

TAKING INVENTORY OF INSURANCE COVERAGE: CORONAVIRUS

PROPERTY AND BUSINESS INTERRUPTION

Standard commercial property insurance policies are unlikely to respond, as there is no physical damage to insured property. In large, without physical damage, business interruption coverage would not be triggered.

Many commercial property policies provide coverage for business interruption losses sustained when a civil authority restricts access to an insured premise. This coverage is often subject to a physical damage trigger. Depending on specific wording, a policy might respond to current outbreak.

The Insurance Services Office (ISO) recently released two optional endorsements, which provide clear but limited business interruption coverage for Certain Civil Authority Orders relating to Coronavirus. Depending how the policy is structured, coverage could apply to scheduled locations and/or dependent properties. While these endorsements are not yet in use, a sublimit and narrow coverage period would apply.

CARGO AND SUPPLY CHAIN

We anticipate a large number of cargo and supply chain losses as a result of the Coronavirus outbreak. Policy holders will experience some of the same hurdles as seen under a property policy. Without physical damage, triggering coverage losses will be hard to recover. While some policies have an extension for disease-related delay, the coverage grant is often narrow in focus.

A specialized policy is available for supply chain exposures; mostly used for just-in-time manufacturing. These policies are subject to sizeable minimum premiums. The intent is to cover business interruption due to delayed inventory. One such policy trigger is the World Health Organization declaring a Public Health Emergency of International concern. The underwriting process is rigorous, and often exposures are limited by exploring and reducing potential bottlenecks.

EVENT CANCELLATION

In general, policies do offer, as an option, coverage for communicable disease. With the recent outbreak, insurance carriers are now including a Coronavirus exclusion to the communicable disease extension. This exclusion is on any new quote or placement since the end of 2019.

GENERAL LIABILITY

General Liability policies cover claims involving bodily injury and property damage resulting from your products, services and operations. Policies are designed to protect businesses against third-party claims for bodily injury resulting from harmful conditions and could cover illness involving third parties. General Liability policies usually provide legal defense against such claims. Policy terms, conditions and exclusions should be carefully reviewed. There is thought that insurers could invoke the expected or intended injury exclusion.

WORKERS COMPENSATION

Policies provide benefits to employees who have contracted an illness that qualifies as an occupational disease under state law. The illness must arise out of and in the course and scope of employment. The illness must also arise out of conditions peculiar to the work. These could be challenging to prove.

WORKERS COMPENSATION, FOREIGN VOLUNTARY

Policies typically provide state or country-of-hire benefits. Policies also typically include repatriation coverage in the event an employee need to be evacuated to any country.

EMPLOYERS LIABILITY (AND STOP GAP)

If an employee believes they have contacted Coronavirus through work, travel related or otherwise, they might claim the illness is a result of their employer's negligence. A suit could be filed against the employer's liability coverage.

BUSINESS TRAVEL ACCIDENT

A business travel accident policy with an out-of-country medical coverage grant could provide coverage if a workers' compensation policy does not cover an employee falling sick due to viral illness. These policies typically do not include pandemic/epidemic exclusions. Medical evacuation coverage could apply. Family members and dependents may be added.

HEALTHCARE

In addition to medical insurance, employees may also be covered by state and employer's disability insurance.

ENVIRONMENT/POLLUTION

Businesses could incur disinfection costs and might be forced to temporarily close by governmental authorities. Coverage could be triggered depending on policy language. Policies typically require that locations be scheduled for coverage to apply.

DIRECTORS & OFFICERS

Directors and Officers policies exclude coverage for bodily injury. Some exclusions are absolute, while others are more forgiving. Policies may respond to shareholder litigation for economic loss due to mismanaging the Coronavirus exposure.

EMPLOYMENT PRACTICES

Like Directors and Officers coverage, Employment Practices Liability policies exclude bodily injury. There could be situations where employees claim unsuitable working conditions, or where employees seek accommodations due to working from home or while under quarantine. At this time, it is unclear how coverage may apply.

Several insurance policies provide crisis management support and crisis management expense reimbursement. Refer to policies for terms.

Please note, this review is intended to be general in nature versus industry specific. There may be other insurance that applies, such as medical malpractice, and would depend on your industry. Please look at the specific wording in each policy.