



How the Coronavirus is Impacting Insurance Markets, So Far

The global community is more interconnected than ever before. Widespread travel and business relations requiring international supply chains make pandemics a more likely threat.² The emergence of the new coronavirus (COVID-19) illustrates the far-reaching impacts as the spread of the virus closes businesses, halts travel, and disrupts shipping and supply chains, resulting in billions of dollars in economic loss.⁸

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Coronavirus Could Cost the Global Economy \$2.7 Trillion.¹⁵
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A VARIETY OF COVERAGE MAY APPLY

Property

COVID-19 is likely to impact businesses both directly and indirectly, inspiring policyholders to evaluate both first-party and third-party coverages for relief from losses. With any claim, policy language, specific triggers, and loss drivers must be evaluated to determine if coverage applies. It's expected that most property policies may not be triggered by COVID-19 losses because shutdowns caused by pandemics generally do not meet the physical damage trigger requirement inherent in standard property policies, and pandemics are often specifically excluded.³ However, there may

be a property coverage extension available from some markets that includes coverage for business income losses resulting from the enforcement of a law or ordinance by an authorized governmental agency intended to mitigate the spread of communicable disease. The coverage effectively adds a communicable disease trigger to the Civil Authority coverage extension. The coverage is generally reserved for clients meeting a certain premium threshold on their all-risk policy and is typically provided with a sub-limit not to exceed \$250,000. Most large company carriers' underwriting authority caps out around \$2.5 - \$5M for larger entities such as hospitals or casinos. Due to increasing concerns around COVID-19, most carriers are performing internal audits to quantify their exposure to the virus whether extended through the Interruption by Communicable Disease Extensions or embedded within manuscript forms. Not only are carriers re-examining communicable disease coverages, but they are also taking a close look at other property coverage extensions that do not require a physical damage trigger. It is not unreasonable to expect a reduction in underwriting authority for these coverages, which will lend itself to additional exclusions or nominal sub-limits intended to act as a defensive cover.

Environmental

Outside of the property arena, some may begin looking to environmental insurance policies to address coronavirus related losses. So far, the environmental marketplace has been divergent in their response to COVID-19. Over the last 7-14 days, a few carriers have established that all new environmental quotes issued will contain a virus or coronavirus-specific exclusion or some form of communicable disease exclusion. On the other hand, some of CRC's environmental carriers have taken the opposite approach and are viewing this outbreak as an opportunity to provide affirmation of varying degrees of coverage for virus/bacteria by including it in the policy's definition of microbial matter, pollutant, or pollution condition. Some policies may cover bodily injury, property damage and clean-up costs while others may only offer coverage on a sub-limited basis for clean-up costs or disinfection expense. In either case, the bodily injury and property damage coverages are 3rd party claim triggers, while disinfection or clean-up is commonly a first party coverage. While it's too early to tell how many clean-up or disinfection claims will roll in, the environmental insurance market will likely treat COVID-19 in the same manner as previous outbreaks, including SARS and the Zika virus. Those outbreaks also inspired strong initial market reactions, but actual exposures didn't materialize to the extent expected.

Workers' Compensation

As the COVID-19 impact grows, many businesses have also begun to question if an employer can be held liable if an employee tests positive for coronavirus or causes it to spread. Generally, Workers' Compensation (WC) may not cover claims based on communicable diseases; however, there may be exceptions depending on how and where the coronavirus is contracted. OSHA has issued a reminder for employers that COVID-19 is not exempt and is considered a recordable illness, subject to all the same rules and failure-to-record fines as other workplace illnesses or injuries. The regulatory agency has also advised employers to develop infectious disease preparedness plans and implement basic infection control protocols to help prevent further spread of the virus.¹⁸ If more than one employee or individual were involved, a WC claim could be considered a catastrophic loss or exposure claim, and could kick in full policy limits. Excess WC policies that incorporate a communicable disease event aggregate or crisis management expense reimbursement coverage have been aimed at the healthcare sector and are currently available in the market.

Management Liability

Management Liability is another area that will likely feel the impacts of COVID-19. Just a week ago, the U.S. Securities and Exchange Commission advised companies to disclose information related to coronavirus, which could have implications for an influx of public company D&O claims. Private companies could also be impacted. In the past, outbreaks have generally not resulted in substantial D&O litigation, but over the past few years, event-driven litigation has become a greater focus. Adverse corporate events including accidents, explosions, mass tort episodes,

sexual harassment claims, and cyber issues have impacted business operations and led to litigation.¹⁶ Additionally, if appropriate business interruption coverage isn't in place, and there is an economic loss that leads to a plummet in stock prices, then a D&O claim could emerge. Policyholders should ensure they are in compliance with SEC disclosure guidelines and that they maintain an environment of transparency regarding earnings projections, workforce reductions, etc. to ensure that shareholders are continuously aware of the organization's financial and operational status.

There are a few other items that both private and public companies should also be mindful of. The first is the absolute wording around the bodily injury exclusion in the D&O policy. Insured's should attempt to have the language amended to the less strict "for" wording and try to include the security claim carve back. It might also be beneficial to have the security claim carve back wording included in the pollution exclusion as well. Insureds should also consider obtaining Side A DIC coverage. These policies usually do not include pollution or BIPD exclusions and should drop down to primary coverage when the primary will not cover claims. Additionally, if a COVID-19 event causes an organization to be unable to keep their doors open, this policy may provide added protection for the organization's Directors and Officers. Going forward, we may also see an increase in mergers and acquisitions if companies sustain a severe financial loss and can no longer afford to stand alone. Looking closely at any mergers and acquisitions exclusions, antitrust exclusions, or merger and acquisition retentions should be considered. In addition to D&O suits, insureds could also face lawsuits and claims related to employment practices liability exposures due to coronavirus.¹⁶ EPL coverage may be impacted if an employer were to discriminate against an employee for falling victim to the virus, refusing to travel, or requiring work-at-home arrangements. Employers should adhere to ADA and FMLA guidelines while also keeping an eye on wage and hour laws to ensure employees are compensated appropriately.

A CLOSER LOOK: BUSINESS INTERRUPTION & SUPPLY CHAIN ISSUES

Insurers report that they're already seeing thousands of Business Interruption (BI) claim notices, due in large part to supply chain problems. Many U.S. based companies depend on Chinese companies to supply needed components such as memory chips.¹ Foxconn, an iPhone manufacturer, has halted almost all Chinese production, and Apple has stated it will not meet quarterly projections based on supply chain issues.⁹ Global businesses including Hilton, Intercontinental Hotels Group, Starbucks, and McDonald's have closed many locations.⁹ Recent reports estimate weekly trade losses of \$26 billion based on COVID-19 restrictions, and some are suggesting that the year's global economic growth could be reduced by as much as 50%. The only other event in recent history with a larger economic impact was the financial crisis of 2008.¹⁴

While the situation is still developing, it's anticipated that business interruption and contingent business interruption will be the most difficult claims area when it comes to supply chain issues.³ This is largely because a contingent business interruption claim is typically triggered by a direct physical loss or damage to the property of a defined supplier or customer.¹⁴ Business interruption policies were more permissive in the past, but after viral epidemics including SARS in 2003 and Zika in 2015, many carriers tightened terms and conditions after realizing claims ratios could easily be upended by disease outbreaks.¹⁴ However, to the extent that clean-up cost is triggered in an environmental policy, the business interruption coverage provision may be triggered and could generate payment only for the cessation of operations during the course of cleanup.

Policyholders can help guard against supply chain issues and potential business interruption claims by understanding their largest vulnerabilities and taking action to mitigate the risk. By mapping upstream suppliers several tiers back, organizations are able to respond with more agility and better estimate impacts when a crisis arises. Often, supply chains have dependencies that put customers at risk. Re-designing supply chains to include second sources outside the

region of the primary source or partnering with local sources of supply in each of a business's major markets helps to mitigate the risk. It's important to create business continuity plans that provide contingencies in vital areas and include clear backup plans for transportation, communications, supply, and cash flow. It's also important to maintain a backup plan for people, including contingencies for increasing automation, providing remote working arrangements, or other flexible HR in response to large-scale personnel constraints.¹⁷

Taking steps to reduce risk will be even more important going forward. CRC has found that some carriers would no longer offer BI coverage related to coronavirus on recent renewals, other carriers offer Time Element clauses intended to cover losses caused by lack of access to covered premises due to civil order regarding contagious or infectious disease. It's also become more common for carriers to provide policy extensions to cover denial of access or BI for schools, hotels, or restaurants.⁷ In addition, the Insurance Services Office (ISO) has recently released two optional commercial property endorsements to provide limited BI coverage for coronavirus-related losses due to civil authority orders.¹² The endorsement COULD RPPLY IF THE Covered Property Is Required To Close Or Put Under Quarantine To Help Limit The Spread Of The Coronavirus Or Is Dependent Upon A Supplier required to close by order of a civil authority for the same reason.⁹

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Some Reports are Suggesting that the Year's Global Economic Growth could be Reduced by as much as 50%.¹⁵

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LOOKING AHEAD: EMERGING EXCLUSIONS, COVERAGE OPTIONS & CLAIMS

Similar to the response after past outbreaks, additional coronavirus exclusions are beginning to pop up. Recent CRC quotes for Communicable Disease coverage have found that markets willing to entertain the coverage now specifically exclude COVID-19, and could require very large premiums without specifying limits or deductibles. Some carriers are declining to provide Communicable Disease quotes at all, even without any mention of coronavirus. As travel companies brace for an onslaught of claims due to cancelled flights and closed borders, insurers are also moving to add coronavirus exclusions to event cancellation insurance and discontinuing coverage offerings for future policies.^{2,3} It's likely that carriers won't include coronavirus language until at least 12 months have passed from the last known issue and care, protocol, and vaccines have been introduced. In addition, some Trade Name policies meant to cover business interruption and public relations costs due to food contamination issues are also adding specific coronavirus exclusions. CRC will continue to monitor exclusionary endorsements as it is likely that carriers will continue introducing exclusionary language and/or sub-limits related to coronaviruses.

While there are new exclusions to consider, additional coverage options are also emerging. Prior to the current coronavirus outbreak, the industry had seen liberalization of terms and conditions over the course of several years, and carriers began developing proprietary coverages as a competitive advantage. There are now some carriers offering coronavirus expense reimbursement coverage as part of Hospital Professional Liability policies. This ala carte coverage focuses on reimbursing expenses related to disinfection, purchase of specialized equipment, and public relations for coronavirus events confirmed by the CDC.¹⁰ There are also customizable indemnity coverages available meant to protect global business operations in the hospitality, travel, education, real estate, and retail food and beverage industries.⁶ Some carriers are also offering healthcare providers infectious disease BI coverage and cleanup expense.¹⁰

To prepare for the impact of a global pandemic, policyholders, insurers, and brokers must understand coverage parameters, and should work together to minimize losses by evaluating potential claims as early as possible.⁹ Policyholders should reach out to discuss the insurer's requirements around providing infection details and documentation for claim submissions. This could include documentation from suppliers that are unable to deliver on their contracts and/or proof of government-mandated closures, detailed visitors logs, proof of declining business activity based on forecasted and actual revenue, or confirmation of additional costs incurred from mitigation activities. It's also good practice for policyholders to document potential costs such as cancelled orders, supply chain breakage, and lost profits. Even if these losses aren't ultimately covered under an insured's insurance program, the data can inform future risk management strategies.¹¹

IMPACT ON THE INSURANCE CYCLE

Insurers are still formulating responses to the current outbreak and are in the process of putting together best practice guidelines for policyholders. Carriers continue to underwrite based on class, occupancy, and facility use, with healthcare facilities, hotels, and multi-family habitational units receiving greater scrutiny from underwriting than industrial facilities. No specific underwriting questions have emerged yet, and it's too early to tell how premiums will be affected as most carriers are taking a "wait and see" approach to determine if this will be a seasonal virus influenced by the approach of warmer spring and summer months.

The more extensive the COVID-19 epidemic becomes, the more likely it is to affect policyholders at renewal and carriers will be scrutinizing new business submissions more closely. It's critical that policyholders review current insurance programs with knowledgeable brokers to determine if all appropriate coverage is in place to potentially protect against future losses.^{2,3} Agents and policyholders should start reviewing coverages 60-90 days out from renewal. It will be up to the insured, broker, and agent to paint a clear picture of the operational controls and management practices in place to mitigate outbreak impacts. It's also expected that markets may begin requesting copies of infection management protocols for review prior to quoting. If they haven't already, agents should encourage policyholders to start reviewing their pandemic and infection control policies and procedures to ensure they're taking all appropriate steps to manage outbreak risks. Policyholders that are unsure where to start can look for coronavirus risk management materials that will likely be made available by carriers in the coming weeks.

At renewal, policyholders should also consider new exclusions or language adjustments to determine if the purchase of additional coverage is warranted in light of each business' unique needs and risks. When in doubt, environmental insurance may be a great place to look for coverage applicable to coronavirus. Because environmental policies do not use ISO standardized policy language, the offerings can vary significantly from carrier to carrier and partnering with a broker that is well-versed in the environmental sector is vital.

BOTTOM LINE

The COVID-19 outbreak provides a prime example for how complicated insurance can be.⁴ It's important that policyholders review all insurance policies when evaluating potential coverage for coronavirus-related losses.⁵ No one knows how prevalent COVID-19 will become and hazards can affect business operations differently. However, after experiencing multiple global catastrophic events including hurricanes, wildfires, and previous outbreaks across the last decade, carriers have gained valuable experience handling unexpected events affecting large populations.² Collaborating with trusted insurance specialists can empower organizations to maximize recovery and build resilience against future calamity.⁵ CRC Group's producers are able to leverage industry experience and vast market access to evaluate an account's initial exposure and take appropriate next steps for risk transfer where possible. Agents with any questions should contact their CRC Group producer to discuss how we can help clients prepare for and protect against the effects of a serious illness outbreak.

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