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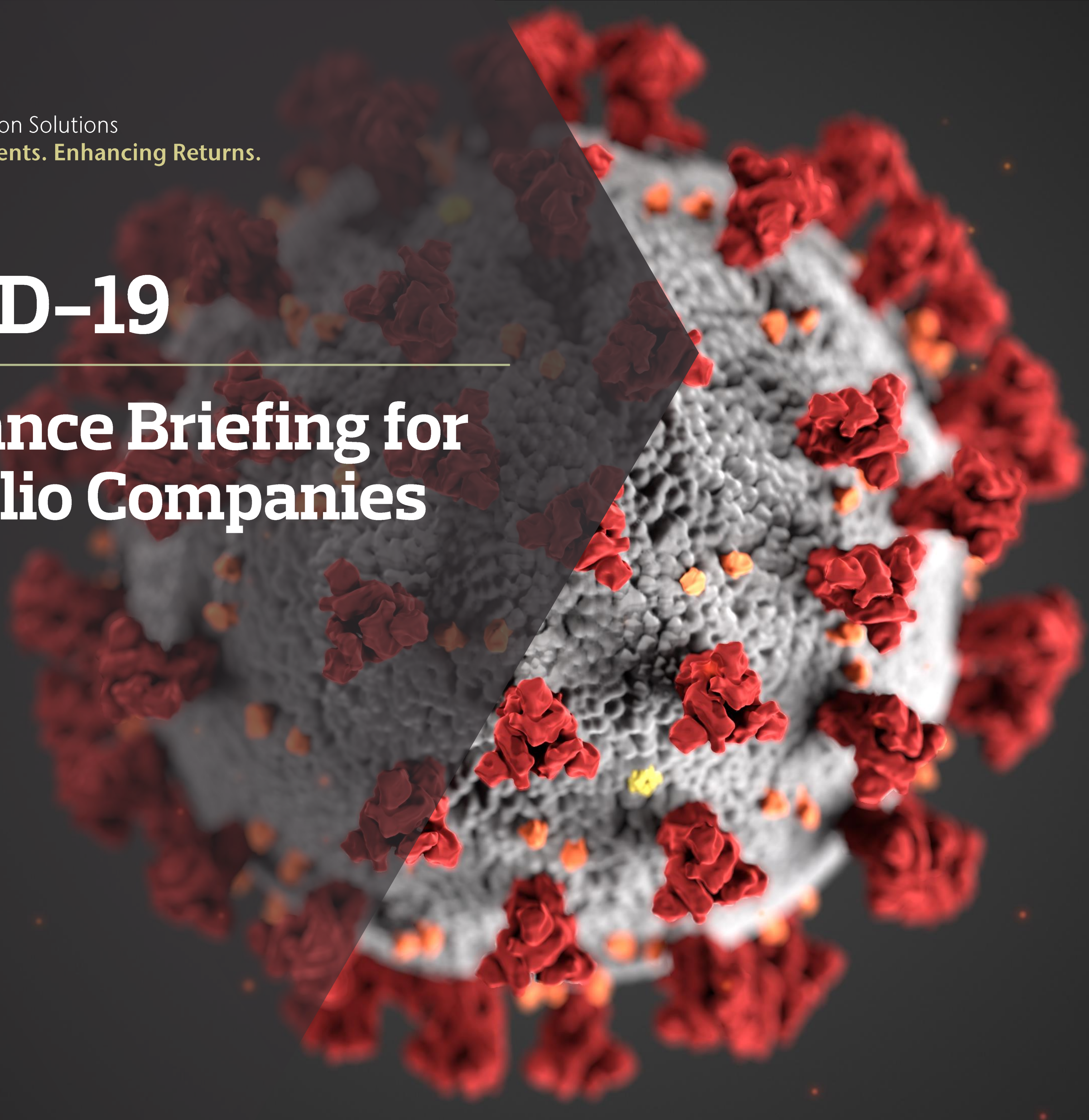

COVID–19

Insurance Briefing for Portfolio Companies

March 2020

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INTRODUCTION

With the position changing by the day in every country, we are conscious that many of our clients have been enquiring about the implications of the COVID-19 on their portfolio companies' insurance arrangements.

In this bulletin, we look to provide our most up to date insights regarding the implications of COVID-19 on a number of those classes of insurance most generally purchased by portfolio companies across a wide range of industry sectors.

Our focus on particular classes of insurance as provided here is general and coverage for each insured of course will follow individual policy and contract language which will often differ and which should be reviewed on a case by case basis. The content here is meant for thoughtful consideration and is not meant to serve as a complete prediction of coverage or as a generalized coverage position, which should be formed in consultation with each insured company's professional advisors.

In situations such as this outbreak where events are rapidly changing, it is often difficult to make generalized coverage or market assessments as the extent of cover available under key insurances can vary considerably. Parties need to look at the specific terms of their insurance policies, the evolving government and legislative actions and the unique facts and circumstances around each insured company's position.

As yet at least, there has been no rush of claims being presented to insurers and it remains to be seen what financial impact COVID-19 will have. Notwithstanding this, now is the time for a company to review its policies' expected response and determine either potential avenues for, or obstacles to, the recovery of losses associated with the continuing COVID-19 outbreak.

We hope that this, and subsequent, bulletins from Aon's M&A and Transaction Solutions teams will keep our clients better informed and help them to manage through the current uncertain environment. We are at your disposal to answer any questions you may have and to help you to identify solutions to some of the challenges you will be facing right now.

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CONTENT

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COMMENTARY BY CLASS OF INSURANCE

The following commentary addresses some of the key elements across a number* of the major classes of insurance we see impacted directly or indirectly by COVID-19. These elements include coverage considerations as well as some initial considerations for longer-term industry impacts. We encourage clients to reach out to their Aon representative with any specific questions relating to their particular insurance arrangements.

*Note: the range of classes of insurance addressed in this document is not exhaustive.

As we have seen in the past, local, state and national governments may take certain actions that expand coverage or that otherwise apply pressure to industry participants to react to situations in an expansive manner. This publication and others published by Aon should be read with that understanding in mind and Aon reserves the right to modify its views on any subject addressed in this publication as events change and more information is made available. Please reach out to your Aon representative with specific individual enquiries.

Any statements concerning legal matters are based solely on our experience as insurance brokers and are not to be relied upon as legal advice, for which you should consult your own professional advisors.

The scope of our work, including as related to claims support and advocacy, for (client) continues to be as documented in our service agreement / TOBA.

PROPERTY DAMAGE & BUSINESS INTERRUPTION

Coverage Considerations

The trigger for any property insurance policy and resulting time element coverage is physical damage to insured property by an insured peril. Most property policies, including ISO, specific insurer forms and most manuscript policies, do not cover a loss resulting from a virus.

There are select policies designed with specific industries in mind that might provide an element of coverage for the virus in clauses titled Loss of Attraction, Communicable Diseases, Notifiable Disease, or Special Perils Business Interruption. These extensions do vary significantly from one policy to another and almost all will be limited in terms of both monetary sum (sometimes aggregated in the period of insurance) and a shortened indemnity period. The coverage is usually subject to a low sublimit and is often aggregated as well.

By way of example, Notifiable Disease extensions, where they apply, provide coverage where loss results from disruption directly due to discovery of a human contagious disease at the insured premises (sometimes extending to within its vicinity). Policies differ as to the scope of the cover and the exact circumstances that triggers cover, so individual policies must be reviewed. For example, most policies will be restricted to a specific list of diseases only, and because COVID-19 is a new human disease, it will not be included in such listing and cover will not apply. Occasionally, cover may be provided on an unspecified diseases basis, where no diseases are affirmatively expressed in the policy, with cover relying on the applicable list of notifiable diseases that are controlled and regulated centrally.

In most cases, the cover extension will only operate if business is impacted as a result of receiving direct advice from a relevant authority. Policy language varies, and some policies express in very narrow terms which authority must provide that advice.

In response to COVID-19, state legislators and regulators are increasingly and rapidly adopting policies and considerations that may directly impact insurers and existing policy language. As an example, the state of New Jersey in the United States has introduced A3844 which mandates that business interruption policies in force will be interpreted to include pandemic irrespective of the policy exclusions.

Prospective Insurance Market Impacts

Given the limited coverage in property policy forms, we do not expect the primary market to be materially impacted beyond the effects of the broader economic impact of the virus and the ensuing uncertainty and illiquidity of the financial markets.

Insurers are actively reviewing Notifiable Disease and similar extensions of cover, and in view of the ongoing epidemic, notwithstanding that there may be increased demand from insureds for endorsements or separate policies to provide business interruption cover for pandemics, they may decide to actively exclude COVID-19 from cover that might have otherwise provided it, because of its pandemic capability, which many insurers may deem too high a risk to insure.

GENERAL/PRODUCTS LIABILITY AND ENVIRONMENTAL LIABILITY

Coverage Considerations

General / Products Liability
The most likely scenario for a potential liability claim may be alleged negligence from failing to protect a customer and/or invitee from being exposed to the virus. However, general liability claims could include those from an employee's family due to his/her workers' compensation or employers liability claim. These claims could arise from exposure due to the employer's alleged failure to use reasonable care to protect workers and their families.

insurers of General / Products Liability policies are generally free to rely on any policy condition that would permit them to avoid or reduce the claim in question, e.g. for deliberate or reckless acts by the insured that could reasonably be expected to cause injury or damage. Whilst, in this instance, the burden of proving whether an insured has acted deliberately or recklessly will usually be upon the insurer, decisions taken by businesses in the handling of the virus outbreak and whether they have complied with Government guidance or requirements will certainly have a strong bearing on the outcome of any claim.

Whilst liability claims against businesses may encounter significant causation issues in proving that the infection was caused by the actions of the insured, Public & Products Liability policies will be expected to incur legal costs for the defence of such claims as would otherwise be covered under the policy terms.

It is interesting to note that SARS and Avian flu crisis had little to no litigation in the U.S. Although the recent effects of social inflation in the U.S. could impact the result in this instance.

Environmental Liability
Except for specifically named items, like mold and legionella, insurance policies generally are not intended to cover bacterium, viruses, or other pathogens, including COVID-19. However, there could be potential exposure if virus and bacteria are covered as a "pollutant". Policies typically contain Communicable Diseases and Naturally Occurring Materials exclusions which usually apply to all applicable coverages.

1. For site/premises policies: They can offer disinfection coverage for certain types of locations, generally, at sub-limited amounts. This coverage only provides clean-up costs (no Business Interruption /Property Damage) and is generally intended to only cover building-related illnesses (e.g. MRSA), not communicable diseases as COVID-19.
2. For services/contracting policies: A "Pollution Condition" must arise from covered Contracting Services or Professional Services for coverage to be triggered.

Prospective Insurance Market Impacts

Our expectation is increased demand for pandemic products (forward looking, post COVID-19) and business interruption protections. Some insurers have already started modifying policy wording to include an exclusion for environmental policies.

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TRADE CREDIT

Coverage Considerations

Trade credit insurance, and to a significant degree also surety and political risks insurance, are business lines that will be directly impacted by the economic turmoil caused by the spread of COVID-19. Losses in trade credit and surety are directly triggered by financial stress, and in many cases, ultimately insolvency. The public policy measures being put in place to contain the spread of the virus are adding huge stress to economies which were already under pressure. Trade credit is a global business involving domestic and export trade, and with almost all nations facing weeks if not months of poor trading conditions, the industry is facing the possibility of significantly increased loss ratios for the first time since 2008/9.

The situation is developing so quickly that accurate predictions of the effects and outcome are impossible at this point. The expectation is for a global recession with higher insolvencies which will trigger more claims. Although trade credit insurers normally can manage exposures, the speed and severity of the spread of the virus has presented a unique challenge for the market. The possible breakdown of supply chains is unlike any previous recession.

Government action to mitigate the effects will hopefully have a positive impact to reduce volatility. The most badly affected trade sectors (e.g. travel/retail/leisure) are ones where credit underwriters have traditionally been more cautious, and exposure generally relates to stronger credits. Surety business has a huge concentration on the construction sector which was already under pressure in many parts of the world. This may exacerbate the situation and cause more failures, especially amongst the smaller/medium sector of the market. Political risk (government related) is more difficult to predict, although the issues in the oil sector present challenges to those countries where there is material dependency on revenue from oil.

Prospective Insurance Market Impacts

Capacity is likely to be reduced, especially for risks where there was already a greater credit risk. This reduction is likely to be widespread, but especially for those countries where the impact of the virus on supply chains is most acute.

Supply chain as key risk factor

Inevitably, there will be a big reduction of the supply chain which will, in turn, cause a domino effect on the economic situation. If a company cannot produce because they suffer from a lack of supplies and materials then they will face significant operational and financial issues. Many companies are expected to experience a marked drop in turnover and revenue but, unless country governments intervene, they will likely still have to pay all their fixed costs such as employee wages and building/office rents. Large numbers of businesses operating on already tight margins do not have the balance sheets to handle a situation when they are not producing. The consequences for many could be insolvency.

Credit insurance reactions to immediate economic and trade downturn

If a global recession bites then we can expect increased bankruptcies, with companies and certain sectors such as Travel and Leisure, Automotive, Textiles, ICT and Retail expected to be particularly under threat.

The credit insurance market is expecting a significant increase in payment defaults and insurers have started to implement plans to review and reduce their insured exposures in certain countries (e.g. China and Italy) and trade sectors as highlighted above, particularly to reduce unutilized credit limit capacity to actual/current trading levels.

Clients should be able to rely on their broking advisor to implement a pro-active credit limit maintenance process in order to help ensure that their insurance programs weather these turbulent times. This should also include periodic calls with the head offices of key credit insurers to pro-actively monitor the situation as well as create a platform for appealing critical limits.

TRADE CREDIT (CONT.)

Also importantly, insurers will need transparent and up-to-date information, especially around liquidity and cash flow forecasts, to continue to write credit limits on businesses. To ensure availability of coverage for their suppliers, businesses will need to share updated business and financial information with credit insurers in the same way they would with lenders.

From a loss settlement perspective, insured businesses should mainly consider that, unless advised otherwise, insurers expect that normal policy requirements apply. For instance, non-payment cases should be pursued and reported, in line with normal practice. Aon will issue a technical bulletin around claims and loss settlement shortly to help companies navigate these extraordinary times.

Reassuring lenders

Financing could also become an issue in the longer term as banks and financial institutions perceive some businesses as too vulnerable to lend to and hence become more selective. In the absence of specific government support to business there will inevitably be a liquidity crunch and the corporate bond markets will become difficult/expensive. Aon's C Suite Series report highlights how banks have looked to "de-risk their own balance sheets" which has had a knock-on effect for businesses of being unable to secure credit. COVID-19 will only heighten that sense of banking caution and they will be looking for additional security when lending money, which is where credit insurance can play a larger role in terms of insuring a business's trade receivables, thus giving a bank more confidence.

Although the COVID-19 pandemic will ultimately come to a close and global trade is expected to resume at some point in the future, its economic hangover is likely to be longer-lasting. The positive news is that the credit insurance market has learned from previous financial crisis. Insurers now have access to better financial transparency on the credit risks covered with the data and analytics that they didn't possess ten years ago.

C-SUITE SERIES

CREDIT SOLUTIONS

Driving growth through uncertain times

The hidden gemstones

Our C-Suite Series Credit Solutions report investigates how credit insurance solutions can help businesses to drive growth despite global unpredictability. We talk to experts from a range of industries to find out what challenges they face, how businesses can adopt insurance products to stay ahead, and how the insurance industry is responding with new services and expertise.

For more insights around Credits Solutions that support businesses, download a copy of Aon's latest C-Suite Series report.

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UK EMPLOYERS' LIABILITY

Coverage Considerations

Businesses operating in the UK owe a duty, both in both tort and statute*, to their employees and third parties, to safeguard their health and safety, which may be adversely affected by their business activities. It is foreseeable that, where an infection can be traced to a particular location, decisions taken by the business in the handling of the virus outbreak (in particular in relation to staff for whom home working is impractical) could result in claims for unreasonably exposing employees, customers or other third parties to the risk of virus contamination.

Failing to take reasonable measures to safeguard an employee could result in an Employers' Liability ("EL") claim against the employer. UK EL insurance policies respond to Bodily Injury, which includes cover for disease claims where the disease arises out of and in the course of employment.

Importantly, whilst the EL Regulations 1998 expressly prohibit an insurer from refusing to indemnify an insured for their actions or omissions e.g. for failing to take reasonable care of the well-being of their employees, insurers can seek reimbursement from an insured of any amounts paid out in circumstances where, in their view, there has been a fundamental breach of some form of policy obligation or policy condition, by the insured. Whilst liability claims against businesses may encounter significant causation issues in proving that the infection was caused by the actions of the insured, EL policies will be expected to incur legal costs for the defence of such claims as would otherwise be covered under the policy terms.

* For example, under the Health & Safety at Work Act 1974, Employers' have a duty to protect the 'health, safety and welfare' at work of all their employees, as well as others on their premises, including temps, casual workers, the self-employed, clients, visitors and the general public.

DIRECTORS' & OFFICERS' LIABILITY

Coverage Considerations

Coverage is typically available for situations involving breach of fiduciary duty, misrepresentation of a company's financial assets, lack of corporate governance, etc. which can apply. When it comes to bodily injury, there is generally no exclusion specific to a COVID-19 event, both public and private Directors' & Officers' ("D&O") policies contain varying forms of a "bodily injury" exclusion limiting the extent of coverage for claims. The bodily injury exclusion can contain "carve- backs" to the exclusionary language providing further clarity regarding the intent of the exclusion to not apply to securities claims, defense costs, or non-indemnifiable claims. Therefore, simply because a claim arises from or is based upon bodily injury from the COVID-19 virus, coverage may not automatically be excluded.

While most private/non-profit D&O policies also contain certain carve-back language to a "bodily injury" exclusion, some policies have a more absolute exclusion. The "absolute" language is more likely to be applied to industries with higher exposure to bodily injury claims, such as education, healthcare, sports teams, entertainment venues, or real estate.

Some D&O policies may exclude coverage for libel, slander, oral or written defamation or disparagement or invasion of a person's right to privacy. Unfortunately, there have been situations where individuals have been slandered due to their national origin in relation to COVID-19. A scenario can be imagined where an employee's medical condition related to the virus is disclosed without his/her permission. Neither the bodily injury nor the libel/ slander exclusion typically applies to allegations that are made as part of an employment practices wrongful act or a securities claim.

Prospective Insurance Market Impacts

Heightened concern over exposure to "event driven" suits is expected. Near term financial impacts could be severe, including bankruptcies, and a company's ability to adequately prepare for the impacts of this virus will come into question. Also, reporting requirements along with public statements, will be closely watched by plaintiff firms to find potential targets to chase that did not disclose extent of possible impact of a pandemic/health crisis.

It is possible for increased employee related suits based on alleged wrongful termination and discrimination during tougher financial times under Employment Practices Liability Insurance policies.

CYBER

Coverage Considerations

The COVID-19 outbreak has created an unexpected switch in the way we conduct day to day business. Self-isolation, work from home policies, and limitations on in-person meetings have created a heavier-than-usual reliance on virtual and electronic channels. In addition, employees are also looking to those channels for information, advice, and for solutions to the evolving practical challenges they're facing.

For more specific advice about risk management techniques around preparedness and resilience, read Aon's recent publication on social engineering and COVID-19

In addition, cyber criminals always will seek to exploit peoples' fears and vulnerabilities in systems, and the COVID-19 pandemic has created ongoing opportunity for cyber attacks, such as the attempt on the U.S. Department of Health and Human Services. The methods are not new, namely phishing emails, now COVID-19 themed, which could introduce malware into systems or dupe users into divulging personal information such as banking details. The market impacts of COVID-19 on cyber insurance will follow the attack trends already at play, with the potential of increased frequency and severity.

MEDICAL MALPRACTICE

Coverage Considerations

Unlike other classes of business where there have been claims received with underlying COVID-19 allegations the potential impact in the Medical Professional Liability ("MPL") space is speculative at this time. (Re)insurers are in the process of analyzing potential risk(s) and the impact on their portfolio. There have not been restrictions on coverage implemented since the advent of the COVID-19 and none appear imminent. When analyzing potential MPL exposures that may emanate from COVID-19 it is helpful to categorize into the following segments:

Hospitals: Generally speaking, MPL insurance policies do not have exclusionary language on infectious diseases and full coverage is provided. Potentially, hospital systems will be judged on their level of preparation and quality of disclosure. Staffing is a challenge for many health care systems and the potential exposure of key personnel and physicians to COVID-19 may put a significant strain on hospitals' ability to properly care for patients which may well result in errors and failure-to-diagnose litigation.

Long Term Care Liability: Coverage for communicable diseases is generally provided so potential exposure seems significant. Numerous potential mitigating factors surrounding where the virus was contracted may impact potential liability.

Pandemic insurance products have historically been developed and very few policies were sold. Hospital networks and physician practices did not feel the need for such coverage justified the cost. Some may rethink that position once this pandemic passes.

CONTINGENCY

Coverage Considerations

A typical cancellation and abandonment policy is an all risks policy with several standard exclusions of which Communicable Disease ("CD") is one. For a claim to be valid, the cancellation needs to be 'necessary' and beyond the control of the insured. CD is dealt with generally in three different ways:

1. On smaller policies and most binders it is excluded.
2. For medium size risks, CD is sometimes offered as a buyback. When this happens, the exclusion is typically left in and a 'notwithstanding the CD exclusion' endorsement is added to the policy that will give cover for an actual event but not for fear or threat.
3. For large global events the exclusion may be completely removed giving cover for fear and threat etc.

Many events currently have not been cancelled but postponed and this will produce a lesser claim amount when but more importantly if the events are staged. On average, approximately 10 percent of an insurer's portfolio of event cancellation business will have CD coverage.

Many previous loss notifications received by insurers to this point are not covered as they have not been 'necessary' but have been responding to fear/threat. Since the end of last week, the position regarding fear and threat has changed quickly as governments worldwide have started to order the cancellation of events either directly (France) or by other means such as withdrawing emergency services support from events (UK). This will now produce claims under item 2 above, where the cover applies, and we expect these to be substantial.

Prospective Insurance Market Impacts

Currently insurers are looking to exclude all CD (not just COVID-19) and going forward we could possibly see primary CD cover being placed separately.

TRAVEL INSURANCE

Coverage Considerations

Travel insurance coverage typically provides for low limit travel benefits for cancellation, curtailment, abandonment and delay. The maximum benefits are usually no greater than EUR 5,000 as an absolute max for cancellation and EUR 250 per day for travel delay.

At this point, while travel medical coverage is available, many are interpreting that this exposure is limited.

Prospective Insurance Market Impacts

In the UK we are seeing temporary retraction of capacity for cancellation benefits where the trigger is travel advisory by the Foreign Commonwealth Office. Some insurers have declined pandemic claims as they do not fall within designated notification periods (e.g. can only cancel your holiday and recover if a pandemic is declared seven days before you are due to travel). Anticipating potential involvement of the Financial Ombudsman here, insurers could be forced to pay claims technically out of scope in the policy wording.

We are still monitoring the position of insurers in other countries.

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MARINE

Coverage Considerations

Protection & Indemnity ("P&I")

Cover remains intact during the virus outbreak. Owners' liability for crew illness and death includes medical treatment and repatriation. If death occurs this would include compensation, repatriation of the body and funeral expenses.

Owners' liability for passenger illness and death (assuming the virus was contracted while on the ship) will include medical expenses and compensation for illness or death. No coverage is typically included for prospective commercial losses should a vessel be quarantined or a cruise cancelled.

Owners' liability for illness or death of persons ashore (where they are infected by a virus from persons on board the ship) is unlikely to be an issue during a global pandemic as owners would argue Force Majeure.

Owners' liability for quarantine and disinfection expenses and fines may be levied by authorities towards an owner or individual crew for bringing disease to a port or failing to comply with certain health obligations (absent of recklessness).

Hull

Coverage is not directly provided under a normal hull or loss of hire policy. There is potential for indirect effects if capacity in ship yards is reduced which may impact repair prices – a large proportion of steel repairs currently take place in China.

Under extended loss of hire policies there may be direct cover for time lost due to virus outbreak – e.g. via quarantine. That said, extended loss of hire is not generally purchased for cruise vessels as the day rate would require too much capacity and/or be cost prohibitive.

There is also the potential that should vessel usage decline substantially, we will see a high number of ships laid-up. This may result in greater exposure on a multi-hull basis to natural catastrophes or fire should they be moored close to one another. Insurers have protocols which must be followed should a vessel be laid-up and we would expect these to be adhered to.

Cargo

There has already been a significant impact on global transport and supply chains. Limitations on available workforce will exacerbate the disruption should the crisis deepen further.

Most cargo and stock throughput policies exclude loss or damage caused solely by delay. Additional costs/charges, hold-ups and costs associated with re-routing goods to an alternative destination due to government prohibition are likely. Policies are often sub-limited for costs sustained in this way. Perishable items such as pharmaceutical products and food produce may be particularly sensitive to transit delays.

Energy

Direct impact upon this sector in an insurance capacity appears unlikely. While there will be immediate impact on the U.S. shale oil production, as well as short- term deployment of contractor vessels, current (extremely suppressed) oil price levels are likely to be a short to medium term event.

Prospective Insurance Market Impacts

With several quarantined vessels, major cruise vessel operators have seen more than 70 percent wiped from their share values. Claims due to passengers are likely, however liability for wider infection borne by cruise operators would likely be denied as COVID-19 would be viewed as a force majeure event.

At present, two passengers who had travelled onboard a cruise ship are suing the cruise operator for emotional distress, trauma and the fear that they will develop COVID-19 due to having been quarantined on the ship.

Cargo and cruise ships are being denied access to ports where there are contagion fears which may give rise to costs associated with their re-routing and possible decontamination expenses. There may also be a substantial downturn in global shipping if the receiving of goods can't be guaranteed at destination.

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AVIATION

Coverage Considerations

Aviation insurance predominantly covers physical damage, injury. Policies would only respond to COVID-19, if it could be proven that the proximate cause/infection was while on an aircraft or at an airport and as the virus continues to spread, the expectation is this would be extremely difficult to prove.

Prospective Insurance Market Impacts

A significant impact is expected for airlines, product manufacturers, airports, and other related industries. This will likely to result in Airlines seeking alleviation of insurance premiums on their current policies. This result could mean significant premium income reductions for insurers.

SURETY

Coverage Considerations

A contract surety bond provides a guarantee by the surety that the underlying contract between the principal and the obligee will be completed per the terms of the contract.

Should the principal be unable to complete the underlying contract per the terms, for whatever reason, the surety is obligated to complete the project or pay the bond penalty.

Prospective Insurance Market Impacts

While a global pandemic may be a factor leading to a default of a principal, it will never be the only factor. The financial strength of the company, management decisions, internal procedures, obligee relationships, and insurance purchased would all come into play and in theory could have been underwritten as part of the decision-making process of the surety before issuing the bond.

In some situations, force majeure language exists in the underlying contracts to address situations where something completely unforeseen or uncontrollable occurs (war, a nuclear incident, earthquake, or potentially a global pandemic) and prevents the project from being completed. Such provisions may exonerate the surety bonds and/or free the contractor from any liability if the project is postponed or cancelled.

WARRANTY & INDEMNITY / TRANSACTION LIABILITY

Coverage Considerations

Transaction liability largely focuses on two insurance products:

1. Warranty & Indemnity insurance or Representations & Warranties insurance is a policy used in mergers and acquisitions to protect against losses arising due to the seller's breach of certain of its representations in the acquisition agreement.
2. Tax liability insurance protects a taxpayer against the failure of a tax position in connection with a transaction, reorganization, accounting treatment, investment, or other type of taxable event.

Unlike traditional insurance policies that cover “go-forward” events, transaction liability is designed to cover unknown and unintended breaches that have already happened prior to inception of the policy. For policies in-force prior to COVID-19, the nature of the policy should protect against losses. Exclusions specific to COVID-19 have since been requested by underwriters on new policies.

Prospective Insurance Market Impacts

The impact of COVID-19 to the financial markets is a key driver for postponing or cancelling proposed merger and acquisition transactions that were in the diligence/bidding stages. The impact will be felt more strongly in some industries as opposed to others (manufacturing, retail, travel, hospitality, etc.) Deal flow is expected to slow, however transactions will still occur and underwriters will be mindful of their need to mitigate the risk that the COVID-19 poses to corporate transactions.

Commentary

When selecting a market (or markets) to insure a transaction, particular care should be taken to understand how flexible, focused and commercial each market is willing to be in its proposed approach to addressing the risks to the target entity from the COVID-19 virus. All other factors being equal, preference should be given to a market which does not automatically mandate a wide and general COVID-19 exclusion, but rather demonstrates a willingness actively to engage with the target’s specific areas of risk and adapt its approach accordingly.

In order to maximize coverage under the W&I policy and limit the extent of any proposed COVID-19 exclusion, clients will need to provide focused diligence on (inter alia) the target company’s operating systems, capabilities, business continuity plans and other insurance arrangements. Depending on the target’s sector, there will also need to be an assessment of the target’s financial statements/models (have these been adjusted or reconciled? Has there been any change to key assumptions?), employees (does the target rely on mobility of workers or agency staff? Have there been any redundancies?), reliance on supply chains (is there an ability to diversify?) and material contracts (is there an increased risk of termination/concentration?).

If the insurer does ultimately deem a COVID-19 exclusion necessary in the policy, care should be taken to tailor-make its wording as far as possible, limiting the exclusion to the proportionate loss arising from COVID-19 and preferably disapplying the exclusion from warranties where such an exclusion should not be relevant (e.g. title and capacity warranties, statutory warranties, ownership of stock etc).

For more insight, read Aon’s recent article on how COVID-19 is affecting the Warranty and Indemnity (“W&I”) insurance market

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LIFE

Coverage Considerations

While life policies in general typically include coverage (or no exclusion) for pandemics, mortality risk books of business overall (term, whole of life, and Yearly Renewable Term products) are not expected to experience significant losses. They are, however, anticipating higher claims in the older age population which is expected to be more severely impacted by COVID-19.

For long-term disability policies, the waiting (or deferral) periods will likely mean that minimal claims will occur because the individual will have recovered or died during the waiting period. Short-term disability policies, on the other hand, may pay out significantly as claims will fall in the coverage period. Some life offices have instituted COVID-19 or cold/flu exclusions on claims for new policies.

While some policies do provide respiratory related coverage, critical illness significant losses are not expected to materialize given the small percentage of claims this typically relates to and the survival definitions for claims and the fact that people have typically either recovered or die in a shorter period.

Annuities, which pay if policyholders are alive and no longer pay after death, see some reserve releases (profit) because of earlier death of policyholders.

Prospective Insurance Market Impacts

Going forward, a small increase in volumes in the market is likely. Somewhat surprisingly, whole life protection (paying out on death), still seems to be available for people over 50. Premium holidays (option to delay premium payment) and adding free (or low cost) features to policies (such as hospitalization benefits) is still being seen in some geographies.

The more imminent threat for life insurance companies is solvency positions which are heavily under stress driven largely by interest rate and credit spread movements, and less so from equities.

New Solutions / Ideas

Recently, insurers have been focused on innovation in two areas. The first is health coverage and innovation here will need to be customized to each country given the differences in healthcare systems. The second focus is on how to help people maintain coverage throughout the upcoming months as job loss and other economic fallout impacts global individuals.

In order to support insurers being the most responsive to the needs of an evolving policyholder base, it's imperative that the reinsurance market react with innovative solutions that include ongoing coverage for pandemic risk.

US WORKERS' COMPENSATION

Coverage Considerations

Workers who contract COVID-19 during the course and scope of employment may find workers' compensation coverage to apply. While each jurisdiction is different regarding workers' compensation and communicable disease claims, the general rule is that the matter would likely not be deemed compensable if the employee was considered at no greater risk than the public. However, if a worker can confirm the exposure is through his/her work, and proves the condition was contracted in the course and scope of employment, then any subsequent lost time, including the period of absence required during the quarantine/monitoring period, could be deemed compensable.

HEALTH – EMEA

Coverage Considerations

Much of the EMEA region has a social healthcare system which is sometimes supplemented by private health insurance. Typically, top-up plans offer modest limits, but faster access to specialist care.

Though COVID-19 is a 'Health' event, it is having a modest impact on private health insurance because of limited beds (particularly in ICU) and insufficient ventilators. There are also no expensive drug regimens to administer.

While the healthcare system focus has been on containing the virus, a side- effect has been that general utilization has reduced. In other words, people are not attending clinics or hospitals unless they absolutely must.

Hospital stays are also longer than normal; the average being 23 days from onset to recovery or death. In addition, it is an older population cohort that is most severely impacted and over age 70 are not typically covered under corporate private health schemes.

Prospective Insurance Market Impacts

A major concern for primary insurers will be where governments designate schools/sports arenas as temporary medical facilities. If this occurs at a high level, the implicit cap that existed due to hospital ability on medical treatments would effectively be removed.

Ironically certain plans which are guaranteed issue and have been struggling because of under-estimating healthcare trend, will undoubtedly benefit if a meaningful portion of insureds who are older and have underlying health conditions are unable to survive COVID-19.

On a more positive note, there is thoughtful discussion around the increased role that private insurers might play to support overstretched public health systems.

HEALTH – AMERICAS

Coverage Considerations

The U.S. has an expansive health system, with a variety of product offerings (ancillary, individual, employer group, senior) and a wide spectrum of entities bearing the risk (insurance carriers, health plans, employers, providers, captives, government). The market remains less concerned about severity of large claims emanating from COVID-19 (albeit knowing they will happen), and more concerned regarding frequency and overall claims spend. That said, increased utilization from COVID-19 could be offset by decreased utilization of elective services. The U.S. Surgeon General recommended that hospitals stop performing elective procedures to prevent the spread of the virus and preserve capacity in hospitals (i.e. equipment, rooms and staff), obviously a concern being the ability of our U.S. healthcare system to effectively care for patients should the infected population fall closer in line with higher estimates. Hospital Emergency Preparedness plans in motion, addressing concerns on providing appropriate levels of care (i.e. staff, equipment, space). Increased use of Telehealth, and other access/care discussions, have called into review Federal and State regulations around care and data. Concerns center on increased utilization from COVID-19 and the potential stresses that could be placed on medical loss ratios and revenue cycles.

Prospective Insurance Market Impacts

Increases in total claims/costs could cause an increase in industry medical loss ratios, which could put pressure on rates. This will vary by product line. Hospitals could also face pressures should revenue from COVID-19 related care not match lost revenue from delayed or cancelled elective services. Additional concerns center around provider owned health plans where the hospital is the parent.

INITIAL RATING AGENCY RESPONSE

Life & Health Sector Summary

Accelerated declines in interest rates and equity valuation paired with global economic slowdown pose greater risks than sharp increases in claims. While S&P, Moody's, AM Best and Fitch are continuing to provide research and commentary as events develop, we have not seen any rating actions taken to date as a direct result of COVID-19. However, AM Best and Fitch Ratings revised the US Life sector outlook to negative from stable, and Fitch followed on by publishing revised negative outlooks for the Dutch and Asia Pacific life insurance sectors as well. Furthermore, Fitch announced an upcoming series of downward outlook reviews for life insurers in the U.S and Asia Pacific, including China, South Korea and Japan, with certain insurer outlooks already revised to stable from positive. The agency expects that some life insurers with currently stable outlooks will be revised to negative and those with negative outlooks may be exposed to a near-term downgrade.

Non–life & Reinsurance Sector Summary

There is broad consensus across rating agencies that the impact of COVID-19 on primary property/casualty insurers will be limited, with the most prevalent frequency and severity increases expected from travel, business interruption, and event cancellation claims. The expectation for reinsurers is similar, though some of the rating agencies such as AM Best and Moody's note that a more severe pandemic escalation could negatively affect reinsurance companies, particularly the larger global reinsurers.

AM Best Summary

AM Best recently reported that it is developing a pandemic stress test to measure the impact of COVID-19 on insurers' balance sheets. The stress scenario will primarily focus on potential movements in risk-adjusted capital levels, investment portfolios and reserve balances, while also looking at other areas of risk. The rating agency is also extending the submission cutoff date for SRQs to May 1st from April 1st. Based on statutory data reporting as of year-end 2019 and Aon estimates, we believe that approximately 80 non-life insurance groups could suffer a 10 percent or greater decline in policyholders' surplus from a 25 percent unrealized loss on common stock holdings under current equity market conditions. Additionally, we estimate that 16 insurers' BCAR scores could drop by 10 or more percentage points under this same scenario.

Overall, the COVID-19 pandemic is a continuously-developing situation that is most likely to adversely impact life and health insurers. Aon is closely monitoring and keeping track of all new rating agency research and actions during this time and will provide relevant updates as necessary.

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