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## Does Your Insurance Cover Losses Caused by the Iceland Volcano?

The recent eruption of a volcano in Iceland disrupted air travel and air transport for several days. There are worries that a second volcano in Iceland may soon erupt on an even larger scale.

The disruption of air travel may have caused losses to American businesses for any number of reasons:

- (1) lost supplies – property necessary for conduct of business could not be transported to or from Europe
- (2) lost sales – property could not be sold or transported to a buyer
- (3) lost persons – people could not travel to the business

Insurance policies may provide some coverage for these losses, if the business has the appropriate type of insurance and the insurance policy has the right wording. This disruption reinforces the need for a business to review their policies, consult with insurance brokers and lawyers, and try to obtain the appropriate insurance for risks the business faces. While it is a volcano which caused the disruption this time, there could be other events which could cause similar disruptions.

The common “business interruption” insurance policy is unlikely to provide coverage for losses associated with the disruption in air travel due to the volcano. First, the policies typically require the insured’s business to sustain a “suspension.” Policies differ in their wording with some defining “suspension” as a complete cessation of operations – a highly unlikely scenario. Some policies, however, define “suspension” to be a “slowdown” or a “reduction.” A business should endeavor to have a policy that covers “slowdowns” or “reductions.”

The “suspension” typically has to result from some “property damage” – the property damage may be to the business itself, to utility services elsewhere, and even to properties upon which the business is dependent. However, the ash from the volcano does not appear to have caused actual physical property damage. Rather, air traffic was stopped due to the prospect or fear of property damage to the airplanes.

A different avenue for obtaining coverage may be coverage for losses resulting from acts of “civil authority.” Presumably, various governments ordered air traffic to cease. Policy wording varies on this coverage. Some policies apply only where the government orders the insured business itself to be closed. Some require the government to cut off access directly to the business seeking coverage. For example, after 9/11, insurers paid claims for businesses within airports that were not operating, but did not pay for claims for businesses adjacent to the airport premise, because the government did not close those adjacent businesses. Courts have differed on whether government curfews were a direct closure of business adequate to trigger the coverage. However, the wording may be broad enough to simply require the losses to result from some act of “civil authority.”

Some business interruption policies provide coverage where the losses result from the suspension of operations of or property damage to a “dependent” or “contingent” business – namely a business upon which the insured business relies – such as a supplier of parts. These “dependent” or “contingent” businesses may have to be scheduled on the insured business’ policy. The problem is that the businesses which were suspended by the volcano were the air travel and air transport – neither of which is likely to have been scheduled on the policy.

Certain special limited insurance policies may apply. For example, the inability of people to travel may have caused an event – such as an exposition or conference – to be cancelled. A promoter may have purchased an “event cancellation” insurance policy which might cover not only a “cancellation” but also might cover losses of income from lesser than anticipated attendance. The policy may cover fixed non-reimbursable expenses, such as the rental of convention and hotel space. The wording on these policies vary greatly as to what “causes” of cancellation may be covered.

The economic losses resulting from the disruption in air travel due to the Iceland volcano should remind businesses that there are major risks to the business which may not be insured unless the business has anticipated and purchased appropriate coverage. An annual review of an insurance program to match it up with risks actually faced by the business is not a luxury.

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