

# SIMMONDS

## ON BANK INSURANCE

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Consulting On, But Never Selling, Insurance

April 2011

## Data and Privacy Protection Insurance

### Hackers and Extortionists Targeting Your Customers

Hackers get into your computer system and steal customer lists and information. ✘ An employee of a vendor steals customer data and sells it. ✘ An extortionist threatens to post your entire customer list, including vital information, on a Nigerian website. ✘ A vice president forgets his laptop at a coffee shop and it disappears. ✘ The head of HR puts a box of employee files on her car and drives off, letting the info blow throughout the town. ✘ A branch manager downloads spread-sheets to a thumb-drive for some work over the weekend. The thumb drive vanishes. ✘ Your statement mailing system puts four sets of customer data in one envelope and mails it out. ✘ Your Marketing VP's iPhone, with email access and copies of files, is stolen.

The above scenarios are bad on so many levels.

When a banker would call me a few years ago, he most likely wanted to talk about employment practices liability insurance or computer theft. The hot topic now is privacy. Loss of data by accident and fraud are a huge concern – for your bank, your customers, your board, and your regulators.

Insurance protection for issues of privacy resides in a variety of policies. Your bond should provide coverage for the bank's loss of money through computer fraud. Your e-banking insurance should provide liability coverage if a customer sues for their "injuries" due to a data breach. Your executive risk, professional liability insurance, and

directors' and officers' insurance should provide coverage for liabilities from analog privacy breaches (those not involving a computer).

Of course, the insurance has to be properly designed and worded.

In 2004 only one state required notification of customers to a possible data breach – California. Now, almost all states do. Further, the state law in the state your customer resides is the law you must follow. A breach could subject your bank to the laws of ten or more states – even if you are a small bank. You should have coverage for these expenses, too, if your insurance is designed properly.



Here are the questions to ask your insurance advisor:

- Do we have coverage for a liability lawsuit if a customer sues us for violation of privacy because personal data was stolen from our computer system (digital data breach)?
- Do we have coverage for a liability lawsuit if a customer sues us for loss of their private data because of a misplaced listing of customer information and hard-copy files (analog data breach)?
- Do we have coverage for the costs of remediating a data breach? Will our insurer help us pay the cost of notifying customers, taking preventative actions, and notifying the public of a potential breach (remediation expenses)?

You'll learn two things by asking these questions. First, you'll know if you are well protected. Second, the time it takes to get the three questions answered will tell you about the abilities of your insurance advisor.



## Scott Simmonds, CPCU, ARM, CMC

Scott Simmonds is the Unbiased Insurance Guy™ and banks are his specialty.

He provides information and advice to banks and other businesses around the US — and never sells insurance.

Scott has written five books for insurance buyers, including

*Simmonds on Bank Insurance* and *The Bank Insurance Assurance Toolbox*. He has been quoted in the *Wall Street Journal*, *Money*, *Inc.*, *Fortune*, *Investor's Business Daily*, on CNN.com, *Smart Money*, and countless local and industry publications, including several state bank association magazines.

Scott has 30 years of insurance experience, the last ten as an unbiased insurance consultant. He has provided insurance advice and counsel to hundreds of companies, large and small, throughout the US.

He lives with his family and works on the coast of Maine.

**“Your work for us is as important as any insurance policy we buy.”**

— Bill Swales, Bangor Savings Bank

## Real Questions | Q&A | Real Answers

**Q:** Our bank sponsors several youth sports teams in the community. Are we covered if someone gets hurt?

**A:** Let's consider the possibilities. A player is injured. A spectator is injured. A child is molested. A car full of kids are injured in an accident on the way to a game. An employee who is serving as the coach is injured.

Four insurance policies come into play in the above examples. Look to the general liability policy when there is bodily injury and property damage. If an injured player or spectator sues the bank, the bank's general liability insurance will, in most cases, respond. Liability from an auto accident should be covered by the bank's auto insurance. A bank employee should not look to the bank's insurance to pay for damage to her car while transporting kids to a baseball game; that's the employee's personal insurance.

In some states an employee who is coaching a sponsored team has been found to be covered by workers' compensation. That is not the usual case, though. Coaching is usually a leisure activity.

Bankers should be aware that some insurers

will excluded sponsorship or participation in athletic activities from general liability insurance. Review your policy.

I have left the least pleasant scenario for last: sexual abuse. We are talking about an illegal and intentional act by the perpetrator. No liability insurance policy will cover the person who commits such a foul act. There may be defense cost coverage for civil suits in some instances.

Of concern is a suit brought against the bank by the parents of an injured child. Sexual abuse is not excluded by most general liability policies. So if a coach molests a child and the parents bring suit against the coach and the bank (as sponsor of the team), the coach would not have coverage (intentional act) but the bank would. Again, make sure your general liability insurance does not have a specific exclusion for such events.

I would suggest that any bank sponsoring a youth activity take care to review the screening procedures for the adults who work with the kids — sports, scouting, after-school programs, student exchange, and the like. There should be criminal background checks and reference checks. Not only will you be protecting the children involved, you will also be protecting your bank and its reputation.

The public relations issues resulting from any connection to an abused child are huge. You owe it to yourself and to your community to be sure that the kids are safe.

**Q:** A customer has asked that our courier swing by each day to pick up their deposit (cash and checks). If our driver is robbed or the deposit is lost, do we have coverage?

**A:** If the courier is an employee, yes. If the courier is an independent contractor or is working for a transportation company, then there is only coverage (in most bonds) if the money were being transported in an armored car.

**Q:** Are banks subject to OSHA?

**A:** Yes, banks have to follow OSHA regulations — as do all US workplaces. Banks are, however, exempt from the injury and illness report requirements, unless your institution has been specifically required to file. Further, banks must file a report of a workplace accident that results in a death or the hospitalization of three or more employees. Everything you ever wanted to know about OSHA is at [www.OSHA.gov](http://www.OSHA.gov).

Note: Your questions for this section are welcome. Email [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com).

[www.BankInsuranceConsultant.com](http://www.BankInsuranceConsultant.com)

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# Diary of a Typical Bank Insurance Review

Well over 75% of the calls I get are from bankers who want a review of their bank's insurance coverage. The process is straightforward. Send me your policies and other information. I'll review it, ask some questions, and report the issues I find. Once I get the info I need, I can finish a review and have your bank moving towards improved insurance coverage within 15 days.

Here is the timeline from one of my recent projects:

■ **DAY 1** CFO of ABC Bank emails me. He is interested in a review of his bank's insurance. We discuss his bank's situation, current insurance, and his objectives. The call takes less than twenty minutes. Later that night I email a proposal that outlines the project's objectives, accountabilities, and fee.

■ **DAY 5** The CFO gets back to me, asking to move forward. He signs the proposal and cuts me a check for my fee. I email him a letter to send to his agent requesting information for the project — summary of insurance, loss runs, and the like.

■ **DAY 8** I receive a box of the bank's insurance policies, sent by the CFO. I start my review of coverage. (Note: more and more banks are scanning their policies and emailing them. This speeds up the review process.)

■ **DAY 10** I receive information from the bank's current insurance agent. Since I have the info I need, I call the CFO and we set a date for the review conference call.

■ **DAY 15** I email the CFO a copy of my findings to be used in our phone call later in the day. At the appointed time we review the issues and I provide my recommendations. The CEO, CFO, and SVP of the bank are on the call. We set action plans and accountabilities for each issue. We set a date for the next conference call to review progress.

To start the process just send me an email at [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com) or call me at 207-284-0085. After a short conversation, I will send you a proposal, bank references, and everything you need to make the decision to go forward.

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## *A Complete Insurance Review in 15 Days*

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Once I complete a review of your bank's insurance, you will have a better understanding of your insurance. You'll know the coverage you have, and the coverage you don't have. You'll have specific recommendations on how to improve your coverage, and tactics to broaden your insurance protection.

It all starts with a phone call or an email.

## **Banker's Bond Bugaboos — A Free Bank-Insurance Teleseminar**

Join me for a fast-paced, information packed 45 minutes of unbiased insight into the coverage issues presented by the current crop of banker's bonds. We'll talk about coverage, the marketplace, endorsements, things to look out for, and stuff to ask for. Practical, easily implemented ideas every bank can use.

You will not get a sales pitch here. Valuable information, implementable now. Learn some of the common coverage holes.

**When:** April 29, 2011 – 1:00 pm Eastern

**Where:** Call in and listen from any phone

Bankers, register for free by emailing [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com). Just ask to be added to the attendee list. No obligation, of course. Seats are limited. Register now.

## **Did You Miss Our February Teleseminar?**

We spent almost an hour talking about a wide range of bank insurance issues – coverage, bidding, the marketplace, coverage problems... A great session covering lots of insurance stuff that you will not hear anyplace else.

Email [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com) for free access to the recording and copies of the slides.

## **How Much Coverage Is the Right Amount of Coverage?**

While no chart can tell you how much insurance is enough, I can tell you when you don't have enough. From a wide range of sources and experience I have put together a matrix of minimum insurance coverage for a wide range of bank asset classes. I call it Recommended Coverage Minimums. Should you have \$1,000,000 in fidelity coverage or \$3,000,000? Is \$3,000,000 of directors' and officers' insurance enough? How much umbrella liability insurance should you have?

For your free copy or my recommended minimums just email me at [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com).

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## Some of Our Clients

- Severn Savings Bank, Annapolis, MD
- Bank of Putnam County, Crossville, TN
- Premier Bank, Rock Valley, IA
- Clear Mountain Bank, Bruceton Mills, WV
- Mechanics Savings Bank, Auburn, ME
- Premier Bank of the South, Cullman, AL
- ServisFirst Bank, Birmingham, AL
- Greenfield Savings Bank, Greenfield, MA
- Tidelands Bank, Mt. Pleasant, SC
- Sanford Institution For Savings, Sanford, ME
- Skowhegan Savings, Skowhegan, ME
- First Trust Company, New Orleans, LA
- Mascoma Savings Bank, White River Junction, VT
- Union Bank, Morrisville, VT
- Bangor Savings Bank, Bangor, ME
- Northeast Bank, Lewiston, ME
- Gorham Savings Bank, Gorham, ME
- Androscoggin Bank, Lewiston, ME

## Professional Gratitude

“Hiring Scott to review the bank’s insurance quotes has proven to be a very good decision for the bank. Scott is knowledgeable, thorough, and understood what we were trying to accomplish through the evaluation process. Scott accomplished this on short notice and gave us his recommendation with detailed explanations between the different proposals. On top of this he ended up negotiating a significant decrease in our premium.”

– Roger Metheny, EVP/CFO  
Clear Mountain Bank,  
Bruceton Mills, WV



## What Your Board Wants To Know About D&O Insurance

My newest white paper for bankers. A clear explanation of directors’ and officers’ insurance designed specifically for community bank board members. *What’s covered? What’s side A? Can I depend on my umbrella policy for protection? Can we buy coverage for civil money penalties? Explain claims-made.*

I have included answers to the questions I get when I do seminars and presentations to board members. Thirty years of board member questions in 9 pages. Free for bankers. Just send me an email – [Scott@ScottSimmonds.com](mailto:Scott@ScottSimmonds.com).

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