

# Business Interruption and the Coronavirus (COVID-19)

March 20, 2020

## Will my Policy Respond?

As the coronavirus pandemic grows and companies face swift reduction in sales and disruptions to the supply chain, many businesses will want to know if any insurance coverage exists within their current program.

Business interruption is written to cover lost income and extra expenses as a result of "direct physical loss or damage to covered property." This means that unless there is direct loss to property resulting from a covered peril, there is typically no coverage for business interruption loss under the policy. Most policies further limit exposure to pandemic-type claims through disease/virus/pandemic and other pointed exclusions (see more below). Unfortunately, it is expected that the carriers will likely deny coverage for most business interruption claims based on a perceived lack of coverage trigger, the existence of policy exclusion(s), and/or the fact that coverage for pandemics was not contemplated by the insurance market as a whole. It is anticipated that absent assistance by the Federal and/or State governments, coverage for most business interruption losses will not trigger the policy.

## What is business interruption and what triggers it?

Business interruption provides coverage in cases where businesses are unable to operate normally after a covered peril. Examples of covered perils include fire, windstorm, and others as listed within each individual organization's policy.

A key element that enables the insurance policy to respond at the time of loss is typically referred to as the trigger. Triggers generally include:

- A covered peril listed on the policy
- A time element component of anywhere from zero to 72 hours, or more
- A direct physical loss, which is required

As mentioned above, the various forms, endorsements, and exclusions contained within each individual policy can, and will, change coverage triggers under each policy. To reiterate, in most cases, policies will have exclusions relating to viruses and diseases. Therefore, policies should be

reviewed with these points in mind. If you have questions regarding your policy, its particular language, or endorsements, please contact your Alliant broker for a review.

## **Virus and Communicable Disease Exclusion and the Markets**

Each carrier provides differing terms, conditions, and coverages. The London markets have offered this coverage for specific business exposures. Certain limited industries may also have coverage for this type of event embedded into their policy as a best practice by some domestic carriers. However, since the SARS outbreak in 2003 many, if not all, domestic insurance carriers took steps to insulate themselves from pandemic exposure. This led to an industry-wide, mandatory implementation of virus exclusions on all policy renewals. Unfortunately, these exclusions remain on most policies and are standard for the insurance market today. Therefore, it is important to review the terms of each policy in order to understand how coverage may or may not apply in any given situation.

Lastly, we understand that there are currently discussions within many State governments, as well as the Federal government, regarding a potential mandate obligating insurance carriers to extend business interruption coverage to those affected by the pandemic. At this moment, those efforts appear to be targeted mostly at providing aid to small businesses (i.e., companies with fewer than 100 employees). These discussions are changing by the moment and are in no way set in stone. We recommend that you continue to monitor the developments of these discussions as they relate to your business. However, we caution that you should not expect any immediate change in legislation to affect coverage for coronavirus claims at this time.

## **Governmental or Civil Authority Order**

Certain policies provide coverage in the case of government-ordered shutdowns. In these particular circumstances, coverage may exist absent the policy containing a pandemic/virus exclusion. As the repercussions of the coronavirus continue to unfold, there may also be potential for coverage to exist under the denial of access to property clause of the policy. However, at this point, it is too early to tell how or whether policies and/or specific coverages will apply. It is essential that you keep up-to-date with local, State, and Federal updates regarding shutdowns and other important information during this time. Additional timely information can be found on the following websites:

- [Centers for Disease Control and Prevention \(CDC\)](#)
- [World Health Organization \(WHO\)](#)
- [Occupational Safety and Health Administration \(OSHA\)](#)

Every organization needs to carefully review its policy with their broker and be prepared to potentially present a claim and quantify any loss with all necessary information and supporting documentation.

## Claims

It is important to report business interruption claims to the carrier in order to preserve any potential coverage under the policy and/or law. It is imperative to keep clear and accurate documentation of a decline in revenue and/or increased costs as a result of this event. When reporting claims, please remember to summarize any pertinent facts and quantify the loss as best as possible at the time of notice. Thereafter, work to preserve via documentary evidence, all expenses and lost business revenue.

In particular, we recommend:

1. Compiling and preserving documents that demonstrate historical financial performance such as:
  - i. Historical financial records tracking revenues and expenses of the business, division, and any product lines impacted
  - ii. Financial statements (annual, quarterly, and monthly)—preferably audited, but can be internally generated in the normal course of business
  - iii. Business tax returns, including supporting schedules
  - iv. General ledgers and/or open balances
2. Create a separate account to track expenses specifically incurred in connection with the claim
3. Create detailed financial forecasts and budgets based on historical financial performance of the business, division, and product line to demonstrate loss based on expected financial returns had the event not occurred
4. Compile customer contracts and/or specific revenue lost by failed performance to demonstrate loss and whether it is temporary or permanent
5. Any other information that is necessary to support a decline in revenue and/or increased costs to the business

We note that meticulous documentation is key to submitting business interruption claims. The more documentation and proof that can be provided, the smoother the administration of the claims process will be with the carriers.

If you have questions about filing a claim, please contact your Alliant broker and they will be happy to provide assistance.

**Disclaimer:** This document is designed to provide general information and guidance but has not been customized for any client's particular situation. Alliant Insurance Services does not provide legal advice or legal opinions. If a legal opinion is needed, please seek the services of your own legal advisor or ask Alliant Insurance Services for a referral. This document is provided on an "as is" basis without any warranty of any kind. Alliant Insurance Services disclaims any liability for any loss or damage from reliance on this document. This document does not create an attorney-client relationship nor does it constitute attorney advertising.