

## **Business Interruption Insurance**

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COVID-19 has inflicted financial hardship on many including employees and small business owners. As businesses seek to recover lost revenue and costs related to the pandemic, property & casualty (P&C) insurers may be exposed to claims, including some through specific business interruption (BI) policies. **Such claims, however, are expected to be limited as standard BI policies are typically triggered by physical property damage (e.g., due to weather) and commonly contain disease exclusions.**

Legislators in certain states have sought to suspend previous contract law and retrospectively apply BI to small businesses (e.g., 100-150 or fewer employees). This is largely viewed as unconstitutional and, in our opinion, short-sighted by states. Industry bodies have pushed back, and we believe that the probability of success by politicians is low based on past precedent. For one, such an action would violate strong institutions such as U.S. contract law as insurers previously priced these policies to reflect exclusions. Second, if contracts are rewritten retrospectively, insurance capacity could decline, and pricing to reflect new risks could become cost prohibitive for ongoing customers.

Even if some state legislators are successful, insurance companies are likely to litigate/appeal such outcomes for years, which fails to solve businesses' need for cash now. In our opinion, a government backed pandemic insurance program, like the Terrorism Risk Insurance Act (enacted by congress following 9/11), could be a solution. Under a federal backstop, insurers could play a partnership role by taking feasible measures to support customers in real time, while also maintaining political capital and goodwill.

Contingent BI extensions exposed to the current situation are expected to be less prevalent, though should result in some costs. Also, we expect COVID-related payouts under other insurance coverages such as event and travel cancellation, general liability, directors & officers, surety/credit, and workers' compensation for healthcare workers. Importantly, companies have indicated that the direct impact of the virus is currently manageable. Insurers also note policy limits (capping payouts) and potential offsets like fewer traffic accidents as people stay home. **We reiterate that the P&C industry holds robust levels of capitalization and withstood record catastrophe losses in 2017-18.**

*Our thoughts go out to those affected by the ongoing COVID-19 health crisis.*

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