

This NL is based on the legislative framework in force on the date of its publication. TTA will update the information in this NL when necessary and if additional regulations are published on the measures to contain the spread of the new Coronavirus that is responsible for the COVID-19 pandemic.

MOZAMBIQUE

Global Vision, Local Experience.

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CORONAVIRUS: IMPACT ON INSURANCE

The insurance sector needs to reflect on the opportunities and threats that the COVID-19 phenomenon brings by asking the right questions and coming up with the right answers in these increasingly demanding circumstances.

By Law 01/2020 of 31 March, the Mozambican parliament unanimously ratified the state of emergency decreed by the President of the Republic, by Presidential Decree no. 11/20 of 30 March, as a necessary measure to prevent and contain the spread of the new Coronavirus, which causes Covid-19.

This is the first time that Mozambique has decreed a state of emergency since independence in 1975. It shows we are facing a highly sensitive phenomenon, whose effects are being felt in all spheres of economic, financial, commercial and social life.

The insurance sector needs to reflect on the opportunities and threats that the COVID-19 phenomenon brings by asking the right questions and coming up with the right answers in these increasingly demanding circumstances.

The Coronavirus, COVID-19 has raised numerous important legal issues. However, one issue has assumed an even higher profile with the recent classification of the virus as a pandemic. This is the question of what claims can be made under the different insurance products on the market to cope with the losses, whether direct or indirect, that Mozambican businesses have been facing.

In particular, in these circumstances, it is natural for there to be much discussion about the possible coverage of losses by the various insurance products available on the market. In particular, people are talking about travel insurance for cancelled trips, insurance for accidents at work in face of the new concept of working from home, sickness insurance due to the need cover the risks associated with COVID-19 or prevention for the insured person, damage insurance for the possibility property being put to public use, and credit insurance for the risk of default. Besides all this, there is the question of making insurance claims when faced with difficulties of physical mobility and other restrictions imposed by the Government.

It is not possible to give a specific response to the vast number of situations that insurers and policyholders will face in the current circumstances. This is because we are not dealing with uniform policies and it is essential to analyse them individually. Moreover, the analysis must be based on the specific circumstances and provisions of the insurance policy in question.

It is also important to note that the impact will be much greater on personal insurance, including life, health, and accidents at work policies. This impact will be particularly noticeable in terms of the volume of claims and the processes necessary to deal with them. In these cases it is expected that (i) common **sickness insurance** will meet the cost of diagnosis, (ii) **life insurance** claims can be made in case of death or disability (if the pulmonary sequelae that have been spoken about are confirmed) associated with this pandemic, and (iii) **accident insurance** claims can also be made without limitations in situations of home working, provided the parties clearly define the terms and conditions of that work and give the appropriate notice to the insurer.

Different and more complex rules will apply to the most common non-life products such as insurance for **damage** and **civil liability**, and for **credit insurance**. In reality, the coverage of claims for loss and damage arising from epidemics and pandemics are, as a general rule, outside the scope of coverage of these types of products. This exclusion can appear as an express provisions or it can be included in the context of the causes of force majeure.

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Another issue of particular relevance to the business world when confronted with the economic implications of this pandemic relates to the possibility of companies making claims under their insurance portfolios to cope with **operating losses**. In reality, not having enough workers and a shortage of suppliers and customers can lead, in many cases, to an interruption or reduction of activity with all the economic damage that causes. Experience tells us that the coverage of operating losses is not intended for this kind of situation. It also tells us that, as a general rule, it is a complement to a damage insurance policy (commonly called "all risks" insurance). A claim can be made in the event of an interruption or reduction in activity in the event of an insurance loss that has resulted in the destruction of or physical damage to the insured item which, in most cases, is the industrial unit and its contents.

Insurers that operate in the **credit insurance** niche should evaluate the effects of the Coronavirus on the global economy and the implications those effects have for their credit insurance portfolios. One immediate consequence of the current pandemic is expected to be an inability to pay financial obligations on time. In many cases, this could lead to the insolvency of credit insurance policyholders. These and other economic effects associated with the Coronavirus will give rise to claims under credit insurance policies.

In addition to all the points we have made above, we believe it is crucial to emphasise a final point. The risks arising from the Coronavirus are unpredictable, abnormal and exceptional. This situation combined with the wide range of products and policy provisions available in the European market, demands a careful case-by-case analysis of the legal and contractual framework of each policy. As this is a new and fast-developing situation, there may well be other changes that affect insurance policies. For this reason, we must pay close attention to any developments.

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Due to the particular importance it has for the financial markets, Decree 12/2020 of 2 April, which approves the administrative measures to prevent and contain of the spread of the COVID-19 pandemic that will remain in force during the state of emergency, raises an issue that is fundamental to credit insurance.

In light of the provisions of article 25 of the Decree mentioned above, during the state of emergency, default notices, defaults and enforcement actions will have no effect if they arise from of a delay in meeting obligations that cannot be performed due to the application of the measures enacted by the Government.

On this basis, claims should not be made under credit insurance policies for any delay or breach associated with the measures enacted by the Government. In turn, borrowers under the same conditions can invoke this legal provision to justify their delay or breach.

In the bilateral relationships between insurers and policyholders, other measures and conditions may be introduced to ensure confidence in the insurance industry, on the one hand, and customer loyalty, on the other.

When it comes to the rules on making claims for losses, it makes sense for insurers to allow some flexibility with regard to the deadlines to submit claims, and this would send a signal of social awareness.

In relation to travel insurance, to ensure the above mentioned market confidence, one possible settlement, as an alternative to cancellation, is to allow the re-use of policies as soon as travel conditions go back to normal.

Another opportunity for the market, in the field of workplace accidents, is the possibility to accommodate the new concept of working from home. In doing so, it would be possible to ensure compliance with this compulsory scheme and to extend worker protection to their real and specific work situations. This would transfer the risk that could give rise to serious constraints in employment relationships from employers to insurance companies.

In sickness insurance, an opportunity has opened up for insurers to make the market aware of the importance of insurance, through specific coverage with a premium that could, of course, be paid over time, according to the claim rate to be indicated.

The insurance market, which is made up of insurers, brokers, mutual insurance companies, and policyholders, will have to adapt to the challenges that the current situation has created. It must begin to deal, in a practical way, with a series of phenomena that were previously considered exceptional or practically impossible.

Today it is clear that this type of phenomena may cease to be an exception and the insurance market will need to consider how best to manage the risks of epidemics and pandemics in order to increase the level of guarantees offered to its customers. There are different variables that can be considered by the sector to build a solution and define its level of exposure to a risk of this size, whether in terms of the premium, the excesses, the period of coverage (particularly in the case of operating losses), the form of exclusions, or the way the solution is presented (supplementary / voluntary cover).

New problems will always require innovative solutions, in a dynamic unprecedented process.

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