



# CORONAVIRUS

And Your Business Insurance

**HYLANT**

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**As the coronavirus (COVID-19) continues to develop, we are providing this information to help you with your decisions as you address your treatment of this situation.**

Coverage during this issue will be determined by the specific wording within each policy. This unique situation will present challenges that have not been presented to the industry previously.

## CLAIMS ADVOCACY

As you address this situation, please reach out to your Hylant Client Executive to discuss the specific facts surrounding your organization's situation. Your Client Executive will work with you in assessing which policies may provide potential coverage.

At that time, your Client Executive will engage a Hylant Claims Team member that will support, guide and advocate on your behalf throughout the life of the claim.

As we stand together throughout these challenging claim situations, your Hylant Claims Team member will facilitate communication with the insurance carrier, championing for potential coverage and keeping you up-to-date every step of the way.

If you report any potential coronavirus-related claims directly to a carrier or third-party claims administrator, please also notify your Client Executive, who will engage a Hylant Claims Team member to advocate on your behalf early in the claims process.

## WORKERS' COMPENSATION

Workers' compensation (WC) policies cover injuries and occupational diseases that are due to causes/conditions specific to employment, occupation or trade, not for contagious or communicable diseases.

Situations will be judged on an individual and jurisdictional basis to determine compensability. The direct connection of "arising out of employment" and the contraction of the virus will be a critical component in this determination.

Some industries may have increased risks based upon their unique exposure versus the general population's exposure.

## FOREIGN VOLUNTARY WORKERS' COMPENSATION

Foreign voluntary workers' compensation (FVWC) provides unique coverages that complement domestic workers' compensation and business travel accident policies. Employees who are traveling for their work may qualify for coverage regardless of their industry's implicit exposure to coronavirus, simply because they are exposed by being on a business trip.

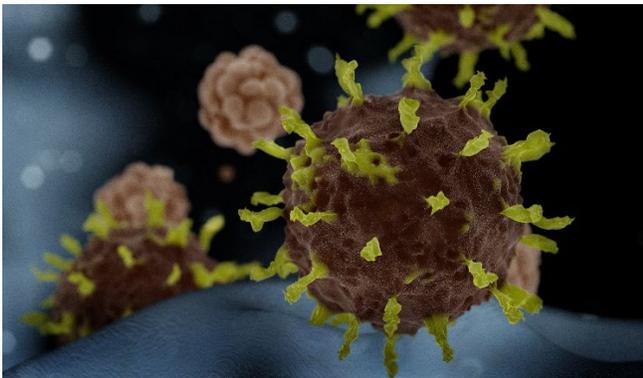
**Some specific coverages to note related to coronavirus include:**

- **REPATRIATION:** FVWC covers the expenses incurred in transporting the injured or ill employee back to their home country. It should be noted that coverage is triggered only if an employee has contracted the virus and **will not** cover the expense of repatriating employees as part of a precautionary evacuation.
- **ENDEMIC DISEASE:** FVWC covers illnesses resulting from endemic diseases—diseases that are commonly found in a specific area/region. Endemic diseases can pose coverage issues with the domestic workers' compensation, depending on the circumstances. It should be noted that coverage is **generally excluded** for pandemic disease.
- **EMPLOYERS LIABILITY:** Exposures to endemic-type illnesses may also produce employers' liability claims, alleging contraction of the related illness due to employer negligence. Recent global regulatory changes, such as the Duty of Care Act, force companies to adhere to a standard of reasonable care when directing employees to perform duties on behalf of the company.

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- **MEDICAL FACILITATION/GLOBAL MEDICAL ASSISTANCE:** Locate providers, medical monitoring and coordination of medical services. When a covered employee becomes ill or injured abroad within the course and scope of work, the FVWC claim helps ensure that the employee is safe and cared for.



## GENERAL LIABILITY AND UMBRELLA LIABILITY

General liability is designed to provide coverage for a third-party bodily injury claim that may have arisen out of the insured's negligence.

In this situation, a third party would need to provide significant information and details to connect their contraction with the insured. Some areas in which one may see increased risk is based upon exposure to harmful conditions and/or failures to mitigate or warn others of the risk of infections within your operation.

Much like Workers' Compensation, some companies will have higher risks for potential claims based upon their industry and exposure to the virus.

For those potentially significant claims, a review of Umbrella policies is necessary to evaluate if they would have any exclusionary language that is different than the General Liability policy.

## MARINE

The activity that will be viewed within this coverage will be disruption in a firm's supply chain. You may have suppliers located in countries that have stopped production and shipping of products, which in turn may cause a U.S. plant to shut down due to the lack of parts or products used in its manufacturing process.

The intent of a marine cargo and/or marine stock throughput policy is to provide physical loss of or damage to goods while in transit or being stored in a warehouse (if storage is included); therefore, the product must be lost or damaged for coverage to be triggered.

A review your policy for endorsements for extra expense, expediting expense, forwarding expense and voyage frustration is necessary, as this policy wording is not typically standardized.

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## PROPERTY

The coronavirus (or any similar pandemic) can create losses in property most significantly through business interruption, and by extension, contingent business interruption.

Given the fact that there is no physical trigger for loss, a standard property policy (property and business interruption) is limited in how it can respond to a claim.

With no physical damage, the coronavirus is going to have possible impact through a denial of access/ entry to your facilities by civil/military authority. The most useful comparison in recent memory is the Ebola outbreak in 2014, where insureds submitted claims on the basis that they were unable to access their facilities/continue production because their locations had been cordoned off or restricted due to efforts to contain the virus.

Any coverage associated through the peril of civil/military authority will most likely have a restriction to time and distance as well as a sub-limited dollar

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amount. Carefully review this peril wording, as most coverage forms will define the physical damage requirement for coverage. During this time, it is critical for insureds to document the ramifications of this event in great detail, for any potential claims will require significant information to be reviewed.

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## EXECUTIVE RISK

For directors and officers liability (D&O), a company's revenues could be materially impacted due to supply chain disruption or other virus-related conditions resulting in a share price drop. Those seeking to recover losses in this area will focus on crisis management procedures and alleged material misrepresentations regarding the financial impact of the coronavirus that could also lead to a reduction in shareholder value.

Event-driven shareholder litigation such as this has become an ever-increasing threat to companies and their directors and officers. Please note that the scope of the bodily injury exclusion may impact the extent of that coverage and should be carefully reviewed.

For employment practices liability (EPL), potential discriminatory treatment against employees in protected classes could occur with respect to travel bans, quarantines, work from home, wage and hour, privacy and other HR decisions reacting to the crisis.

For cyber liability, the virus itself will not cause any loss, but bad actors will provide ample click bait to the public surrounding this topic in an effort to gain access to systems, passwords and sensitive information. It is critical for all employees to maintain discipline when receiving and sending information.

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## ENVIRONMENTAL/POLLUTION

There will be no coverage for bodily injury or business interruption within these policies.

Some pollution carriers may provide disinfection costs for viruses and bacteria. Typically, if any coverage is afforded, it is limited to clean-up costs or disinfection costs and may have separate retentions and sub-limits.

In these situations, the trigger for coverage will generally require that the Centers for Disease Control and Prevention (CDC) or other health authority issue a directive for you to clean up viruses or bacteria. Many policies will explicitly exclude viruses and bacteria that are solely transmitted by human contact (communicable diseases, bodily fluids), essentially limiting coverage to "facility borne" viral or bacterial agents.

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## BUSINESS TRAVEL ACCIDENT

The benefit provided under a business travel accident policy (BTA) is for accident, illness or death while on business-required travel.

Business travel accident policies often include coverage for and access to travel assistance services. This policy may also contain coverage for repatriation or relocation if bodily injury is sustained.

Coverage should be reviewed to determine how it will interact with other policies and endorsements, specifically Foreign Voluntary Workers' Compensation. Some policies may exclude infectious diseases specifically associated with flight cancellations or delays, medical reimbursement, medical evacuation, repatriation, etc.

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## TRADE CREDIT

Reports on how the coronavirus outbreak is affecting supply chains and disrupting manufacturing operations around the world are increasing daily. As a result, counterparty risk and its potential effect on an organization's balance sheet have increased.

### Areas to focus for coverage include:

- **Protracted Default:** this occurs on the non-payment of all or part of an undisputed invoice. The trigger for payment will usually occur on the expiry of the waiting period. This period of time is agreed to with the insurer, after which the nonpayment triggers policy coverage.
- **The insolvency of a customer/counterparty:** often insurance policies specify the scenarios that constitute "insolvency" under the policy and that will trigger cover.
- **A political risk event:** this is an event that prevents payment or meeting of a financial commitment by a customer. Scenarios can include general moratoriums decreed by a government in the customer's country, economic difficulties in the customer's country, currency shortages, administrative measures or new legislation in the customer's country that prevents payment.

*The information in this document does not constitute advice and is for informational purposes only. Always contact your insurance broker or trusted advisor for insurance or legal related questions.*