

21 December 2020

## Business Interruption Insurance Update

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Suncorp (ASX: SUN | ADR: SNMCY) advises that the Federal Court of Australia ruled on Friday, 18 December 2020 in the matter of Rockment Pty Ltd T/A Vanilla Lounge (“Vanilla Lounge”) v AAI Limited T/A Vero Insurance.

This matter, which has received some media coverage, relates to a COVID-19 business interruption insurance claim from a customer in Victoria.

The judgement has regard to the pandemic exclusion clause in one of Suncorp’s business interruption policies written under the Vero Insurance brand.

The Court’s interpretation is consistent with Suncorp’s position that cover for loss arising from a pandemic is a high risk for an insurer which would normally be excluded.

While the court rejected one interpretation of the exclusion clause put, and therefore answered the discrete question put to it as ‘no’, the Court also rejected the insured’s narrow interpretation, and accepted Suncorp’s argument that the exclusion applied broadly for losses connected with COVID-19.

In light of this favourable outcome, Suncorp believes that its overall reserving continues to be adequate. It is important to note that valuations do not take account of the potential for further COVID-19 lockdowns, as well as any unexpected outcomes from future litigation including any industry test cases.

Valuations will be finalised as part of processes for the half-year end at 31 December 2020.

Suncorp Group CEO Steve Johnston said: “Suncorp is committed to working with Government, industry and the broader community to explore alternative frameworks to addressing pandemic risks.”

“We recognise these are challenging times for small business and we have put in place a range of measures to support them through this period. Unfortunately, pandemics are an uninsurable risk and premiums have not been paid to cover an event of the scale of COVID-19.”

### Background

The insured commenced proceedings following the decline of a claim under its business interruption policy for COVID-19 pandemic related losses. A discrete question concerning the proper construction of the exclusion clause was referred to the Full Federal Court.

The exclusion clause in the particular Suncorp policy excluded cover for “*any claim that is directly or indirectly caused by or arises from, or is in consequence of or contributed by highly pathogenic Avian influenza or any biosecurity emergency or human biosecurity emergency declared under the Biosecurity Act 2015 (Cth), its subsequent amendments or successor, irrespective of whether discovered at the premises of the breakout or elsewhere.*”

The Court found that the exclusion clause will operate where a human biosecurity emergency has been declared to exist, and a business has been shut down by government order as a response to that emergency, whether Federal, State or Local. The Court held the exclusion would apply even where the connection between the emergency and the claim was remote and was only ‘a’ cause of the claim.

Following this judgement, the court will still need to determine the application of the exclusion to the individual circumstances of the insured.

A link to the court judgement can be found here: <https://www.suncorpgroup.com.au/uploads/2020-FCAFC-228-Rockment-Pty-Ltd-v-AAI-Limited-final-.pdf>

Authorised for lodgement with the ASX by the Suncorp Disclosure Committee.

**ENDS**

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