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MARKETS

U.S. Businesses Gear Up for Legal Disputes With Insurers Over Coronavirus Claims

Business-interruption insurance policies typically exclude communicable diseases from coverage



Undelivered goods and supplies are disrupting business amid the coronavirus outbreak.

PHOTO: KRISZTIAN BOCSI/BLOOMBERG NEWS

By **Leslie Scism**

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Many U.S. companies think their insurance policies cover lost revenue from the coronavirus outbreak. But that may be up to the courts to decide.

Corporations already have had claims rejected for payments under a popular type of coverage called business-interruption insurance, according to industry brokers and lawyers. In the rejections, insurers cited various terms and conditions, signaling that companies' battle for recoveries will be slugged out almost policy by policy based on contractual language.

"There is no guesswork here: There will be insurance-coverage disputes," said Kirk Pasich, an insurance-recovery attorney in Los Angeles.

Mr. Pasich represents several clients from the retail, construction and entertainment industries who are gearing up for legal action after their business-interruption claims were rejected. They filed those claims related to projects in China or Italy that got caught in quarantines or other government action that revoked their ability to operate, costing clients up to tens of millions of dollars, he said.

"There is so much money at stake and strong differences of opinions as to whether insurance applies," he said.

The claims are mounting as the virus continues to spread globally. Growing numbers of companies are facing disruptions: closed plants, employees stuck at home, and undelivered goods and supplies.

Companies typically buy business-interruption insurance policies to cover lost income following hurricanes, earthquakes or events that cause physical damage to their property. However, insurers have added language over the years to seek to exclude communicable diseases as triggers, forewarned by the SARS scare in the early 2000s of the potential costs stemming from unknown viruses, according to brokers and lawyers.

If an insurer rejects a claim, policyholders can seek to identify ambiguities and nuances in policies to challenge in court. Legal experts say ambiguities typically are construed in favor of policyholders.

"History shows that necessity has always been the mother of creative interpretation of insurance policies," said Randy Maniloff, an insurance-coverage lawyer in Philadelphia at White & Williams LLP who represents insurers.

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In the face of a global health crisis, who should bear the main costs of lost revenue from interrupted business, corporations or their insurers? Join the conversation below.

It is a pattern that insurers know all too well from past disasters. Insurers for years resisted responsibility for much asbestos-related damage, lawyers said. The industry still has some \$18.4 billion in net reserves for future

payouts, according to the most-recent data from ratings firm A.M. Best Co.

Similarly, insurers said their standard homeowners policies excluded flood damage from Hurricane Katrina in 2005 in Louisiana, but they ultimately shelled out billions of dollars as desperate homeowners turned to the industry's deep pockets and found some sympathetic courts.

Insurance broker Robert Lane urges his clients to "presume there is coverage."

Mr. Lane, an executive vice president at brokerage Alliant Insurance Services Inc. in Newport Beach, Calif., said a few of his U.S. policyholders have filed business-interruption claims tied to the disruptions in Asia, and he expects many more.

He said one global insurer recently told him that it already had gotten "thousands of claims."



The Challenges Ahead as U.S. Works to Contain the New Coronavirus

For public health officials, strategies to contain the novel coronavirus inside the U.S. will likely shift as the number of new cases and deaths increase. WSJ's Brianna Abbott explains several challenges the country faces. Photo: David Ryder/Reuters

Paul McVey, a longtime executive at a brokerage unit of **Marsh & McLennan Cos.**, said he has been rereading contracts lately for business clients, focusing on such things as definitions of pollutants and contamination in policies' lists of exclusions. Also important is policy language regarding actions by civil authorities in establishing quarantine areas, he said.

Some policyholders "will say 'I have too much exposure'" to not pursue a potential claim, even if the insurer says coverage isn't applicable, Mr. McVey said.

Some companies have said publicly that they expect little in the way of coronavirus payouts from business-interruption policies.

"I think the right assumption here is that there will be relatively few policies that are implicated by the coronavirus," said Marriott International Inc. Chief Executive Arne Sorenson on his company's fourth-quarter earnings call on Feb. 27. "We'll obviously watch that and make sure we study it."

Many large U.S. and European property-casualty insurers said on their recent earnings calls that they have limited exposure to coronavirus-related claims under any type of coverage they sell.

Among insurers that have publicly addressed the matter, Chubb Ltd. Chief Executive Evan Greenberg told investors last month, "We see very minimal loss exposure from this," thanks to underwriting practices that reflect lessons learned from "past pandemics and/or potential pandemics." Chubb declined to comment further on the matter.

American International Group Inc. President Peter Zaffino said in a Feb. 13 earnings call that language in individual business-insurance policies will be key. He noted that **AIG** also has potential exposure as one of the world's biggest sellers of travel insurance. But "there's no indication in terms of claims activity" that is troubling, he said. The company declined to update the comments.

Insurers may also have exposure to the virus through directors-and-officers and errors-and-omissions liability policies, workers' compensation, general commercial liability, and travel insurance, brokers and lawyers say.

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