

Responding to the Coronavirus (COVID-19)



Financial Institutions

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Gallagher

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Gallagher Report: Responding to the Coronavirus

As news headlines about the coronavirus (COVID-19) disease continue to increase, so has concern over its potential to affect employee welfare, disrupt global supply chains and slow business operations. Gallagher's experts are here to support you in the development and implementation of risk management policies and procedures during a pandemic.

With the increased threat in the U.S., the CDC is operationalizing its protection and preparedness plans in communities across the country. As a business leader, you too should take added measures to review key insurance policies and business continuity plans.

INSURANCE POLICIES THAT MAY RESPOND

While specific policies for business loss due to a pandemic are uncommon, you should check with your insurance broker immediately to confirm what key coverages will be provided in a specific event.

Workers' Compensation Policy

Compensability for workers' compensation will truly come down to whether the disease/illness is considered occupational. In order for it to be compensable, the disease would have to be contracted during the course of employment and due to conditions specific to the employees' work. Various statutory intricacies will also come into play depending on the particular state where your business operates. For example, healthcare workers, who find themselves interacting with ill people, are more likely to have workers' compensation compensability.

General Liability Insurance

General liability policies provide coverage for injury to persons (other than your employees) and damage to property of a third party for which you are legally liable. Liability for such injury or damage involving COVID-19 or a similar health emergency will arise chiefly out of a failure to protect others and their property against exposure to infection. Many general liability policies have exclusions that could preclude coverage for this kind of infection. Careful examination of the policy's coverage terms, conditions and exclusions will be necessary to determine if such a limitation applies to you. Additionally, Umbrella and/or Excess Liability policies may contain a communicable disease exclusion.

Property/Business Interruption

Standard property policies require that physical loss or damage to covered property, by an insured peril, occur for coverage to trigger. Contamination of property at an insured's location may constitute physical loss or damage, but policy exclusions for pathogenic organisms, viruses, and disease- or illness-causing agents may restrict or exclude coverage. For business interruption coverage to trigger, the loss or damage must generally occur on the insured's premise. Business interruption extensions such as contingent business income, ingress/egress, loss of attraction and denial of access are subject to the same coverage parameters outlined above, although not necessarily occurring at an insured location.

Limited available coverage for communicable or infectious disease is offered on some property forms. This coverage is likely sub-limited and narrow in its coverage scope, especially outside of an insured location. Covered costs include cleanup, removal and disposal of contaminated property. Any business interruption extension will likely not apply to locations that are not owned or operated by the insured.

Environmental Insurance

In addition to the Property policy, consideration should be given to the environmental liability policy.

Currently environmental liability policy forms do not identify COVID-19 as a pollutant and do not specifically exclude it by name. Some policies, however, do contain communicable disease exclusions that preclude coverage when a disease is transmitted by personal contact. However, they do not exclude transmission of the disease caused by the environment within the insured site.

If a "pollution event" has taken place, or a "pollution condition" exists, coverage may apply in cases of negligence or strict liability. In turn, negligence can be the failure to prevent the spread of the disease on your premises, or the coverage may be triggered by strict liability as the result of a "pollution event" that has taken place, or a "pollution condition" under environmental laws.

Management Liability

Management Liability insurance is being evaluated on a case-by-case basis as the COVID-19 threat is monitored. Many companies have made disclosures that COVID-19 has caused disruptions in production, staffing and sales. Accordingly, we may begin seeing COVID-19-related D&O claims, specifically securities class actions by shareholders to the extent that these disclosures cause a stock drop.* Such disclosures may also bring about derivative action litigation, whereby plaintiff shareholders sue on behalf of the company against the directors and officers alleging that executive mismanagement of the situation cost the company significant revenues.

It remains to be seen whether employment practices liability policies are impacted. Employees impacted by quarantine and unable to work may be seeking accommodations or leaves of absence. It is unclear whether quarantine gives rise to obligations under FMLA or ADA.

*This does not apply to nonprofit organizations.

Travel Accident Policy

The [U.S. Department of State](#) has increased the level of risk for travel to certain countries and continues to update its advisories as they monitor the threat. Some countries have instituted preventive measures for travelers who want to visit their countries, are requiring medical clearance before a traveler is permitted to enter the country, or are instituting other measures, including health quarantines.

As of early February, carriers and underwriters are no longer including the threat of coronavirus as a covered trigger for evacuation, cancellation and interruption benefits. Even the "cancel-for-any-reason" policies available in the market have excluded the coronavirus from their covered triggers. These policies will only cover a traveler who actually contracts the virus. Therefore, it is critical that you discuss this with your risk management team to determine the potential threat before you or your employees decide to travel.

24/7 travel assistance services are still available for travelers around globe to assist in booking passage home at the cost of the traveler.



ACTIONS YOU CAN TAKE NOW

Gallagher's National Risk Control team advises you on five key ways your organization can prepare for a pandemic and help ensure the safety of your employees.

1. Review your business continuity plan and determine alternative business plans.

Check your business continuity and pandemic procedures to ensure your organization is prepared if your employees become ill. Your continuity plan should include the measures you will take if an employee is impacted, how to accommodate employees who don't feel safe working in a communal space or whose home life may be impacted if schools or childcare centers are closed. It should also include a plan to address any employee who is at risk of infection while traveling in quarantined areas.

Identify critical people, processes and technologies that have the biggest negative impact on your business and create recovery strategies to minimize any disruption. This could include outsourcing, allowing more flexible teleworking options or developing commuting alternatives for your employees if public transportation is not available. Work with your supply chain partners to ensure you have a backup plan should there be a breakdown along the line. This may involve increasing inventory levels of high-volume products or services.

2. Communicate with your employees, vendors, partners and customers.

Share information and official updates from organizations like the WHO or the CDC with your employees so they understand the potential threats. Encourage them to speak up if they start to develop symptoms, and reassure them that self-reporting is safe. Ask them to quarantine themselves if they have been to areas where the virus has been reported.

3. Educate your employees.

Be transparent with internal and external stakeholders about how you're handling the pandemic at the workplace. Educate your employees on your continuity plans and procedures so they know what to expect if your company is impacted. Issue travel advisories and make sure they understand the resources available to protect them. Ongoing communication about the pandemic will help your employees feel informed and safe.

4. Prepare your physical workspace.

Review your physical workplace for potential points of transmission of infection like shared desks and telephones, conference rooms, and common areas. Increase the frequency of office cleanings, provide more personal hygiene products like hand gel and/or masks for your employees, review your work-from-home policy and post educational signs on how employees can protect themselves around the office.

5. Contact your local hospitals and officials.

Communicate with the emergency preparedness coordinator at your local hospital to understand what resources are available to you and your employees and to ensure there is a plan in place in case of an emergency. You can also contact the infectious and/or emerging diseases divisions at the Department of Health in your region to organize a response in the event of an emergency.

WHAT THIS MEANS FOR YOUR BUSINESS

The COVID-19 pandemic has created a great deal of upheaval in financial markets around the globe. The continued uncertainty regarding the response to the ongoing spread of the virus is causing widespread concern, resulting in strain on the financial sector in many countries and economic hardship for both businesses and consumers. In the U.S., markets have declined sharply with sustained volatility visible on a daily basis. Many investors have panic-sold due to fear of what's to come. Market-wide circuit breakers have been triggered at an unprecedented rate, halting trading in U.S. markets several times. While there are a number of factors coming into play relative to this market volatility – businesses closing, entire industries upended, political discord and more – it is clear that financial firms are some of the hardest hit to date, in a still-evolving situation.

Minimizing risk

Across the board, financial firms are taking steps to minimize COVID-19's effects on day-to-day operations. They are testing and implementing business continuity plans, which include alternate working arrangements such as rotating shifts and working from home, even for employees like traders. In step with other businesses, many have also adopted travel bans and have canceled events. Banks have implored regulators to ease capital requirements and regulators, like the SEC, have proactively granted relief for regulatory financial reporting to companies affected by COVID-19.

Potential exposures for financial institutions

Exposures for financial firms vary to some degree, based on the nature of operations. From a physical standpoint, banks are considering shutting down branches or limiting hours to preclude a potential spread of the virus through social distancing. Some are resorting to drive-through only operations. Any and all of the measures force the question of which employees can be deployed to work from home, or in capacities other than customer-facing ones, during a potential shutdown of operations. Similarly, traders are being directed to work from home while trading floors are closed.

From an insurance perspective, many firms are questioning how or if business interruption/extra expense coverage in their property policies may respond. Putting insurers on notice of a potential claim at this time is encouraged, since both federal and state legislatures are reviewing insurance language and carriers themselves are taking these situations on a case-by-case basis.

D&O / E&O claims

We are beginning to see some third party claim activity stemming from COVID-19 events, and for financial firms these may take the form of D&O or E&O claims. Will we see claims emanating from stock-drop scenarios, from inadequate representations about the impact of COVID-19 on a company, from mismanagement of the crisis for the organization, from failure to perform work, etc.? Both publicly-traded and privately-held firms should be attentive to rumblings that may crop up in these areas, reaching out to us for further discussion.

This is an evolving risk that Gallagher continues to monitor through the CDC and the WHO. Please visit ajg.com/us/pandemic-preparedness for the latest information, or contact:

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Cyber threats to operations

Of significant concern outside of a physical change in operations is the safety and reliability of these firms' networks and data. While cybersecurity is consistently a boardroom priority, banks, asset management firms, broker-dealers, insurance companies and other financial firms may face additional threats and vulnerabilities with the increased use of remote access to their core systems. Employees could be more susceptible to social engineering efforts, with phishing and other deceptive practices on the rise. Banks, asset managers, hedge funds and others often rely on a network of service providers, so evaluation of third-party crisis management plans is critical as well.

A review of any cyber liability coverage that is in place, for both first party and third party events, is critical, especially to re-familiarize oneself with myriad services offered by cyber insurers. Bear in mind that social engineering coverage may be more likely be part of the financial institution bond/crime coverage when examining policies for applicable coverage.

Gallagher is here to help

The financial sector here in the US and globally is under a stress never before seen, and factors influencing potential insurance coverage will continue to evolve. Gallagher's Financial Institutions Practice is here to help in responding to questions, reviewing coverage, discussing changes in business and more.

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