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# Ahead of the Curve: Emerging Risks

*– a liability underwriter perspective*

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## **Content**

**Part 1:** Raising the Bar for Management

**Part 2:** Cybersecurity Risk

**Part 3:** Complex Global Supply Chain

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## Background

1. Emerging risks can be new and unforeseen risks which the potential of maximum loss or harmfulness is not fully known.
2. Risk landscape is changing very fast. Every day's headlines bring new reminders that the future is on its way, and sometimes it feels like new risks and response strategies are around every corner.
3. Reimagine risk management with new game new rules.

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# Raising the Bar for Management

## Ahead of the Curve: Emerging Risks

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## You're More Exposed Than You Think



### Globalisation

D&Os of indigenous Malaysian companies are not immune to trends and exposures which can be imported from other parts of the world.

Investors are introducing their expectations with respect to corporate governance, shareholder rights and transparency.



### Foreign Jurisdiction

General Data Protection Regulation (GDPR) - increase directors' and officers' liabilities for data breaches or personal data misuse in Europe.

The Criminal Finances Act 2017 (UK) - A director could find him or herself liable for an employee's actions, it is prudent to have adequate safeguards in place to ensure these activities cannot take place.



### Home Country - Malaysia

Companies Act 2016 – higher accountability and responsibility of companies directors

MACC (Amendment) Act - Section 17A - Liabilities on acts of bribery are now extended to commercial organization & associated persons (directors, officers, partners & others)

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## MACC (Amendment) Act 2018

- The MACC (Amendment) Act 2018 introduces a new Section 17A into the principal MACC Act which will be enforced on 1 January 2020.
- The Section 17A states that commercial organization commits an offence if any person associated with that commercial organization commits a corrupt or bribery act in order to obtain or retain business or advantage for the organization.
- The only defense available for bribery offences that may otherwise result in imprisonment or imprisonment is to prove that it had “adequate procedures designed to prevent persons associated with the commercial organization from undertaking such conduct”.
- **In summary:-**
  - Liabilities on acts of bribery are now extended to commercial organization & associated persons (directors, officers, partners & others)
  - Penalties comprise monetary fines and/or jail sentences
- Section 17 A (3) – where an offence is committed by a commercial organization, a person –
  - Who is its director, controller, officer or partner; or
  - Who is concerned in the management of its affairs,

At the time of the commission of the offence, is deemed to have committed that offence **unless that person proved that the offence was committed without his consent or connivance and that he exercised due diligence to prevent ....**

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## Companies Act 2016

- The Malaysian Companies Act 2016 came into force on 31 January 2017 to replace the Malaysian Companies Act of 1965.
- This creates significant concerns for companies as the new Act has stricter standards and higher responsibilities for directors which will enhance corporate governance and responsibilities, including heavier fines and longer terms of imprisonment for violations.
- Under Section 289, with the board's approval, the company is allowed to effect a Directors or Officers Insurance for:
  - (a) Civil (not criminal) liability for any act or omission in his capacity as director;
  - (b) Costs of defending or settling any claim relating to any such liability (ie defence costs); or
  - (c) Costs for defending proceedings where he is acquitted or proceedings discontinued or granted relief under the 2016 ActFor (a) and (b), cannot purchase if the liability is in respect of breach of duties of directors as set down in section 213 of 2016 Act.

**Side A Cover under a Directors & Officers Insurance is VERY Important!**





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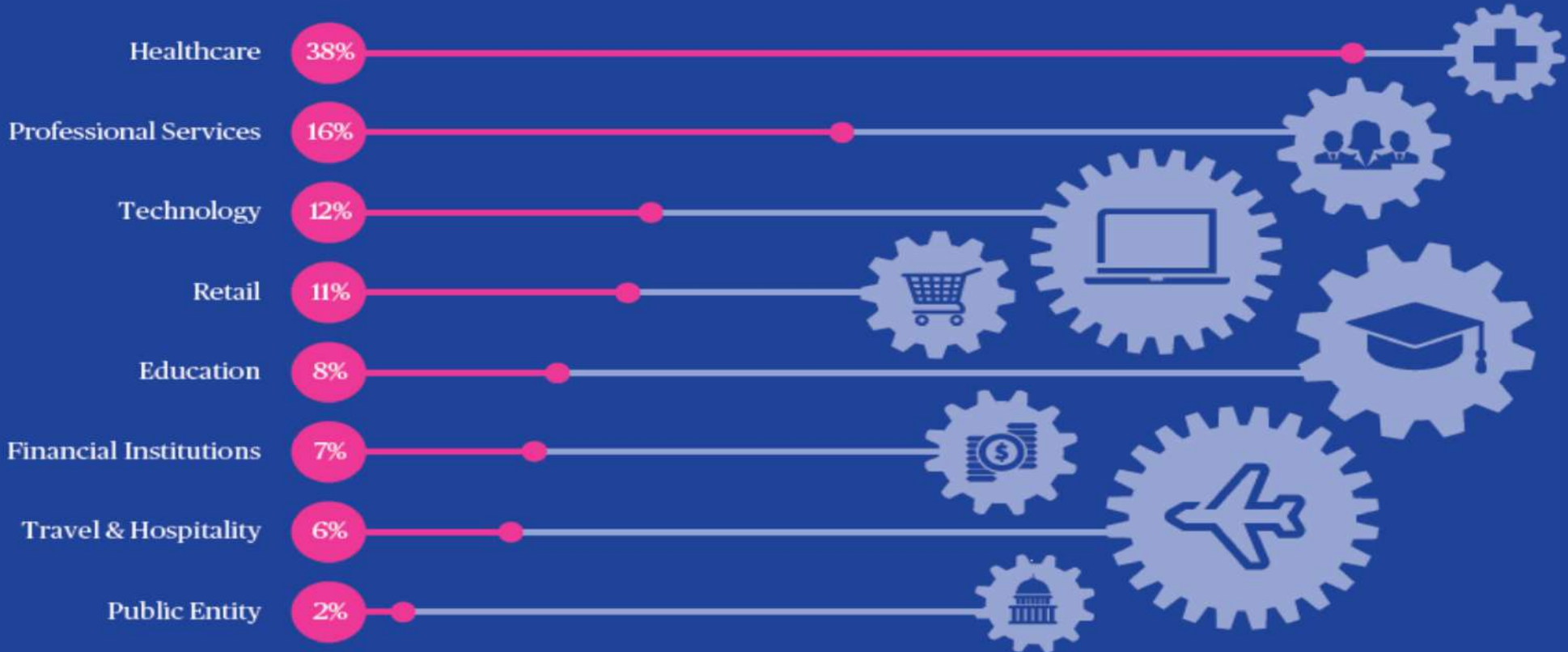
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# Cybersecurity Risk

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# Industry Breakdown

Although each insured faces unique vulnerabilities, some industries have accounted for a higher share of incidents over time.



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## Common Misconceptions About Cybersecurity Risk



“My company is not exposed to cyber attacks”

“We outsource so I have no risk”



“Cyber attacks are only a problem for banks”

“My company has very strong antivirus”



# “I’ve got nothing they want”



Item	2019 Cost
<ul style="list-style-type: none"> <li>Fake ID, Drivers License Passport</li> <li>Hacked emails accounts</li> <li>Scans of Real Passports</li> <li>Custom Malware ( ex banking trojans)</li> <li>Cash redirector service</li> <li>Stolen Cloud Accounts</li> <li>Ransomware toolkit</li> </ul>	<ul style="list-style-type: none"> <li>\$25 to \$5,000</li> <li>\$1 to \$15</li> <li>\$1 to \$35</li> <li>\$5 to \$200</li> <li>\$5 to 1% of value</li> <li>\$2 to \$12</li> <li>\$0 - \$250</li> </ul>

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## The catastrophic domino effect on business



### **The First Domino to Fall**

When the websites or computer systems of a company is attacked and taken offline:



### **The Second Domino**

At times when attacks involve stolen personal information such as credit card numbers



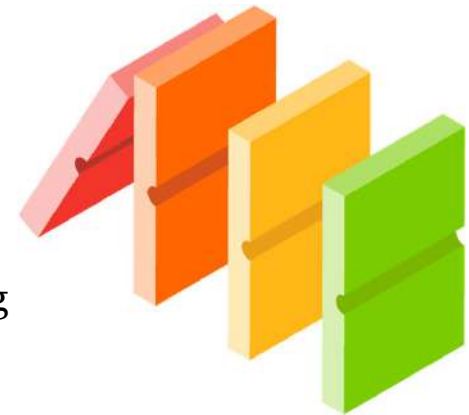
### **The Third Domino**

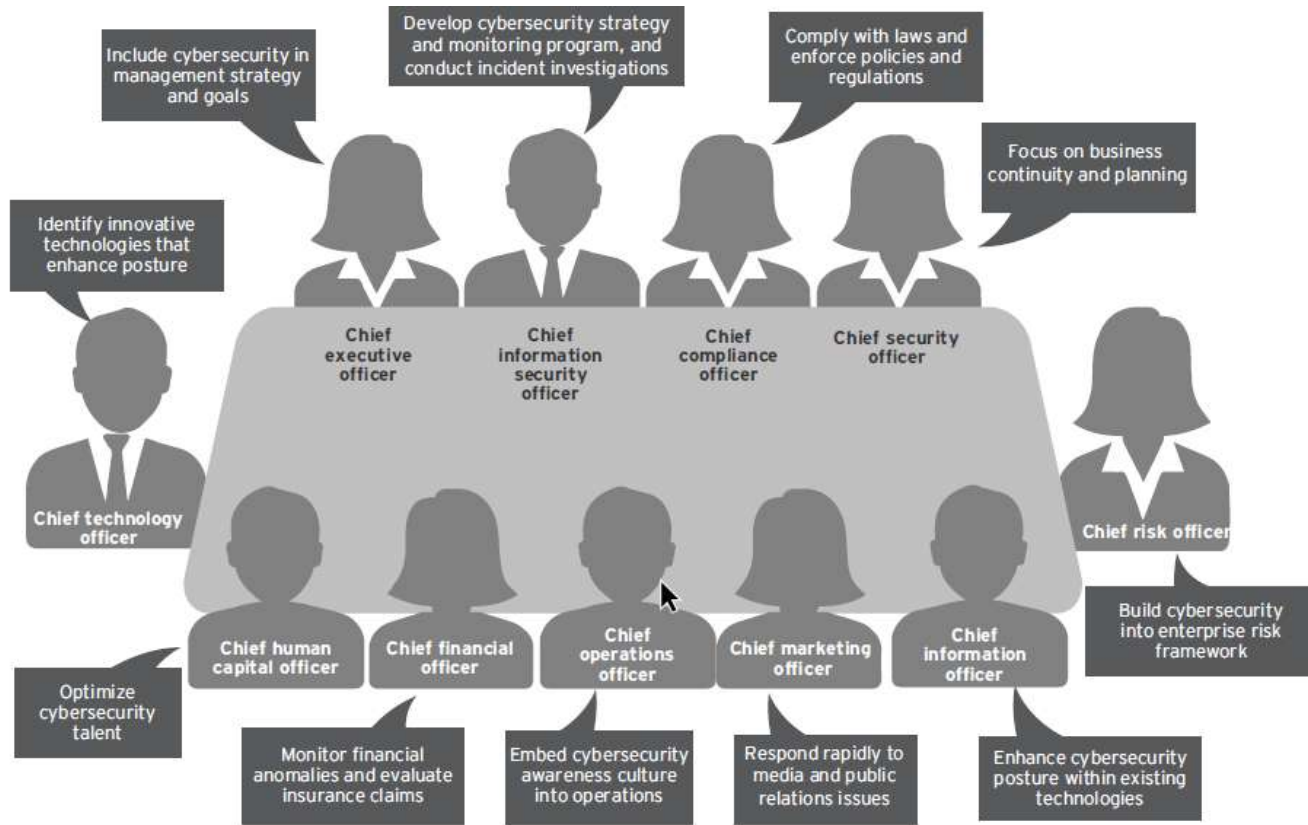
Cyber Extortion - Networks can be shut down causing business interruption. There is no guarantee that cyber criminals will cooperate and decrypt the compromised data.



### **The Fourth Domino**

Company may be sued for liability. So, the dominos continue to fall – putting the entire company and its directors and senior managements at risk.





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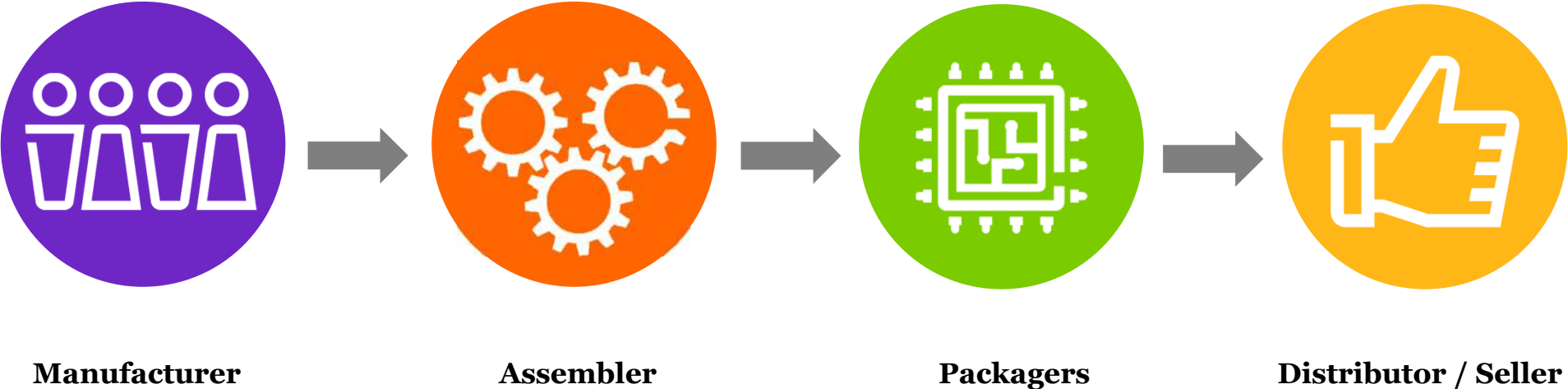
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# Complex Global Supply Chain

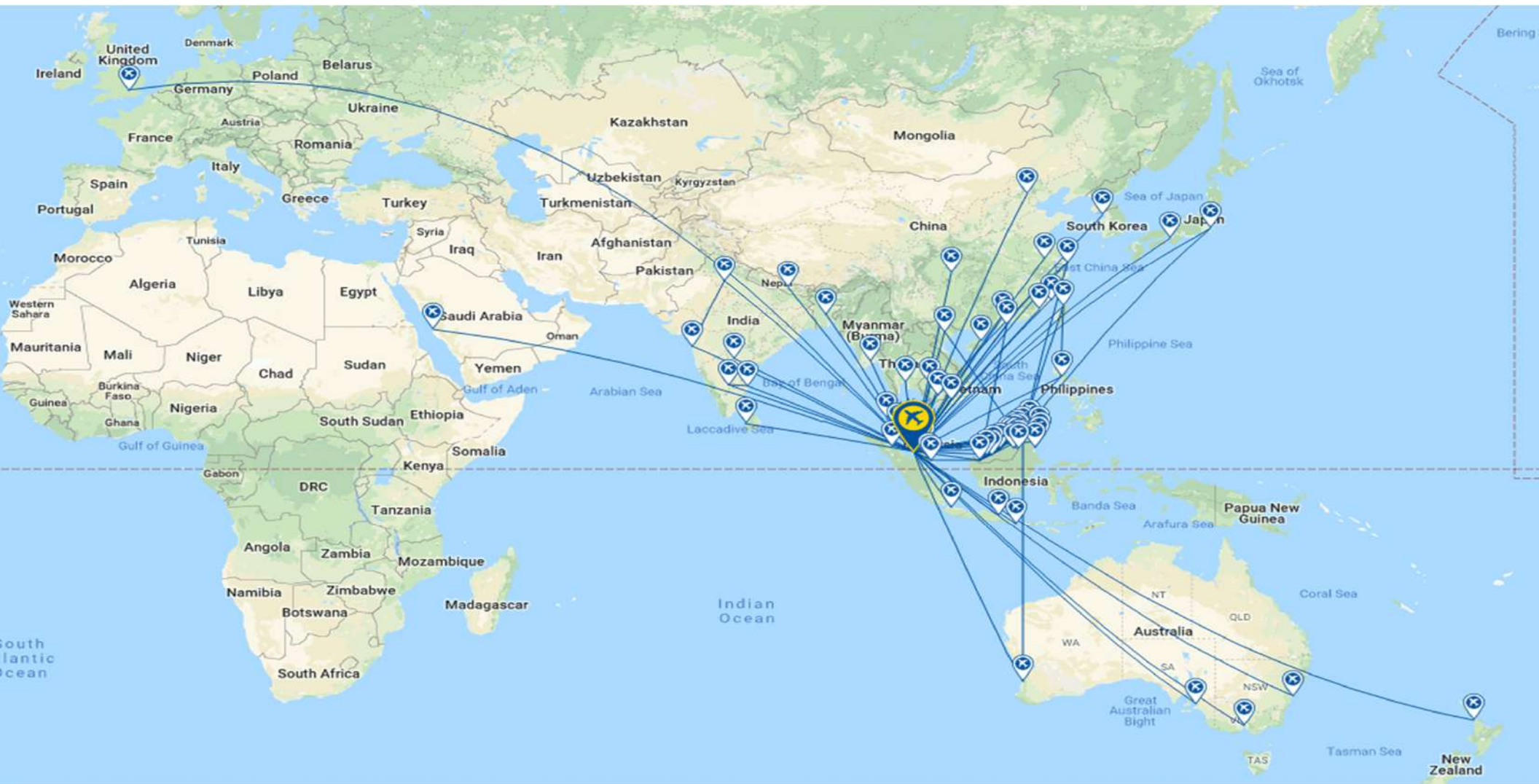
## Ahead of the Curve: Emerging Risks

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# Product Chain Disruption







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## Product Liability = Product Recall?



### 2018 Dumex Milk Formula Contamination

A batch of a popular brand of infant milk formula has been recalled by the Agri-Food and Veterinary Authority (AVA) after a strain of bacteria was found in test samples.



### 2015 Airbags Errors

One of the largest recalls to hit the auto industry, expected to result in some 60 to 70 million units across at least 19 manufacturers being recalled worldwide. Japanese manufacturer, Takata filed for bankruptcy in June 2017.

Estimated cost: \$25bn+



### 2016 Exploding Phones

Samsung recalled 2.5 million Galaxy Note 7 phones after users reported flames and explosions caused by overheating batteries.

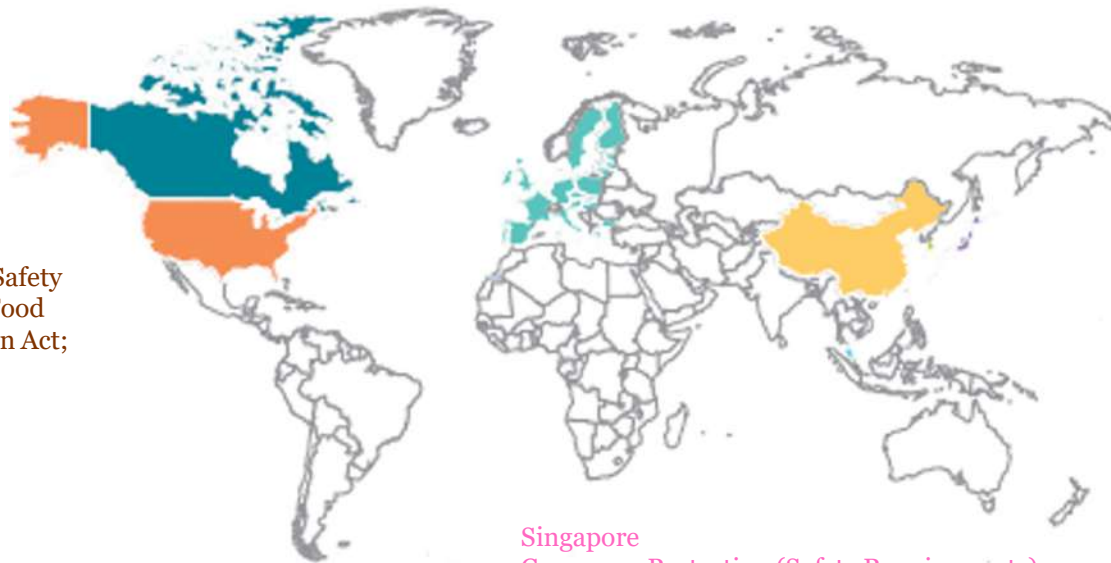
Estimated cost: \$5bn+

Canada  
Safe Food for Canadians Act

European Union  
European Consumers Product Safety and Market Surveillance Regulation;  
EU Food Information for Consumers Regulation

Japan  
Food Safety Basic Law; Food  
Sanitation Law; Food Labeling  
Law; Product Liability Law;  
Consumer Product Safety Act

US  
Consumer Product Safety  
Improvement Act; Food  
Safety Modernization Act;  
US TREAD Act



China  
Food Safety Law; Auto  
Recall Regulations

Taiwan  
Agricultural Production and  
Certification Act; Health  
Food Control Act; and Food  
Safety Protection Fund Act

Singapore  
Consumer Protection (Safety Requirements)  
Regulations; Consumer Protection  
(Consumer Goods Safety Requirements)  
Regulations

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## “Cyber Recall”

New technology always brings new risks.

2017 - The Food and Drug Administration (FDA) issued an alert about the first recall of a network-connected implantable device due to cybersecurity vulnerabilities.

### An FDA First: Cyber Recall for Implantable Device

Cardiac Pacemakers Require New Firmware to Fix Vulnerabilities

Marianne Kolbasuk McGee (@HealthInfoSec) · August 29, 2017

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The agency is instructing patients with certain implantable cardiac pacemakers from St. Jude Medical - now owned by Abbott Laboratories - to visit their physicians for firmware updates to address cyber vulnerabilities that **can potentially be remotely exploited by hackers and that pose safety concerns.**

Approximately 465,000 such devices are in use in the U.S., an Abbott spokeswoman tells Information Security Media Group. She did not immediately have information about how many of these devices are used outside the U.S.



**Final Note:**

Putting Risk Management at The Heart of  
Your Business

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# Thanks!

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## Any Questions?

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