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As the world is grappling with the unceasing spread of the 2019 Novel Coronavirus (“COVID-19”) and its impact on human life and economies, corporates are in the midst of responding to the COVID-19 outbreak on multiple fronts – including as insureds/claimants under insurance policies.

One of the immediate cause of concern for corporates is to ensure safety of their employees and business continuity. The Indian government has announced the implementation of comprehensive social distancing measures, including closure of educational institutions, cancellations of major sports and entertainment events, travel and business restrictions, advisories on work from home and social distancing, advising states to only permit the operation of “essential services” in 75 districts where the virus has been identified. Several states have already implemented these advisories by instituting curfews and lockdowns, only permitting essential services “depending on their assessment of the situation”. Some states, such as Maharashtra has notified insurance companies as essential services.

Apart from severely impacting life, health and travel, COVID-19 has led to a significant negative economic impact on global supply chains and staffing, cessation of business operations, increased costs of working in view of precautionary measures and market volatility. The Indian insurance sector is likely to witness some of the largest claims in these areas in the coming months. Historically, businesses have implemented detailed insurance programs for ensuring protection against risks such as fire incidents, earthquakes and other natural calamities. It was not anticipated that risks such as COVID-19 could expose corporates to losses of such magnitude.

In this edition, we analyse key implications of COVID-19 on insurance policies.

Health Insurance – High Priority

- The health and safety of employees is the biggest priority for businesses these days. Whilst organizations already offer cover to employees under group medical insurance plans, most of the individual and group health insurance policies offered by Indian insurers do not exclude cost of hospitalisation/medical treatment due to a pandemic/epidemics. Still, one of the immediate action points for businesses would be to confirm coverage for COVID-19 under the specific wording of their group health and mediclaim insurance.

- The Indian insurance regulator, IRDAI, is proactively reviewing the situation and has directed insurers to expeditiously settle COVID-19 related hospitalisation claims and cover admissible medical expenses during the quarantine period per policy terms. The IRDAI has directed insurers to design products covering treatment costs for COVID-19 cases, to meet health insurance requirements of various sections of the population. Based on the pandemic unravelling in India, few insurers have already devised COVID-19 specific health insurance products on both, an individual and a group level (covering staff of large organizations). Such products will be particularly useful for addressing risks associated with corporate travel, when the pandemic subsides.
- After the emergence of COVID-19, though the health insurance sector has witnessed an increase in claim ratios, but could also see tremendous growth in new business premium and renewal numbers. As insurance covers known risks and not unknown ones, it will be interesting to see whether insurers prescribe any minimum waiting periods before issuing new medical covers for COVID-19. Further, digital insurers and intermediaries, based on their robust IT infrastructure, will be able to make a lasting impression in the health insurance sector in light of these novel circumstances. However, the option to provide provision of cashless hospitalisation may be a challenge if there is a surge in numbers. Other challenges include cover for hospitalisation in make-shift hospitals and setting up new facilities to cater to growing healthcare requirements.

Business Interruption Losses – Lessons Learnt

- Businesses worldwide are looking at existing business interruption (BI) insurance plans to overcome the economic impact of the virus. As COVID-19 is expected to linger over a long time globally, business losses due to impact on supply chains, infection in employees/workers as well as mandatory/voluntary and governmental shutdowns, will be seen as key risks, sought to be covered by insurance.
- In India, the story is not that different, as BI covers business interruption losses only if there is an underlying property damage. Cover is typically not available for business losses due to pandemics or viral outbreaks. It is also extremely difficult to price contingency based BI plans which cover pandemic risk. Even if the cover was offered, it would be limited protection with strict terms and higher pricing.



- The Confederation of India Traders has appealed to the Indian government to instruct IRDAI and insurers to devise appropriate add-on business interruption covers that could be attached to existing standard property insurance covers, for overcoming loss of profit due to pandemics such as COVID-19. Given the negative impact on the economy, it is likely that the IRDAI may come up with appropriate directions for insurers to make available business interruption products, which provide coverage against disruptions due to epidemics/pandemics. Such insurance products are fairly complex and Indian insurers may require some time to make them available in the market. On the whole, we expect drastic changes in the manner in which business interruption insurance is perceived and applied in the business world, and the pricing of risks will depend on preparedness of organizations for pandemics and epidemics.

Property & Burglary Insurance

- Given the uncertain environment brought by COVID-19, where government imposed shutdowns or voluntary work from home regimes could become very common – unoccupied office, warehouse or factory premises will be more prone to burglary or even fire risks. It would be prudent for corporates to evaluate if such risks are duly covered under their existing insurance program. For instance, under the standard fire and perils wording, if the building insured or containing the insured property becomes unoccupied for more than 30 days, the insured is required to take the insurer's written approval to ensure continuity of coverage.
- Special attention to insurance coverage and communications with insurers will go a long way in ensuring that if unforeseen events do take place, the financial consequences are covered by insurers. An uncertain environment resulting from high contagion will surely have a huge impact on existing risk management strategies deployed by corporates to protect their properties.

Event & Contingency Cover

- As the Indian government has implemented several restrictions on international travel, many international and domestic events have been already cancelled and postponed. Depending on what scenario unfolds in the next few weeks or months, there will be a rise in demand for event cancellation/contingency policies. Such policies generally cover financial loss due to perils beyond

the control of the insured, when such perils result in cancellation, postponement, curtailment or abandonment of an event.

- Event contingency policies often prescribe various conditions on the insured for mitigating losses (such as exercising rescheduling options). In the wake of pandemic, insureds must carefully assess the coverage offered under event contingencies and action plans. The exact policy terms will eventually determine if cancellations/postponements due to COVID-19 are covered.

D&O & Employment Practices Liability Insurance

- While ensuring continued regulatory compliance, employee protection and business operations, senior management of companies will be impacted by reduced staff and issues are expected in manufacturing, production lines and supply chains. It will be useful for corporates to have a clear, comprehensive and documented contingency plan to address risks of claims on directors and officers from employees, regulatory, shareholders and investors. Companies may also assess adequacy of existing D&O insurance protection for such risks.
- In the United States, law suits have been filed against certain entities by their shareholders on disclosures made in relation to the impact of COVID-19 on the business. As the last quarter of 2020 is coming to an end, financial results may be vastly impacted from the outbreak, and the manner in which the companies communicate the impact to the shareholders could affect the companies' potential involvement in D&O claims. Similarly, the possibility of employees taking legal action against the directors, officers or managers of a company for any failure to protect employees from COVID-19 exposure, cannot be ruled out.
- Financial market volatility will likely impact the capital strength of insurers and other financial institutions. Businesses could be forced to lay off employees and such steps could lead to claims from employees. Several Indian companies may need a fresh evaluation of their strategy for such risks through procuring appropriate employee practices liability insurance policies. Even if there is no wrong committed by the company, the costs incurred to defend such liability could prove to be costly.



Liability Insurance

- A rise in COVID-19 infections could significantly increase staff absences due to illness or self-quarantine, thereby impacting services of professional services firms. Such firms will operate in a scenario where chances of negligence/errors and omissions and delay in meeting contractual commitments are higher. More businesses would look towards professional indemnity insurance to safeguard them against such risks in a jittery economy.
- There may be instances of third party claims and litigation against companies as a result of staff passing on the infection to customers and corporates must assess the protection offered under their existing general liability insurance policies.

Cyber Security and Data Risk

- As more employees work from home, the effectiveness of IT systems and data security plans of organizations will be critical. A transformed work environment will undoubtedly increase data and cyber security risks, including network interruptions as there will be greater reliance on technology. Further, in an environment of misinformation and panic, organizations will be more susceptible to cyber frauds. Businesses will need to devise stringent data protection strategies as sensitive information will leave company premises to homes of employees for continuity in services. Undoubtedly, the appetite for cyber security insurance covers is expected to grow significantly among Indian corporates.

Trade Credit Insurance

- COVID-19 has already led to a negative impact on the economy and if the market conditions do not improve, then, recession will definitely threaten the global economy, which may result in an increase in the insolvency crisis. It is important for policyholders to review their trade credit programs as well as insurance covers, to ensure that financial losses are duly covered by insurers.

As the story unfolds...

Businesses impacted by the pandemic should review the business risks before taking any important decisions. As COVID-19 continues to impact the global economy, businesses facing uncertain times will rely on force majeure clauses and insurance policies for an effective solution. Understanding the applicable contractual provisions, law, and choice of effective remedy will allow businesses to limit the negative impact of COVID-19.

First and foremost, businesses should strongly consider two primary questions, namely: (i) whether there could be any coverage for losses due to COVID-19; and (ii) what could be the continuity plan.

Affected parties should start reviewing the insurance policy wordings in order to determine the scope of coverage available and to what extent losses are covered.

Disclaimer

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