



# How Russia's War Has Roiled the Insurance Marketplace

6 insurance issues to monitor as conflict unfolds in Ukraine

BY BRIAN HEUN

**R**ussia's invasion of Ukraine has produced a long tail of consequences stretching beyond the devastating toll of human misery. Just as COVID-19 has generated a long list of unexpected consequences, this act of aggression has produced myriad business challenges. In addition to disrupting the global geopolitical picture, Russia's attack on

Ukraine has brought several insurance issues to the forefront.

According to the International Risk Management Institute (IRMI), "war exclusion" is a provision found in nearly all insurance policies that excludes loss arising out of war or warlike actions. IRMI's extended definition adds, "The loss can result from either declared or

undeclared war but must be related to actions of a military force directed by a sovereign power. Prior to the Sept. 11, 2001, terrorist attacks, the war exclusions in most liability insurance policies applied only with respect to contractually assumed liability, on the theory that private persons and organizations could not otherwise incur liability in connection with war. Following the Sept. 11, 2001, terrorist attacks, 'war and terrorism' exclusions that broadened the war portion of the exclusion beyond contractually assumed liability were quickly added to liability policies. That broadened war exclusion is now standard, regardless of whether terrorism is insured or excluded in the policy."

Consider the following shifting areas of insurance as they pertain to your current business operations.

## 1. Travel Accident Insurance

The United States, United Kingdom, Germany and Australia are among more than a dozen countries issuing warnings for their citizens to leave Russia. They also issued warnings regarding travel to Ukraine and Belarus prior to the conflict. Because these warnings trigger the war exclusion, travel accident coverage becomes invalid in countries directly involved in the conflict.

## 2. Cyber Insurance

Many “state of the art” policies omit broad war exclusions from their coverages. They instead provide an exception for cyberbreaches. Companies including Merck and Mondelez have experienced these exclusions, with Merck recently winning a court case against a carrier trying to broadly apply the war exclusion to remove coverage.

In response, some insurance carriers are adding new clauses which go beyond “acts of war” to include “cyber operations” attributed to a state or “those acting on its behalf.”

Since most cyberattacks are performed by anonymous actors, these new exclusions can enable a carrier to deny a claim to injured companies. This first major conflict — in which activist hackers are targeting Russian government and industrial sites by employing cyber tactics to disrupt Russia’s aggression — will undoubtedly put these new exclusions to the test.

Because the marketplace for affordable coverage is thin, brokers may decide they have no choice other than to accept these exclusions in policies.

Brokers will be called upon to advise insureds to think proactively and critically when evaluating these insurance coverages.

## 3. Ocean Cargo Insurance

Most carriers writing global ocean cargo policies have already placed policy

holders and brokers on notice of the right to cancel coverage for war, strikes, riots and civil commotion (SRCC) risks into and out of Russia, Ukraine, the Black Sea and Sea of Azov within territorial waters.

Therefore, coverage will remain in place for shipments to Russia or Ukraine, excluding war and SRCC, and per the remaining terms and conditions of an insured’s policy. If a policy includes coverage for SRCC in other geographies, the insured’s coverage should not be impacted in those regions.

## 4. General Liability & Property Insurance

The broadening of the war exclusion has been occurring for several years. About 10 years ago, most war exclusions were limited to the consequence of war, invasion, acts of foreign enemies and hostilities.

Today, we often see the inclusion of acts of: civil commotion; vandalism; rebellion; revolution; insurrection; military or usurped power; confiscation, nationalization, requisition or destruction of or damage to property by or under the order of any government. Be advised some underwriters have multiple Terrorism Risk Insurance Act (TRIA) exclusions they can utilize. Some are specific to TRIA when a business does not purchase TRIA coverage, and some include broader terminology such as the wording above.

As is the case with most insurance policies, a good broker can sometimes negotiate a less restrictive exclusion for insureds.

## 5. Political Risk Coverage

As a result of Russia’s military actions in Ukraine, political risk insurance merits newfound consideration by businesses as a risk management tool. Political risk insurance provides insurance to organizations in the event a business suffers deleterious financial

consequences due to a government’s martial decisions or actions. This insurance can provide coverage for expropriation of assets (confiscation of property) by the government, the inability to repatriate currency due to government and financial markets, debt default or in certain instances, acts of war or terrorism. A range of additional causes which might also trigger coverage are also in force. This list includes political violence or the calling of on-demand guarantees. As a result of global sanctions and the current state of the Russian economy, all of these examples of incidents or circumstances leading to the use of political risk coverage are now under consideration.

## 6. Environmental & Pollution Insurance

With war inevitably comes weapons and vehicles creating air, land and water pollution. Ukraine is a heavily industrialized country with vast chemical processing plants (including ammonia), mines and ports. Russia’s attack on Ukraine also involves the potential for nuclear radiation risks, particularly at the Chernobyl site. As a result, the war exclusion could affect coverage for your company.

These are simply a few select policies and potential repercussions in the global marketplace from Russia’s disruptive invasion of Ukraine. Insureds should call upon their trusted brokers to review their policies to identify susceptibilities to these exposures. ▲

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