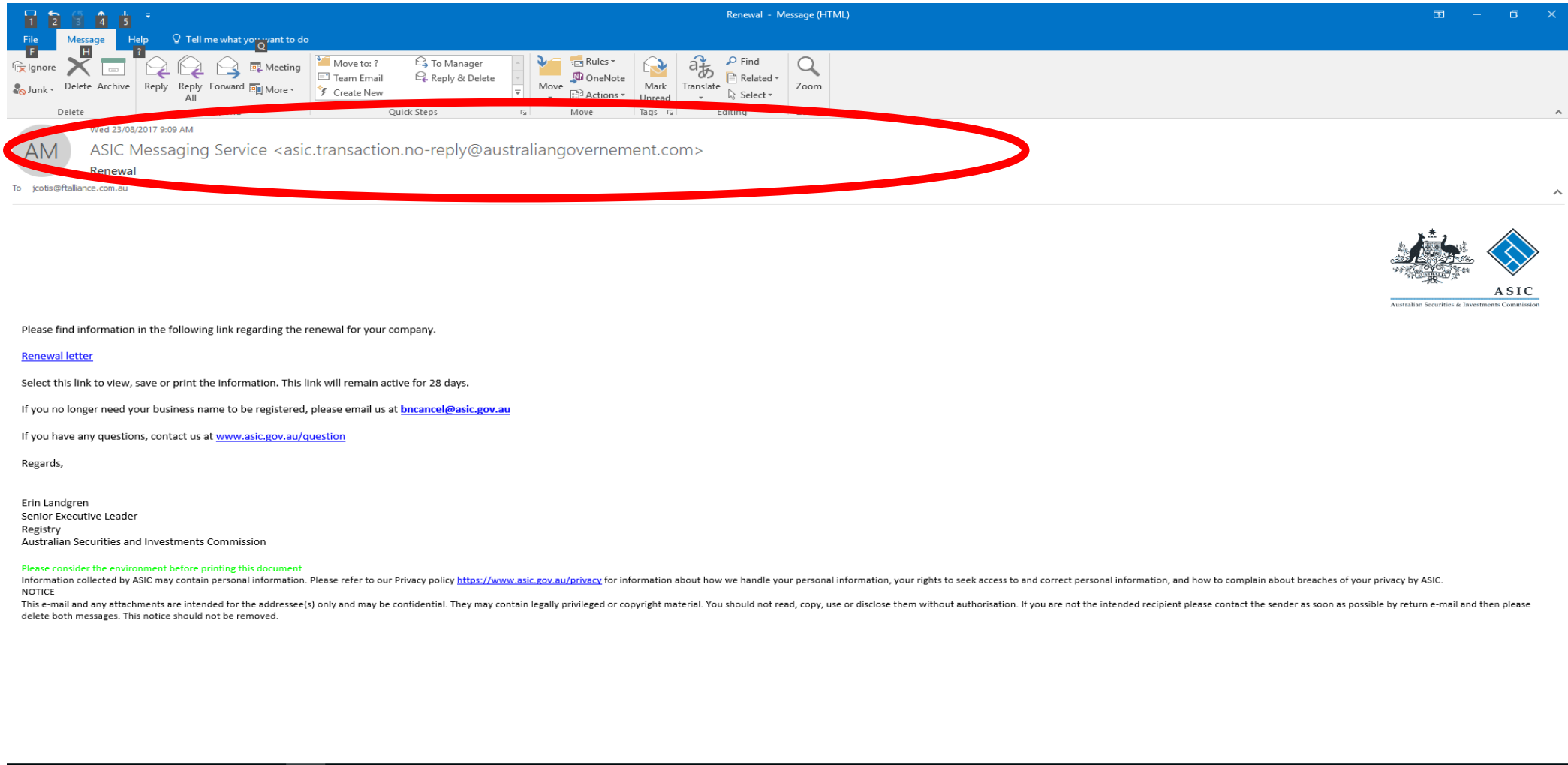
## Inconvenient truths & realities

- Cyber risks are big, complex, diverse & largely hidden
- The electronically interconnected world is inherently insecure
- Ransomware - WannaCry & NotPetya Cyber Incidents
- Businesses are usually unwitting victims - corporate espionage can't be discounted
- The intermodal supply chain is particularly exposed
  - Electronic communications linking offices between offices in different countries
  - Custom built/proprietary applications
  - Low priority regarding risk management
- More likely to suffer a cyber attack than a fire or burglary
- Intermodal supply chain is particularly exposed

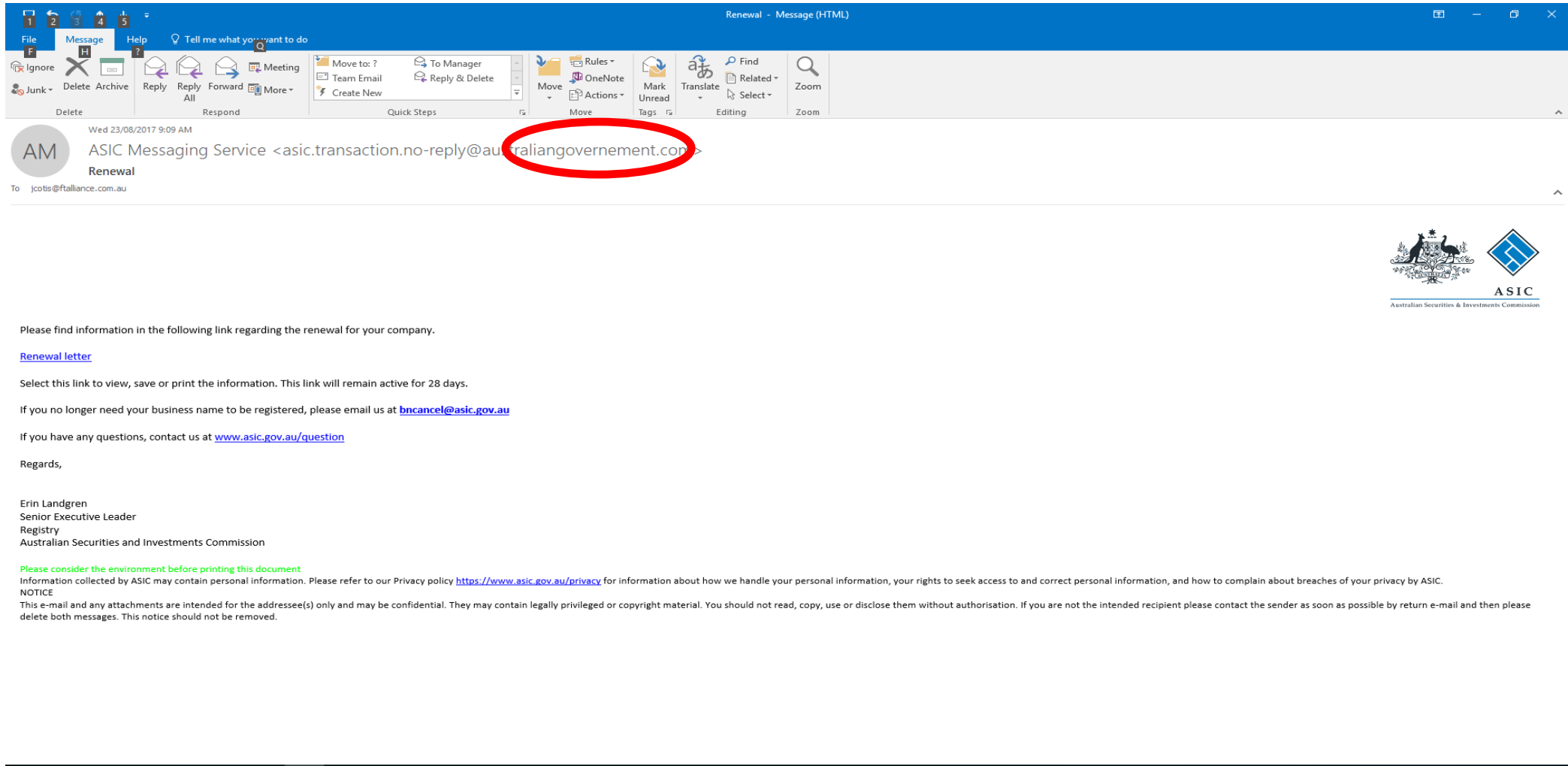




# Managing Risks – Cyber



# Managing Risks – Cyber



# Managing Risks – Cyber

## Live Case Study

- Logistics business with offices & warehouses in the eastern states, satellite offices in SA and WA
- Ransomware attack in September 2016
- Most systems off line for 20 days
- Held Cyber insurance
- Costs “guesstimated” to be c. \$1million



# Managing Risks – Cyber

Mandatory Data Breach Reporting now a reality

*Privacy Amendment (Notifiable Breaches) Bill 2016* passed on 22 February 2017, effective February 2018

Learn more: [www.oaic.gov.au/privacy-law/rights-and-responsibilities](http://www.oaic.gov.au/privacy-law/rights-and-responsibilities)



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# Managing Risks – Cyber



Contact IT  
service your  
providers



Assess the  
structure  
and culture  
of your  
organisation



Human  
behaviours

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# Managing Risks – Cyber

There are a number of simple & effective risk management techniques you can employ now, including:

- Ensuring that software patches are applied regularly, probably now recognising that there is little time to assess collateral impacts on dependent applications;
- Maintaining effective anti-virus software and strong spam filtering (most vendors will rapidly add detection capability for evolving malware strains); and
- Systematically backing up key data regularly, including ensuring that the backup files are held offline so they cannot be infected by any subsequent ransomware.



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# Managing Risks–Cyber



There are various policies available, some of which include the following features:



- Losses to your business (Costs & revenue replacement cover)
- Losses to others (Liability to pay others, incl. regulatory fines, penalties & litigation costs)
- Event response costs (response to an event, including virus extraction, securing /restoring data notification & PR costs)



Other covers offered:

- Business interruption (Revenue replacement if a business suffered due to a cyber event at a supplier's business – subject to conditions)
- Theft (financial loss due to theft or telephone hacking)
- Property (physical damage to IT infrastructure)



# Managing Risks – Cyber

General Insurance Programs response

- Property Insurance
- Liability Insurance
- Professional Indemnity Insurance
- Management Liability Insurance



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# Managing Risks – Cyber



**Spear Phishing:** A scam email that appears to be from someone you know



**Whaling:** Phishing aimed at wealthy, powerful or prominent individuals



**Vishing:** Telephone equivalent of phishing

**Smishing:** SMS phishing



**Pharming:** Redirecting traffic from a website to a fake site

# Managing Risks

Use  
Insurance as  
part of an  
overall Risk  
Management  
Strategy

# Managing Risks



“It seems we must live with risk;  
and if we must, it’s best to  
enjoy the ride.”

F. Peter Boer, former CEO of WR Grace; CTO of Dow Chemicals & GM of American Can Company

We Understand Logistics Insurance

# Take Away Points



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Meyer's Law:

“It is a simple task to make things complex and a complex task to make things simple”.

We are here to try to make risk management and insurance as simple as possible.

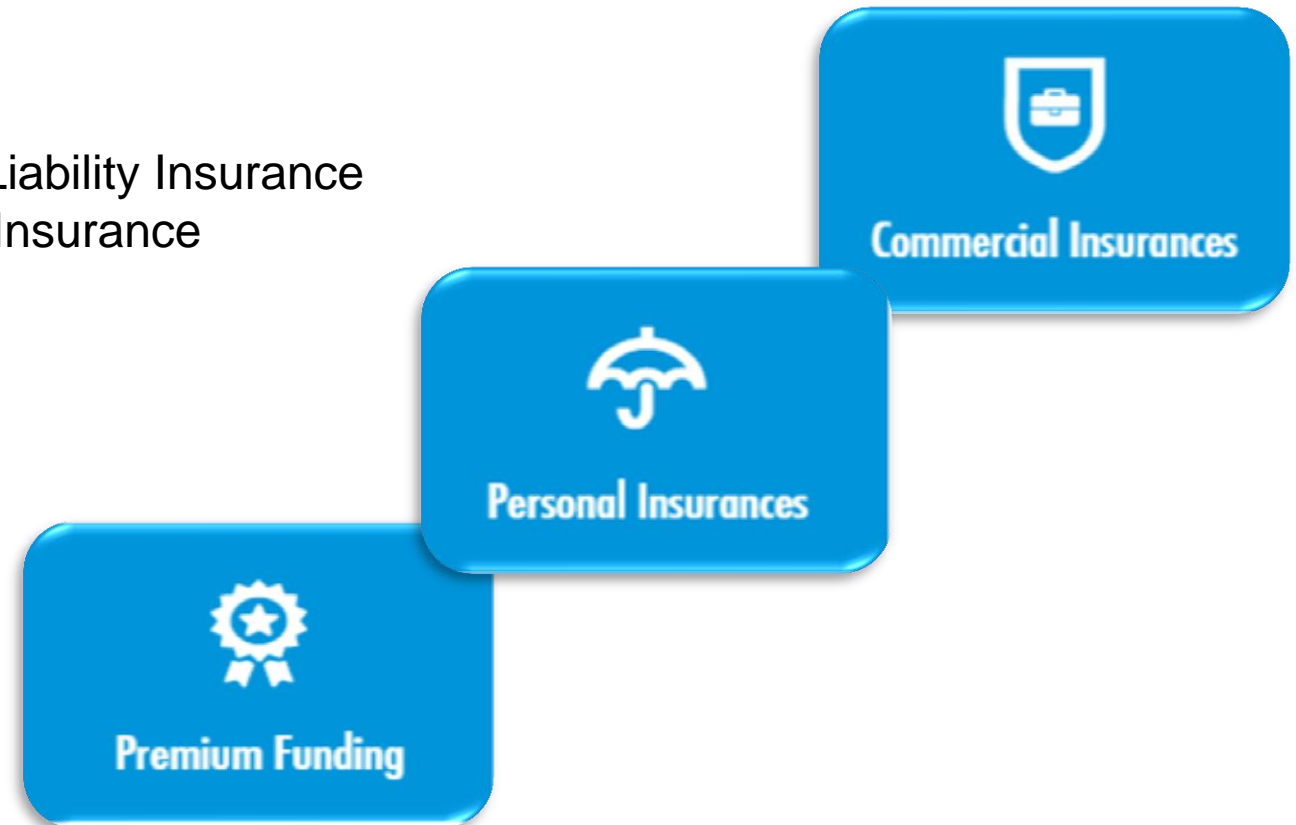
We see ourselves in partnership with our clients, a valued member of their team.



# General Insurance Broking

Our services to the logistics industry include:

- Freight Forwarders & Customs Brokers Liability Insurance
- Property (buildings, stock and contents) Insurance
- Business Interruption Insurance
- Motor Fleet / Truck Insurance
- Carriers Load Insurance
- Trade Credit Insurance
- Cyber Insurance
- Corporate Travel Insurance



You can visit our website to find out more:

[www.logicalinsurance.com.au](http://www.logicalinsurance.com.au)

# Financial Planning

Holistic financial planning, which can include:

- Life Insurance
- Income protection insurance
- Key Person
- Business Buy/Sell advice (agreements and funding solutions for business owners)
- Retirement planning (including superannuation – strategy & portfolio construction)
- Aged care advice
- Estate planning

A graphic consisting of a large, rounded rectangle with a black border. The background is a soft-focus image of a sunset or sunrise over a body of water. The text 'Let Logical lead the way' is centered in a blue, sans-serif font. Above the graphic, there are three stylized blue birds in flight, moving from left to right.

Let Logical  
lead the way

You can visit our website to find out more:  
[www.logicalfinancial.com.au](http://www.logicalfinancial.com.au)

***Thank You***



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ANY QUESTIONS...  
JUST ASK!



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# Contact details



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