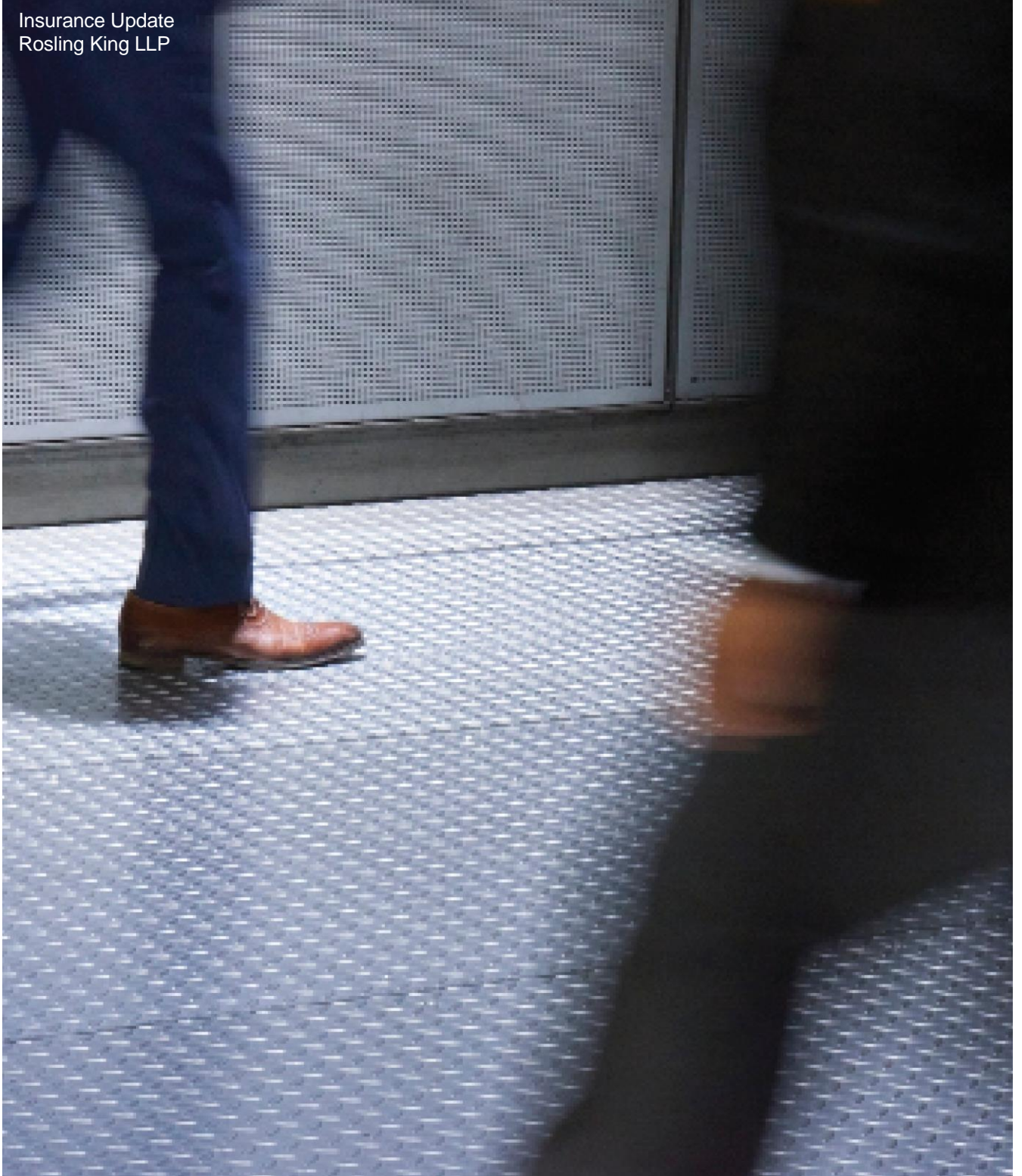


Insurance Update  
Rosling King LLP



Businesses are all grappling with the impact of the Government's decision to force "non-essential" shops and certain businesses to close their doors until further notice. One of the areas to consider is that of commercial insurance policies and whether they can help the business through this difficult time.

Whether your losses are covered by some form of insurance will ultimately depend on the extent of the cover you purchased and the specific terms and conditions of each policy. Nonetheless, businesses should be reviewing their insurance policies very carefully to consider whether any of their policies could respond to their business losses.

Some of the commercial policies that businesses may wish to consider reviewing at this time are summarised below.

### **Business Interruption Insurance**

Many businesses will have some form of Business Interruption ("BI") insurance. It is designed to cover loss of income, for a specified period, when the business is unable to trade because of an exceptional event, which is usually defined under the policy. Traditionally, BI insurance is purchased alongside property damage cover and the ability to make a claim under a BI policy will often be triggered on the happening of an insured risk which occasions physical damage or loss to the insured property, for example a fire or a flood.

For the vast majority of standard BI policies, it will be difficult to argue that the COVID-19 measures have caused physical damage or loss to insured property. However, it is still worthwhile examining the policy wording to identify whether a loss of use of business premises because of a forced closure could be construed as a triggering event.

### **Notifiable Infectious Diseases**

A few BI policies provide cover for losses as a result of notifiable infectious diseases. Importantly, the Government added COVID-19 to the [list of notifiable diseases](#) on 5 March 2020. Most notifiable disease extensions to a BI policy will only cover diseases that are specified under the policy and so will clearly not cover the novel COVID-19 virus. However, it is possible that in some policies the notifiable disease cover is drafted more generally. It is worth looking at the policy wording, whilst being mindful of any potential exclusion clauses.

### **Non-Damage or Denial of Access**

Another thing to consider is whether the BI policy extends cover to contingent business interruption for "non-damage or denial of access" when a business is interrupted due to a decision made by an authority. Whether a denial of access extension to a BI policy will cover COVID-19 losses suffered because of Government mandated closures is arguable and will ultimately come down to the specific wording.

### Trade Credit Insurance

Some businesses may have trade credit insurance to protect against non-payment by a debtor of a sum that they are legally obliged to pay. Businesses facing non-payment by debtors may rely on such a policy, but need to be mindful that many debtors have also been impacted by COVID-19 and may seek to invoke force majeure clauses to justify non-payment.

### Summary

Businesses suffering losses in this awful COVID-19 situation would do well to review their insurance policies to ascertain whether they may obtain some level of support from their insurers

Our experienced insurance litigation team are here to advise on insurance coverage issues and related disputes. For further information, please contact [Georgina Squire](#) or the Partner with whom you usually deal.