



Insurance

COVID-19 and Insurance Coverage of Businesses

On 11 March 2020, the World Health Organization officially characterized COVID-19 as a pandemic raising the health emergency to its highest level. The situation appears ominous as the number of cases of COVID-19 has increased exponentially globally with about 114 countries affected. Currently, whilst the increase appears to have slowed significantly in China, other countries are now experiencing worrying signs of community outbreak. In the past two weeks, the number of cases outside China has increased 13-fold.

Countries are implementing unprecedented measures to curb the spread of the virus, including cancelling all mass gatherings, closing schools and public facilities, suspending all travel from high-risk countries as well as quarantine measures. Many businesses have already been impacted by the outbreak and the measures undertaken are compounding the challenges faced by businesses. From an insurance perspective there are implications across various lines including travel, medical, credit, event cancellation and business interruption. As businesses struggle to pay bills, there will be an increase in insolvencies and this will impact trade credit insurers. Certain travel insurers in the UK have withdrawn cover for future coronavirus claims. This article however will focus on business interruption insurance and event cancellation.

Business interruption insurance

Businesses often insure against the risk of material damage to property including risk of business interruptions arising from such property damage, resulting in partial or total closure of the business, which in turn leads to loss of profits. Insurance against such losses are often called “business interruption” insurance (“BI”).

Traditional BI coverage is limited to where the commercial property suffers typical exposures, such as a fire, a flood, or other natural disasters. Where a business suffers interruption due to a pandemic, and

has to suspend operations, there is no “physical damage” falling within the definition in the property policy. Business interruption policies may however extend cover to business interruption even when there is no physical damage, for example, denial of access or more specifically in this situation, infectious diseases extension. This type of cover is not always included.

Although there are standard wordings, whether businesses can recover for losses arising from COVID-19 depends on the specific wording of their insurance policies as such extensions are often subject to negotiation and dependent on the nature of the business risk. The insuring clause of an infectious diseases extension may provide that losses result from notifiable human infectious or contagious disease. Coverage is thus contingent on whether the relevant government authority has declared the disease to be notifiable and prior to the disease being declared as such business interruption losses suffered by the insured will not be covered.

Other common wordings include “*closing of the premises by order of a public authority as a result of an outbreak of a notifiable disease*”. This requires a closing order from a public authority, narrowing the scope of coverage. Depending on the actual wordings of their policies, businesses which have decided to voluntarily suspend operations to avoid spreading the virus would not be able to claim on their policies.

Another type of extension is contingent BI, which covers losses suffered as a consequence of damage to property of any direct supplier or customer. Contingent BI may also cover non-physical business interruption, which means businesses may claim for losses arising from the forced closure of suppliers or customers around the globe. Again, this depends on the wordings of the policies.

It is also important to note to seek cover for business interruption losses, the insured need to prove the losses claimed were caused by COVID-19 outbreak (or the restrictions imposed by the Government). This may be difficult when there is general downturn of business. For example, it is possible that even before the mandatory closure of the business, there were very few customers visiting the insured’s business due to fear of the virus. In these situations, there may be various issues on the quantification of the loss.

With uncertainty around whether policies provide cover for losses arising from COVID-19 it remains to be seen whether insurers will develop bespoke policies providing specific cover by way of an extension to the traditional business interruption policy or have such losses subject to higher deductibles or sub-limits.

Event cancellation insurance

Event cancellation insurance covers losses arising from cancellation of one-off events. Professional sporting events, festivals, concerts, and conventions may be costly to plan and host. Countries have already cancelled top-league sport events, artists have cancelled concert tours, and even the upcoming Olympics to be held at Tokyo this year is under the looming threat of COVID-19.

The coverage of any event cancellation insurance depends on the wordings of the policy. Some may be general and offer cover for cancellation due to any reason beyond the control of the event organiser, whereas some may specify the reasons for cancellation. Businesses also have to be aware of any exclusion for communicable or contagious diseases. These exclusions may also exclude cancellations

arising from fear of spread of pandemic.

Conclusion

Businesses should review their insurance policies to assess whether their insurances are adequate to protect against the risk of losses arising from COVID-19. Coverage needs to be assessed on a case-by-case basis with careful review of the policy wordings and there is no one-size-fits-all solution.

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