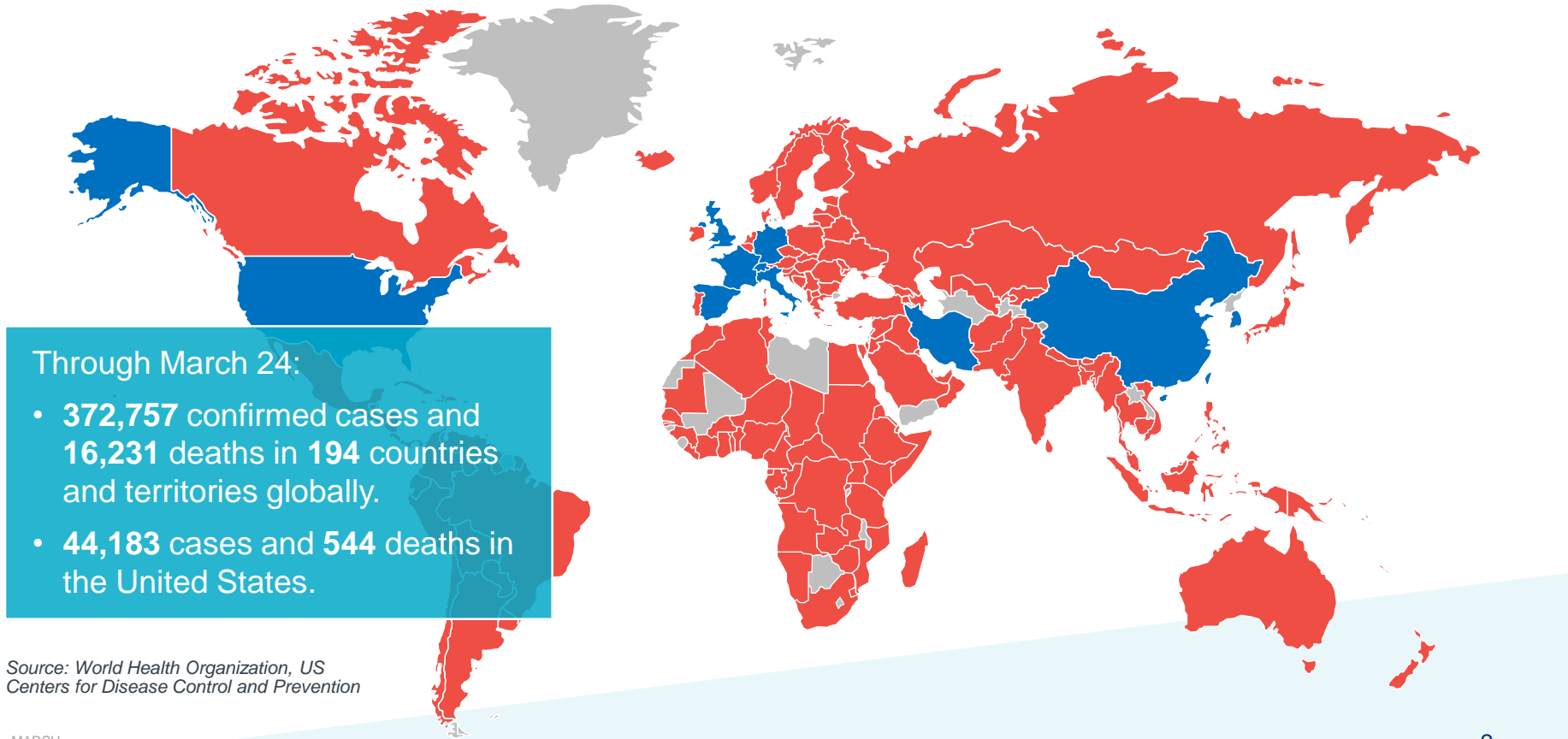




COVID-19: Business Interruption and Employment Law Considerations

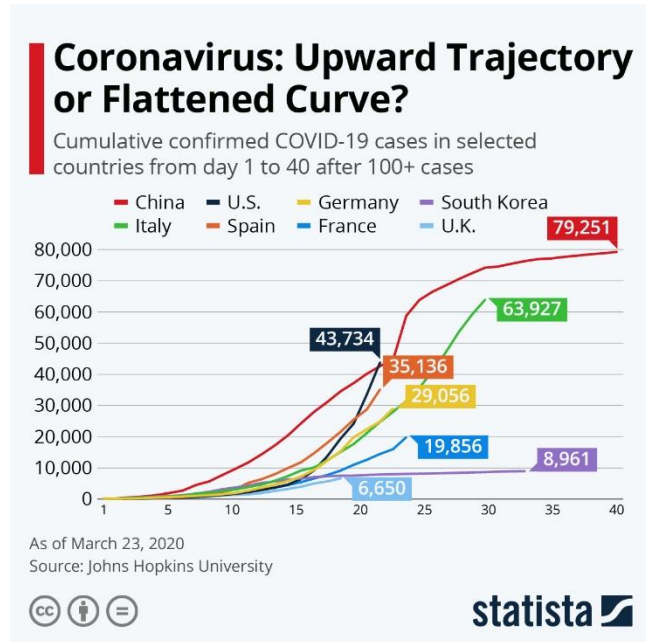
March 25, 2020

COVID-19: Business Interruption and Employment Law Considerations Situation Update



COVID-19: Business Interruption and Employment Law Considerations

COVID-19's Transmission Velocity



- CDC testing priorities:
 - Hospitalized patients with signs and symptoms compatible with COVID-19.
 - Other symptomatic individuals, including older adults and individuals with chronic medical conditions and/or in immunocompromised states.
 - Any persons, including health care professionals, who:
 - Had close contact with suspect or laboratory confirmed COVID-19 patients within 14 days of symptom onset.
 - With a history of travel from affected geographic areas within 14 days of their symptom onset.

Source: Johns Hopkins University/Statista: <https://www.statista.com/chart/21112/covid-19-growth-curve-selected-countries/>

COVID-19: Business Interruption and Employment Law Considerations

CDC Guidance on When to End Home Isolation

- People with COVID-19 who have stayed home (are home isolated) can stop home isolation under the following conditions:
 - **If they will not have a test** to determine if they are still contagious, they can leave home after ALL of the following has happened:
 1. They have had no fever for at least 72 hours (that is three full days of no fever without the use medicine that reduces fevers).
 2. Other symptoms (for example, coughing or shortness of breath) have improved.
 3. At least 7 days have passed since their symptoms first appeared
 - **If they will be tested** to determine if they are still contagious, they can leave home after ALL of the following has happened:
 1. They no longer have a fever (without the use medicine that reduces fevers).
 2. Other symptoms have improved.
 3. They received two negative tests in a row, 24 hours apart.

Source: US Centers for Disease Control and Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/care-for-someone.html>

COVID-19: Business Interruption and Employment Law Considerations

Property/BI Coverage and COVID-19

- Traditional property policies are generally triggered by physical loss or damage.
- Insurers could argue that presence of the virus, possible contamination/fear, and proximity to contaminated premises do not constitute physical loss or damage.
 - Insurers may also invoke “contamination” exclusions.
- Interruption by civil authority extensions vary by insurer.
 - Insurers may argue that shutdown orders in and of themselves do not satisfy physical loss or damage requirements.

How coverage applies will depend on policy language, insurers’ interpretations, and the facts of a claim.



Property/BI Policy Elements to Focus On

- Definitions of covered losses and other terms.
- Coverage extensions and their provisions.
- Policy endorsements.



Claims Best Practices

- Collect appropriate documentation.
- Present claims to insurers in a prompt and timely manner.
- Review policy terms and conditions.

COVID-19: Business Interruption and Employment Law Considerations

Key Employment Law Questions

- How can employers screen employees for COVID-19?
- What should employers do with that information?
 - What should an employer do if an employee tests positive for COVID-19?
 - What reporting obligations does an employer have?
- What expenses are employers required to reimburse for employees working from home?
- Can employers continue to operate in light of various lockdown and shelter-in-place orders?
- What mechanisms are available to reduce costs relating to the workforce?
 - Reductions in salaries and hours.
 - Furloughs.
 - Reductions in force.



COVID-19: Business Interruption and Employment Law Considerations

Potential Areas of Liability and Exposure for Employers

- Maintaining safe working environments.
- Statutory and contractual obligations regarding workforce contraction and other cost-cutting strategies.
- Navigating the mix of federal, state, and local laws on leaves of absence.
- Violations of wage and hour laws resulting from remote work.
- Maintaining confidentiality and control over proprietary information.



How Can Employers Minimize Their Risk?

- Designate a person or team to stay on top of new guidance and orders.
- Implement a system to track employee information and notifications on COVID-19.
- Put a system in place to track hours worked by non-exempt employees at home.
- Implement policies to address issues created by COVID-19.
- Implement policies and practices to control and protect confidential information.
- Consult counsel before reducing hours, conducting layoffs, and other cost-cutting strategies.

COVID-19: Business Interruption and Employment Law Considerations

How Marsh & McLennan Is Supporting Clients

- **Marsh** colleagues are helping clients:
 - Understand how insurance may respond and identify new coverage opportunities.
 - Organize claims teams and identify information needs.
 - Model, assess, and quantify potential operational effects; respond; and recover.
- **Mercer** is helping organizations manage the impacts of the outbreak on their people, including on workforce strategies, health and safety, and compensation and benefits.
- **Oliver Wyman** is helping businesses across all sectors assess their strategic and operational vulnerabilities and develop resilience and recovery approaches.
- **Guy Carpenter** is helping organizations reduce their potential pandemic losses through new risk financing solutions.
- **Marsh & McLennan businesses** are actively helping companies understand and address COVID-19's impacts and develop strategies to plan for and respond to future crises.



Managing COVID-19 Risks

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Insurance and Risk
Management Implications



For the latest from Marsh and other Marsh & McLennan businesses, visit our Pandemic Risk Hub on marsh.com. And watch for our new report on COVID-19 insurance coverage, claims, and risk management considerations.

During the pandemic, Marsh will continue to share information and insights to help you manage your risk, including through a webcast on Wednesday, April 8. Visit marsh.com to register.



Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

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