

Our Ref: FIN-MO-00466-2020

Mr Ian Talbot

Chief Executive

Chambers Ireland

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Dear Mr Talbot

The Minister for Finance and Public Expenditure and Reform, Mr Paschal Donohoe TD, has asked me to refer to your letter of 20 March on behalf of Chambers Ireland in relation to business interruption insurance and the current COVID-19 pandemic, which was forwarded by the Department of the Taoiseach.

Firstly, Minister Donohoe is aware that there has been much concern and confusion regarding this issue, and acknowledges the impact the crisis is having for businesses such as your members. These are extraordinary times, and the Minister believes that all sectors must play their role in ensuring that we, as a country, get through this and that we do so in a manner that gives us the best chance to bounce back quickly from this crisis. In that regard, the Minister sees insurers as a fundamental part of the economy and he believes that they have a major role to play in ensuring that the economy can continue functioning in these very difficult times. In view of this, his officials have been engaging with the insurance industry through Insurance Ireland, and the Central Bank of Ireland to seek to address concerns that have been raised by many businesses.

It should be noted that the Minister has no powers in relation to how insurance companies set the terms and conditions for the policies they write, or on how they price the risk underlying those policies. Therefore, the Minister cannot direct or require that insurers cover claims resulting from infectious diseases such as COVID-19. Whether a business can make a claim in relation to loss of earnings because of closure due to COVID-19 will depend on the specifics of their policy. While business interruption is generally a feature of standard business insurance policies, it is understood that many of those policies do not include cover specifically for infectious diseases, as that this would have been an optional extra. If this is the case, then no claim is possible as the risk has not been underwritten. In the case where infectious diseases are covered, there are other considerations which insurers will take account of. There appear to be three broad approaches as to how this risk is underwritten:

- (i) As a notifiable disease with a *general* description (with perhaps some specified exclusions) on the premises.
- (ii) As a notifiable disease with a *general* description (with perhaps some specified exclusions) on the premises and within a specified radius of the premises.
- (iii) A list of *specific* infectious diseases are outlined in the policy document. As COVID-19 is not in any existing policies, then businesses are not covered for an outbreak in their premises with this type of policy.

As a general rule, the Minister believes that insurers should not attempt to reject claims on the basis of interpreting policies to their own advantage. Insurers should engage with those businesses honestly, fairly and professionally to honour those elements of the policies covered, in line with the Central Bank's Consumer Protection Code. In addition, the Minister believes that where a claim can be made because a business has closed, as a result of a Government direction due to contagious or infectious disease, that the recent Government advice to close a business in the context of COVID-19 should be treated as a direction. That said however, there may be other terms and conditions in the policy that need to be taken into account and these may vary from business to business. For this reason, it is important for businesses to engage directly with their insurer or broker as regards whether they actually have the appropriate level of cover.

On foot of the above, the Minister wrote to Insurance Ireland setting out his views and concerns on the handling of business interruption cover by insurers. In addition, the Minister set out in this letter his belief that there are other positive measures that insurers can take to alleviate pressure on business and personal policyholders, including forbearance for some personal and corporate customers. In that regard, he requested that insurers implement these measures wholeheartedly in order to provide certainty for businesses and individual consumers at this time. The Minister also notes that the Central Bank wrote to the Chairs and CEOs of both life and general insurance firms on 27 March and met the non-life companies on 30 March. The key messages that the Bank conveyed are as follows:

- Insurers must put forward consumer-focused solutions on policy payment breaks, rebates and claims.
- While most insurance policies are clear, if there is a doubt about the meaning of a term, the interpretation most favourable to the consumer should prevail.
- The Central Bank expects the CEOs of Irish authorised firms to take responsibility for the oversight of how their firm is managing determinations of whether claims are covered or not in the context of COVID-19.

In relation to your request for support for businesses, the Minister would draw to your attention the measures that the Government has made available to try and alleviate the pressure on businesses as a result of the COVID-19 crisis. In this regard, the Minister would ask that you assist impacted businesses in your network to make contact with the relevant authorities in relation to these measures. These measures can be found at:

<https://dbei.gov.ie/en/What-We-Do/Supports-for-SMEs/COVID-19-supports/Government-supports-to-COVID-19-impacted-businesses.html>

Finally, the Minister would like me to assure you that his Department will continue to monitor this issue and will continue to be as pro-active as it can be and will liaise with the Central Bank and Insurance Ireland on an ongoing basis.

I trust the above is of assistance.

Yours sincerely

Michelle O'Connor

Private Secretary to the Minister for Finance and Public Expenditure and Reform

A Member of the Minister for Finance and Public Expenditure and Reform's staff. The Minister is a Designated Public Official under the Regulation of Lobbying Act, 2015 (details available on www.lobbying.ie).

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Tá an fhaisnéis atá sa ríomhphost seo (agus in aon cheangaltáin) faoi rún agus is don fhaighteoir/do na faighteoirí beartaithe é agus é/iad sin amháin. Mura tusa an faighteoir beartaithe, níor cheart duit an teachtaireacht seo ná aon chuid di a úsáid, a nochtadh, a chóipeáil, a dháileadh ná a choinneáil. Sa chás gur trí earráid a fuair tú an ríomhphost seo, tabhair fógra dom láithreach faoi sin agus scríos gach cóip den ríomhphost seo ó do ríomhchóra(i)s. Tabhair faoi deara go bhféadfaidh an ríomhphost seo agus aon fhreagra air bheith faoi réir iarraidh ar a eisiúint de bhun an Achta um Shaoráil Faisnéise