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J. B. BODA GROUP

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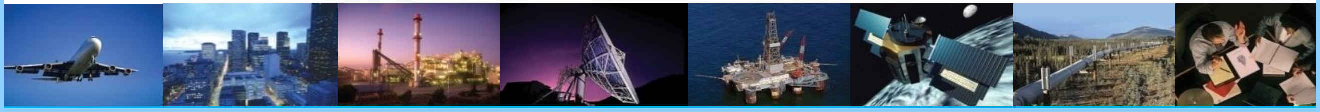

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ON "WRITE" SIDE

CORPORATE INSURANCE MANAGEMENT –

REVIEWS, APPRAISALS & AUDITS - II

Arranging the Insurance Covers:

For smooth running of all the activities of business, it is necessary to arrange most cost effective insurance covers to protect the assets, earnings and liabilities.

After arranging Insurance Policies (transfer of risk), it is essential to have periodical reviews to monitor whether:-

(1) The Insurance Policies taken are in sync with Management's Insurance Culture & Philosophy?

(2) The Insurance Policy covers the risks adequately?

(3) All concerned in the organization are aware of the Policies taken?

(4) The claim procedures under the Policy are properly apprised to all concerned?

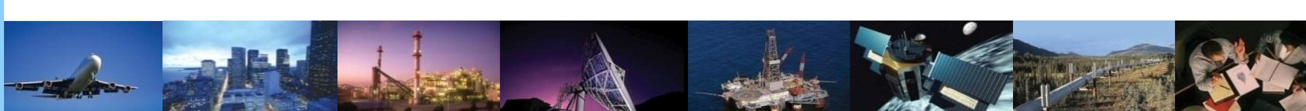
(5) Whether proper system exists for keeping control over Policies taken, claims lodged and Management Reviews?

Unless the above aspects are critically examined on regular basis, the purpose of taking the Insurance Policies stands defeated.

While reviewing the above, the following aspects should be considered so that they may become the reference points for the review flow & process of the Insurance Portfolio in future:-

1. Corporate Insurance Manual: Insurance Manual is the main reference document for any Corporate Insurance Management Programme. Manual should essentially cover the following :

A. Management Insurance Culture & Philosophy : It is essential that all concerned in the organisation clearly understand the insurance culture & philosophy of the organisation. It should be clearly defined whether the Management believes in complete insurance of all assets and liabilities or only selected risks are to be covered. If so, what is the criteria for selection and what are the risks to be covered ?



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B. Valuation : Corporate Insurance Manual should clearly spell out the Basis of Valuation to be considered for each kind of Policy e.g. whether the Fire Policies are to be taken on Reinstatement Value basis or on Market Value basis, Machinery Breakdown policies to be taken on Replacement Value basis, Policies covering Stocks and Motor Vehicles on Market Value basis etc..

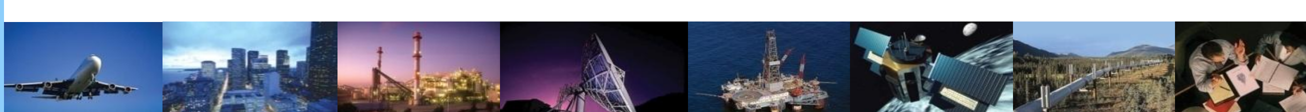
C. Procedures: Standard Operating Procedure (SOP) will deal with the procedures regarding taking out policies and for lodging claims. Formalities required to be completed in each step for underwriting as well as for claims need to be spelt out in detail in Manual.

D. Fixing of Responsibility : Manual should also describe in detail the responsibilities of various Executives / Departments involved in taking out / handling policies / claims so that in the event of any damage or loss, everybody is aware of actions to be taken by them.

2. Good and Adverse Risk Features : Elaborate Education Programmes should exist to create awareness amongst plant and operating people about safety measures to be provided which would constitute good features for the evaluation of risk from insurance perspective, e.g. provisions of Fire Hydrant System, Fire Trailer Pump, Automatic Sprinkler System, Fire Alarm System, maintenance of electrical installations in good condition, segregation of hazardous blocks and processes like Painting, LPG and Gas Station from the non-hazardous blocks. It should emphasize that merely having above safety systems is not enough. It is important to have the systems and to always maintain them in perfect working condition so that they serve the intended purpose.

While Reviewing and Auditing Insurance and Risk Management Portfolio, these aspects are to be scrutinized very carefully, as they form the very base of Risk Management and have a major impact on insurance premium outgo as well.

3. Controls Records: Control documents and records need to be maintained meticulously to preserve the historical data, which would help in smooth functioning of day to day insurance requirements as well as review & analysis in future.



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(I) Insurance Policy Register : The Register detailing the Policies taken, the risk covered, the sums insured, the premiums paid and the periods of policies, Location- wise and Risk-wise should be maintained to keep control on the following:

(i) Whether all locations are covered?

(ii) Whether all risks are covered?

(iii) Whether sums insured are correct?

(iv) Whether premiums charged are correct?

(II) Claim Register : Similarly, the Register describing the claims lodged location-wise and risk-wise should be maintained, which should contain the information about :

(i) location of loss / damage

(ii) date of loss / damage

(iii) cause of loss / damage

(iv) amount of loss / damage

(v) date of settlement of claim,

(vi) amount of settlement of claim,

(vii) Policy Number, Type of Cover, Description of Cover

4. Review Statements : Performance of Insurance Portfolio can be reviewed periodically on the above control data by conducting the comparative premiums study and claims to premium analysis for last 3 to 5 years. Based on this analysis, the Management may decide to continue / discontinue insurance coverages in future.

The comparative study and critical analysis will review the causes of damage / loss, the reasons for fluctuations and the corrective measures required.

Thus, the only way to ensure proper Risk Management and Corporate Insurance Portfolio is to have a very focused Corporate Insurance Review, Appraisal and Audit System.

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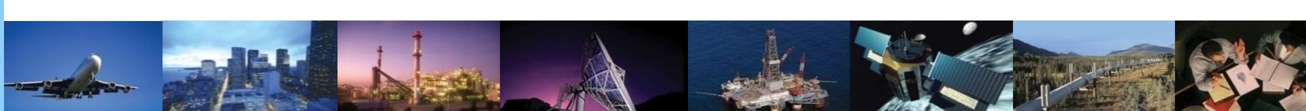

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INTERNATIONAL

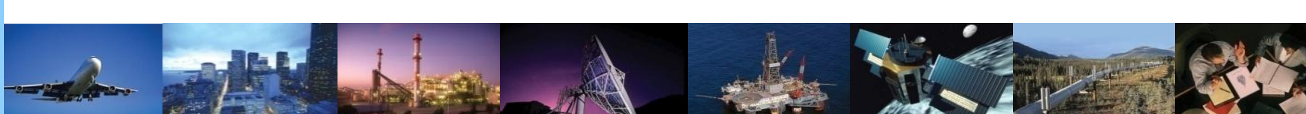
Lloyd's Report on Climate Change

Climate Change is real and there is need to factor it into all future Catastrophe Modelling – that's the conclusion of a new Report published recently by Lloyd's. The Report: 'Catastrophe Modelling and Climate Change', states that "with the existence of Climate Change, and the effect it is having globally, the time has come for the Insurance Industry and Catastrophe Modelling entities to recognize factors such as surface sea level and air temperature rises throughout their models. Lloyd's Report concludes that changes in climate have the potential to affect extreme weather events, which subsequently impact on insurance being underwritten in the Lloyd's market; the 20 centimeter [7.87 inches] sea level rise caused by Superstorm Sandy in 2012 increased losses by 30 % in New York alone. The Report also finds that the frequency of extreme weather events in most regions of the world, including Europe, North America, Asia and Australasia, has increased. Catastrophe models are what the insurance and other industries use to quantify understanding of the natural world and predict the impact of the weather.

If El Nino strikes

The El Nino weather phenomenon that is likely to strike this year damages world maize, rice and wheat yields but boosts soybeans, according to a recent study that could help farmers plan what to grow. The Japanese-led Report has given a first global set of maps linking yields of major crops to El Nino, a warming of the surface of the tropical Pacific Ocean that can trigger downpours or droughts around the globe. The maps are meant to help farmers decide which crops or varieties to plant and may give governments a "famine early warning system". Most forecasts show an El Nino emerging in mid-2014, the U.N.'s World Meteorological Organization (WMO) has said. El Nino forms every two to seven years and warning signs emerge months in advance.

The U.N. panel of climate scientists said in a Report last year that downpours linked to El Nino may intensify this century. It said there are big uncertainties about whether global warming will affect the frequency of El Nino and La Nina.



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Canada strengthens oil pipeline safety

Canada unveiled new Rules recently to enhance pipeline safety and spill response, ahead of the development of new projects proposed to carry crude from Alberta's oil sands to coastal ports for export. The new legislation will give Canada's energy regulator, the National Energy Board (NEB), more power to enforce compliance on safety and the authority to step into lead spill response if a company is unwilling or unable to do so. Companies will also now be held liable, up to C$1 billion ($917 million), for all spills or incidents on their lines, whether or not they are at-fault or negligent, putting the onus on owners to ensure safe operations. This approach of 'absolute liability' applies to all federally-regulated pipelines.

Companies found to be at-fault or negligent in an incident will continue to face unlimited liability. "The 'polluter pays' principle will be enshrined in law so that it is clear that Canadian taxpayers are not expected to foot the bill in the event of a major oil spill.

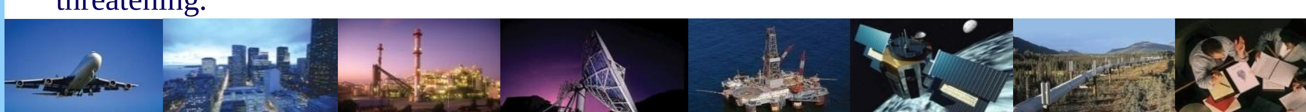
Will India follow suit?

Europe Aviation Agency considers flight recorder changes

The European Aviation Safety Agency (EASA) is proposing to improve aircraft flight recorders and underwater locating devices in response to the disappearance of Malaysia Airlines Flight 370. Nearly two months after the Malaysian jet went missing, searchers have still been unable to locate any debris in the desolate patch of ocean where it is believed to have crashed. EASA recommends extending the transmission time of underwater location devices fitted on flight recorders from 30 days to 90 days. The proposal, which needs the approval of the European Commission, also suggests increasing the locating range of the devices for large aircraft and extending the recording time on cockpit voice recorders to 20 hours. They currently run on loops that capture only the last two hours of sound.

Jamaica crash of 2009

An investigation into a plane accident in 2009 at a Jamaican airport has concluded that an American Airlines jet flying in from Miami botched the landing and the flight crew may have been fatigued. On Dec. 22, 2009, an American Airlines plane overshot a rain-drenched runway at the seaside Norman Manley International Airport in Kingston and split apart after plowing through a perimeter fence and skidding across a road. The Boeing 737-823 came to rest on sand dunes and rocks a short distance from the waters of the Caribbean Sea. The jetliner was destroyed, its fuselage broken into three sections and the right wing's tanks spilling jet fuel. All 154 people aboard survived, but 14 had serious injuries, though not life-threatening.



Among other findings, the Report has said that the experienced flight crew decided to land in heavy rain on a wet runway with a tail wind close to the landing limit. They were not aware of a standing water warning for the airport’s runways in manuals, the investigation found. The Report found the crew did not do an adequate landing distance assessment and crossed the runway threshold 20 feet (six meters) above the ideal height, touching down farther along the runway than it should have. Descending through cloud cover, the flight crew “were possibly fatigued after being on duty for nearly 12 hours, and awake for more than 14 hours,” the Report has said.

MENA: Insurance market growth

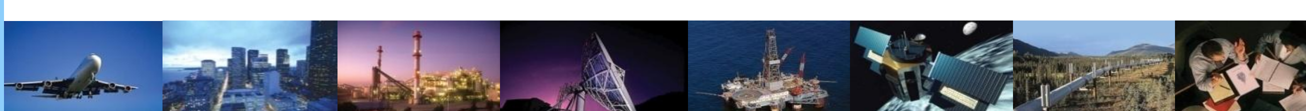
The insurance industry in MENA is seeing exciting times, and is expected to reach US$70 billion in premiums by 2017, a growth of 70% since 2007, boosted by growing industrialisation and international trade in the Middle East and Africa, improving financial markets, and increasing foreign investment and merger & acquisition activities.

The region is seeing increasing levels of transparency and corporate governance too, as well as a changing attitude towards risk management. Moreover, the upgrading of Qatar and UAE to emerging market status, and Qatar 2022 World Cup tournament and Dubai Expo 2020 promise an influx of investments throughout the region.

The bright spots for the insurance industry include infrastructure spending and favourable demographics. Loss ratios in certain lines are holding up while takaful and retakaful are on an upward trend. In addition, there are significant opportunities for health and motor, and most importantly, positive regulatory changes across MENA markets. A market for specialty lines such as cyber liability, political violence, terrorism, trade credit & surety, satellite & space, specie & fine art, is starting to take shape.

Global: 66 insurance CEOs sign on climate change

Two top Executives of re/insurance companies in the Middle East have joined sixty four other Chief Executives of the world's leading insurers in confirming their commitment to The Geneva Association's Climate Risk Statement - a set of guiding principles on the substantial role insurance can play in global efforts to tackle climate-related risks. According to Geneva Association, its Climate Risk Statement will provide the foundations on which the direction of future climate-related initiatives by the leading international insurance think tank will be based.



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NON - LIFE

Travel Insurance

Outbound travellers stand to benefit this year because the rupee is stabilising and general insurers are unlikely to raise premium rates as a result. Claims for outbound Travel Insurance are paid out by general insurers in foreign currency while the insurers collect premium in rupees. The rupee has stabilised during the last three months at 60-61 to the USD, allowing general insurers to maintain premium rates. The Travel Insurance segment is currently a very small portfolio for general insurers - at 0.1%, or about INR5400 million (US$92 million), of the total premium collected by the industry. While it is a growing portfolio, insurers feel most travellers opt for Travel Insurance only while travelling to the Schengen area comprising 26 European nations, where Insurance is mandatory, and while travelling to the US & Canada where medical expenses are very high. When travelling to South-East Asian countries and West Asia, most tourists feel that they do not need Travel Insurance.

Arbitration proceedings - allegations of fraud

Introduction

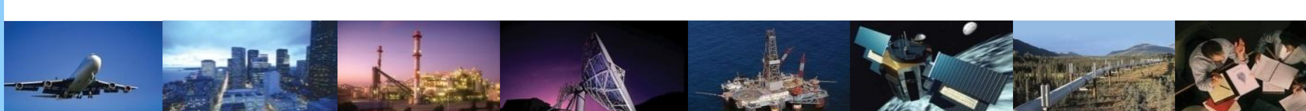
Allegations of fraud by a Party have proved to be a vexatious issue for Arbitration in India. Judicial pronouncements have led to a situation where even a hint of any fraudulent activity could take Disputes out of an Arbitrator's Jurisdiction. This update examines the Law in relation to the impact of allegations of fraud on Arbitration proceedings linked to India, focusing on: (1) the statutory framework under the Arbitration and Conciliation Act 1996; (2) international judicial practice; and (3) the position with regard to domestic and international arbitrations under the Act, with a particular emphasis on the change in law resulting from the recent Supreme Court decision in *WSG* and Bombay High Court decision in *Avitel*.

Statutory Framework

No specific Provisions of the Arbitration Act prohibit the Arbitration of Disputes that include allegations of fraud; the Law on this point in India has been developed through judicial decisions.

Such allegations generally come to the attention of Courts at two points in Arbitration proceedings. The first of these is when the Arbitration Agreement is invoked and a Party seeks to have the dispute referred to Arbitration or an Arbitrator is appointed under the terms of the Agreement. The Court may then act under either Section 8 of the Act (with regard to domestic Arbitrations) or Section 45 of the Act (for international Arbitrations). In a domestic Arbitration, a Party may also approach the Court for the appointment of an Arbitrator under Section 11 of the Act.

In various decisions, the Supreme Court of India has held that the referral of Parties to Arbitration and the appointment of an Arbitrator are not automatic; instead, these are Judicial Decisions on the part of the Chief Justice and/or his or her Designate. Further, it has also been established that where an issue of Arbitrability is raised before a Court in an Application under Section 8, the same must be decided by the Court, not left to the Tribunal. Hence, Courts may be called upon to deal with issues of fraud before commencement of Arbitration and must decide whether such Disputes are amenable to Arbitration.



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The second point at which allegations of fraud may be considered by a Court is at the end of the Arbitration Proceedings. For domestic Arbitrations, this may be at the time of Proceedings to set aside the Arbitration Award under Section 34 of the Act, or for enforcement under Section 36. For international Arbitrations, the issue of fraud may be taken up at the time of enforcement proceedings under Section 48 of the Act. When issues of fraud are raised at the conclusion of Arbitration Proceedings, they may also cover the occurrence of fraud during the actual Arbitral hearings. Moreover, at this stage, National Public Policy – and its impact on the enforceability of the Award in question – may also be addressed.

International Practice

Before addressing Indian practice, it is useful to consider the major international trends with regard to the Arbitrability of fraud claims. In the United Kingdom, early statutory Law prohibited the Arbitration of fraud claims. However, this Limitation was removed by the UK Arbitration Act 1996 and there is now no Public Policy restriction on the Arbitrability of such claims. Where one Party alleges contractual fraud in relation to an Agreement between the Parties, UK Law now deals with the issue under the Doctrine of Separability – the Contract containing the Arbitration Agreement is separate from the Arbitration Agreement itself; therefore, unless the fraud directly affects the Arbitration Agreement, there is no bar to referring the Parties to Arbitration.

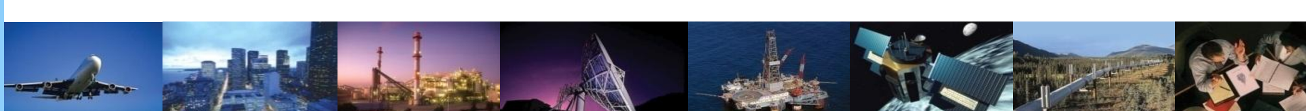
A similar approach has been adopted in the United States through the Federal Arbitration Act, following the decision of the US Supreme Court in *Prima Paint Corporation v Flood & Conklin Manufacturing Co.* However, State Laws may vary.

Conclusion

With regard to international Arbitrations linked to India, recent Decisions appear to have steered the legal position towards international practice. In line with the Doctrine of Separability, a Party alleging fraud to resist Arbitration must now establish that the fraud actually vitiates the Arbitration Agreement itself, not just the Parent Contract. Even at the stage of enforcement, the Party resisting the Award will have to show substantial flaws in the Award in order to succeed.

In contrast, for domestic Arbitrations in India, allegations of fraud may threaten the entire Arbitral process, from the Referral to Arbitration until enforcement of the Award. Due to the judicially developed principles prohibiting Referral of such Disputes to Arbitration, Parties must be extremely careful to avoid casual allegations of fraud – not only in their pleadings, but also in any correspondence and conduct before the Arbitration. It is hoped that with further judicial consideration, the present state of the Law – in which a stray allegation of fraud has the potential to scupper an entire Arbitration – may be reviewed.

Source : International Law Office



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LIFE

Risk Management in Life Insurance companies

Risk and uncertainty are two common words that come into our mind while thinking of various issues related to future incidents. The future is not known to us and we try to predict it by valuation models, trend analysis, use forecasting tools but thinking of uncertainty makes us more concerned. Some risks can be better managed if steps are taken earlier.

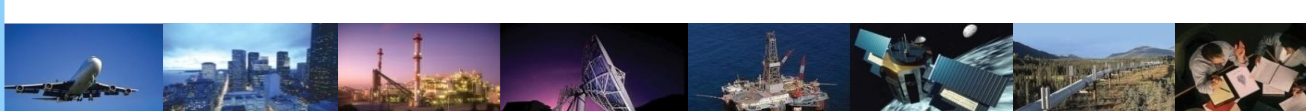
For insurance sector, the primary risk management strategy is taken by prescribed formulated model provided by actuaries, which is then implemented from the beginning by underwriters. These steps are taken for better risk management of financial issues related to claims, so it is addressed while designing premiums. Other departments related to risk management process such as auditing, finance and accounts, investments try to encompass it while doing core activities. Risk Management has become a culture in organisation's environment but there has to be a structured method to measure, implement necessary actions and monitor activities as per risk appetite of shareholders.

For life insurance companies, one thinks more of policyholder's interest. How well do we know about the risks, which are related to us.

Type of risks (financial and non-financial):-

1. **CREDIT RISK**: It is common to all financial institutions. In Life Insurance, default risk is one of the most important areas as large portion of investment is made in different financial institutions, Loan against Policy, Advances, Corporate Bonds, Government Securities. There are also balances kept with financial institutions. It is important to follow a proactive and analytical approach while selecting investment. Transactions should not be with institutions where default risk is high. Credit analysis of entities is necessary before making any investment.

2. **LIQUIDITY RISK**: On perusal of financial statements of life insurance companies, one sees that very tiny proportion (sometimes 1.5 to 3 per cent) of claims are due to death, most of the times it is maturity/surrender claims, commission and management expenses absorbing the cash. Analysis regarding efficiency in settlement of financial transaction (integrated financial system), class of assets and liquidation scope, investment portfolios (money and capital market) etc., are crucial.



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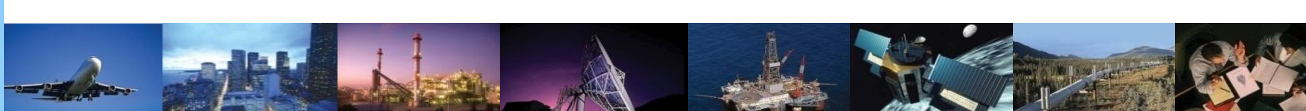
3. **BUSINESS OPERATIONAL RISK**: This relates to business processes, identify critical areas that can create risks. For example, underwriters play in front line while insuring, so their skills and resource development, co-ordination and monitoring by Top Management and implementation of those are important. Re-insurance risk is also important as it is a risk transference tool used by insurers that is effective in critical situation. In depth analysis of current re-insurer's financial health, review of scope, effects on Policy Management etc., can be done. Claim Risk Management is another area that can address many other areas of risk. For better risk management of this area, there are things to be done such as data management, development of communication channel with Policyholders for current or future claim settlement etc. Development of Claim Management Software can play a vital role.

4. **EXCHANGE RATE RISK**: Presently exchange risk is also coming to the fore as life insurance companies are expanding business in foreign countries through formation of overseas customer base. Fluctuation of rates of different currencies may deteriorate the real inflow and outflow in terms of premium and settlement of claims. It is desirable that companies can apply foreign currency translation for related financial statements in each reporting period and review for any such loss/gain arising.

5. **INTEREST RATE RISK**: Interest rate fluctuation is an important factor in Life Insurance. On examination of last 8-10 years data, one sees that earning of premium, rate of premium for any product, investment income, asset values etc., have negative co-relation with change of interest rates. When rate is high, people think that it is better to move with other investment products than Life Insurance Policy. For fixed income investment, companies may avoid interest rate risk by considering economic factors affecting interest rate and shaping the lending contract. So, it is important to take account of risk arising from changes of interest rates and adopt necessary strategy to deal with risks arising from changes of interest rates.

One very important requirement for all life insurance companies is to form a structured Risk Management Team, which is rarely found in this sector. This will be able to identify and measure the risk areas, take necessary actions after proper analysis so that corporate can better handle the risks. Level of professionalism in managing business can be well measured when any corporate can outperform the sector by managing risks. Efficiency in managing risk can be one of the most important performance indicators.



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INDIA : A KEY THREAT VICTIM !

According to a recent Report of Symantec, more than two-third of the targeted cyber attacks in India are carried out against large enterprises. Globally, India ranks third with 5.11 percent contribution to overall malicious activity.

GLOBAL

Data Breach	Identities Exposed	Mega Breaches
253	552m	>10 m 8

INDIA

Targeted Attacks - 69 % of targeted attacks on large enterprises

Small Businesses –
1/1283 – Phishing Emails
1/231.7 – Virus – bearing Emails
65.2% – Spam Emails

Types of Industries most targeted

- Non – traditional - 39.92 %
  Manufacturing - 33.33 %
  BFSI - 11.11 %

- Non – traditional industries include hospitality, business & personal services

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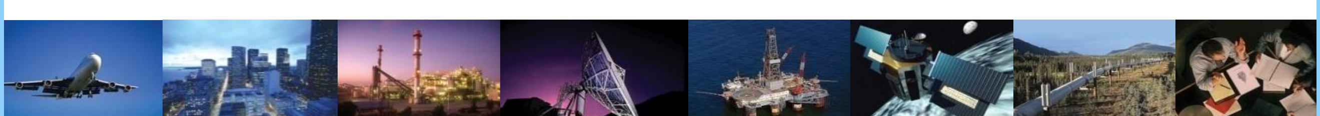
M – Million
Mega breaches – Breaches exposing over 10 million identities

Source : Internet Security Threat Report : Symantec



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