

# ARTICLE

## CORONAVIRUS: ARE COMPANIES INSURED IN CASE OF TEMPORARY BUSINESS INTERRUPTION?

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The issue of covering the operating losses of French companies in a situation of temporary business interruption due to the epidemic arises whether it is due to the absence of employees since the beginning of February 2020, which impacts on productivity, or due to recent measures taken at the national and local levels, and in particular by the exceptional Council of Ministers of February 29, 2020, which requested the cancellation of all events involving more than 5,000 people in confined spaces, or the order of the Prefect of the French department of Oise forbidding any collective gathering, which generate many cancellations of professional events. But we can also cite as an indirect consequence the drop in activity that some companies will experience due to the decrease in the number of customers in stores that are not absolutely essential.

In general, businesses think that they will be covered by their insurance policy under the business interruption coverage.

However, in the majority of these contracts, these operating losses are covered only if they result from material damage, whether the damage is itself covered (so-called DIC coverage) or not (DINC coverage), which can itself be attributable to an identified event - theft, fire, water damage, storm - or to any type of event, provided that it causes material damage to the company's property resulting in its decline in activity.

But, although epidemics or pandemics could be "events" triggering the guarantee, they do not create any material damage.

Consequently, it is therefore to be expected that many companies will find themselves without business interruption insurance covering the operating losses resulting from the Covid-19 epidemic.

This is one of the conclusions of the study carried out by the AMRAE (*Association pour le Management des Risques et des Assurances de l'Entreprise*) in February 2020, which shows that nearly 70% of the companies surveyed only took out business interruption coverage in the event of material damage. As a result, these companies will be under-covered.

This leaves around 30% of companies that have taken out a specific business interruption coverage without damage, particularly after certain large-scale events such as the health crisis in 2009 related to the H1N1 virus.

However, even if such a coverage exists, it is not certain that their insurer will cover them. On the one hand, the AMRAE specifies that out of all the companies surveyed having a business interruption coverage without damage, only 40% of the contracts cover losses related to an epidemic/a pandemic. On the other hand, even if there is an epidemic/a pandemic coverage, it may be limited, and some diseases may be excluded. For example, following the outbreak of Severe Acute Respiratory Syndrome (SARS) in 2002, some insurers have added an exclusion clause specific to this risk and it is not impossible that such an exclusion is broad enough to apply to Covid-19.

In any event, the companies that would take out insurance today to cover the consequences of Covid-19 would only be able to see this coverage apply to future epidemics, and not to the current risk.

The hope for such companies could come from the various governments. Indeed, and in order to limit the heavy financial consequences for Chinese companies facing the same problem of insurance coverage for this risk as French companies, the China Banking and Insurance Regulatory Commission (CBIRC) has launched a partnership with a dozen insurers to offer an insurance policy covering the operating losses of the affected companies, by providing for a public subsidy of part of the insurance premiums.

On the French side, it should be recalled that the Minister of the Economy, Mr. Bruno Le Maire, and his Secretary of State, Mrs. Agnès Pannier-Runacher, organized a meeting on Friday 21 February with the main industry and service federations to review the consequences of the epidemic and to try to take preventive measures to support companies at risk of finding themselves in difficulty due to the fall in purchases by the Chinese or the interruption of deliveries of products and components made in China.

While preventive measures have been taken, it is likely that curative measures, including the issue of covering operating losses, are also being considered as the epidemic spreads more rapidly.

