



FCA seeks legal clarity on business interruption insurance alongside package of measures to help consumers and small businesses

The Financial Conduct Authority (FCA) has today announced it intends to seek legal clarity on business interruption (BI) insurance to resolve doubt for businesses who are facing uncertainty on their claims.

It is also proposing a series of measures to support both consumers and businesses who hold insurance products and who are facing other issues as a result of coronavirus (Covid-19). The package of measures sets out the FCA's expectations that insurance firms should consider whether their products still offer value to customers in the current situation and whether they can be doing more for those suffering a financial impact because of coronavirus.

Christopher Woolard, Interim Chief Executive of the FCA, said:

'We have been clear that we believe in the majority of cases, business interruption insurance was not purchased to, and is unlikely to, cover the current emergency. However, there remain a number of policies where it is clear that the firm has an obligation to pay out on a policy. For these policies, it is important that claims are assessed and settled quickly. There are also some other policies where firms may consider there is no doubt about wording and decline to pay a claim, but customers may still consider there is genuine uncertainty about whether their policy provides cover.

'Our intended court action is designed to resolve a selected number of key issues causing uncertainty as promptly as possible and to provide greater clarity for all parties, both insured and insurers. It is clear that decisive action is appropriate given the severity of the potential consequences for customers.

'In addition to this court action, the current emergency has altered the value of some insurance products and we believe that insurers should be looking at both whether their products still offer value. Firms should also look at how they can help customers who may be experiencing financial difficulties as a result of the virus. Many insurers are already taking some kind of action to assist their customers and we want to see a degree of consistency for consumers. Today's proposed guidance and statement aims to make our expectations clear to all firms in the insurance market and provide future certainty.'

Business interruption insurance

The FCA is publishing a separate statement today on BI insurance. It outlines that the FCA intends to seek a court declaration, on an agreed and urgent basis, to resolve uncertainty for many customers making BI claims, and the basis on which firms are making decisions to accept claims.

The FCA is seeking to bring to court what it believes are the key relevant cases which provide the greatest clarity on specific policy clauses as soon as possible to get an independent view on these disputed BI insurance policies if there remains unresolved uncertainty. The cases placed before the court will be carefully chosen as a representative sample of the most frequently used policy wordings that are giving rise to uncertainty.

The FCA will seek to put cases before the Court on an agreed basis with the insurers concerned in order to get the fastest possible judgement. Individuals can still access the Financial Ombudsman or the courts if they qualify and wish to do so.

The FCA is writing to a small number of firms seeking clarification about whether they are declining, or intend to decline BI claims. The FCA expects these firms to reply to it to clarify their position, by no later than 15 May 2020. Based on the information obtained, the FCA will consider which firms to ask to join the court process.

Insurance guidance

The additional guidance proposals are designed to provide consumers with temporary support in the light of the exceptional circumstances arising from coronavirus and follow steps the FCA has taken in other markets such as credit cards, overdrafts and personal loans.

This package of measures sets out how the FCA expects insurance firms to:

- Ensure products continue to offer value and are appropriate for customers taking into account the impact of coronavirus taking into account the firm's ability to deliver the benefits promised.
- Help individual customers who may be finding it difficult to pay their insurance premiums or meet their premium finance payments as a result of coronavirus.

Coronavirus may be having a temporary impact on the extent to which consumers can use and access benefits from their insurance products. For example, boiler cover insurers may not be able to offer an annual service that is part of many policies. Similarly, liability insurance may temporarily not be relevant for some businesses such as hairdressers, bars and restaurants that are closed as a result of Government interventions linked to Covid-19.

The FCA expects insurers to assess the value of their insurance products to customers during this period and to consider appropriate action. This might include changing how benefits are delivered, refunding some premiums or suspending monthly payments for a certain period of time. The FCA proposes to give insurers up to six months to assess this so that it can take into account effects of coronavirus in a more rounded manner.

Coronavirus may also be making it harder for people to afford their insurance and premium finance payments. The FCA is setting expectations for firms to take steps to help customers alleviate temporary financial distress and maintain insurance cover that meets their demands and needs. Insurers will have a range of options they can consider appropriate to the policy. This might include giving customers premium payment holidays, waiving administration and cancellation fees, relaxing charges or interest incurred for missed payment, extending cooling off periods and partly refunding premium payments where the whole amount has been paid up front.

Customers who are struggling to afford their insurance or premium finance payments as a result of the impact of coronavirus should contact their insurer to discuss options.

The FCA is seeking comments on its proposal to help customers in temporary financial distress by 5 May and on those to assess the value of insurance products by 15 May. If confirmed, the measures to help customers in temporary financial distress will apply shortly after 5 May and those for value assessments shortly after 15 May. Once implemented the FCA will review this guidance in 3 months in the light of developments regarding coronavirus and may revise the guidance if appropriate.

Notes to editors

1. [FCA statement - insuring SMEs: business interruption](#) [3]
2. [Product value and coronavirus: draft guidance for insurance firms](#) [4]
3. [Coronavirus and customers in temporary financial difficulty: draft guidance for insurance and premium finance firms](#) [5]

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