Insights: Alerts

# Maximizing Insurance Recovery For Businesses Impacted By Recent Natural Disasters

**APRIL 21, 2016** Written by

There has been a spate of natural disasters throughout the world recently—from major earthquakes in Japan and Ecuador to torrential rainfall and flooding in Texas. These events have had devastating consequences, including the loss of hundreds of lives, mass destruction to property, and complete shutdown of commerce and activity in the affected areas. The main focus, correctly, has been on caring for the multitude of human victims affected by these natural events.

And as the dust begins to settle and the waters begin to recede, businesses will need to start the process of accessing the scope and extent of damage that these natural disasters have caused. Although most businesses, save those with operations and offices in the quake zones and flood areas, were physically unaffected by these earthquakes and heavy rains, they still might incur financial loss. Most businesses these days are global and interconnected and, therefore, damage to operations in one region can have a direct impact on operations in another region due to, among other things, interdependencies with suppliers and vendors in the affected regions, use of transportation that flows through the quake and flood zones, or communication and logistics that occur in or through the affected areas.

The full impact of these natural disasters to the affected communities and the businesses in these regions will not be known for several months. However, prudent businesses should take immediate action to identify potential insurance coverage to addresses losses and mitigate future economic losses.

**Loss Suffered By Businesses Outside Of The Affected Regions May Be Covered By Insurance**

Businesses with operations and offices in the affected areas should, in general, be able to turn to their insurance carriers for the recovery of loss to their buildings, equipment, and property. What is not as obvious but potentially equally crippling is loss suffered by businesses outside of the affected regions, because they have to halt or delay operations due to their dependence on suppliers, logistics operators, and other interconnected businesses that are located in the affected areas. For example, **Toyota recently announced** that it would suspend much of its production even at plants outside of the direct quake zone because the earthquake in the Southern region of Japan led to shortage of parts and other equipment throughout the country. Consequently, disruptions that began locally in the affected regions are causing disruptions and delays worldwide, as airlines, shipping companies, rail operators, and trucking companies are becoming increasingly affected. Insurance coverage is available for economic loss caused by damage to other people's property or operations where the policyholder relies on others for its own normal operations.

For example, contingent business interruption coverage may protect businesses from economic losses caused by the inability to get a supplier's goods to the policyholder, thereby preventing the policyholder from producing and then selling its product to the marketplace. The focus of this coverage is on the interruption to the policyholder's

business because of the loss of another, such as the inability of a manufacturer to provide needed supplies to businesses that rely on such supplies for timely and consistent production and sales.

Other possible coverage extensions include the following:

***Order of civil authority coverage*** – which typically applies when business income is lost because access to the policyholder's premises is prohibited by government directive as the direct result of damage to or destruction of property belonging to others caused by a covered cause of loss.

***Gross earnings coverage*** – which reimburses the policyholder for the amount of gross earnings minus normal expenses that the policyholder would have earned but for the interruption of the business, i.e., profits. In making this calculation, most carriers will seek to reduce the amount to be paid by the savings inuring to the policyholder because of the business interruption. For example, while certain fixed overhead amounts will be incurred whether or not the business is ongoing, costs of raw materials and items incidental to operations will not be incurred.

***Extra expense coverage*** – which is intended to indemnify the policyholder for any increased cost of business operations above the norm because of a peril insured against. For example, coverage typically is provided when a policyholder has lost electricity and purchases a special generator so that the business can continue to operate. This coverage can also apply to additional expenses incurred to operate the business from a temporary location.

***Ingress/Egress coverage*** – which covers losses when ingress to or egress from a covered property is prevented or hindered by the triggered event. This coverage may be available in the event of road closures, and other transportation limitations.

***Preservation or Protection of Property coverage*** – which may cover the costs of preserving covered property or protecting property from possible loss when a catastrophic event is imminent, or after some loss has occurred.

Although the right to insurance coverage will depend on the policy provisions and facts specific to the policyholder, given the magnitude of these recent natural disasters, it is important for policyholders to act immediately to protect their rights.

**What Should Policyholders Do Now?**

Businesses with potential or actual losses should immediately begin to assess their coverages and any potentially qualifying loss. Those businesses should begin an investigation of their insurance policies—as well as third-party policies and indemnity agreements that might extend coverage for their benefit—and consider providing those insurance carriers with notice of potential business interruption claims. Whether insurance will cover any of the economic losses will depend upon the specific scope and language of these policies. However, given the potential devastating impact from these natural disasters, businesses should immediately investigate the potential benefit of insurance.

Policyholder businesses should also record and document suspected business loss and additionally incurred expenses, as well as the expenses associated with preparing any potential claim, since such expenses may also be covered. They should also read and follow all policy conditions, such as notice, consent, and proof of loss requirements. Companies also should take necessary steps to mitigate their losses, including making efforts to obtain any necessary substitute materials, and consider alternative operations. Finally, a company should assemble

a team of qualified professionals to assist in preparing and presenting their claim. Insurance companies employ accountants, underwriters and attorneys to represent their interests against their policyholders. Thus, it is incumbent that policyholders be prepared to present their claim – including claims for losses caused by damage in other locations that might affect the business – in the best possible light.