

An aerial photograph of a coastal road. The road is a two-lane asphalt road with white dashed lines, running vertically through the center. To the left of the road is a rocky shoreline and clear, turquoise water. To the right is a dense forest with trees in various shades of green, yellow, and orange, suggesting autumn. A large white rectangular box is overlaid on the top left portion of the image, containing the title and author information.

# Willis Towers Watson North America COVID-19 *Early Market Commentary*

**Joseph C. Peiser**, Global Head of Broking

Client Update - March 26, 2020

# Market Conditions & Early COVID-19 Commentary

## What are the Headlines as of March 26



- The global insurance industry, like all industries, is grappling with the impact of COVID-19 in real-time. The situation is extremely fluid.
- All insurers are operating. Most are using technology for remote working.
- Extensions, extended premium payment terms, mid-term adjustments, notices of cancellation for non-payment, etc. are being considered on a case-by-case basis for those with extenuating circumstances. (Insurers are expected to comply with local directives.)
- To date, insurers are honoring open quotes; no instances of “material adverse change” (MAC) clauses being invoked.
- No *widespread, consistent* application of new exclusions, but they are appearing on some renewals in the U.S. and London. Similarly, renewal terms, particularly in property, are being tightened where coverage may have existed prior.
- Industries under most scrutiny: healthcare, senior living, janitorial services, hospitality, entertainment, aviation, cruise lines, etc.
- ***The rate hikes experienced earlier this year are still occurring but without material immediate acceleration at this point. (NB: rate hikes had been accelerating for about 12 months.)***
- Rapid declines in rateable exposures (e.g. business interruption values, cargo, payrolls, etc.) is becoming an immediate issue for renewals and a consideration for in-force programs.

# Market Conditions & Early COVID-19 Commentary

What are the Headlines as of March 26



- For most, not all, COVID-19 may not be a covered event.
- The coverage issues are complicated, highly dependent on an insured's specific policy language.
- Expert analysis is required.

## Many P&C Lines will be impacted directly or indirectly

- Property & Business Interruption
- Event Cancellation
- Trade Credit
- Environmental
- Workers Compensation
- Liability – GL, Auto, Umbrella
- EPLI (massive employee actions are occurring)
- D&O (financial market turmoil)
- Cyber (remote working etc.)
- Healthcare (malpractice etc.)
- Marine (ports & terminals, cruise lines, etc.)
- Aviation

# Market Conditions & Early COVID-19 Commentary

## Property & Business Interruption Matters as of March 26



### Coverage Considerations

*Very limited, if any, coverage. It is highly dependent on the specifics of each insured's policy terms. Here are the considerations:*

- Is there actual physical damage?
- Is this a covered peril?
- Does the policy provide any coverage for non-physical damage or "special peril" business interruption? Is there a sublimit? Is it site-specific?
- Is there an infectious disease exclusion?
- "Civil Authority" coverage normally requires a covered peril.

### Marketing & Other Considerations

- Rate conditions consistent with pre COVID-19
- Policy forms, especially manuscripts, are being scrutinized.
- B.I. values changing rapidly for renewals and in-force programs. There will be valuation concerns.
- Cat Limit needs may be decreasing – review modelling.
- Consider annual adjustment clause or agreed rate matrix
- Review cancelation clauses. Cancel re-writes may not be viable.
- If a COVID-19 claim is possible, consider incumbents when marketing.

# Market Conditions & Early COVID-19 Commentary

## Workers Compensation Matters as of March 26



### Coverage Considerations

*Coverage hinges on the peculiarities of the job and the State:*

- Will COVID-19 be an Occupational Disease? A state-by-state matter.
- Will quarantines etc be deemed compensable?
- Is Foreign Voluntary Comp triggered?
- Employers liability concerns for employers with “front line” exposure
- Workers Compensation claim considerations during layoffs

### Marketing & Other Considerations

- Rate conditions still as per Pre COVID-19
- Review ALL Payroll and class code information.
- Minimum earned premium provisions – current and prospective policy considerations
- Collateral and financial security. Will need to focus on:
  - Form of security
  - Connecting with credit officer
  - Short term policy for highly distressed business
  - Leveraging analytics as an offensive tool
- Communicable disease coverage
- Business continuity clause within the program agreement

# Market Conditions & Early COVID-19 Commentary

## Auto, General Liability & Umbrella Liability Considerations as of March 26



### Coverage Considerations

*Coverage is highly dependent on the specifics of each insured's policy terms and the facts alleged by the underlying claim, as well as applicable law.*

- Is there any form of communicable and/or infectious disease exclusion? (Not widespread but not unheard of.)
- Pollution / fungi / bacteria exclusions will come into play
- Crisis Response coverage may be triggered – Important to note this is a “pay on behalf of” coverage
- Comply with all policy conditions in the event of a claim to avoid contract breaches

### Marketing & Other Considerations

- Non-owned auto exposures may be rising (e.g. restaurants)
- Minimum earned premium provisions – current and prospective policy considerations
- Third-party onsite exposures (e.g. service providers, waste haulers)
- Non-conventional Covid-19 exclusions (pathogens; biological matter; microbes; germs; fomites)
- If a COVID-19 claim is certain, consider incumbents when marketing.

# Market Conditions & Early COVID-19 Commentary

## Environmental Matters as of March 26



### Coverage Considerations

*Very limited, if any, coverage. It is highly dependent on the specifics of each insured's policy terms. Here are the considerations:*

- Affirmative coverage for bacteria and/or virus may exist
- Disinfection/Clean-up costs coverage may be provided. Likely site-specific
- Communicable disease and "human-to-human" contact exclusions
- CDC directive in the absence of Environmental Laws
- All other terms and condition apply

### Marketing & Other Considerations

- No change to capacity or rates from COVID-19 (Flat to 15% - CPL/PLL)
- Majority of the open new business unaffected – especially CPL business
- Appetite for some classes (healthcare, hospitality, senior living) restricting for renewals, new business, or midterm acquisitions
- COVID-19 Exclusions – Range from absolute to wait and see
- Bespoke coverage (carrier / LOB / endorsements) – slowing evaluation for COVID-19

# Market Conditions & Early COVID-19 Commentary

## D&O Matters as of March 26

### Rate Environment – COVID-19 vs Pre COVID-19

- Firming continues. D&O was already under pressure and now even more.
- Pre COVID-19 rate increases are holding up. However, targeted segments: insurance companies (particularly life), airlines, real estate, oil & gas, hospitality, travel and retail are seeing heightened pressure.

### Underwriting / Renewal Issues

- Thankfully, no knee-jerk reactions (so far). Generally, carriers have not pulled quoted or bound terms (via MAC). A few accounts have seen quotes pulled or adjusted (in those same targeted segments).
- Extensions, etc. will be an account-specific pro/con evaluation.
- Quoting: More focused on exposure to COVID-19, liquidity, proactively managing/pulling guidance, and changes to business plans. Questionnaires developing. Pressure on retentions and capacity for impacted classes.
- Exclusions: Not seeing COVID-19 specific exclusions yet. We are seeing bankruptcy/insolvency/creditor exclusion or sublimits — especially on private D&O.
- Appetite: Cautious. In general, tougher to place. Targeted segments may face a hard market--reduced or pulled capacity, increased retentions—especially on private D&O.





# Market Conditions & Early COVID-19 Commentary

## Cyber Matters as of March 26



### Considerations

- No change in the rate environment. (+5-+10%)
- No current changes in appetite yet.
- No application of new exclusions.
- Dramatic increases in remote working causing underwriters to “watch” especially given the likelihood that unsecured home equipment may be used by employees. Expect questions about VPN and BYOD protocols if going through renewals.
- Social engineering, ransomware and/or phishing attacks may increase even more than the increases experienced in the past 12 months due to a remote working spike.
- Expect scrutiny on Bodily Injury carvebacks.
- Any large and/or systemic breaches will have an impact.
- Incident response plans may take longer to implement due to lack of onsite personnel.

# Market Conditions & Early COVID-19 Commentary

## Construction Matters as of March 26

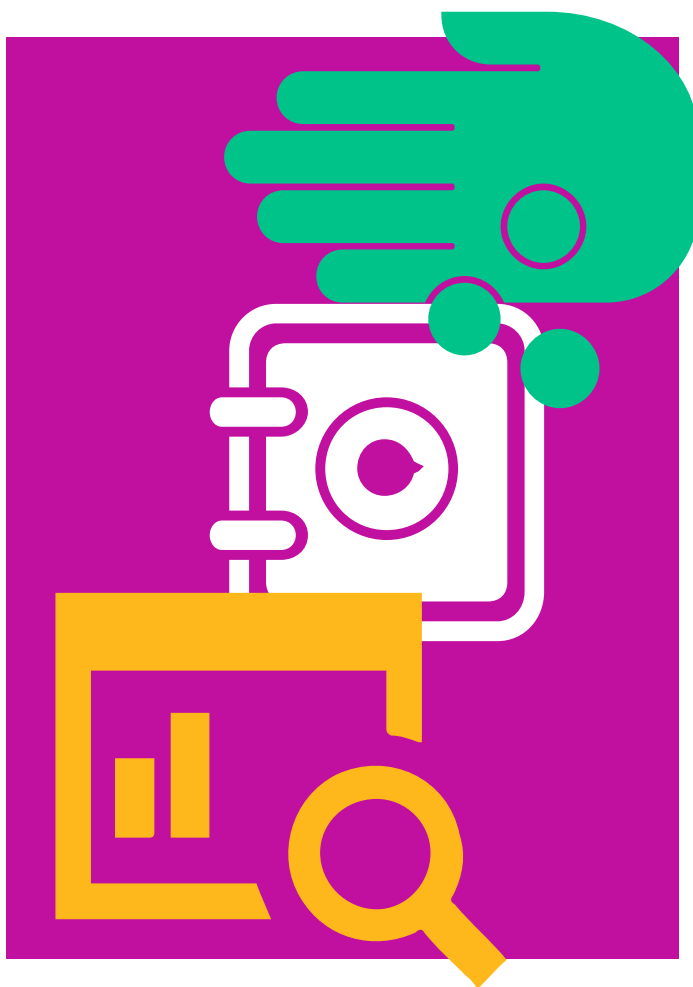


### Considerations

- The rate environment, capacity, and insurer appetite has not materially changed due to the onset of COVID-19. This could change rapidly.
- Jobs are shutting down.
- Review contractual obligations regarding impact on project scheduling due to COVID-19.
- Review project delay policy conditions.
- Insurance pricing indications / pro formas received in the past six months need to be reconsidered.
- Safety and Quality programs are critical. Maintain records.
- Driver safety is critical – document compliance and efficacy.

# Market Conditions & Early COVID-19 Commentary

## Potential Impact on the P&C Industry as of March 26



- Most insurers entered the COVID-19 crisis well-capitalized.
- Financial impact on insurers will come from three sources:
  - Actual claims paid – depending on their business mix (NB: there will be direct and indirect claims per earlier comments)
  - Erosion of their asset portfolio – depending on investment mix
  - Diminution of future revenue due to reduced interest rates and other investment income and the eroding rate bases of insurance
- Heightened concern about life insurer balance sheet health (vs P&C)
- Rating agencies including Bests are active. Expect more guidance regarding impact on specific insurers in 4-6 weeks. Some industry-wide views may be more current. Bests coming out with a new rating model given COVID-19
- ***State legislative action to retroactively amend coverage terms is being considered expected, but current thinking is that such actions will ultimately be unsuccessful.***
- ***Federal bail-out including business interruption indemnification and/or pandemic backstop are being considered in Washington.***

## Market Conditions & Early COVID-19 Commentary

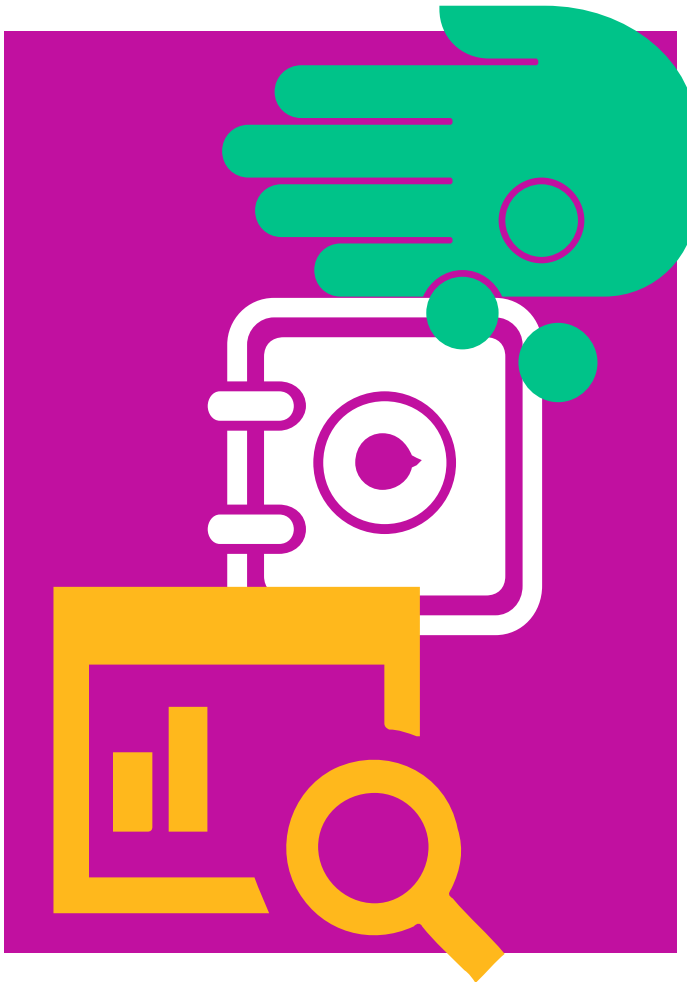
### What Should Every Insured do (as of March 26)?

- Comply with all governmental directives to reduce potential harm and mitigate potential liability.
- Be wary of actual or inadvertent discrimination based on ethnicity, race, etc. of employees, customers, etc.
- Gather your actual policies and have an expert review. Your policies will be the biggest and likely sole factor in determining coverage. **We are turning around expert reviews in 24-48 hours for clients.**
- Review exposure data as it is changing rapidly
- Review cancellation clauses, minimum earned premium provisions, collateral positions, etc.
- Maintain records; especially payrolls, class codes, etc. as workers are furloughed, etc. These will be critical in an audit.
- Comply with all policy conditions. Note especially warranties, vacancy clauses, etc. and note where coverage is “pay on behalf of” and not “indemnification.”
- Use VPNs for remote working. Strongly discourage home equipment use.



# Market Conditions & Early COVID-19 Commentary

## Property loss control considerations



- Managing risk in idle or closed facilities
- Challenges with collecting engineering data remotely
- Protocols for *re-establishing* inspections
- Boiler & Machinery Jurisdictional Inspections
- Managing open recommendations

# Market Conditions & Early COVID-19 Commentary

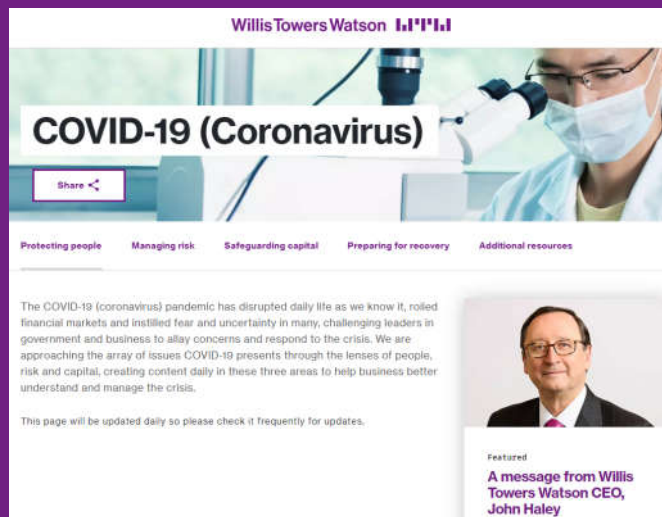
## Dealing with an upcoming renewal

- Ample time is **NECESSARY and more critical now.**
- The global insurance market is operating. But there is considerable distraction and uncertainty. Underwriting decisions may take even longer.
- Video conferencing is a substitute for in-person meetings.
- Bermuda (i.e. offshore underwriters) are functioning. There may be extra steps required, but its working.
- ***Don't wait to provide binding orders if possible. Servers crashing could delay documentation.***
- Differentiating your risk is more critical than ever.
  - Analytics – know your loss trends and drivers
  - Inventory risk control and governance efforts
- Relationships still matter.
- ART continues to be a consideration.
- ***Optimizing program limits and retentions will be critical in the COVID-19 recovery.***



## Visit our Website

Information and resources



### COVID-19 'Trending Topic' Hub with information to help you

- **Protect People**
- **Manage Risk**
- **Safeguard Capital**
- **Prepare for Recovery**

Updated daily.

Includes articles, webinars, WTW experts, WTW resources and links to government and third party resources to assist you through this unprecedented and rapidly changing event.

<https://www.willistowerswatson.com/en-US/Insights/trending-topics/covid-19-coronavirus>

# Questions





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*Each applicable policy of insurance must be reviewed to determine the extent, if any, of coverage for COVID-19. Coverage may vary depending on the jurisdiction and circumstances. For global client programs it is critical to consider all local operations and how policies may or may not include COVID-19 coverage.*

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