

Data Breaches and the Private Credit Market: Assessing Borrower Cyber Preparedness: Part 1

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Hackers seeking access to confidential material and personal information about clients, partners, investors and employees have proved to be costly and dangerous for business owners. Given the material costs and reputational harm associated with a data breach, lenders should remain vigilant for potential cybersecurity-related pitfalls in their credit documents. Understanding how to assess companies' vulnerabilities and how to address them during diligence and documentation will help them maintain a constructive partnership with their borrowers in the event of an incident and arm them with knowledge necessary for a fulsome underwriting process.

Healthcare, software and technology, and business services were the three leading borrower industries represented in the over 400 financings Proskauer's private credit group closed in 2021, comprising half of the transactions. Given the amount of capital flowing into these spaces, lenders need to be aware of the costs and risks associated with cybersecurity incidents, and also what steps can be taken to protect their credit.

In this first part of a two-part article series, we discuss the cost of breaches, why vigilance is urgent and proactive steps to take to assess a borrower's preparedness. Part two will cover how to prepare for and address a borrower's breach.

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