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## MARKETS

# Insurers Face Big Payouts to U.K. Businesses Over Covid Disruptions

U.K. Supreme Court rules insurers must pay out on business-interruption claims in a legal case that could have wide-ranging ramifications



The U.K. Supreme Court dismissed insurers' appeals brought after a High Court ruling in September found mostly in favor of policyholders.

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LONDON—In a resounding win for insurance policyholders, the U.K. Supreme Court ruled that insurers must pay out disputed claims related to the coronavirus to a range of businesses, ending a legal case spanning months and potentially setting a precedent for other jurisdictions.

The court on Friday dismissed insurers' appeals brought after a High Court ruling in September found mostly in favor of policyholders. The Financial Conduct Authority, the

country's securities watchdog, had brought that test case to resolve uncertainties surrounding business-interruption coverage.

The case has been watched closely, as millions of companies world-wide lodge claims and grapple with their insurance companies. In the U.S., legal battles over business-interruption policies have unfurled across states, leading to various judgments. Of the roughly 100 rulings in suits between businesses and their insurers, about three-quarters have found in favor of insurers, The Wall Street Journal reported last month.

Rulings from courts outside the U.S. normally don't have an impact on insurance-coverage disputes in American courts, where judges rely on individual state laws, said industry executives and academics. More than 1,300 Covid-19 business-interruption lawsuits are pending against insurers in state and federal courts in the U.S., mostly brought by small businesses.

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In addition, the British policies in question and typical U.S. policies have key contractual differences that would limit the applicability of the ruling, said Sean Kevelighan, chief executive officer of New York-based trade group Insurance Information Institute. "These are two differently worded types of policies," he said.

Still the British ruling could end up as a factor in the U.S., said Tom Baker, a professor at the University of Pennsylvania Carey Law School. "Judges can definitely ignore all of this, and typically they do ignore it," he said. "But this is a global pandemic and this is an important ruling, so therefore if there was to be a circumstance when U.S. courts would look at what a court in another country did, this would be it."

Lawyers and legal academics said U.S.-based customers of U.K. insurers would have the best chance of benefiting. To the extent U.K. insurers sold policies in the U.S. to U.S. policyholders with “the same or substantially similar policy language, the U.K. decision will support the proposition that the policyholders’ interpretation is reasonable,” said Robert Shulman, a principal with law firm Paley Rothman in Maryland, who represents policyholders.

U.S. carriers with operations in the U.K. also could find themselves paying out more than they initially expected to their British customers if they used policy language similar to what was ruled on, lawyers and academics said.

At the time of the High Court ruling, the Financial Conduct Authority said the judgment found that most, but not all, of the clauses considered by the court provide coverage. The ruling Friday draws a line under the matter and could affect up to 370,000 policyholders with billions of pounds of claims. Though only eight insurers were parties to the test case, the FCA expects the decision to apply to all insurers in its remit.

“Today’s judgment decisively removes many of the roadblocks to claims by policyholders,” said Sheldon Mills, executive director, consumers and competition at the regulator.

Naz Gauri, principal associate at law firm Eversheds Sutherland, said the Supreme Court’s ruling could prompt further claims because it broadens the circumstances in which policyholders can recover their losses compared with those allowed by the lower court.

The case’s progression through the courts was unusually quick, having first been brought in June and then expedited to the Supreme Court for appeals held in November. The FCA said it wanted to get clarity on the matter as quickly as possible.

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