

Business Insurance & Risk Market Update

May 2020

Expert insights & perspectives

Experts within the Gallagher network offer perspectives and insights into critical trends and changes shaping the insurance and business landscape.



Insurance | Risk Management | Consulting

EXECUTIVE SUMMARY

In recent months Australia has witnessed a series of events of unprecedented scale and impact, from extreme weather catastrophes to the subsequent blow to the recovery process dealt by the COVID-19 pandemic.

No industry, community or business has escaped untouched. As preparations commence to lift lockdown restrictions, the outcomes of the broader debate on economic slowdown and implications for Australia's commercial sector remain to be seen.

In this update, our experts provide insights and perspectives on how current market conditions are impacting:

- **Professional and financial risks** – board governance and directors' liability;
- **Food production** – challenging times remain from farm to table;
- **Business continuity** – what's your Plan B?;
- **Cyber** – risks evolving as fast technology itself; and
- **Claims** – preparing for a new normal.

Now more than ever, a strategic partnership between client, broker and insurer is needed to pave the way forward beyond the immediate challenges. This has seen our team, clients and insurers working around the clock to ensure appropriate levels of cover are in place and a trusted point of contact is available to raise concerns and respond to questions.

Should you have any questions or concerns regarding your current insurance program, or would like to speak to a subject matter expert to understand how topics covered in this report relate to your industry and/or business, please do not hesitate to get in touch. Contact details are provided on page 15 at the back of this document.

In the current environment, regular communication with your insurance and risk adviser is key:

- **Planning ahead** for renewal discussions, being clear on risk exposures and the corresponding mitigation strategies. This includes sharing any plans outlining return to the office/business premises and changes to business activity that may be underway;
- **Ensuring all paperwork is up-to-date and in order**, including information on your claims history, risk reports and business plan;
- **Disclosing all relevant information** to your Gallagher account manager. In particular any changes to business activity, emerging cash flow and trading concerns, and any mid-adjustments or reductions to levels of insurance cover; and
- **Anticipating future insurance needs**, as well as responding to immediate concerns.

Establish how your business will trade in the adjusted environment, which may involve a mix of remote working, online trading and virtual contact with customers. What will be required to cover property, stock and turnover, as well as the general liability and other risks the business faces too?



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KEY TRENDS

- Continued rate movement and shifts in capacity
- Rigorous ASX continuous disclosure requirements
- Potential insolvency and personal liability for directors remains a significant concern



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PROFESSIONAL & FINANCIAL RISK

BOARD GOVERNANCE AND DIRECTORS' LIABILITY

The COVID-19 pandemic has placed increased pressure on company directors and executives to communicate robust continuity plans that protect the interests of employees and shareholders, against a backdrop of uncertainty and rapidly evolving risk.

In doing so, they will need to respond to a range of concerns – cash flow and liquidity, maintaining reputation, implementing employee safety frameworks – and ensuring the customer remains a top priority at all times.

Outside of the COVID-19 specific challenges, the insurance market was already experiencing structural change and a shifting capacity across management liability risk classes including directors' and officers' liability insurance (D&O). In particular securities entity cover (Side C) and certain industry types in relation to professional indemnity.

While increased regulatory scrutiny and litigation funded class actions have partly dampened insurer appetite and led to material increases in premiums in recent years simultaneously with a reduction in available insurer capacity, a steady increase in employment related claims and tax compliance, and other regulatory investigations has further fuelled insurer concerns.

Professional indemnity capacity has continued to tighten, particularly within specialist areas such as building certification for cladding related risks and financial planners, following the fallout from the Royal Commission and the proactive role of the Australian Financial Complaints Authority (AFCA) in resolving complaints.

Outside of the COVID-19 specific challenges, the insurance market was already experiencing structural change

It is often a precondition of entering into a contract with a customer that the firm (or practitioner) performing the professional service purchases a professional indemnity policy, often with a required minimum limit of liability specified as a term in the contract.

Given that D&O and professional indemnity are 'long tail' insurance classes, costs continue to be incurred through adverse loss development on prior accident years.

In a worst case scenario, potential insolvency and personal liability for directors remains a significant concern in client discussions, particularly for situations where directors may become personally liable for debts incurred by the company when it is unable to pay those debts as and when they become due (i.e. where the company is insolvent). Understanding how to mitigate those risks should be factored into business continuity plans as standard practice.

GET IN TOUCH

We strongly encourage any company director, executive or risk manager with prevailing concerns around the adequacy of their insurance cover to speak with Gallagher subject matter experts at the earliest opportunity. We are here to help and, through our strategic partnerships and access to exclusive markets, we may be able to present an improved course of action for your business.

COVID-19 IMPLICATIONS ON DIRECTORS' & OFFICERS' INSURANCE (D&O)

Given the prevailing hardening market cycle and the evolving insurer position on D&O capacity, understanding what may trigger a D&O risk and/or claim is important as part of any broader renewal or mid-term adjustment considerations. Here are key D&O related risks and requirements, noting there may be others specific to your business and/or industry which also need to be understood.

1 ASX continuous — disclosure requirements

It is possible for matters resulting from the evolving covid-19 pandemic to trigger a D&O insurance claim.

For ASX-listed companies and their executive teams, the exposure sits around ASX Listing Rule 3.1 & 3.1A Continuous Disclosure.

This rule stipulates that once an entity is, or becomes, aware of any information that a reasonable person would view as having a material effect on the price or value of that entity's securities, the entity must immediately disclose that information to the ASX.

2 Supply chain risk and — disruption impact

With company revenues being challenged by production delays, weakening demand, suppliers impacted by cross-border travel restrictions, and the disrupted flow of imports and exports (particularly for key markets such as China, US and Europe), the critical impact to a number of industries and sectors will be far reaching.

Companies affected by stoppages and supply chain disruptions need to be mindful of ASX reporting obligations.

3 Employee health and — safety (OH&S) and employment practices liability (EPL)

As companies work to develop 'return to workplace' plans, appropriate care and consideration should be taken to factor in the anxieties and concerns of employees and what a return to work will mean for your workforce once lockdown restrictions are gradually lifted. This includes having effective communication channels and robust employee consultation processes in place to ensure the longer term wellbeing of all employees remains top of mind and prevailing risks are fully understood.

4 Financial and — contractual obligations

Given the significant supply chain disruption, it is important to review and notify of anticipated changes that may alter the expected delivery of contractual requirements (customer and supply-side). This includes cash flow provisions that may carry a material impact to a supplier and/or business partner. There may be an entitlement to relief where your contract contains a *force majeure* (or equivalent) clause, however, it is important to consider notice provisions carefully.

5 Regulatory changes, — compliance and governance expectations

It is likely that legislative and regulatory changes will shape the post COVID-19 environment, and increased scrutiny will be placed on organisations to understand and implement any changes. Closely monitoring and reviewing regulator and government alerts is of critical importance at this time.

KEY TRENDS

- Distribution and logistics challenges due to ongoing spikes in demand
- Expectations of increased biosecurity and regulatory controls
- Structural changes to food production facilities to accommodate social distancing



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FOOD PRODUCTION

RAIN EASES PRESSURE BUT CHALLENGING TIMES REMAIN FROM FARM TO TABLE

The COVID-19 pandemic has challenged Australia's food production sector on all fronts – from a spike in distribution and transportation demands following a period of panic buying, through to declining exports and slowing trading conditions in key markets such as China.

The suspension of international tourism and domestic travel further exacerbates this situation. As households continue to tighten their belts in the expectation of tougher times ahead, the demand for premium food products including all proteins may also decline in response.

Thankfully, recent rainfalls have gone some way towards alleviating the financial pressures Australian farmers face but once the product reaches the gate there is still a long road ahead to return to a near-normal pre COVID-19 position.

Distribution, logistics and supply chain disruption remain one area of concern. With shifts in consumer demand, businesses in lockdown and household stockpiling and panic buying spiking demand, having a robust business continuity plan in place to respond to prevailing demand and emerging markets is more important than ever.

Insurance considerations

- Impacts to midstream production throughput
- Flow of imports and exports
- Social distancing requirements and workplace adjustments
- Changing regulation, legislation and interstate biosecurity controls
- Reduced access to international and regional labour supply

From an insurance perspective, COVID-19 and the subsequent post-pandemic position, food growers and agribusiness should consider the following.

- **Impacts to midstream production throughput** – shaped by reduced commercial demand and shifting household purchasing patterns, will affect standard operating patterns and may present new risk exposures and the need to review existing insurance arrangements.
- **Flow of imports and exports** – including negative demand for premium Australian food products in regional/ international markets and supply chain challenges in spaces such as packaging and specialist ingredients that may be delayed or supplied at inflated costs in the short term. Current exchange rate fluctuations should also be closely monitored in the context of continuity planning, as well as decreased sea and air freight capacity.
- **Social distancing requirements and workplace adjustments** – and the flow-on impact to production capacity and production processes.
- **Changing regulation, legislation and inter-state biosecurity controls** – the broader impact of COVID-19 on the food production sector from a compliance and regulation perspective remains to be seen. We will continue to monitor the situation closely.
- **Reduced access to international and regional labour supply** – this remains a concern for the food and agribusiness sector in accessing foreign workers particularly in specialist horticulture and food processing facilities.



BUSINESS INTERRUPTION COVER

Although some of the larger food production operators may be covered for specific aspects of the interruption to standard operations caused by COVID-19, feedback from the global insurance market is that insurers will be looking to further restrict cover under their Industrial Special Risks (ISR) policy provisions, related to quarantinable or infectious diseases moving forward. On that basis it is unlikely that this cover will be available again at renewal for the foreseeable future.

THE WAY FORWARD...

Despite the expectation of challenges ahead there is a way forward, and we are working closely with businesses across Australia and insurers to develop alternative solutions. Please make contact with one of our food production specialists to seek advice on your current insurance program and planning ahead from a business continuity perspective.

KEY TRENDS

- Business continuity plans integral to renewal discussions
- Growing cash flow and payment default concerns
- Company directors, executives and risk managers shifting attention to return to workplace planning as lockdown restrictions ease



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BUSINESS CONTINUITY

WHAT'S YOUR PLAN B?

Business continuity remains firmly in the spotlight amid trading downturns, lockdown restrictions and empty retail spaces, following on from the recent battering by a summer of bushfires, droughts and storms.

From a COVID-19 perspective, government assistance in the form of concessional loans¹ and financial relief packages present eligible businesses with an interim solution. However, while these measures go some way towards addressing immediate concerns, they by no means offer a longer term strategy to adjust to the post-lockdown environment. State and territory governments have injected in the region of AU\$11.5 billion (0.6% of GDP), including payroll tax relief for businesses and relief for households, discounted utility bills, cash payments to vulnerable households and support for health spending.

In light of this, and with Plan A out of the picture indefinitely, for many businesses Plan B represents the way forward.

Business owners reviewing and adjusting business continuity plans should consider the following.

- **Short-term liquidity and cashflow** – including trade credit insurance provisions to manage default and deferral situations.
- **Operational and financial risks** – including directors and officers' liabilities, return to workplace and risk considerations, and adjusting debtor and creditor provisions.
- **Trading and workplace environment changes** – including the financial implications of moving to a more permanent home working solution and online trading. Consideration of key risks such as cyber security, regulatory compliance and IP and key person risk will become more critical.
- **Commercial lease obligations and connected insurances.**
- **Review of insurance cover, identifying coverage gaps and exposures** – this includes changes to the scope of business activity being undertaken, including where enhanced online trading involves adjustments to standard operating processes and governance.

Diversification and having comprehensive risk management processes in place will be key to longer term business continuity and survival.

In renewal discussions insurers may ask to see your business continuity plan, even for those with a positive claims history and robust risk management processes. In line with the continued hardening market cycle there will be scrutiny of underwriting risk, and capacity will vary between insurers. For some, a business continuity plan will make the difference between a more challenging renewal discussion and the availability of options for consideration.

FORWARD THINKING – PLAN FOR CONTINUITY

Insurance remains a contractual obligation for businesses with a mortgage, bank loans and commercial lease agreements. As such it's important to understand both the legal requirements and the impact of changing the scope and breadth of your insurance program at this time.

Despite the generally downbeat outlook businesses continuing to trade are finding a way forward and innovating how they provide access to goods and services. Please do not hesitate to contact your Gallagher broker to discuss your business continuity plans and review your insurance program to ensure it remains fit for purpose.

Diversification and having comprehensive risk management processes in place will be key to longer term business continuity and survival



With COVID-19 affecting the majority of Australian industries and sectors,² the broader ramifications of the pandemic are still to be seen.

Among the hardest hit are manufacturers and wholesalers that rely on the flow of imports and exports, and the flow-on supply chain impact, and consequent productivity delays. With key international markets such as China, Europe and the US locked down, many businesses have reduced their plans to a short term view and are fluid in their expectations of the future.



Hospitality and tourism operators, as well as educational institutions are suffering as international students and tourists are prevented from entering Australia, and premises remain closed or revert to online trading. With the travel restrictions decimating the airline industry and the inbound flow of consumers, we are seeing examples of pre-purchase options and airlines increasing their air freight capacity to partially offset some of immediate challenges. There will likely be wholesale structural changes to this sector once the flow of travellers and students returns.



The health care, disability and aged care service sectors are also likely to face deeper structural changes to manage ongoing COVID-19 exposure risks and industry-wide changes to care provision and risk management frameworks longer term.

With change being the new stability for many industries and sectors, we will continue to work closely with clients operating in these spaces to develop the appropriate risk mitigation response.

1. Immediate small business support for bushfire affected communities, *Australian Government*, 20 January 2020.

2. Already 1-in-6 Australian businesses have been affected by the coronavirus (COVID-19), *Roy Morgan Research*, 24 February 2020.

KEY TRENDS

- 2020: cyber viewed as #1 commercial risk, globally¹
- Growing number of Australian COVID-19 cyber scams
- Increased cyber-attack vulnerability, following move to remote working patterns



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CYBER

CYBER RISK EVOLVING AS FAST AS TECHNOLOGY ITSELF

In light of the prevailing COVID-19 pandemic and its impact on the delivery of knowledge, goods and services, the perceived value of data and information as a valuable commodity has grown along with the connected risk. Remote worker access to data and stricter device controls are the new security perimeter.

In 2020, for the first time ever, cyber risk was ranked the number one commercial risk globally¹ representing a significant shift in position when compared to 2013 where it was ranked as 15th.²

Cyber-crime is effecting businesses both large and small, with an estimated cost to the Australian businesses community of more than \$29 billion per year.³

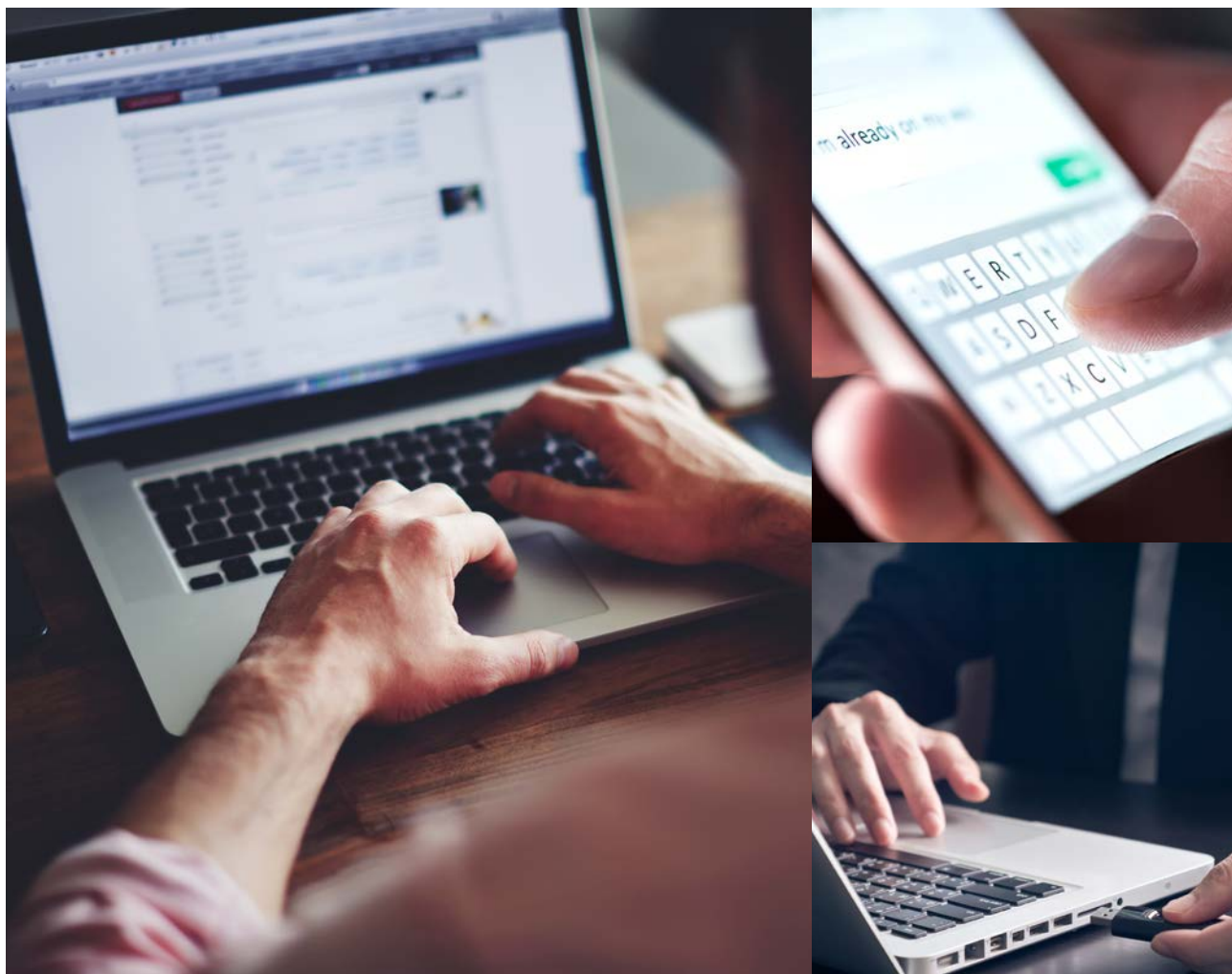
Unfortunately, even with the best security and expertise in place, breaches are not entirely preventable. Additional focus needs to be placed on detecting weaknesses, intrusions and the corresponding recovery and response plan.

We are seeing the use of COVID-19 themed alerts, SMS/text message scams and phishing campaigns to obtain user credentials, with requests for information that leave businesses and individuals susceptible to fraud and other crime. Retail banks, government departments and other legitimate sources are being used to front these operations, which include targeting remote working employees.

This extends to lost passwords, credit cards, voicemail and ID cards that allows a perpetrator to access information that enables fraudulent activity.

With the shift to remote working and the need to manage and maintain customer data off-site, small businesses are increasingly vulnerable to cyber-attacks, often viewed by perpetrators as 'low hanging fruit'.





A recent survey on Australian small to medium-sized businesses' (SMEs) preparedness found that only 27% of respondents had cyber insurance in 2019, down from 34% in 2018.⁴ Cyber insurance policies are evolving at a rapid pace to keep up with technological development but, as with many risks, insurance is only part of the solution. Perhaps more worryingly, 49% of SMEs do not have a data breach response plan in place.⁵

DEFENCE IS PART OF THE RESPONSE

As a minimum, businesses should have automatic updates for computer operating systems and software turned on, apply software patches as they are released, lock unattended devices and have automated data back-up processes in place.

Measures should be taken to limit access to sensitive information (customer, employees and financial), apply multi-factor authentication, mobile device encryption, and provide training to educate all employees on the risks of using public WiFi and the process to support suspected cyber incidents.

HELP IS AVAILABLE

If you, or your business, are the victim of a data breach having stand-alone cyber insurance will generally provide you with an adequate safeguard and expert assistance. This includes restoring data and/or containing the privacy of company information, which is often more critical in the immediate term from a business continuity perspective than a monetary payout.

And if addressed quickly, data breaches can generally be triaged inexpensively and your IT security restored with minimal impact to your business. Support can also be provided to manage the mandatory breach reporting requirement.

A recent survey on Australian SME preparedness found that only 27% of respondents had cyber insurance in 2019⁴

1. Department of Home Affairs and Smart Online Australia
 2. Allianz Global Risk Barometer 2020, Allianz Global Corporate and Specialty, January 2020.
 3. Department of Home Affairs and Smart Online Australia
 4. Australia SME Cyber Preparedness Report 2019, Chubb Insurance, September 2019.
 5. Australia SME Cyber Preparedness Report 2019, Chubb Insurance, September 2019.

CYBER SAFETY SERVICE

CYBER SOLUTION FOR SMALL BUSINESSES

Gallagher has been working in partnership with cyber-security services provider Amplify Intelligence to trial a new solution to help small businesses detect cyber-attacks.

Their **cyber safety service** which is provided through their brAin-box, a plug-in device, delivers a comprehensive cyber-safety solution for small businesses that lack dedicated in-house cyber security expertise.

The service has also been endorsed by AustCyber, the Australian Federal Government cyber security growth network. Gallagher has been working with Amplify Intelligence for some time with a number of Gallagher clients, who previously trialled the solution, reporting a risk reduction of as much as 85% within a 90-day period.

It works by scanning network computers, laptops, mobiles, personal and internet-of-thing (IOT) devices on the local IT network to identify if they are secure and that their software has been updated. The **brAin-box** also monitors all the devices connected to the network for cyber-attack risk, using cyber threat intelligence and artificial intelligence (or machine-based learning) to detect unusual or suspicious activity. It delivers a monthly report which contains a prioritised list of risky devices ordered by a risk score based on internal security information on poor configuration or software updates, or whether the computer or device are connecting with compromised internet sites. Each prioritised item has actionable steps, created by global cyber security experts enabling you to have the same expertise as banks have to stay safe. brAin box offers bank-grade cyber safety service and, when combined with cyber insurance, provides robust levels of security to mitigate cyber risks, vulnerabilities and attacks.

Mobile devices and laptops are the most vulnerable entry or end point to your IT network. Protect yourself as a bank would with vulnerability scanning, intrusion detection, threat intelligence and artificial intelligence from Amplify Intelligence.

BENEFITS:

Amplify Intelligence's all-in-one cyber safety service helps you:

- ✓ Identify and mitigate vulnerabilities
- ✓ Prevent business interruption from cyber attacks
- ✓ Meet compliance requirements
- ✓ Reduce insurance premiums.

KEY FEATURES:

Four bank-grade capabilities supported by global security experts rolled into one cyber safety service.

- ✓ Enterprise-level vulnerability testing and network monitoring
- ✓ Global cyber threat intelligence, advanced Artificial Intelligence and machine learning
- ✓ Tailored security awareness and training
- ✓ Compliance ready security policies and procedures

Get an all-in-one cyber risk management, from security and the transfer of risk with the Amplify Intelligence cyber safety service combined with Gallagher providing the best cyber insurance for Australian SME's businesses.

Please contact the Gallagher Cyber Risk team for more information.

Connect with Gallagher at ajg.com.au/cyber.

KEY TRENDS

- Claims for niche industries requiring specialist risk assessment, with delayed and reduced flexibility anticipated
- Volume of complex claims continue to rise
- A number of insurers moving their claims operation on-shore, following lockdowns



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CLAIMS

COVID-19 AND POST-PANDEMIC CLAIMS ENVIRONMENT: PREPARING FOR A NEW NORMAL

With losses connected to bushfires, storms, drought and COVID-19 lockdowns expected to run into billions of dollars, globally claims teams across the insurance sector (including intermediated) are working at full steam to keep clients and their business moving forward.

The scope and complexity of claims lodged in the COVID-19 situation will be broader than in a business as usual context.

Insurer teams have generally moved to remote working, managing rising complex claims volumes and off-shore contact centres impacted by lockdown restrictions. In addition certain types of claims will experience delays due to supply chain challenges.

Similarly to other sectors, insurers are activating their crisis management response and taking the necessary steps to provide service continuity with a minimum of disruption to clients.

For niche products and specialist insurance cover there may be delays and reduced flexibility in the claims process. Many of the operators in these markets have limited claims authority and lack the scale of the bigger insurers to work through the high workloads that currently exist.

The scope and complexity of claims lodged in the COVID-19 situation will be broader than in a business as usual context



And in certain cases insurers may not be able to progress the client's claims until COVID-19 restrictions are lifted and they are able to visit a client's business premises or site of operation. This includes the demand for, and access to, specialist risk assessors which is likely to be impacted with resultant delays in receiving information material to a claims decision.

During this period we have seen some claims being escalated where:



And this position varies between insurers.

That said, there is a way forward and the general view is that insurers, brokers and clients are all motivated towards achieving an outcome within a reasonable timeframe, assisted by digital and online platforms to manage lower complexity claims and reduce in-person workload.

If a situation arises that is likely to trigger a claim, contacting your broker at the earliest available opportunity is the best strategy.

We're here to help. Call the Gallagher Claims team on 1800 254 287

THE VALUE OF A BROKER



EXPERIENCE THE VALUE WITH GALLAGHER

The value of a broker extends beyond the placement of insurance. Value sits at the heart of what drives longer term relationships – responsiveness, knowledge, communication and partnership – and a shared commitment to achieving the best outcomes for you and your business or organisation.

*The role of Gallagher is simple –
to help your business face its future with confidence*

How do we do that? By **knowing your business, loving your industry** and **understanding the risks it faces**. Insurance is fundamentally about protection, providing continuity and keeping the business moving forward.



Gallagher is much more than a simple price comparison service. We take the time to gain a deep understanding of your business and industry, and work in partnership with your team to implement a robust risk management program that protects you now and into the future.

MAKING SENSE OF **CHANGE AND DISRUPTION** IN THE INSURANCE MARKET

In the current market we are seeing premium and rate movement across many lines of insurance. While part of the conversation is understandably focused on balancing the need for certainty and security, **forward planning is also required to manage the cost perspective within the business and selling your risk to the underwriter.**

And with reduced underwriting risk appetite, policy wording may change – meaning things that were previously covered may not be when it comes to renewal.

In both cases, we can help.

An experienced broker can help your business by exploring all options available and presenting a selection of coverage, pricing and funding options to ensure that you are fully protected.



We hope you have found this report valuable and that it has provided useful information on important events that are topical from an insurance and business perspective.

Should you require any advice about your current risk management program, please contact us.

Join the conversation
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