



# Cyber Threats Data Security Panel

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# Speaking Points

- **Identify Risk**
- **Assess Risk**
- **Allocate Risk**

# Identify Risk - Survey the Legal Landscape

- **Federal Legislation (FTC Act, GLBA, HIPAA)**
- **State Legislation (deceptive trade practices, tort, implied contractual duties)**
- **Federal Regulation**
- **State Regulation (CA, TX)**
- **"Self" Regulation (standards, compliance bodies)**
- **International Legislation/Regulation (EU)**
- **Contractual Obligations (third parties)**
- **Civil Liability (third parties, consumers)**

# Assess Risk

- **Subject to Legislation/Regulation/Liability?**
  
- **Potential Liability?**
  - FTC v. ChoicePoint (\$15M)
  - GLBA
    - \$100K/per for Institution
    - \$10K/per for D&O (personal)
  
- **Is or Can Risk be Shared w/Others?**
  - BJ's v. IBM

# Allocate Risk

- **Abstinence**
- **Outsourcing**
- **Contractual Provisions**
  - Representations
  - Warranties
  - Indemnities
  - Disclaimers
  - Limitations of Liability



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