

## CORONAVIRUS RESOURCE CENTER

# A Discussion Guide: Coronavirus and Insurance Coverage Considerations

COVID-19, known more commonly as coronavirus, has resulted in serious disruptions to global supply chains. The health and economic impact on businesses and everyday life is one that continues to escalate as the epidemic becomes more widespread.

With the steady rise in claims, coverage for risks related to the coronavirus are being questioned daily. These preliminary actions will allow you to take action and get the best support through the process:

- **Report Claims Immediately:** Time is of the essence. Exposure and potential claims need to be submitted as early as possible. This will allow for a thorough and efficient review of the case and coverage scenarios.
- **Review Policies:** Working with your broker, a careful analysis of current policies, both primary and excess, will reveal whether an event like this is covered by the insuring agreement, and whether any exclusions apply.

Many factors will determine if a claim will be covered, including the type of loss, the type of coverage and the terms and conditions of specific policies. Consider the following coverage risks related to coronavirus:

### **Business interruption/supply chain claims**

Business interruption (BI) coverage typically requires a degree of damage to the insured's property. However, there may be an argument that contaminated items such as airline tray tables, HVAC systems, assembly lines and such, could trigger property damage/business interruption if the contamination brings the insured's business to a stop. Contamination making property uninhabitable or otherwise unfit for use could qualify as property damage.

When endorsed onto the policy, contingent business interruption coverage (CBI) may apply to loss due to the suspension of the insured's operations caused by direct physical loss of or damage to dependent property, such as the premises of a key supplier, contractor or customer. There does not need to be damage to the insured's property. Rather, the insured would have to show covered property damage at the dependent property location and contamination may not be enough to satisfy those requirements. In addition, bacteria exclusions may also bar coverage.

## Preparing for potential BI/CBI claim

Policy reviews for BI or CBI coverage include provisions relating to mitigation costs or expenses to avoid loss that might be covered under the policy if steps not taken, definition of property damage and exclusions for virus, bacteria, pollution.

Companies may gather details in an effort to prepare for submission of coverage. Items to consider:

- Are supplier's premises/workplace/production lines/HVC or equipment, contaminated?
- Are employees unable to get to work because of illness, quarantine or inability to commute?
- Is the supplier workplace under quarantine?
- Are they unable to produce goods due to government order?
- Are their limitations on their ability to export or get goods to market?
- Have they had other physical damage?
- When might they be back in business?
- Do they have insurance or other type of assistance for recovery?

Companies also need to document financial loss due to the inability to get the necessary supplies by identifying revenue lost and costs avoided due to loss of supplier. Finally, review and collect the contracts they have with suppliers.

Steps taken to continue in business despite the lack of supplies should also be recorded, such as additional costs of using substitute supplier; or, cost of changing operations to continue in business, including modifications in process or materials used or change in business plan.

## Liability

Third-party liability claims for bodily injury could be brought against the insured client for failure to mitigate or warn others of risk of contamination and such claims could be covered under general liability policy. Check these policies for pollution, bacteria or virus exclusions.

**Potential D&O claims** — Shareholders may sue corporate officers for economic loss resulting from inadequate response to coronavirus. Most D&O policies exclude bodily injury but may apply depending on the wording of the bodily injury exclusion and the specific allegations in the shareholder's complaint.

## Event cancellations

The cancellation of large events due to the coronavirus has caused large losses under event policies. An event policy may cover the cancellation of a large event, if the event was due to take place in a country subject to travel bans or limits on public gatherings. It is imperative to review the exclusions from the policies.

## Mitigation damage and loss

Many first-party policies and some laws require the insurer to pay for insured's costs to reduce or mitigate a loss that would be covered under the policy if the insured had not taken steps at loss prevention. These may be covered even when there has not been property damage that would trigger coverage. Clients should do what they can to minimize the risk of property damage or bodily injury loss and document the steps taken and their costs.

## **Workers' Compensation**

Workers' Compensation (WC) could cover an employee with the coronavirus if it was deemed "occupational." Was the disease contracted during course of employment and/or was it contracted due to conditions peculiar to the work? Employers in the United States need to address their respective state workers' compensation laws.

WC laws will not address COVID-19 directly. They do address the question of employees exposed due to the nature of their employment and/or traveling overseas. Each state will have their own interpretation of the exposure.

## **Travel insurance**

With 200,000 flight cancellations so far, travel insurance claims are already mounting. Review policies to see if epidemics/pandemics are excluded in travel policies and whether your coverage has "Cancel for Any Reason" (CFAR) policy upgrade.

[Contact your FNA representative](#) for more information and assistance on client communication on this matter. For more Coronavirus resources, please [click here](#).

**DISCLAIMER:** The information provided is not intended to constitute legal advice and should not be relied upon in lieu of your own legal assistance. In the event that you would like additional information regarding your insurance coverage and overall preparedness, please reach out to your local FNA Representative.