



CLIENT ALERT

Potentially Available Coverages for the Novel Coronavirus-Related Losses

By Rob Lane, John Ellison, Richard Lewis and Luke Debevec¹

The full impact of the novel coronavirus pandemic on people and property is not yet apparent, but businesses have already or may soon suffer losses covered by their business income, business interruption, crisis response or property insurance. In many cases, businesses will be able to seek recovery of lost profits and other response costs from their insurers.

Some policies will be triggered by closure of businesses for decontamination due to the presence or suspected presence of the virus on property; closure of property rendered unfit for intended use; closure of supply and access routes to businesses or loss of supply chains; restrictions ordered by civil or military authorities on travel or access to buildings or areas pending elimination of potential contamination; and the need to act to prevent or mitigate loss, among other possibilities. Other policies may contain bespoke endorsements related to viruses or outbreaks of communicable disease, such as provisions which directly insure against interruptions relating to the presence of communicable disease, or resulting from orders of civil authorities regulating the actual or suspected presence of a communicable disease. Examples of potentially applicable policies and coverages include:

- Property and All-Risks Insurance, including Time Element and Contingent Time Element and Extra Expense Coverage
- Business Income and Business Interruption Insurance, including coverage for Orders of Civil or Military Authority, Loss of Leader Property or Distribution/Supply Chains, Loss of Ingress/Egress, and Contamination or Communicable Disease
- Crisis Response and Crisis Management Insurance
- Key Person Coverage

Claims may be contested by insurers using familiar arguments, but policyholders should not presume they have no protection. For example, where property is contaminated or rendered unsuitable for use, this will often be sufficient to support a claim for recovery of property damage or business income loss, even without an additional alleged physical impact on property. Courts have considered contamination to constitute property damage where property is rendered unsafe or unfit for intended use. In some instances, even suspicion of contamination or damage, or efforts to comply with orders to prevent damage, will suffice to establish coverage for costs to remedy the issue.

Finally, losses related to a virus or alleged contamination may not be precluded by exclusions for "contamination," or referencing a "virus or illness causing agent." Many of these exclusions contain significant exceptions and important ambiguities, and others may not have received approval for use in the relevant jurisdiction.

While these and many other issues may be disputed when claiming coverage relating to the impact of the novel coronavirus, policyholders should not overlook the potential coverage available and check their policies and consult with us and, if needed, experienced insurance coverage counsel.

For more information contact:

Rob Lane, Esq.

robert.lane@alliant.com
(949)660-5902

¹Rob Lane is an Executive Vice President with Alliant Insurance Services who regularly advises Alliant clients on insurance claim-related issues. Messrs. Ellison, Lewis and Debevec are partners in Reed Smith LLP's Insurance Recovery Group who advise policyholders exclusively on claim-related issues around the globe. Alliant and Reed Smith regularly work together to assist their mutual clients on challenging claim issues like those arising out of the coronavirus.