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## Insurance Coverage and COVID-19

Individuals and businesses are asking what insurance coverage might be available for harm caused by COVID-19 and the coronavirus. Here is a short survey addressing possible coverage under various policies:

**Property Insurance** – Typically, damage to tangible property by “covered causes of loss” is covered by a commercial property or homeowner’s policy. The policy frequently requires a “direct physical loss.” Loss caused by fire or hurricane are examples of covered perils. Tangible property that becomes unusable may be covered. Some courts have found that contamination rendering property uninhabitable constitutes a “physical loss.” Arguably, these terms do not rule out the possibility of damage caused by the presence of microscopic organisms or require that loss of damage be visible. Issues an insured may face, however, include the cause of the loss, whether an exclusion for viral contamination applies, or whether a building was unusable or voluntarily closed.

**Business Interruption** – Commercial property policies may include business interruption coverage for loss of income due to suspension of business operations. The closing of a business must be due to a covered cause of loss. Actions by government or law enforcement forcing the closure of a business may be covered cause of loss. Restricting access to a business where transmission of an infectious disease is suspected may lead to coverage for income losses. Business interruption claims can be complex and often require the assistance of experts such as accountants.

Contingent business interruption coverage applies if a supplier or customer has to suspend operations, thereby impacting the business of the insured.

**Directors and Officers** – If a corporation faces a securities lawsuit due to its failure to disclose the impact of coronavirus on its business, a directors and officers policy may be implicated. With the recent stock market plunge, investors are likely to investigate whether proper precautions were taken to reduce losses in the stock market and elsewhere.

**Workers Compensation** – Employees contracting the coronavirus at the workplace or in the course and scope of their employment may seek coverage under workers compensation. Further, employees traveling from the workplace to an infected area or those stationed in an infected area may seek coverage under workers compensation if they become infected.

**Liability Coverage** – Liability policies typically cover bodily injury or property damage caused by an occurrence, or accident. Liability policies protect businesses against third-party claims for bodily injury resulting from exposure to dangerous conditions. Guests of hotels, restaurants, malls, sporting events, or an office who allege they contracted the coronavirus could sue the owners and/or operators of such facilities. Such suits could be based upon the owners and/or operations’ failure to exercise reasonable care in guarding against the danger of failing to warn customers. Liability policies may exclude communicable diseases.

The availability of coverage under various policies will heavily depend upon the facts surrounding an incident and the policy language. As always, give notice to the carrier as soon as possible after a loss and document the loss as completely as possible. Be safe and check your coverage.

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