

# Debevoise Alert – DFS Seeking Coronavirus Plans and Business Interruption Information from New York Insurers

March 11, 2020

The New York Department of Financial Services (“DFS”) today issued a Circular Letter to the chief executive officers (or equivalent titles) of insurance entities regulated by the DFS. The Circular Letter requires each insurance entity to submit a response to DFS describing its plans and preparation to manage the risks arising from COVID-19. Responses are due as soon as possible and in no event later than thirty (30) days from today.

Additionally, the DFS issued a Section 308 letter on March 10 to all authorized property-casualty insurers seeking extensive and detailed information about their New York commercial property policies with business interruption coverage, including whether business interruption claims resulting from the corona virus would be covered.

We are prepared to help clients in interpreting the Circular Letter and the Section 308 letter, assist in coordinating responses and act as a confidential clearinghouse for client questions.

The Circular Letter focuses on two broad areas of concern: (1) the disruption to an insurer’s operations and (2) the financial risk stemming from the virus. An entity’s plan should be flexible to effectively address a range of possible effects and reflect the entity’s size, complexity and activities.

The entity’s plan addressing operational risk should be comprehensive and should address:

- preventative measures to mitigate the risk of operational disruption on the entity, its consumers and vendors;
- assessment of all facilities, systems, policies and procedures necessary to continue critical operations if staff is unavailable;
- employee protection and awareness strategies;

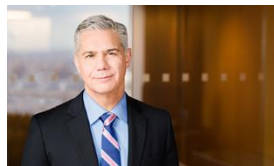
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- assessment of the preparedness of critical third-party service providers and suppliers;
  - communications plan to effectively communicate with consumers and vendors, including a forum for questions to be asked and addressed;
  - governance and oversight of the plan; and
  - testing the plan to ensure that the policies, processes and procedures are effective.

The entity's plan addressing financial risks should include:

- an assessment of the overall impact of COVID-19 on reserve requirements, consumers' ability to make timely premium payments, and resources required to timely process claims;
- analysis of the credit risk of, and exposure to, counterparties and business sectors impacted by COVID-19;
- review of the scope, size and valuation of admitted assets or other investments adversely impacted by COVID-19; and
- assessment of the overall impact of COVID-19 on earnings, profits, capital and liquidity.

The Circular Letter reiterates that the board of directors is responsible for ensuring that appropriate plans are in place and that sufficient resources are allocated to implement such plans, while senior management is responsible for ensuring that effective policies, processes and procedures are in place to execute such plans and for communicating such plans throughout the entity.

The Section 308 letter requires companies to provide to the DFS the volume of in-force business interruption coverage, civil authority coverage, contingent business interruption coverage and supply chain coverage by direct premium written and number and types of policies written. It also directs insurers to examine the policies they have issued and explain the coverage each policy offers in regard to the coronavirus – both presently and as the situation could develop to change the policyholder's status.



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