# Oversight of Cybersecurity Matters in the Boardroom: Emerging Standards, Questions to Ask, and Best Practices

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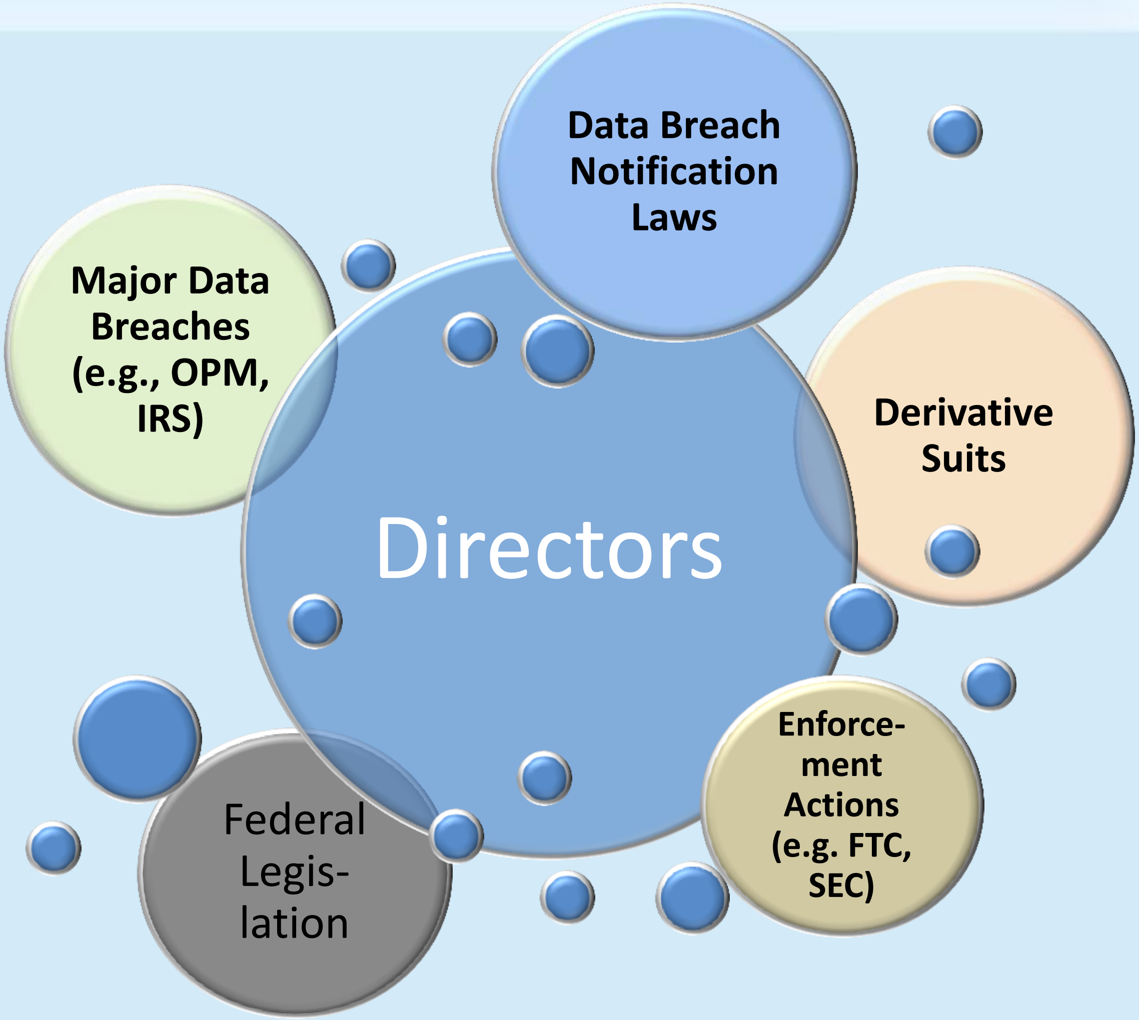
# Cybersecurity Landscape



Directors

Data Breach Notification Laws

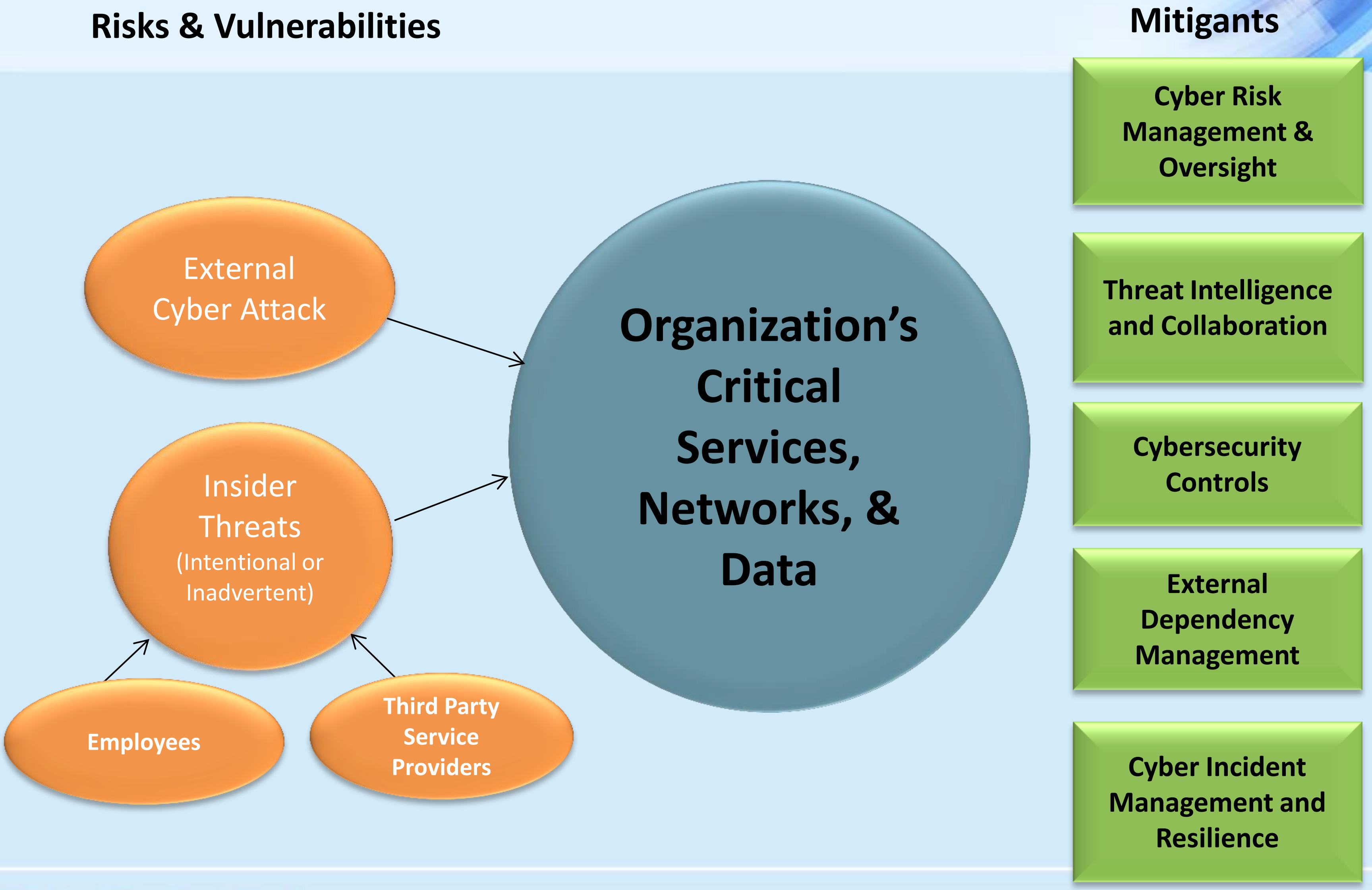
Major Data Breaches (e.g., OPM, IRS)

Derivative Suits

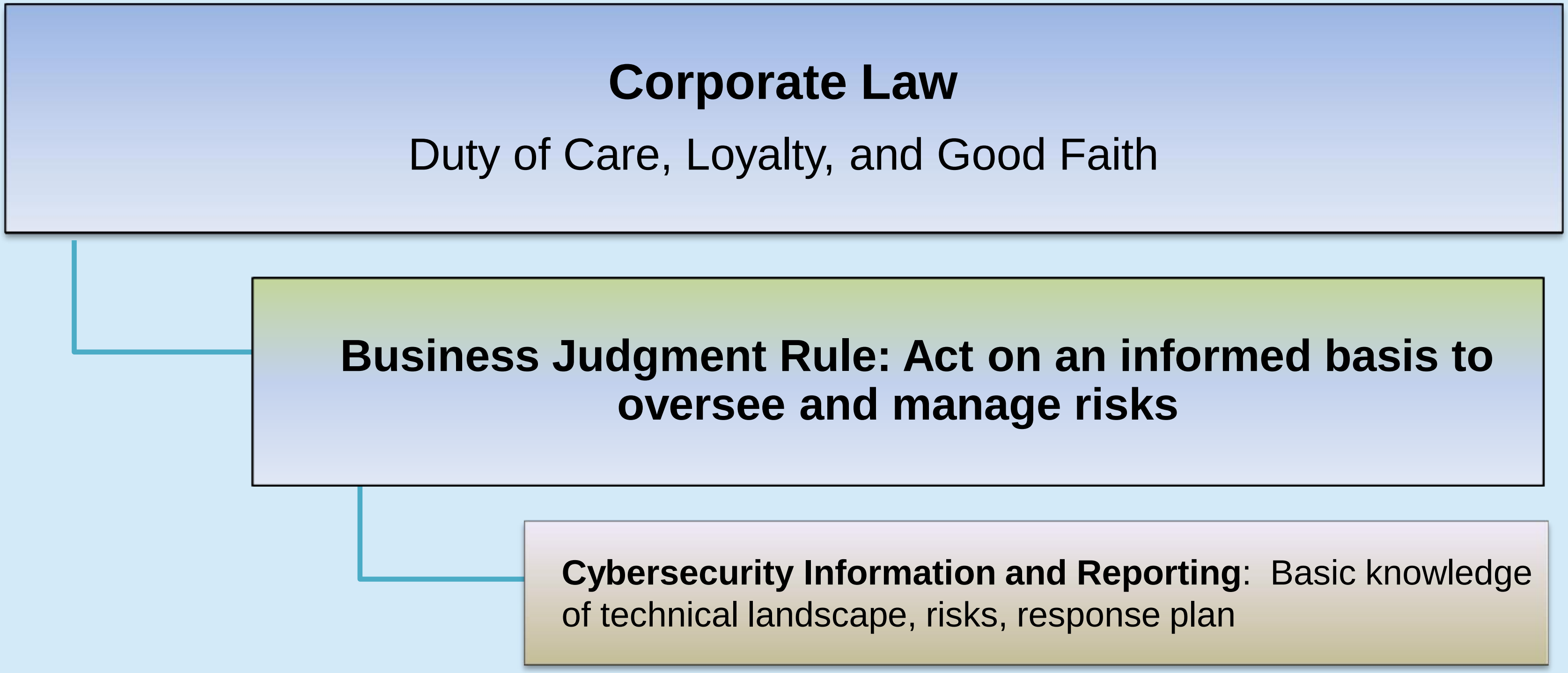
Enforce-ment Actions (e.g. FTC, SEC)

Federal Legis-lation

# Cybersecurity Risk Environment


Risks & Vulnerabilities
Mitigants
External Cyber Attack
Insider Threats (Intentional or Inadvertent)
Employees
Third Party Service Providers
Organization's Critical Services, Networks, & Data
Cyber Risk Management & Oversight
Threat Intelligence and Collaboration
Cybersecurity Controls
External Dependency Management
Cyber Incident Management and Resilience

# Legal Framework: Directors’ Duty of Care



**Corporate Law**

Duty of Care, Loyalty, and Good Faith

**Business Judgment Rule: Act on an informed basis to oversee and manage risks**

**Cybersecurity Information and Reporting**: Basic knowledge of technical landscape, risks, response plan

**Other considerations, including: Applicability of authorizing statutes and financial regulation**

e.g., FDIC, Fed, and OCC - Relevant expectations and guidance.

# The Context for Becoming (and Staying) Informed

Enterprise Wide Risk Management: Cybersecurity as part of enterprise-wide risk management

Cyber Risk Implications: Understand the legal, operational, and financial implications of cyber risks related to organization’s mission

Access Expertise: Access to cybersecurity expertise, regular discussions, and updates

Require a Framework: Expectations that management establishes an enterprise-wide risk management framework with staffing and budget

Risk Decisions: Accept, mitigate, transfer

# Director Oversight of Cybersecurity Questions to Ask

## Enterprise Wide Risk Management

- How frequently are “health checks” completed by auditors.

## Cyber risk implications:

- What are the **top five risks the organization** has related to cybersecurity, what are the critical data/systems?
- How are **employees made aware** of their roles?
- What types of **connections** does my firm have (and how are they managed)?
- What risks are associated with **third party providers**; how are they managed?
- What is the data breach, what is the **incident response plan** (and is it robust enough)?
- Has institution tested recovery of critical systems (i.e. **resiliency**)?
- What **data breach laws** apply?
- What major **cyber attack attempts have been made** against the organization?
- Does the organization gather, analyze, and leverage **threat and vulnerability information** from multiple sources?

# Director Oversight of Cybersecurity Questions to Ask

## Require a Framework*

- Does the organization use a **security framework**?
- How is **security governance** managed within the organization?
- Does the **budget** align with similarly situated entities?

## Accessing Expertise

- How often do we **meet with Chief Security Officer**?
- What reports are provided on the **cyber events and trends**?
- Has **management** established **relationships** with appropriate national and local authorities who are responsible for cybersecurity or cyber-crime responses?

## Risk decisions

- What risks were **avoided and accepted**?
- Is **cyber insurance** an option and if so sufficient?

**For example, written security standards and practices covering the identification and classification of data, where and how data is stored, access to data, anticipated exposure, and breach response protocol*

# On-going Practices to Support Director Oversight

| ***Well informed and knowledgeable about, and act in a deliberate manner in  the oversight of, the organization’s cybersecurity program.*** | |
|---|---|
| Appoint one or more qualified officers to be responsible for the organization’s cybersecurity program | ✓ |
| Preserve and cultivate expertise of one or more IT/cyber-savvy board member(s) (identify director(s) monitor and report to the board on cybersecurity matters) | ✓ |
| Have access to, and leverage as needed, internal and/or external cybersecurity expertise | ✓ |
| Be aware of best practices and leading industry “standards” | ✓ |
| Engage internal and/or external auditors to assess the organization’s program from time-to-time | ✓ |
| Review, discuss, and be periodically updated on the organization’s cybersecurity program | ✓ |

# Legislative Developments: Information Sharing under the Cybersecurity Act of 2015

## Authorizes organizations to engage in activities to combat cyber threats:

- Sharing of information related to cyber threats (but generally no personal information; use of information is limited)
- Monitoring information systems
- Conducting defensive measure (but not hack backs)

## Protections under the Act

- Liability protections
- Sharing protections (e.g., not subject to FOIA, no anti-trust violations for sharing)

## Current Sunset:  December 18, 2025