

# JAPAN EARTHQUAKE COVERAGE CONSIDERATIONS

The recent earthquake and ensuing tsunami in Northern Japan will raise a myriad of complex coverage and measurement issues that must be dealt with in order to get a claim paid. This is true whether the claim is for physical damage or time element coverage, and whether it is to be paid under a locally admitted policy or a Global/Difference of Conditions master policy.

All claims should be thoroughly documented regarding facts as well as quantum. Notwithstanding the difficulty that carriers are having getting adjusters to loss locations and even into Japan itself, we expect the insurers will closely audit every item being claimed. It is therefore important for you and your consultants to start gathering information now while it is fresh and reasonably readily available. The longer it takes to develop and obtain information, the more difficult the task will become.

The issues we will address will be physical damage to insured premises, contingent time element losses, losses due to service interruption/off-premises utility coverage, losses due to lack of ingress and egress, and losses due to closure by order of civil authority. This document is intended to provide a general description of some of the factual information that may be required to support a claim.

**NOTE** – There is no indication as to how insurance carriers will respond to the nuclear exclusions in the policy nor how they may or may not separate land movement and flood coverage and loss caused by land movement and flood.

Because there may be multiple factors and multiple coverages affecting your location and business, we strongly suggest that a daily activity or situation log, as well as a timeline, be created for each location being claimed. This timeline can be used, on a daily basis, to track access (or lack of) to property, availability of staff, any civil



authority orders controlling or restricting usage of the property, and availability and duration of service interruption.

**NOTE** – Any time element claim will likely need to be caused by physical loss and damage to insured property or to the type of property insured by a peril not excluded by the policy.

## EARTHQUAKE AND TSUNAMI PHYSICAL DAMAGE

Most policy valuations insure the cost of repair or replacement new of the damaged property. Some policies also contain code upgrade coverage. Scope of damage should be agreed with the adjuster but any temporary or emergency repairs to stabilize the property should be undertaken. We anticipate most insurers will have adjusters on site prior to commencement of permanent repairs.



The following is a suggestion of some of the documentation that will likely be required:

- Photographs of the damaged property before and after the loss if possible – (overhead photos from companies such as **Pictometry**)
- Measurements and construction materials utilized in interior and exterior of building
- Description of damages and repair scopes
- Contractor or estimator estimates or repair bids
- Paid invoices for repairs
- Inventory of personal property
- Original invoices or physical asset ledger if available
- Replacement invoices

## **DIRECT BUSINESS INTERRUPTION/EXTRA EXPENSES DUE TO DIRECT PHYSICAL DAMAGE TO INSURED PROPERTY**

A claim with fully detailed supporting schedules and details supporting gross earnings or gross profit losses for the period of interruption will need to be prepared for submission to insurers. This is applicable to any claim for time element loss as a result of this event.

## **CONTINGENT TIME ELEMENT (BUSINESS INTERRUPTION, EXTRA EXPENSE, RENTAL, R&D)**

The following be obtained and included as part of the support for your contingent business interruption/extra expense claim. A detailed and itemized claim with supporting schedules and backup documenting a loss subject to the policy's terms and conditions will likely be requested. We therefore recommend that you start gathering this information at the earliest opportunity:

- Description of how damage to customers or suppliers has impacted your business
- Identification of specific suppliers and customers in as much detail as possible – should include any cause of loss due to damage to general population groups and markets
- Identification of exact cause of inability of customers and suppliers to buy or sell property to your business
- Determination if customer is direct (first tier) or indirect (second or more tiers) – some policies only provide coverage to direct customers and suppliers
- Description of physical damages at customer and supplier locations
- Description of period of time of interruption at customers' or suppliers' locations
- Any excess costs to obtain material or sell to other customers or suppliers

## SERVICE INTERRUPTION

It is not unusual in the U.S. to have difficulties getting detailed information from utilities and other service providers following a loss. We anticipate the same challenges exist in Japan. It may be necessary to review the terms and conditions of the purchased services agreements and contracts to confirm your rights and options you have to obtain the information required to present to the carriers. A full claim with support for any time element loss will almost certainly be required. You are well advised to include with the claim:

- Identification and description of service (electricity, water, steam, etc) being interrupted
- Identification and description of the physical damage to the service provider causing the interruption to your business
- Any available photographs (from public spaces) of damaged utility property causing the loss to your insured property as well as any correspondence received from the service provider
- Determination of period of repair and restoration for service provider and period of restoration
- Record of exact date(s) and time(s) service was interrupted and resumed

## CIVIL AUTHORITY – INGRESS AND EGRESS

Some policies have extensions to their time element coverage which may provide coverage if direct physical damage to the type of property insured causes a time element loss. Included in the fully documented time element claim should be:

- Description and photos of damage to the property (bridge, roadway, fallen trees, etc.) preventing ingress and egress to the insured premises
- Identification and copy of civil authority order preventing entry and exit
- Identification and documentation of exact commencement and termination of the above

## NUCLEAR

The implications on coverage due to damage at the nuclear reactors and the subsequent leakage of radiation is presently undetermined. Most, if not all, policies contain various exclusionary wordings and we should consider that carriers will carefully review any claim impacted by radiation to any degree.

Again, this document should not be construed or considered the only documentation that will be required; additional information will likely also be requested. If you have any questions, please contact your Client Advocate, Placement Broker or SOP Claim Consultant to answer questions and to assist in the management of a claim caused by this incident.

## CONTACT

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*The observations, comments and suggestions we have made in this publication are advisory and are not intended nor should they be taken as legal advice.*