



## Information for policyholders about the FCA Test Case

In response to the coronavirus pandemic and the disruption that this has caused for many businesses, the Financial Conduct Authority (FCA) has commenced a 'test case' at the High Court aimed at addressing uncertainty surrounding the response of non-damage business interruption policies.

The 'test case' involves a number of different UK insurers and their non-damage business interruption policy wordings with the outcome being to provide clarification as to whether policies provide coverage for business interruption losses stemming from the Covid-19 pandemic. According to the FCA, the results will be legally binding on the insurers involved in the 'test case' and also will provide persuasive guidance for the market in general when assessing Covid-19 claims made under non-damage business interruption policies.

### Timings and key events of the test case

9 June	FCA started claim in the High Court
16 June	Case management conference, at which the court fixed the timetable for the case and other procedural matters
23 June	Insurers filed Defences
26 June	Further case management conference, at which the court dealt with outstanding procedural matters
3 July	FCA filed Reply
10 July	FCA and Intervenor's skeleton arguments served
14 July	Defendants' skeleton arguments served
20-23 July and 27-30 July	8 day court hearing before Lord Justice Flaux and Mr Justice Butcher

### Implication for FM Global and AFM policyholders

FM Global and AFM operate in the UK through FM Insurance Company Limited, a company authorised by the Prudential Regulation Authority (PRA) and regulated by the FCA and the PRA.

Whilst both the FM Global Advantage and AFM ProVision policies respectively contain non-damage business interruption coverage for Communicable Disease, these coverages fall outside the scope of the 'test case,' which involves policy wordings that do not require the actual presence of Covid-19 at an insured location.

FM Global and AFM require the actual presence of the Communicable Disease in the insured location (as defined by the policies). Consequently, the outcome of the 'test case' does not impact the application of FM Global's and AFM's policies.

## How will Covid-19 claims be handled by FM Global and AFM?

Covid-19 claims made under the Communicable Disease coverage are considered not potentially affected claims by the FCA and therefore will be adjusted in the normal way.

FM Global and AFM will continue to monitor the test case for information but will not be required to directly implement the final resolution.

## Further information

For further information on the test case please refer to the FCA's dedicated webpage

[www.fca.org.uk/firms/business-interruption-insurance](http://www.fca.org.uk/firms/business-interruption-insurance)

Policyholders and interested parties may wish to subscribe for email updates [www.fca.org.uk/sign-business-interruption-bi-insurance-email-updates](http://www.fca.org.uk/sign-business-interruption-bi-insurance-email-updates)

Further information concerning business interruption insurance cases can also be found on the Financial Ombudsman Service webpage [www.financial-ombudsman.org.uk/businesses/complaints-deal/complaints/coronavirus-covid-19-information-businesses](http://www.financial-ombudsman.org.uk/businesses/complaints-deal/complaints/coronavirus-covid-19-information-businesses)