

CORONAVIRUS RESOURCE CENTER

COVID-19 – The FCA Announces Its Approach to Business Interruption Insurance

16 April 2020

On 15 April 2020, the Financial Conduct Authority (the “FCA”) [announced](#) that it sees no “reasonable grounds” to intervene in business interruption claims for Covid-19 losses where policies do not cover pandemics. The FCA’s view is that most policies do not cover pandemics and, therefore, most insurers will have no obligation pay out in relation to Covid-19.

Nonetheless, the FCA emphasises that there are policies where it is “clear” that the firm has an obligation to pay out on a policy. In such cases, the FCA requires claims to be “assessed and settled quickly”.

If there are reasonable grounds to pay part of a claim but not to make the payment of such claims in full, the FCA would like firms to adopt an “interim payment” approach. Where firms disagree with doing so, they are requested to send the FCA the grounds for reaching that decision, including how it represents a fair outcome for customers.

A spokesperson for the Association of British Insurers (the “ABI”) [responded](#) to the FCA’s announcement, stating: “[t]his FCA clarification confirms the scope of pandemic insurance among firms. Insurers recognise this is a worrying time for all businesses and ABI members are committed to swift payment of valid claims and interim payments to their customers.”

The FCA’s announcement suggests that UK carriers are unlikely to be forced, in the absence of government intervention, to make good Covid-19 losses where policyholders did not purchase specific pandemic protection, despite mounting fears that such pay-outs may be mandated by regulators or governments. Such fears have been sparked by U.S. legislative bills, currently being circulated at state and federal levels, which seek to retroactively create coverage for the pandemic. In the United Kingdom, insurers’

concerns were summarised in a 2 April 2020 [letter](#) from Huw Evans, Director General of the ABI, to the *Financial Times*, in which he said that insurers cannot pay out where customers have not paid for cover because it would be a “shortcut to insolvency”.

The FCA’s announcement also highlights the benefits of using the Financial Ombudsman Service (the “FOS”) as a means of dispute resolution where the policyholder is a small business. A business is considered small if it has an annual turnover below £6.5 million and fewer than 50 employees or an annual balance sheet below £5 million. The key advantage for insurers is that the FOS can provide faster decisions (on claims of up to £355,000) than a court process.

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Please do not hesitate to contact us with any questions.



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