



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

## **NOTICE**

### **Questions and Answers - Business Interruption Survey (BIS-2020)** **4-3-2020 Version**

Please review the following information before contacting the Department with questions. These questions and answers will be posted on the Department's website and will be updated periodically.

#### **General Instructions**

*Question 1: Can we get an extension? Will you extend the due date?*

Response: Please make every effort to provide responses by the April 9, 2020 due date so the department can review the information and/or follow-up with clarifying questions. Extensions may be granted on a case-by-case basis if necessary.

*Question 2: Must the Commissioner adopt rules or regulations before requesting this information?*

Response: No. The Commissioner has broad investigatory powers. Presently, the Commissioner seeks the voluntary cooperation of insurers to obtain the information necessary to help ascertain the economic impact COVID-19 will have on small businesses in California.

*Question 3: Can the Department get the information it needs from existing data calls, and rate applications?*

Response: The Department is asking insurers to submit the requested information in the specified format even though some of it may exist already in other rate and financial statement filings previously submitted to the Department.

*Question 4: Will the information submitted be treated as public information?*

Response: No. Except as follows, the Department will maintain individual insurer's submissions as non-public information and will not release them to the public. The Department may publish compilations of the data submissions in a manner that does not reveal information about individual insurers. The Department may publish any documents submitted that an insurer designates in writing a "PUBLIC DOCUMENT."

*Question 5: Is responding to the Commissioner's request mandatory?*

Response: The Commissioner has the authority to issue subpoenas and subpoenas duces tecum for witnesses to attend, testify and produce documents before him, on any subject touching insurance business, or in aid of his duties.

#### **What to Report**

*Question 6: Are you collecting for California data only or other states too?*

Response: Only report data for California.

*Question 7: The spreadsheet indicates the request pertains to commercial multi-peril, BOP and other specialized commercial insurance policies. Has the state defined what this term means?*

Response: Specialized commercial insurance products (a.k.a. other commercial) are commercial insurance products that do not fall under a normal Commercial Multiple Peril or Business Owner Policy. Examples are Commercial Auto, Inland Marine, Ocean Marine, etc. that could have a time element coverage. In such instances, please indicate under notes what these products might be.

Additionally, we are looking for the kinds of policies that may offer some form of Business Interruption or Business Income coverage. Therefore, to the extent your members offer that coverage to businesses and it does not fall under a normal Commercial Multiple Peril or Business Owner Policy; these would be other examples of a “specialized commercial insurance policy.”

Other examples of “specialized” commercial insurance policies, are standalone commercial insurance products that are strictly designed to cover a specific coverage or multitude of coverage related to business interruption such as supply chain and/or civil authority coverage. These products are sold separately from a normal commercial policy and would not be included through an endorsement on an existing commercial policy. For example, a standalone business interruption insurance policy where the underlining commercial property is written through a different company or as a separate policy.

The ISO 2014 virus endorsement in response to the Ebola virus is another “one off” that may potentially be on the market. If an insurer had that sort of product offering, that would be another example of a “specialized” commercial insurance coverage we are interested in.

### **Additional Questions**

California’s data call is different than Washington and New York. WA and NY asked for policies with business interruption, civil authority, contingent business interruption or supply chain coverage for CMP and Businessowners’ policies. However, the industry communicated to NY that identifying policies with each specific coverage would be impossible – insurers do not keep their data that way nor is it reported to the NAIC on our Annual Statement that way.

NY was willing to accept information that is more limited in two ways:

*Question 8: First, it includes all policy forms that have or could have coverage (depending on endorsement).*

Response: Include all commercial products that have or may have any type of business interruption related coverage.

*Question 9: Second, the coverage is time element coverage (which is what is reported on the NAIC Annual Statement), insurers cannot determine what specific type of time element coverage is included based on our data. I think it is fair to say many time element policies will have BI, contingent BI and civil authority coverage. They do not all have supply chain.*

Response: Please see additional response below.

*Question 10: Other limitations include the fact that we do not know what, if any, time element coverage may exist in manuscript or broker policies. In order to capture this within our data companies would have to do a policy-by-policy review.*

Response: The Department at this time does not want insurers to review on a policy-by-policy basis. See additional response below on how to respond in this case.

Additional Response: In the event data cannot be provided by the different coverage breakdowns, you may report all policies with time element that include some type of business interruption related coverage under

Business Interruption coverage and indicate under notes what the limitations are and what it represents. Please include an estimated percentage of the coverage that is not included, such as supply chain coverage or civil authority coverage. For example, approximately 50% of the policies with time element coverage has supply chain coverage as well.

If the notes section does not provide enough space, include an additional attachment by stating in the notes section “See attachment”. Include the separate attachment and the completed Excel workbook in your email response to the Department.

*Question 11: Some of the data is not available even if insurers wanted to provide it. For example, the data call asks for claims “theoretical”, in which companies do not engage. Any advice on how to respond if insurers simply cannot provide certain data?*

Response: The Department’s data request does not ask for information about theoretical claims; instead, the data call requests that insurers identify those coverages commonly found in commercial insurance policies. Some insurers using ISO forms, for example, may include a specific exclusion for viruses, contamination or pandemics. Whether the lack of a specific exclusion will theoretically result in coverage under a particular factual scenario must ultimately be determined on a case-by-case basis. Insurers are urged not to imagine theoretical claims when providing responses. Instead, insurers are asked to identify the specific, commonly-found coverages or exclusions set forth within their specific policy forms.

*Question 12: What is meant by “total 2019 written premium?” Are they asking for business interruption premium? Or total auto/liability premium? The columns are clearly asking for policy counts, not premium, so are they looking for total premiums on the BI type coverages?*

Response: We understand that premium by coverage may be difficult for some individual insurers to report. In such cases, please report the total premium for the commercial products reported that could have business interruption related coverage. Do not report the premium to a commercial product where business interruption related coverage is excluded and is not added through an endorsement.

*Question 13: CDI asks insurers to segregate the data by small, medium and large business (based on # of employees). Many insurers do not capture this data and may not be able to provide. What would the department like those companies to do? Can they use the alternative of small, medium or large?*

Response: Employee size is one way to report the data in the different categories of small, medium and large that the Department is requesting. We understand that not all companies collect this information and may use a different method to categorize business size such as assets, revenue, etc. For those insurers that do not have a breakdown of the number of employees for each policyholder-business, the Department asks that insurers use their best judgement to provide a policy count that identifies whether each insured business is a small, medium or large-sized company.

*Question 14: According to the Notice, insurers that do not provide Business Interruption coverage would not be subject to the data call. However, the Business Interruption Questionnaire contains the following instructions:*

**Directions:** All California Admitted Licensees and non-admitted companies with an existing book of business under commercial multiple peril insurance, business owners policies (BOP), and other specialized commercial insurance policies are requested to respond to this questionnaire.

For each policy type and business size, provide the total number of policies in force as of March 26, 2020 regardless whether the policy has any type of business interruption coverage.

For all types of business interruption insurance related coverage listed, either through an endorsement or written as a separate policy, provide the number of commercial policies that have that coverage. How many of these policies have an exclusion for viral contamination, virus, disease, or similar exclusion that may exclude coverage for business interruption coverage, civil authority coverage, contingent business interruption coverage, supply chain coverage, and event cancellation coverage for COVID-19 related issues?

*It seems that companies that write commercial multi-peril in CA (albeit without business interruption coverage) are required to complete the questionnaire. For multi-peril policies do not include business interruption coverage, clarification from the DOI as to how these insurers should complete the questionnaire would be appreciated.*

Response: Report all commercial multiple peril (CMP) and business owner policy (BOP) policy counts regardless of whether you include business interruption coverage. For example, if you sell CMP or BOP policies but do not include business interruption coverage for your CMP or BOP policies, report the “Total Number of Policies” for CMP and BOP in line D of the Workbook. Then, report “0” for CMP and BOP in line E of the Workbook. For all other commercial types not CMP or BOP only report for those that may include business interruption related coverage that can be purchased separately or through endorsement.

*Question 15: Is the department looking for information on pollution exclusions?*

Response: The Department is looking for exclusions only related to viral contamination, virus, disease, or similar exclusion. If your company’s pollution exclusion includes “viral contamination, virus, disease” or similar terms within the definition of the exclusion, please identify such exclusions in the notes and identify which policy or policies such exclusion applies to.

*Question 16: Does this data call apply to surplus lines carriers as well as admitted companies?*

Response: Yes. The Department asks for admitted and non-admitted insurers’ cooperation in providing the requested data.