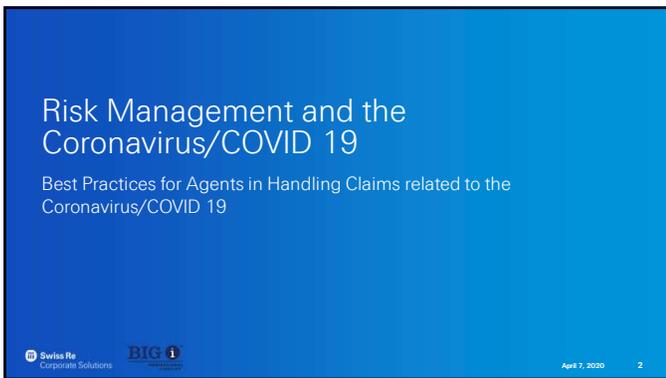
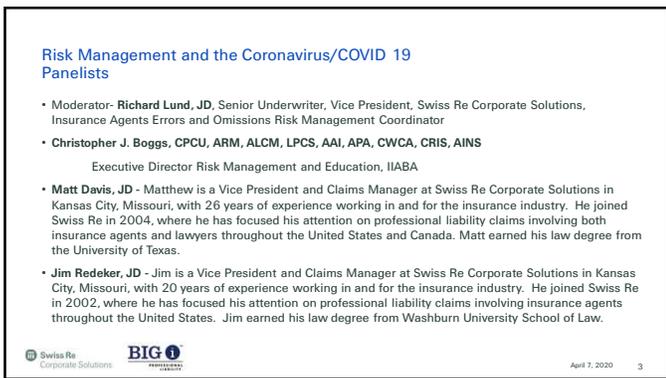




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3

Best Practices for Agents in Handling Claims related to the Coronavirus/COVID 19

Where do we begin?

Resources

Swiss Re Corporate Solutions April 7, 2020 4

4

E&O Happens

Swiss Re Corporate Solutions BIG 1 April 7, 2020 5

5

E&O Happens COVID-19 Webpage

About Us | Contact Us | Take a Tour

Swiss Re Corporate Solutions BIG 1 April 7, 2020 6

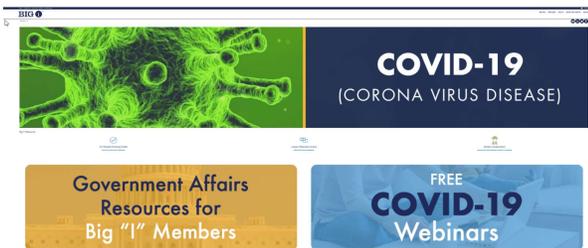
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E&O Happens
COVID-19 Webpage



7

Big I Coronavirus Webpage



8

E&O Happens



9

If I tell my customers to report claims, aren't I giving them false hope that it will be covered?

- Be empathetic, but don't tell anyone that something is covered or not. You can continue to tell them you feel sympathy for all affected by the Coronavirus, but customers **MUST** report a claim to their insurance carrier to determine if there is any coverage for the event.
- Create a script for all staff to use when responding to questions
- Maintain vigilant contact with your insurance carriers to determine what action **THEY** want you to take.

13

What do I need to do to protect myself?

- **DOCUMENT DOCUMENT DOCUMENT!!!** This continues to be the foundation of sound E&O risk management. **DOCUMENT EACH AND EVERY TELEPHONE CONVERSATION, EMAIL, TEXT, TWEET, OR ANY OTHER TYPE OF COMMUNICATION WITH YOUR CUSTOMERS!**
- Assume that any telephone conversation with your customers or carrier claims representatives **ARE BEING RECORDED**. While some states prohibit recording of telephone conversations without advising that they are doing so, **IT DOESN'T STOP SOME PEOPLE FROM DOING SO.**
- If you use social media for your business, make sure it is up to date! Do not make any promises that something may or may not be covered by insurance companies and policies.

14

What do I need to do to protect myself?

- **DO NOT GIVE ANY STATEMENTS, RECORDED OR OTHERWISE, WITHOUT FIRST CONTACTING YOUR E&O PROVIDER.** The Swiss Re Corporate Solutions/Westport Insurance Company/First Specialty Insurance Company claims staff are available if you have any questions about any communications you receive.
- If you have a conversation with your customer that leads you to believe they may be fishing to make a claim against you, **DO NOT HESITATE** to contact our claims department.
- **DON'T MAKE CLAIMS DECISIONS! DON'T ADVISE YOUR CUSTOMERS IF SOMETHING IS COVERED OR NOT!** Let the insurance carriers do that. We know this was stated before, but it must be ingrained in your mind.

15

Has this been declared a Catastrophe?

- Not yet – Will it? What is required?
- If the Coronavirus ends up being declared a "catastrophe" by the ISO Property Claims Service, you may be eligible under your Westport policy for "Cat Extra Expense" benefits:
 - "CATASTROPHE EXTRA EXPENSE. We will pay up to \$25,000 per catastrophe subject to a per POLICY PERIOD aggregate limit of \$50,000 for the actual extra expenses incurred by you as a result of a catastrophe during the POLICY PERIOD beginning on the date of a catastrophe and for thirty (30) days thereafter. The extra expense incurred must be incurred by you only to assist in the insurance claims processing needs of your customer(s) who have been affected by the catastrophe. The catastrophe must be a declared catastrophe by the Property Claims Services. A \$500 deductible for each catastrophe shall apply. Limits provided by this paragraph are part of and not in addition to the limits provided by this POLICY."

Swiss Re Corporate Solutions **BIG 1** April 7, 2020 16

16

Best Practices for Agents in Handling Claims related to the Coronavirus/COVID 19

Additional Resources

Swiss Re Corporate Solutions **BIG 1** April 7, 2020 17

17

E&O Happens COVID-19 Webpage

Swiss Re Corporate Solutions **BIG 1** April 7, 2020 18

18

The carrier has told me not to report claims or to go ahead and tell my customers there isn't any coverage. What do I do?

DO NOT make a coverage determination on behalf of any insurance carrier for several reasons:

- The agency is not a party to the insurance contract. The insurance policy is between the named insured and the insurance carrier. Only the carrier has the right and responsibility to deny coverage.
- We are aware of no agency contract that allows the placement of claim investigation and denial duty on the agent.
- There is a state licensure issue. Claim denials can only be made by licensed adjusters. No single person can hold both an agents and an adjusters license. Don't operate outside your licensure.

19

The carrier has told me not to report claims or to go ahead and tell my customers there isn't any coverage. What do I do?

DO NOT make a coverage determination on behalf of any insurance carrier for several reasons (continued):

- Unfair claims practices statutes require that claim denials be in writing specifying the reasons for the denial specific to THAT insured's situation and policy language. A blanket denial which does not consider the individual insured's situation and applicable policy language violates statute.
- Claims management is the carrier's responsibility, not the agent's.

20

The carrier has told me not to report claims or to go ahead and tell my customers there isn't any coverage. What do I do?

• Email sent to a member agency by an insurance carrier. The email read, in part:

- *We are being inundated with claims for loss of business income from the coronavirus and the civil authority.... We cannot keep up with all the claims that are coming in so we are hoping the agents can also help us when they are directly approached by the insured.*

- If the carrier desires to create a blanket denial letter, agencies should share that letter with the insured, indicating that it comes from the carrier. But the agent should still submit the claim to the carrier.
- You shared the letter, but that as a licensed agent, you are not licensed to deny a claim.
- If you are presented with a claim, you have a *legal obligation* to report it to the carrier.

21

The carrier has told me not to report claims or to go ahead and tell my customers there isn't any coverage. What do I do?

An alternative:

- Require the insurance carrier to put any blanket denial on company letterhead stating the specific reasons coverage likely does not apply (lack of property damage, etc.). This letter must be signed by a representative of the carrier (underwriter, underwriting manager, etc.). If the letter is not signed by a carrier representative, submit all claims;
- Make copies of the letter to present to customers when they report a business income/civil authority loss and have the insured document (by signature or initials) they received or read the letter;
- Ask the customer if they want to submit the claim. If the customer requests the claim be filed, file the claim. If the customer decides to not make a claim, don't make the claim. Don't give an opinion of what to do; the customer must make the decision.
- Regardless the customer's decision to file or not file, document the response in writing with the customer's signature on the final directive.

22

My Customer wants to Cancel their Business Policies. What should I do?

- Why do they want to cancel the policy?
- Is it because they have heard that carriers are refusing to cover claims that could arise from COVID-19 for business interruption?
- Are there other ways to reduce premium costs such as increasing the deductible or lowering limits, with cautions about doing so?
- Explain that by cancelling the policy, the insured may be subject to coverage denials for future liability claims depending on the facts of the injury or damage;
- Explain that the insured may be in violation of a contract, lease or other agreement and that it is not the agent's responsibility to confirm or affirm the insured is in compliance with any signed documents;

23

My Customer wants to Cancel their Business Policies. What should I do?

- State that by cancelling a gap in coverage periods is created that must be disclosed on all future insurance coverage applications which may or may not have an effect on the ability to secure needed coverage; and
- State that by cancelling the insured may lose any favorable rating or underwriting accommodations and that there is no guarantee the insured will receive such accommodations when coverage is rewritten.
- Cancelling this policy mid-term may not yield premium return due to minimum earned premiums on the policy.
- If they resume operations, emphasize that coverage must be back in place BEFORE they do so, and making that happen may be difficult, much more expensive or impossible if the coverage has been cancelled previously.
- It may not be possible to cancel any policies due to individual state regulatory directives, including due to non-payment of premiums.

24

My Customer wants to Cancel their Business Policies.
What should I do?

- DOCUMENT DOCUMENT DOCUMENT
- Document that they have explained everything to the customer
- Even if they still want to do it, make sure they document in their own files
- And WITH THEIR CUSTOMER that they have explained the ramifications of cancelling their policy or policies
- Sample letters and an acknowledgement forms available on E&O Happens
- Consider if they want to keep that customer
- Drastic action




April 7, 2020 25

25

Current Litigation and Legislative action

Litigation:	Legislative Action:	• NAIC
• Louisiana	• New Jersey	• NCOIL
• Illinois	• Ohio	
• Other Litigation	• Pennsylvania	
	• Rhode Island	




April 7, 2020 26

26

Don't Make Claims
Decisions
Let the **CARRIERS**
DO THAT.

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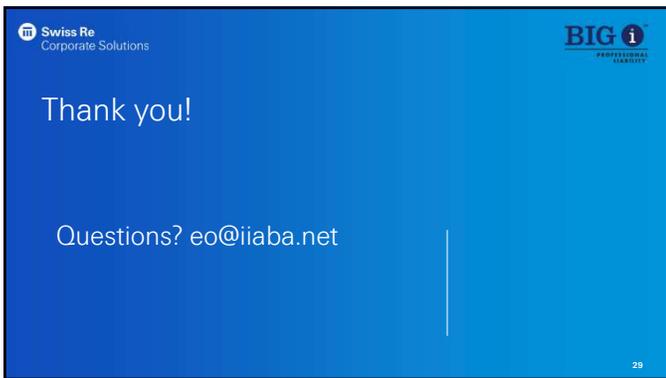



April 7, 2020 27

27



28



29



30

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