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**COVID-19 LEGAL ISSUE
COMPENDIUM**

JUNE 8, 2020 EDITION

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COVID-19: SUMMARY OF KEY ISSUES

On a daily basis, Morgan Lewis lawyers are advising on the full range of legal, regulatory, and commercial issues that are continuing to impact businesses globally during these unprecedented times. Information changes by the day, and often by the hour. Globally, governments are making policy, regulatory, and legislative changes frequently.

We are monitoring developments around the world closely so that we can keep you updated through webinars and publications. Our readers are encouraged to check our website's [Resource Center](#) regularly for our latest updates. Our Resource Center publications and webinars are listed by topic.

As the world begins to reemerge into a new postpandemic reality, businesses and organizations everywhere are confronting a myriad of challenges and options. For guidance on how to reopen, rebuild, restructure, and recover, please also consult our resources to help navigate these and other important legal considerations at [Now. Normal. Next.](#)

Full details of our upcoming webinars, together with recordings of our webinars held to date, are available [here](#). The latest edition of our US federal and state government actions is available [here](#).

Throughout the crisis, and as we begin to reemerge, workforce issues, government finance options, supply chain disruption, data privacy concerns, and tax implications have been, and will continue, dominating. You may also face specific challenges, such as healthcare provider issues, life sciences protocols, energy and environmental industry ramifications, and changing financial services regulation and policy.

This Compendium brings together, in one place, an overview of both business management and industry-specific issues challenging executives and in-house legal teams around the world. Links to our publications are embedded so that you can find experienced Morgan Lewis lawyers who would be happy to discuss any of these issues and how we can work together to support you and your business, wherever and whenever these challenges arise.

This publication covers resources published as of June 5, 2020.

GOVERNMENT PROGRAMS AND CONTROL

Governments around the world have launched programs to support businesses during the COVID-19 crisis.

I. BUSINESS RELIEF PROGRAMS

A. UNITED STATES

Our Resource Center publications and webinars focusing on the United States.

CARES Act and the Federal Reserve: Main Street Lending

[Part 3 \(Webinar Recording\)](#)

[Part 2 \(Webinar Recording\)](#)

[Part 1 \(Webinar Recording\)](#)

Part 3: June 2, 2020

Part 2: May 1, 2020

Part 1: April 13, 2020

In Part 3, we discuss the new Main Street Lending Program Forms and updated FAQs released on Wednesday, May 27, by the Federal Reserve Bank of Boston in anticipation of program launch.

In Part 2, we discuss the newly issued term sheets and guidance on the Main Street Lending Program, including changes relevant to borrowers and lenders across all industries and sizes.

Part 1 includes an overview of the Federal Reserve programs, including Main Street and other federal COVID-19 relief programs, and the loan programs under the CARES Act. The presentation highlights key aspects of the Main Street Lending Program broadly, with a focus on primary and secondary corporate credit facilities, the Paycheck Protection Program (PPP) term financing, and the municipal liquidity facility.

Navigating PPP Loans in M&A Transactions

June 3, 2020

The PPP and other government loan programs implemented in response to the COVID-19 pandemic have a variety of implications on pending and potential M&A transactions. This publication provides an overview of considerations that stakeholders in a transaction should consider in structuring, negotiating, and executing a deal involving a PPP loan.

Federal Appeals Court Affirms Injunction Against SBA Imposition of PPP Eligibility Requirements

May 28, 2020

As the Small Business Administration (SBA) grafts preexisting eligibility rules atop the PPP, courts step in to expand access.

New York Begins Partial Reopening Plan, Offers Industry-Specific Guidance

May 19, 2020

On May 15, New York State began to implement the state's phased, regional plan for reopening businesses following the statewide closure of all nonessential businesses due to the COVID-19 public health emergency, a process known as "New York Forward." Pursuant to New York Forward, certain industries in qualifying regions of New York can begin in-person operations, provided that they affirm compliance with industry-specific health and safety guidance promulgated by the state and develop and post compliant safety plans. This LawFlash discusses the nature and scope of the New York Forward reopening process and key provisions from health and safety guidance issued to date.

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: May 18, 2020

On April 23, the US Congress passed the Paycheck Protection Program and Health Care Enhancement Act (Enhancement Act), which expanded funding for the existing Paycheck Protection Program (PPP.)

Stay Tuned – DOL to Issue RFI on Pooled Employer Plans

May 8, 2020

On May 1, a US Department of Labor (DOL) request for information (RFI) quietly appeared on the Office of Management and Budget's (OMB) website. Ordinarily, this means that OMB will review the request within 90 days and then, once OMB's review is completed and assuming no issues with the request, the DOL will proceed to publish the RFI in the Federal Register.

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: May 6, 2020

The US Congress, on April 23, passed the Enhancement Act, which expanded funding for the existing PPP.

CARES Act: US Department of Education Releases Guidance on Higher Education Emergency Relief Fund

May 4, 2020

The US Department of Education is now accepting applications from qualifying postsecondary institutions for emergency grants from funds that have been allocated under the Coronavirus Aid, Relief and Economic Security Act (CARES Act). The Department has issued instructions about how to

apply for the grants, as well as guidance aimed at assisting institutions in realizing the benefits of the CARES Act.

CARES Act and Federal Reserve Offer Economic Assistance to Stabilize US Economy

UPDATED: May 1, 2020

The Federal Reserve took additional actions on April 9 to provide up to \$2.3 trillion in loans to support the US economy during the COVID-19 pandemic. This LawFlash covers the new and expanded programs, and provides comprehensive coverage of the Coronavirus Economic Stabilization Act.

Debtors Need Not Apply? New Developments on SBA Authority to Deny PPP Loans to Debtor Applicants

April 28, 2020

The Small Business Administration (SBA), on April 24, issued an update to an interim final rule, crystalizing its view that applicants that have sought protection under the US Bankruptcy Code are not qualified borrowers under the PPP.

Understanding the CARES Act Paycheck Protection Program

Part 2 (Webinar Recording)

Part 1 (Webinar Recording)

Part 2: April 27, 2020

Part 1: April 7, 2020

On April 23, Congress passed the Enhancement Act, which expanded funding for the existing PPP. Part 2 discusses key features of the Enhancement Act, in addition to recent SBA guidance.

CARES Act – Substantial Relief and Substantial Risk

April 24, 2020

The unprecedented funding programs under the CARES Act also create substantial risk. Enforcement provisions in the CARES Act show that the government intends to closely monitor and oversee management of the relief funds.

Fintechs and the Paycheck Protection Program – Lending Comes with Opportunities and Risks

April 22, 2020

The US Senate approved an additional \$310 billion in funds for the PPP on April 20, and the House of Representatives is expected to approve these additional funds within days. As fintech companies accelerate their participation in the re-funded program, it is important to remain aware of the liability risks of doing so.

CARES Act: Economic Impact and Relief for Nonprofits and Tax-Exempt Organizations (Webinar Recording)

April 20, 2020

This webinar provides an overview of these CARES Act aid requirements for nonprofits, charitable organizations, and tax-exempt organizations.

Economic Injury Disaster Loans

April 14, 2020

The CARES Act has expanded the SBA's Disaster Loan Program, providing greater access to funds for small businesses affected by the COVID-19 crisis.

Treasury and Federal Reserve Loan Programs

April 13, 2020

Through the Main Street Lending Program, PPP Liquidity Facility, Primary and Secondary Market Corporate Credit Facilities, Term Asset-Backed Securities Loan Facility and the Municipal Liquidity Facility, the Department of Treasury and the Federal Reserve are providing up to \$2.3 trillion in loans to support the US economy during the COVID-19 crisis.

Can Private Equity or Venture Capital–Owned Small Businesses Obtain Paycheck Protection?

April 6, 2020

For private equity and venture capital portfolio companies, additional analysis is required to determine whether they can obtain CARES Act aid. This LawFlash analyzes such companies' ability to successfully apply for and receive relief.

Paycheck Protection Program – Advice for Borrowers and Lenders

April 3, 2020

Both borrowers and lenders need to be aware of issues arising from a new US government loan program for small businesses relative to existing capital structures, although some guidance also is not yet available. Both borrowers and lenders may also request negotiations of various terms.

Access to Bankruptcy Courts in the Wake of COVID-19

April 2020

US bankruptcy courts are perhaps uniquely positioned to adapt to the exigencies of the COVID-19 crisis. Courts readily accommodated remote appearances and electronic filings before the pandemic, making them well equipped to transition quickly to implement additional tools and strategies to ensure continued, though remote, judicial access.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

Our Resource Center publications and webinars focusing on the United Kingdom, Europe, and Middle East.

UNITED KINGDOM: Annual General Meetings and the UK's Corporate Insolvency and Governance Bill

May 22, 2020

The UK government has introduced proposed legislation that will give companies flexibility to hold their annual general meetings where lockdowns due to the COVID-19 pandemic would prevent such meetings in person.

UNITED KINGDOM: UK Government Announces Funding for Innovative Companies, New COVID-19 Future Fund

April 28, 2020

The UK government has announced two new schemes for funding to innovative companies and startups, launching in May 2020.

UNITED KINGDOM: UK Government Launches New Loan-Guarantee Program for UK Businesses

April 20, 2020

The UK government launched a new loan-guarantee program intended to plug the gap by providing loan guarantees for medium and large businesses that were not covered by the two earlier UK loan-guarantee programs related to COVID-19.

UNITED KINGDOM: COVID-19: Light-Touch Administration – What Is It and How Does It Work?

April 24, 2020

A number of UK insolvency trade association bodies and professionals are advocating for the use of what is known as a light-touch administration for companies in financial distress as a result of the COVID-19 pandemic.

UNITED KINGDOM: Practical Considerations for UK Companies' Annual General Meetings

April 22, 2020

In light of the UK government's lockdown measures and the COVID-19 pandemic, there are key issues that English public companies should consider for their annual general meetings (AGMs) while awaiting further legislation and flexibility.

FRANCE: COVID-19: Control of Foreign Direct Investments in France

May 7, 2020

Evidence is growing of a hardening of French public policy regarding the need for political control of acquisitions of French companies and other foreign direct investment (FDI) transactions.

FRANCE: Legal Measures in Various Fields

April 13, 2020

The French government has been adopting a series of legal measures in response to the coronavirus pandemic. In addition to measures relating to the holding of municipal elections and sanctions for

breaches of the confinement regime that has been in force since March 17, the government also took measures that affect French business and legal proceedings before the French courts in a variety of ways.

GERMANY: Germany to Tighten National Foreign Direct Investment Screening Regime in Light of COVID-19

May 22, 2020

A recent amendment to Germany's FDI ordinance adds new businesses to the existing catalogue of critical infrastructures—in particular, in the health sector—that will be subject to FDI screening going forward.

EUROPEAN UNION: European Commission to Allow State Recapitalization of Firms Hit by COVID-19

May 13, 2020

The European Commission has revised its Temporary Framework for State Aid to support the economy during the COVID-19 pandemic to allow capital injections by EU member states into nonfinancial firms affected by the pandemic.

RUSSIA: Russia's COVID-19 Response: Moratorium on Bankruptcy and Freeze on Transactions

May 8, 2020

Russia has changed its bankruptcy laws to provide for a moratorium on bankruptcies and a freeze on certain transactions. While the situation is dynamic, these amendments are relevant for ongoing or potential transactions in Russia, as well as a party's ability to enforce pledges and other types of security interests or to seek other remedies against Russian companies.

RUSSIA: Russian Courts Face Limitations Due To COVID-19

April 23, 2020

Russian courts introduced certain measures to prevent the COVID-19 spread. Affected parties should take these measures into consideration when developing their litigation strategies.

RUSSIA: Russia COVID-19 Response: State Support for Large Businesses

April 6, 2020

Russia's state support for Russian businesses amid the unprecedented consequences of the COVID-19 pandemic has so far been focused primarily on small and midsize businesses. This LawFlash examines the measures that Russia is taking or considering to support larger businesses coping with COVID-19.

GERMANY: Federal Law to Provide Some Relief to Businesses, Customers

March 30, 2020

A new law in Germany aims to benefit consumers and microenterprises by protecting the loss of essential services in the form of temporary deferrals of contractual obligations and loans during the COVID-19 pandemic.

UNITED ARAB EMIRATES: [UAE Central Bank Takes Measures in Response to COVID-19](#)

June 1, 2020

Measures under the Targeted Economic Support Scheme include allowing UAE banks to temporarily defer loan repayments and extend existing facilities for corporate and retail clients.

C. ASIA-PACIFIC

Our Resource Center publications and webinars focusing on [Asia-Pacific](#).

HONG KONG: [Hong Kong Monetary Authority – Liquidity Buffer Supervisory Expectations](#)

April 7, 2020

As the outbreak of COVID-19 continues, the Hong Kong Monetary Authority has introduced a number of initiatives to further support small-to-medium enterprises. These initiatives include enhancements to standby liquidity facilities, including that banks may temporarily operate with a lower liquidity ratio and defer the implementation of certain aspects of Basel III.

INDIA: [COVID-19 in India: Lockdown Guidelines Revised](#)

April 22, 2020

The nationwide lockdown in India in response to the COVID-19 pandemic has been extended until May 3. The Indian government has permitted the operation of certain additional business activities from April 20 onward.

JAPAN: [Update on Emergency Policies in Japan](#)

April 10, 2020

The Japanese government declared a state of emergency with respect to seven prefectures on April 7. The government also has issued emergency policies in response to the COVID-19 pandemic, including the Emergency Economic Measures for New Coronavirus Infectious Disease Control.

SINGAPORE: [COVID-19: Singapore Guidelines on Resumption of Businesses on June 2, 2020](#)

June 1, 2020

With the easing of circuit-breaker measures in Singapore, employers gearing up for reopening must implement safe management measures to provide a safe working environment for employees. Here is a brief guide for employers in Singapore on things to take note of when planning for these measures.

SINGAPORE: [Singapore Fortitude Budget: Hiring Incentives for Employers Hiring Locals](#)

May 27, 2020

The Singapore government announced on May 26 its S\$33 billion “Fortitude” budget, which will provide support for businesses and workers in light of the COVID-19 pandemic.

SINGAPORE: [Extension of ‘Circuit Breaker’ Measures, More Affordable SME Loans, R&D Updates](#)

April 22, 2020

Recent updates from Singapore amid the COVID-19 pandemic include elevated restrictions on which businesses are considered essential, a new facility for more affordable loans for small and medium-size enterprises, and new research and development work.

SINGAPORE: Singapore Regulators Announce Measures to Support Business

April 15, 2020

The Singapore Ministry of Law has issued an order summarizing alternative arrangements during the COVID-19 global pandemic for convening, holding, conducting, or deferring general meetings, while the Singapore Exchange Regulation Pte. Ltd. has introduced measures to support listed companies by suspending entry onto the Financial Watch-List and enhancing the share issue limit for companies listed on the Mainboard.

KAZAKHSTAN: Emergency Measures

April 13, 2020

The government of Kazakhstan has introduced several emergency measures to stabilize the country's economy and help businesses. This LawFlash discusses some of those measures, including tax incentives and extended grace periods for loans, among others.

D. LATIN AMERICA

Latin America in the Time of COVID-19: FAQs for Business Operations in Puerto Rico

June 3, 2020

This LawFlash supplements the Latin America Regulatory Landscape Analysis issued in May and summarizes the risk analysis in selected jurisdictions in the region, including Puerto Rico.

Latin America in the Time of COVID-19: One Region Facing Common Challenges With Different Answers

Updated: June 2, 2020

This LawFlash is a summary on navigating the regulatory landscape in various countries throughout the Latin America region during the global COVID-19 crisis. Latin America is widely perceived to be one of the most affected regions given its undeniable connection and reliance on international companies doing business there. We provide a summary of the current legal landscape in some of the most relevant jurisdictions, including Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Peru, and Uruguay, as it concerns challenges that the pandemic is presenting to international companies operating in Latin America.

Latin America in the Time of COVID-19: Reductions in Force by Jurisdiction

May 14, 2020

This LawFlash supplements the Latin America Regulatory Landscape Analysis issued on May 5, 2020 and summarizes the legal landscape concerning reductions in force in selected jurisdictions in the region.

II. REGULATORY OVERSIGHT

Developing Global Regulation and Policy

Financial regulators across the world are continuing to update guidance and policy. The United States, United Kingdom, Hong Kong, China, Japan, and Malaysia are just some examples.

United States: US Regulatory Relief and Related Effects on Markets and Participants

United Kingdom:

UK Takeover Panel: COVID-19 and UK Lockdown Insufficient to Trigger MAC Conditions

FCA to Pursue High Court Test Case on Business Interruption Insurance Policies to Provide Clarity During Pandemic
SM&CR And COVID-19: UK Regulators' Expectations

Hong Kong: Hong Kong Monetary Authority – Liquidity Buffer Supervisory Expectations

China: Asset Management Association of China Gives Guidance on Private Funds Amid Coronavirus

Japan: Japan, FSA Issue Announcements after Declaring State of Emergency
COVID-19's Impact on Filings to Japan's Kanto Local Finance Bureau

Malaysia: Regulator Grants Increased Flexibility in Convertible Notes to VC, PE Firms

SEC Announces Temporary Rules to Enhance Availability of Regulation Crowdfunding
May 19, 2020

Temporary relief provided by the US Securities and Exchange Commission (SEC) focuses on financial statements and timing and cancellation requirements with regard to Regulation Crowdfunding, and is expected to make it easier and faster for small businesses to complete offerings.

SEC Enforcement Division: COVID-19–Related Enforcement Matters and What Lies Ahead
May 15, 2020

In a recent keynote speech, Co-Director of the SEC's Division of Enforcement Steven Peikin made it clear that the Division has made COVID-19-related enforcement matters a top priority and is dedicating significant time and resources to responding to such issues.

Constitutional Challenges to State Actions in Response to COVID-19
May 11, 2020

State government actions in response to the COVID-19 pandemic—from closing businesses and limiting travel to lifting those restrictions—raise potential constitutional questions. Federal lawsuits challenging the constitutionality of state orders are cropping up around the nation. These challenges are distinct from any remedies that might exist under state law (including state constitutions) or federal statutes (including preemption). This LawFlash provides an overview of the states' powers to respond to public health emergencies and describes the constitutional questions those powers implicate.

Ready for Questions: Interacting with State AGs on Enforcement Inquiries Arising from COVID-19 Pandemic

May 6, 2020

The severity of COVID-19 puts multiple industries at risk. As joint US Attorney and state attorneys general anti-fraud task forces proliferate, it is crucial for businesses to prepare for, and to try to prevent, the possibility of a state attorney general investigation.

Maybe We'll Just See You Next Year: Shareholder Meetings and Proposals Amid COVID-19

April 24, 2020

In response to COVID-19 pandemic, the SEC's Corporation Finance Division and Investment Management Division have issued guidance to assist companies in making changes to the format of their shareholder meetings, the way in which companies accept shareholder proposals, and the timing of Form 10-K corporate governance and compensation disclosures that are all adaptive to the changing times. Additionally, various states have loosened the restrictions around annual shareholder meetings. This LawFlash gives an overview of the guidance and relief.

Practical Considerations for UK Companies' Annual General Meetings

April 22, 2020

In light of the UK government's lockdown measures and the COVID-19 pandemic, there are key issues English public companies should consider for their AGMs while awaiting further legislation and flexibility.

COVID-19 Market Volatility: NASDAQ Provides Temporary Relief from Certain Listing Requirements

April 20, 2020

The Nasdaq Stock Market has temporarily suspended the continued listing bid price and market value of publicly held shares listing requirements for its issuers through June 30, 2020. This relief, effective immediately, provides issuers with additional time to regain compliance with the bid price and/or market value of publicly held share requirements.

COVID-19: FINRA, SEC, and State Relief and Guidance for Broker-Dealers

April 20, 2020

FINRA, the SEC, and US state securities regulators recognize the significant impact of the COVID-19 pandemic on broker-dealers, investors, and other stakeholders, and have provided important guidance and relief to broker-dealers on how to meet some of these challenges.

SEC Statement Focuses on Underlying Public Policy

April 16, 2020

The SEC has issued a statement to stress the importance of disclosure and highlighted its role in the United States' effort to foster a meaningful, responsible increase in economic activity. Public companies should take a careful look at the impact of these circumstances on their disclosure obligations under federal securities laws.

FEMA Issues Rules Prohibiting Exports of Personal Protective Equipment Needed for US Response to COVID-19

April 15, 2020

The Federal Emergency Management Agency (FEMA) exercised the authority recently granted to it by executive orders and pursuant to the Defense Production Act to regulate and redirect respirators, surgical masks, gloves, and other personal protective equipment (PPE) designated as scarce or threatened materials that are prepared for export. FEMA and US Customs and Border Protection (CBP) will work together to identify “commercial quantities” of these items to be redirected for domestic use.

CARES Act: Compliance

April 14, 2020

While the CARES Act makes borrowers primarily responsible for demonstrating loan eligibility under the SBA’s PPP, lenders must also ensure compliance with the CARES Act’s terms for both loan eligibility and forgiveness.

SM&CR and COVID-19: UK Regulators’ Expectations

April 7, 2020

The UK Financial Conduct Authority (FCA) and Prudential Regulation Authority have published statements setting out their expectations of dual-regulated and solo-regulated firms on their senior managers and certification regime requirements in the context of COVID-19. They intend to provide flexibility to firms where they can and have made specific provisions in light of COVID-19.

Council of the European Union Publishes Slot Waiver to Help Airlines

March 31, 2020

The Council of the European Union announced on March 30 that the European Union has suspended the airport slot requirements until October 24. The slot requirements require airlines to use at least 80% of their slots in order to be guaranteed usage of those slots in the following year.

SEC Guidance for Disclosure

March 25, 2020

The SEC announced on the morning of March 25 the extension of filing periods covered by previously enacted conditional reporting relief for certain public company filing obligations and provided current views regarding disclosure considerations and other securities law matters related to the COVID-19 crisis.

III. CONSUMER AND FORBEARANCE PROTECTIONS

COVID-19: What Servicers Should Know About Managing Mortgage Loan Forbearances

May 12, 2020

Federal and state regulators and Congress continue to release new guidance and requirements to assist mortgage borrowers facing economic hardships resulting from the COVID-19 pandemic. Due to the high volume of borrower requests, the associated burden on servicers, and the unknown duration of the COVID-19 pandemic, it is critical for servicers to be in compliance with all forbearance-related requirements and responsive to borrower communications and inquiries.

Massachusetts Ban on Certain Debt Collection Practices Blocked on First Amendment Grounds

May 7, 2020

An injunction blocking enforcement of an emergency prohibition on debt collection phone calls and lawsuits during the COVID-19 crisis was granted on May 6, 2020, on grounds that it violates the First Amendment rights of collection agencies without adding meaningful protections for consumers.

FHFA Announces Four-Month Limit to Servicer Advances for CARES Act Forbearance; Fannie Mae and Freddie Mac Will Purchase Qualified Loans in Forbearance

April 24, 2020

The Federal Housing Finance Agency (FHFA) [announced](#) on April 21 that servicers' obligation to advance scheduled monthly payments for Fannie Mae and Freddie Mac (the Enterprises) backed, single-family mortgage loans in forbearance will be limited to four months. After the four-month period, the Enterprises will stand ready to take over advancing payments to investors in mortgage-backed securities.

Key Takeaways: Federal, State Emergency Actions Affecting Residential and Commercial Real Estate

April 16, 2020

In response to the current COVID-19 pandemic, federal, state, and local governments have taken various actions to limit or prohibit foreclosures and evictions during the public health emergency. Some of these actions also require forbearance in the enforcement of mortgage loans and leases.

IRS Releases REMIC and Trust Relief Guidance for COVID-19 Emergency-Related Mortgage Forbearance and Modifications

April 15, 2020

The Internal Revenue Service (IRS), on April 13, issued welcome relief to the securitization industry, providing that certain forbearances and related modifications to mortgages will generally not cause real estate mortgage investment conduits (REMICs) and other securitization vehicles to lose their special tax status if such modifications arise from new programs/procedures created by the CARES Act or by similar programs/procedures to address the COVID-19 emergency.

California Executive Orders Provide Consumer and Commercial Relief During COVID-19

March 31, 2020

In response to the COVID-19 pandemic, California Governor Gavin Newsom has issued two executive orders that place temporary restraints on the ability of landlords to evict residential tenants, authorize local governments to halt residential and commercial evictions, and call on banks and other financial institutions to suspend residential and commercial foreclosures and related evictions.

New Jersey Governor Announces Mortgage Payment Relief, Financial Protections for Residents

March 31, 2020

In response to the COVID-19 pandemic, New Jersey Governor Phil Murphy has announced an initiative whereby participating financial institutions will provide mortgage forbearance and financial protections for New Jersey residents facing economic hardship as a result of COVID-19.

Environmental Compliance and Enforcement

March 27, 2020

The US Environmental Protection Agency (EPA) announced a temporary policy regarding its enforcement of certain environmental legal obligations in an effort to protect workers and the public.

New York Executive Orders Temporarily Limit Bank, Mortgage Servicer, and Landlord Remedies

March 25, 2020

In response to the COVID-19 crisis, New York Governor Andrew Cuomo has issued two executive orders that place temporary restraints on the ability of banks, residential mortgage servicers, and landlords to exercise remedies under certain agreements, mortgages, and leases.

IV. TAX RELIEF

A. UNITED STATES

State and Local Tax Responses to COVID-19

UPDATED: June 5, 2020

States and localities across the country are continuing to respond as quickly and effectively as possible to the COVID-19 outbreak. These responses include guidance for taxpayers on numerous topics, such as providing tax relief through filing and payment deadline extensions.

Taxpayer-Friendly CARES Act Provisions Have State Income Tax Implications

June 4, 2020

The CARES Act provides two measures of relief to taxpayers, but taxpayers amending federal income tax returns should be aware that these benefits may not reach their state income tax returns.

COVID-19: IRA Providers Have Until August 31, 2020 to File Form 5498 for 2019

June 2, 2020

New formal guidance from the IRS extends the deadline for providers of individual retirement accounts and individual retirement annuities (IRAs) to file Form 5498 in response to the COVID-19 pandemic.

COVID-19: A Roadmap to Relief for IRA Owners and Providers

May 26, 2020

The CARES Act and recent formal and informal guidance from the IRS provide important 2020 relief for owners and beneficiaries of individual retirement accounts and individual retirement annuities (IRAs) and IRA providers in response to the COVID-19 pandemic.

State and Local Tax Responses to COVID-19

UPDATED: May 22, 2020

States and localities across the country are continuing to respond as quickly and effectively as possible to the COVID-19 outbreak. These responses include guidance for taxpayers on numerous topics, such as providing tax relief through filing and payment deadline extensions.

Beware of Debtor Tax Traps in Restructuring and Bankruptcy

May 20, 2020

The economic outcome from the COVID-19 pandemic is still uncertain but is likely to remain catastrophic in many respects. Of late, popular name brands and companies have filed for bankruptcy as stay-at-home orders and social distancing requirements remain largely in effect. Morgan Lewis tax lawyers alert those considering bankruptcy or restructuring to various tax traps that may arise during these processes.

COVID-19 Considerations for RICs and REITs and Temporary Relief on Certain Stock Distributions

May 15, 2020

New guidance from the IRS will allow RICs and REITs to retain more capital by distributing less cash to shareholders in certain stock distributions—welcome relief during the current economic volatility resulting from the COVID-19 pandemic.

COVID-19 Treasury to Modify Continuity Safe Harbor for Production Investment Tax Credits

May 8, 2020

The US Department of the Treasury issued a letter on May 7 stating that it plans to modify the continuity safe harbor for both the production tax credit (PTC) and the energy investment tax credit (ITC). Under the current law, taxpayers seeking to claim a PTC for electricity produced from qualifying facilities or an ITC for qualifying energy property must generally begin construction on the qualifying facility or property by specified dates.

CARES Act Relief Payments to For-Profit Medical Care Providers May Be Taxable on Receipt

May 7, 2020

For-profit medical care providers that receive CARES Act grants to provide funds for healthcare-related expenses or lost revenues attributable to the COVID-19 may be taxed for those receipts. Because Congress did not otherwise exclude or address the tax treatment of these grant payments, taxability would be determined based upon applicable tax law and guidance, which require that such funds be reported as taxable income. For-profit healthcare providers that received these grants should consider this issue and its resulting tax implications.

Taxpayers Receiving PPP Loans: IRS Provides Important Guidance on Expense Deduction

May 6, 2020

As part of its ongoing efforts to provide guidance on the federal income tax consequences of various CARES Act provisions, the IRS issued Notice 2020-32 addressing the deductibility of certain expenses incurred in a taxpayer's trade or business after receiving a loan pursuant to the CARES Act's PPP.

State and Local Tax Responses to COVID-19

May 6, 2020

States and localities across the country are continuing to respond as quickly and effectively as possible to the COVID-19 outbreak. These responses include guidance for taxpayers on numerous topics, such as providing tax relief through filing and payment deadline extensions.

CARES Act: IRS Q&As Address Retirement Plan Distribution and Loan Issues

May 6, 2020

In what is likely the first of several CARES Act–related pieces of retirement plan guidance, the IRS recently posted a set of Q&As addressing certain issues and questions related to distributions and loans related to the COVID-19 pandemic under the CARES Act.

Remote Working Implicates State Payroll Tax, Corporate Income/Franchise Tax Nexus Concerns

May 1, 2020

Employers should be aware that remote working arrangements during the COVID-19 pandemic may inadvertently trigger state payroll tax registration and filing requirements for their businesses, and possibly trigger corporate income/franchise tax “nexus” with another state, subjecting the business to that state’s tax regime.

IRS Issues Cross-Border Tax Guidance on Travel Disruptions from COVID-19 Emergency

April 24, 2020

The IRS and the US Department of the Treasury released two Revenue Procedures and a new FAQ, on April 21, to provide relief to US residents and alien individuals affected by travel disruptions due to the COVID-19 emergency.

CARES Act: Tax Considerations for Business and Individuals (Webinar Recording)

April 22, 2020

The CARES Act provides a \$2 trillion economic stimulus and contains many major tax changes to help businesses and individuals. This webinar will discuss major modifications to net operating losses (NOLs), technical corrections of the Tax Cuts and Jobs Act (TCJA), and changes on business interest deductions (Section 163 (j)).

IRS and PBGC Postpone Tax Day for Many Employee Benefit Plan Filings

April 17, 2020

The IRS and Pension Benefit Guaranty Corporation (PBGC) have extended the due dates for certain federal returns and payments.

100 Payroll Tax and Fringe Benefit Questions for the IRS on COVID-19 Measures

April 17, 2020

Are these the questions that you and your colleagues are tackling, debating, and looking for the US Department of the Treasury and the IRS to answer?

CARES Act – Tax Relief and Enhancing Liquidity for Employers (Webinar Recording)

April 16, 2020

We discuss how businesses can obtain cash tax benefits based on recent relief provisions concerning payroll tax credits and deferrals for eligible employers, the deferral of federal and state income tax payments, and the availability of tax refunds due to tax law changes under the CARES Act.

\$2 Trillion Stimulus Bill Brings Major Tax Changes

March 27, 2020

The CARES Act provides a \$2 trillion economic stimulus and contains many major tax changes to help businesses and individuals.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

Updates to Value-Added Tax Aspects of UK Initiatives for Businesses Amid COVID-19

April 6, 2020

HM Revenue & Customs has made available further details to the UK government's March 20 announcement on a series of initiatives, including a valued-added tax deferral, to support British businesses in the face of the COVID-19 pandemic.

German Tax and Related Relief Measures

March 24, 2020

The COVID-19 outbreak has led the German federal government to take an unprecedented series of protective and supportive measures, which will be reflected in the federal budget and in subsidies to be paid directly to companies, small companies, self-employed entrepreneurs, and employees in need to safeguard their liquidity and economic existence during the crisis.

V. GOVERNMENT ORDERS TO COMPEL PRODUCTION AND SUPPLY

Government Mandatory Orders of Company Products and Services During COVID-19 Emergency

March 23, 2020

The US government can compel companies to sell its products to the government under the Defense Production Act of 1950 (DPA).

GLOBAL WORKFORCE: MANAGING ISSUES AROUND THE WORLD

Global businesses are responding to labor and employment issues impacting their workforces around the world, while reacting to law and regulatory changes that are often specific to the countries or states in which they do business. Our labor and employment lawyers around the world are well placed to support you in managing workforce issues globally.

I. HEALTH AND SAFETY

OSHA COVID-19 Guidance Walks Back Prior Agency Positions

May 29, 2020

The Occupational Safety and Health Administration (OSHA) issued an Updated Interim Enforcement Response Plan on May 19 for enforcing OSHA's requirements with respect to COVID-19 and a Revised Enforcement Guidance for Recording Cases of COVID-19, walking back positions that the agency expressed just one month ago in its first interim response plan and recordkeeping enforcement guidance for COVID-19.

Supplying Face Coverings and Respirators to Essential Employees

April 21, 2020

Employers are facing issues relating to shortages of respirators and nonsurgical face coverings. The ever-evolving local, state, and federal regulatory landscape, coupled with these shortages, has sent employers scrambling, and these issues are particularly heightened due to public misconception about the differences between respiratory protection for employees exposed to hazards such as the COVID-19 versus nonmedical face coverings for use by the general public.

OSHA Guidance Marks Dramatic Shift in Enforcement Focus Amid COVID-19 Pandemic

April 20, 2020

The DOL's Occupational Safety and Health Administration (OSHA) issued an interim enforcement response plan for COVID-19 that allows field offices flexibility and discretion in handling COVID-19-related complaints, referrals, and illness reports.

OSHA Reminds Employers: Antiretaliation Provisions Still Apply

April 16, 2020

OSHA released a statement on April 8 reminding employers that they cannot retaliate against workers who report unsafe or unhealthy working conditions during the COVID-19 pandemic.

FEMA Issues Rules Prohibiting Exports of Personal Protective Equipment Needed for US Response to COVID-19

April 15, 2020

FEMA exercised the authority recently granted to it by executive orders and pursuant to the DPA to regulate and redirect respirators, surgical masks, gloves, and other PPE designated as scarce or threatened materials that are prepared for export. FEMA and CBP will work together to identify “commercial quantities” of these items to be redirected for domestic use.

II. EMPLOYMENT PROTECTIONS

Restructuring and Reintegrating Your Global Workforce in a Post-Pandemic World

May 28, 2020

Please join us for part four of our webinar series on labor management relations in the time of a pandemic. This 60-minute presentation will cover returning to the workplace and what labor management challenges employers can expect when implementing changes to their workforce and managing business risks outside of the United States.

A. UNITED STATES

COVID-19: IRA Providers Have until August 31, 2020 to File Form 5498 for 2019

June 2, 2020

New formal guidance from the IRS extends the deadline for providers of individual retirement accounts and individual retirement annuities (IRAs) to file Form 5498 in response to the COVID-19 pandemic.

Mission Critical Benefits in a Pandemic Economy (Webinar Recording)

May 27, 2020

This webinar covers practical employee benefits and compensation advice for companies operating in the current COVID-19 economy. Relief programs discussed in the webinar include relevant aspects of the CARES Act, the PPP, other stimulus relief, and the use of benefits-related tools in challenging economic times.

COVID-19: A Roadmap to Relief for IRA Owners and Providers

May 26, 2020

The CARES Act and recent formal and informal guidance from the IRS provide important 2020 relief for owners and beneficiaries of individual retirement accounts and individual retirement annuities (IRAs) and IRA providers in response to the COVID-19 pandemic.

IRS Opens the Doors for Optional Midyear Election Changes and Other Related Relief

May 15, 2020

The IRS recently released two pieces of guidance relating to Internal Revenue Code Section 125 plans (cafeteria plans), health reimbursement arrangements (HRAs), and health savings account (HSA) eligibility. The guidance provides welcome options for plan sponsors to respond to the current pandemic and is available to participants (including employees who previously declined coverage) regardless of whether they are affected by the pandemic (in contrast to other CARES Act relief). Plan sponsors must amend their plans by December 31, 2021 to reflect any relief from the guidance they choose to adopt.

Stay Tuned – DOL to Issue RFI on Pooled Employer Plans

May 8, 2020

On May 1, a DOL RFI quietly appeared on the OMB's website. Ordinarily, this means that OMB will review the request within 90 days and then, once OMB's review is completed and, assuming no issues with the request, the DOL will proceed to publish the RFI in the Federal Register.

COVID-19: Agencies Issue Disaster Relief for Welfare Plans

May 6, 2020

The DOL's Employee Benefits Security Administration (EBSA) and the IRS issued guidance last week providing deadline and other relief affecting welfare plans and their sponsors and administrators under the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1986, as amended (the Code).

CARES Act: IRS Q&As Address Retirement Plan Distribution and Loan Issues

May 5, 2020

In what is likely the first of several CARES Act-related pieces of retirement plan guidance, the IRS recently posted a set of Q&As addressing certain issues and questions related to distributions and loans related to the COVID-19 pandemic under the CARES Act.

COVID-19: DOL Issues Deadline Relief and Other Guidance for Retirement Plans

May 4, 2020

In response to the COVID-19 pandemic, the DOL's EBSA issued EBSA Disaster Relief Notice 2020-01 (EBSA Notice 2020-01) on April 28, providing deadline relief and other guidance for employee benefit plans subject to Title I of ERISA.

Inducement Grants Enable Companies to Avoid Depletion of Equity Plan Share Reserves

May 1, 2020

This LawFlash discusses awarding equity grants to newly hired employees as "inducement grants" outside the shareholder approved plan and the pros and cons of making inducement grants.

Implications of Labor Initiatives During the Coronavirus Crisis: An Inside-the-Beltway Perspective

Part 2 (Webinar Recording)

Part 1 (Webinar Recording)

April 23, 2020

The first of a five-part webinar series focusing on labor-management relations during a pandemic.

CARES Act: Unemployment Insurance (Webinar Recording)

April 17, 2020

The CARES Act increases unemployment compensation benefits for those eligible for state unemployment insurance and expands the scope of individuals eligible to access such benefits.

Unemployment Benefits in the CARES Act

UPDATED: April 7, 2020

In three new Unemployment Insurance Program Letters, the DOL issued guidance to state workforce agencies to implement the unemployment provisions in the CARES Act. The guidance has several important aspects for employers.

Remote Working in a Time of Pandemic (Webinar Recording)

March 23, 2020

Employers' moves to remote working arrangements in response to the COVID-19 emergency have raised numerous compliance questions and practical issues. Join us for a webinar outlining considerations and best practices for employers seeking to manage these challenges.

Workforce Change in a Time of Pandemic (Webinar Recording)

March 23, 2020

A webinar covering the legal and practical considerations associated with potential workforce change as a result of COVID-19.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

UNITED KINGDOM: Coronavirus Job Retention Scheme Wind-Down: What Will It Mean for UK Employers?

June 1, 2020

The UK government on May 29 published updated guidance on the Coronavirus Job Retention Scheme, which has been extended to the end of October 2020, but for which employers will need to contribute to furloughed employee costs from August 2020. Additionally, staff who were furloughed by June 12 can be flexibly furloughed. This LawFlash covers the new guidance and considers employers' options as the scheme winds down, including redundancies during or following furlough.

UNITED KINGDOM: COVID-19: Top Issues Facing UK Employers

April 29, 2020

When the UK government's job retention portal, where UK employers can seek to recover wages of furloughed employees, went live, it received 67,000 claims within 30 minutes. The challenges employers are facing during the COVID-19 pandemic are clear. Amid an evolving situation, we have seen seven iterations of government guidance—sometimes contradictory—on the Job Retention Scheme and additional information from both HM Treasury and Advisory, Conciliation and Arbitration Service.

UNITED KINGDOM: COVID-19: The Top 10 Questions Facing UK Employers (Webinar Recording)

April 23, 2020

In this 60-minute webinar we discuss the 10 most pressing employment law and human resources questions for UK employers on managing employees during and after the COVID-19 lockdown.

UNITED KINGDOM: Furlough Developments: Legal Framework Published for UK Coronavirus Job Retention Scheme

April 20, 2020

The UK government issued a Direction to HMRC on April 15 and published updated guidance on the Coronavirus Job Retention Scheme on April 17. Most notable was the amended date that employees must have been on their employer's payroll to qualify for the scheme, which has been brought forward from February 28, 2020 to March 19, 2020, allowing a larger number of employees to benefit. The Chancellor has also extended the scheme until the end of June 2020 (previously due to terminate on May 31).

UNITED KINGDOM: COVID-19 Developments for UK Employers: Coronavirus Job Retention Scheme, Annual Leave Carryover

March 30, 2020

The UK government gives employers much-needed clarity about how the scheme will work in practice, as well as details on the permitted carryover of annual leave.

UNITED KINGDOM: UK Postpones Off-Payroll Working Rules (IR35) Reforms Until 2021

March 19, 2020

Chief Secretary to the UK Treasury Stephen Barclay announced in the House of Commons, on March 17, that the government's imminent off-payroll working rules (IR35) reforms in the private sector would be postponed until April 6, 2021. The chief secretary explained that the decision to defer the reforms had been taken in view of the ongoing spread of COVID-19 and to help businesses and individuals.

FRANCE: COVID-19 in France: Personal Data Protection in the Workplace

April 29, 2020

As prevention measures against the COVID-19 pandemic bump into the principles and guidelines of the EU General Data Protection Regulations (GDPR), the French Data Protection Authority has reinforced essential rules and good practices for companies to ensure employee personal data protection.

FRANCE: Guide to French Government's Social Measures in Response to COVID-19

April 3, 2020

The French government has recently published a large number of texts and recommendations to help deal with the COVID-19 pandemic. This guide brings together the various texts and recommendations published in the field of social law, in order to give companies an overview of the mechanisms available to them.

FRANCE: COVID-19: French Government Allows Derogations from Labor Law by Ordinance

March 27, 2020

A French public health emergency bill authorizes the government to derogate from certain legal and regulatory provisions by means of ordinances in order to deal with the economic, financial, and social consequences of the COVID-19 pandemic.

FRANCE: Facing Coronavirus in France: Focus on Partial Unemployment

March 13, 2020

The French government has enabled expedited procedures for employers to facilitate partial unemployment during the COVID-19 outbreak and has slightly increased the hourly employment allowance.

GERMANY: COVID-19 in Germany: The Employment Law Response – So Far

May 5, 2020

The COVID-19 pandemic challenges people, economies, and governments across the globe. This LawFlash highlights the actions affecting employers and employees that the German federal government has taken, or is about to take, to respond to these challenges. The situation is dynamic and should be monitored closely.

RUSSIA: Moscow Further Restricts Work and Travel During Mandatory Downtime

April 14, 2020

In response to the COVID-19 pandemic, Russia has introduced nonworkdays through April 30, 2020, to keep people at home. The nonworkdays are mandatory for all employers, with limited exemptions. On April 2, President Vladimir Putin authorized the heads of subjects of the Russian Federation (Russia's constituencies) to provide further exemptions or stricter rules depending on the epidemiological situation in a particular territory.

RUSSIA: COVID-19: Rules on Working in Russia During Mandatory Downtime

April 9, 2020

In response to the COVID-19 pandemic, Russian President Vladimir Putin asked people to stay at home and introduced nonworking days, initially from March 30 to April 3 and recently extended to April 30.

UNITED ARAB EMIRATES: Workforce Issues in a Time of Pandemic: Guidance for UAE Employers Responding to COVID-19 (Webinar Recording)

March 31, 2020

As the COVID-19 pandemic rapidly evolves, employers are looking for resources to protect their people and their businesses. Join us for a webinar covering the legal and practical considerations associated with potential workforce change in the United Arab Emirates as a result of COVID-19.

C. ASIA-PACIFIC

SINGAPORE: Singapore Fortitude Budget: Hiring Incentives for Employers Hiring Locals

May 27, 2020

The Singapore government announced on May 26 its S\$33 billion "Fortitude" budget, which will provide support for businesses and workers in light of the COVID-19 pandemic.

SINGAPORE: Retrenchments in Singapore in the Time of COVID-19: DOs and DON'Ts for Employers

May 26, 2020

Workforce retrenchment in Singapore is expected to hit record numbers as a result of economic disruption from the COVID-19 pandemic. Here is a brief guide for employers in Singapore as they consider retrenchment as an option.

CHINA: Update for Employers on COVID-19 in the People’s Republic of China

April 6, 2020

As the number of COVID-19 infections has diminished in the People’s Republic of China (PRC), everyday life has been evolving slowly to bring employers and employees closer to the pre-COVID-19 working environment. However, schools still remain closed (with no official date set for their reopening) and large public gatherings are still prohibited. That said, while the PRC government has eased the overall pandemic prevention and control measures, employers should be aware of many new regulations at both the national and local levels to address the myriad employment issues that have arisen.

JAPAN: Japan Declares State of Emergency – What Does It Mean for Employers?

April 14, 2020

Shortly after the announcement that the 2020 Summer Olympics would be delayed until Summer 2021, the Japanese government, on April 7, announced a state of emergency for Tokyo and six prefectures (Kanagawa, Saitama, Chiba, Osaka, Hyogo, and Fukuoka) in light of the COVID-19 pandemic. This LawFlash answers key questions about employers’ obligations to their employees during the state of emergency and provides an overview of the government subsidies currently available.

KAZAKHSTAN: COVID-19 in Kazakhstan: Payment of Salary-Related Taxes Suspended

April 27, 2020

The Kazakhstan government has adopted a resolution that establishes the so-called “adjustment coefficient” zero to salary-related taxes and payments in an effort to stabilize the economy during the COVID-19 pandemic.

KAZAKHSTAN: COVID-19 in Kazakhstan: The Labor Code and Employers’ Actions During the State of Emergency

April 24, 2020

The Labor Code of the Republic of Kazakhstan, No. 414-V, dated November 23, 2015 (the Labor Code), provides employers with the right to take certain actions toward employees in connection with the state of emergency in the country that was declared in response to the COVID-19 pandemic.

KAZAKHSTAN: COVID-19 in Kazakhstan: The Labor Code and Employers’ Actions During the State of Emergency

April 24, 2020

The Labor Code provides employers with the right to take certain actions toward employees in connection with the state of emergency in the country that was declared in response to the COVID-19 pandemic.

D. LATIN AMERICA

Latin America in the Time of COVID-19: One Region Facing Common Challenges with Different Answers

UPDATED: June 2, 2020

This LawFlash provides a summary on navigating the regulatory landscape in various countries throughout the Latin America region during the global COVID-19 crisis.

Latin America in the Time of COVID-19: Reductions in Force by Jurisdiction

May 14, 2020

This LawFlash supplements the [Latin America Regulatory Landscape Analysis](#) issued on May 5, 2020 and summarizes the legal landscape concerning reductions in force in selected jurisdictions in the region.

III. IMMIGRATION

Country-by-Country Guidance for Global Employers

April 13, 2020

Governments have introduced travel restrictions, temporarily suspended flights, imposed mandatory home isolation measures, and suspended services for some immigration procedures, as well as closed some government agencies. For employers looking to move essential employees globally, and/or repatriate them to their home countries, we've compiled a list of current immigration updates to consider.

A. UNITED STATES, CANADA, AND MEXICO

USCIS Resumes Premium Processing on Phased Schedule Beginning June 1, 2020

May 29, 2020

The US Citizenship and Immigration Services (USCIS) announced Friday that it will resume premium processing for certain petitions in phases over the next month.^[1] Petitions using Form I-129, Petition for a Nonimmigrant Worker, such as H-1B, L-1, O-1, TN, and Form I-140, Immigrant Petition for Alien Workers for permanent residency applications, will be eligible for premium processing based on the schedule below, which is subject to change.

US Immigration and COVID-19 (Webinar Recording)

April 27, 2020

In this 60-minute webinar we discuss travel restrictions, work from home, furloughs, wage reductions, layoffs, and other consequences of the current emergency that can have obvious and unintended consequences for H-1B, L-1, O-1, TN, and other foreign national workers and their employers.

US Imposes Temporary Ban on Issuance of Green Cards Overseas

April 23, 2020

President Donald Trump signed a proclamation on April 22 suspending entry into the United States of certain groups of immigrants who would otherwise be eligible to enter the United States as permanent residents. There are a number of significant exceptions to this new policy, including for temporary workers and individuals currently in the United States. Here is what the restrictions mean for employers.

H-1B Workers – Unpaid, Nonproductive Time and Terminations During the COVID-19 Crisis

March 27, 2020

Frequently asked questions to help employers understand the legal ramifications of furloughs and terminations of H-1B workers in light of the COVID-19 outbreak.

Impact to Travel Between the United States, Canada, and Mexico

March 25, 2020

Recent updates include temporary travel restrictions for land ports of entry to the United States, temporary restrictions on nonessential travel to Canada, and similar restrictions on entry into Mexico. These restrictions may be expanded at any time.

Form I-9 & E-Verify Compliance in a Time of Remote Work and Telecommuting

March 16, 2020

Questions for employers to consider with regard to Form I-9 compliance.

B. KAZAKHSTAN

COVID-19 in Kazakhstan: Government Resolution in Certain Certain Immigration Issues

April 23, 2020

In connection with the current national state of emergency, Republic of Kazakhstan Prime Minister Askar Mamin signed Resolution of the Government No. 220 on Certain Issues of Entry into (Exit from) the Republic of Kazakhstan and the Stay of Immigrants in the Republic of Kazakhstan on April 17, suspending the effect of certain norms of the law providing a visa-free travel regime for citizens of specific countries.

C. UNITED KINGDOM

UK Immigration Updates: COVID-19 Visa Extension, Quarantine Measures, and Others

May 27, 2020

Owing to the COVID-19 crisis, the UK government has announced a number of immigration changes, including visa extension and switching measures as well as a mandatory self-quarantine period for those entering the United Kingdom from June 8, 2020. Other announcements include changes to the guidance for EEA nationals applying for nationality and a Statement of Changes affecting the Startup, Innovator, EU Settlement Scheme, Tier 4, and Global Talent visa categories.

UK Home Office Announces New Immigration Guidance for Those Affected by COVID-19

March 25, 2020

The UK Home Office has issued further guidance for individuals who are currently in the United Kingdom and unable to return to their home countries due to COVID-19, as well as for individuals applying for UK visas outside the United Kingdom.

D. INDIA

Global Travel: India

April 8, 2020

With increasing cases of the coronavirus in India, travel restrictions have been expanded and lockdown has been implemented to contain the spread of the virus within the country.

IV. PREPARING FOR THE RETURN

A. UNITED STATES

Weekly Webinar Series – Returning to Work in California: Highlights of Major State and Local Orders

June 2020

Join us every Wednesday in June for a 15-30 minute webinar highlighting major state and local orders that California employers must navigate during this next chapter of the COVID-19 pandemic.

NJ Allows Nonessential Business Operations to Resume

June 5, 2020

New Jersey Governor Phil Murphy has signed Executive Order 150, which furthers efforts to reopen nonessential businesses closed due to the COVID-19 pandemic. Starting June 15, 2020, nonessential retail businesses can reopen physically to customers, and outdoor dining and beverage services may resume.

Massachusetts Provides Guidance for Phases II-IV of Reopening Plan

June 3, 2020

Massachusetts is beginning to prepare for the next phase of its four-phase reopening plan. On June 1 Governor Charlie Baker issued an order allowing Phase II businesses to open their locations to workers to prepare for reopening, providing additional details concerning what types of businesses will be allowed to reopen in Phases II–IV of the reopening plan, and outlining additional guidance for these businesses.

Illinois Continues Partial Reopening Plan, Issues Industry-Specific Guidance for Phase III

June 2, 2020

Additional reopening steps come several weeks after Illinois released a five-phase regional plan for reopening businesses following the statewide closure of all nonessential businesses due to the COVID-19 public health emergency, a process known as “Restore Illinois.”

Massachusetts Begins Partial Reopening Plan, Offers Industry-Specific Guidance

May 22, 2020

Massachusetts is beginning to reopen for business, with strict rules about how businesses may bring workers back to the workplace. On May 18, the commonwealth issued its phased reopening plan following the closure of all nonessential businesses due to the COVID-19 public health emergency. This LawFlash discusses the government’s rules for the reopening process, including industry-specific guidance.

New York Begins Partial Reopening Plan, Offers Industry-Specific Guidance

May 19, 2020

On May 15, New York State began to implement the state's phased, regional plan for reopening businesses following the statewide closure of all nonessential businesses due to the COVID-19 public health emergency, a process known as "New York Forward." Pursuant to New York Forward, certain industries in qualifying regions of New York can begin in-person operations, provided that they affirm compliance with industry-specific health and safety guidance promulgated by the state and develop and post compliant safety plans. This LawFlash discusses the nature and scope of the New York Forward reopening process, and key provisions from health and safety guidance issued to date.

New Jersey Starts Reopening Nonessential Businesses

May 15, 2020

New Jersey Governor Phil Murphy signed Executive Order 142, which cues the early stages of reopening. New Jersey residents can now hold small in-person gatherings, as well as attend vehicular gatherings or events. Starting May 18, nonessential retail businesses can open, but only for curbside pickup and provided that they require infection control practices inside the store. Nonessential construction projects can also resume on May 18.

Reopening the Workplace: Strategies and Tips for Unionized Employers (Webinar Recording)

May 5, 2020

The webinar covers returning to the workplace and what labor-management challenges employers can expect to face.

Remote Working Implicates State Payroll Tax, Corporate Income/Franchise Tax Nexus Concerns

May 1, 2020

Employers should be aware that remote working arrangements during the COVID-19 pandemic may inadvertently trigger state payroll tax registration and filing requirements for their businesses, and possibly trigger corporate income/franchise tax "nexus" with another state, subjecting the business to that state's tax regime.

Reopening the Workplace: Practical Considerations for Employers (Webinar Recording)

April 29, 2020

In this webinar we cover key considerations and discuss practical implementation steps for employers to consider as jurisdictions contemplate lifting pandemic-related workplace restrictions.

Reopening the Workplace: A Preliminary Guide for Employers

April 16, 2020

As jurisdictions contemplate lifting pandemic-related workplace restrictions, employers must start considering how best to cope with a vast array of issues, including restarting or expanding operations, reintegrating remote-working or furloughed employees, implementing new US state and local orders/requirements, and protecting the safety of employees and customers.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

UNITED KINGDOM: UK's Lockdown Exit Strategy: A Guide for Employers

May 15, 2020

In recognition of growing concerns regarding the impact of COVID-19 on the UK economy and the profound social impact of lockdown measures, the government has unveiled its strategy for exiting the lockdown alongside detailed sector-specific guidance on how to work safely during the pandemic.

UNITED KINGDOM: Reopening the Workplace: Key Considerations for UK Employers (Webinar Recording)

May 13, 2020

As jurisdictions contemplate lifting pandemic-related workplace restrictions, employers must proactively plan for an array of challenges related to reopening or expanding operations. In this 60-minute webinar we cover key considerations and practical implementation steps for employers.

UNITED KINGDOM: Reopening the Workplace: A Preliminary Guide for UK Employers

April 30, 2020

Key issues that UK employers should begin considering now to minimize difficulties as they reopen or expand their operations include reintegrating staff, assessing internal policies in light of the pandemic, testing for the COVID-19, and more.

UNITED KINGDOM: COVID-19: The Top 10 Questions Facing UK Employers (Webinar Recording)

April 23, 2020

In this 60-minute webinar we discuss the 10 most pressing employment law and human resources questions for UK employers on managing employees during and after the COVID-19 lockdown.

FRANCE: Reopening the Workplace: A Preliminary Guide for French Employers

May 6, 2020

While most companies in France (with the exception of cafés and restaurants, sports halls, theatres, museums, and companies whose activities allow teleworking) will be able to resume their activity from May 11, employers must now take health and safety measures to ensure the protection of their employees and limit the risks of litigation and criminal proceedings.

RUSSIA: COVID-19: Russia Ends Mandatory Nonwork Days But Restrictions Continue

May 15, 2020

Russia ended the mandatory nonwork days introduced to curb the COVID-19 pandemic, initially from March 30 through April 3 with several further extensions through May 11. However, the end of nonwork days does not mean "back to normal." The subjects of the Russian Federation (Russia's constituencies) must continue to maintain the specific preventive measures depending on the epidemiological situation in a particular territory. In this alert, we address some recent changes introduced in connection with the end of non-work days, with a particular focus on Moscow.

UNITED ARAB EMIRATES: Dubai to Gradually Reopen Commercial Activities Beginning May 27

May 26, 2020

Dubai has announced the gradual reopening of business activities beginning May 27, 2020, within the emirate. The announcement that there will no longer be any restrictions on movement between 6 am

and 11 pm was issued at a virtual meeting of Dubai’s Supreme Committee of Crisis and Disaster Management held on May 25, 2020.

C. ASIA-PACIFIC

SINGAPORE: COVID-19: Singapore Guidelines on Resumption of Businesses on June 2, 2020

June 1, 2020

With the easing of circuit-breaker measures in Singapore, employers gearing up for reopening must implement safety management measures to provide a safe working environment for employees. Here is a brief guide for employers in Singapore on things to take note of when planning for these measures.

CHINA: Update for Employers on COVID-19 in the People’s Republic of China

April 6, 2020

As the number of COVID-19 infections has diminished in the PRC, everyday life has been evolving slowly to bring employers and employees closer to the pre-COVID-19 working environment. However, schools still remain closed (with no official date set for their reopening) and large public gatherings are still prohibited. That said, while the PRC government has eased the overall pandemic prevention and control measures, employers should be aware of many new regulations at both the national and local levels to address the myriad employment issues that have arisen.

LITIGATION CONCERNS AND RISK MITIGATION

I. DISPUTES AND LITIGATION

ICSID Tribunal Confirms Jurisdiction to Hear Multiparty Arbitration by International Investors

June 3, 2020

An International Centre for Settlement of Investment Disputes (ICSID) tribunal has recently dismissed the jurisdictional challenges of the Republic of Cyprus and is pushing ahead with a multiparty arbitration commenced by former depositors and bondholders of Laiki Bank and the Bank of Cyprus.

Colleges and Universities: Litigation Challenges and Risk Mitigation in the Face of COVID-19

May 21, 2020

In navigating the COVID-19 pandemic, higher-education institutions should be aware of a recent wave of refund class actions, antitrust considerations in communication with other institutions, claims for business interruption insurance, and force majeure provisions in existing contracts.

Shifting Strategies in Pursuing Injunctive Relief in the Wake of COVID-19 (Webinar Recording)

May 21, 2020

Please join us for a webinar on emerging trends in commercial business tactics and strategies that will necessitate injunctive relief or require a plan to oppose injunctive relief in the wake of the COVID-19 pandemic.

Arbitration Institutions Transition to Global Hybrid Hearings During COVID-19

May 20, 2020

In the wake of the COVID-19 pandemic, international arbitration and alternative dispute resolution institutions are looking to provide innovative solutions to current restrictions on international travel and physical attendance at hearings and proceedings.

Colleges & Universities Hit With Refund Class Actions While Struggling With COVID-19 Effects

May 18, 2020

Class action lawsuits seeking tuition refunds are being filed nationwide against colleges and universities, which are already dealing with revenue loss from closing down their campuses during the COVID-19 pandemic. Here is an overview of the current litigation landscape, and what colleges and universities should know in terms of potential defenses and minimizing litigation risk.

II. DATA PRIVACY

What Companies Need to Do Ahead of July 1 Enforcement - Practical Advice on Privacy: Guide to the CCPA

June 4, 2020

With the July 1 enforcement of the California Consumer Privacy Act (CCPA) less than a month away, the state attorney general has finally submitted the final text of the proposed CCPA regulations to the California Office of Administrative Law. This article discusses the current landscape and provides practical steps that companies can take before enforcement begins.

Successful Cyberincident Response in 2020

May 29, 2020

Since the global COVID-19 pandemic began, attempted cyberattacks have increased dramatically. It is no longer a question of whether bad actors will target a company; it's a question of when a cyberattack will occur. Now more than ever, companies must diligently prepare for a cyberincident response. Such preparation can save a company's reputation, money, and can prevent or limit liability in litigation or government investigations related to the incident.

Considering Facial Recognition Technology as Businesses Reopen

May 20, 2020

As businesses across America begin to reopen in the wake of the COVID-19 pandemic, many will likely implement new social distancing and sanitization procedures. That got us thinking about how companies may choose to use touchless authorization technologies such as facial recognition as the main form of entry into their facilities, rather than continuing to use tools such as keypads or fingerprint scanners that require many people to repeatedly touch the same surfaces daily.

Germany Approves New Forms for Patient Consents

May 11, 2020

New patient consent forms in Germany cover the use of patient care data and clinical and biomedical research.

European Data Protection Board Adopts New Guidelines on COVID-19 Contact Tracing Apps

May 6, 2020

The potential tension between the protection of public health and the fundamental right to personal privacy is being tested on an unprecedented scale in the global coronavirus pandemic. The European

Data Protection Board (EDPB) adopted guidelines, on April 21, on the processing of health data as part of research efforts to respond to the COVID-19 pandemic (Research Guidelines) and on geolocation, and other tracing tools, in the context of the pandemic.

COVID-19 in France: Personal Data Protection in the Workplace

April 29, 2020

As prevention measures against the COVID-19 pandemic bump into the principles and guidelines of the EU's GDPR, the French Data Protection Authority has reinforced essential rules and good practices for companies to ensure employee personal data protection.

New York Department of Financial Services Issues Guidance on Cybersecurity During COVID-19

April 29, 2020

New York's Department of Financial Services (DFS) issued guidance, on April 13, alerting regulated entities of a significant increase in cybercrime during the COVID-19 pandemic.

Federal Data Protection Commissioner Supports Voluntary Data App

April 16, 2020

Germany is debating whether apps related to the coronavirus pandemic would be useful, what they should cover, and what the ramifications would be under applicable data protection law.

GDPR: Temporary Suspension of Data Protection Rights

March 9, 2020

The EU's GDPR allows the temporary suspension of some data protection rights. Here, we discuss the nature of those suspensions and how the need to address the ongoing health crisis is being balanced with data protection rights in Italy, France, and Germany.

III. INSURANCE COVERAGE

Telehealth Pay Gaps Loom After Virus When State Orders Expire

June 4, 2020

Morgan Lewis associate Jacob Harper spoke with Bloomberg Law about the increased use of telehealth services. "With the COVID-19 pandemic, we've seen an overnight switch from in-person to telehealth services, and I think this is a dress rehearsal for telehealth as a mainstream modality of providing healthcare," said Jake in the article. "These forces are going to push on insurers and legislators to start reimbursing telehealth services or revising telehealth legislation in a more meaningful way."

UK FCA: Eight Insurers Agree to be Parties to Business Interruption Insurance Test Case

June 4, 2020

Through the High Court test case, the UK Financial Conduct Authority hopes to obtain legal clarity on business interruption insurance during the COVID-19 pandemic.

Captive Insurance Opportunities and Solutions Post-COVID-19

May 21, 2020

Companies with COVID-19–related losses and legacy liabilities may appreciate significant additional tax benefits from funding those legacy liabilities through a captive insurer before the end of this year. Companies looking to procure insurance to cover losses from the next infectious disease outbreak should explore the many benefits of insuring such risk with a captive.

FCA to Pursue High Court Test Case on Business Interruption Insurance Policies to Provide Clarity During Pandemic

May 19, 2020

On May 15, the FCA invited policyholders of business interruption (BI) insurance that have been affected by the COVID-19 pandemic, and have had claims under their insurance policies rejected by their insurers, to get in touch so that their arguments may be taken into account as part of the FCA’s plan to seek the court’s views on certain policy wordings by commencing a test case in the English High Court.

COVID-19 Business Interruption Losses: Preserving and Pursuing Claims

May 6, 2020

Companies with substantial business interruption losses related to the COVID-19 pandemic must take immediate, concrete steps now to preserve their ability to pursue recoveries from insurance and/or financial relief from future governmental programs.

COVID-19: DC Council to Consider Legislation Mandating Business Interruption Coverage

May 4, 2020

Following in the footsteps of several state legislatures, the Council of the District of Columbia plans to consider, on May 5, draft legislation that would require insurers to provide coverage for business interruption losses resulting directly or indirectly from the COVID-19 public health emergency.

Business Interruption Insurance Amid COVID-19: How Aggregation Can Affect Recovery Value

May 1, 2020

During the COVID-19 pandemic, it is important for policyholders to remember that key insurance principles, including the principle of aggregation in the United Kingdom, could make a significant difference to any claim on their policies.

COVID-19 Business Interruption Losses: The Potential Keys To Unlocking Insurance Recovery

April 21, 2020

As the COVID-19 pandemic evolves, governmental executive and legislative authorities are taking actions in the form of emergency declarations and proposed legislation that could improve a company’s ability to mitigate business income losses by maximizing its insurance recovery. Keeping an eye on these developments and documenting your losses accordingly could make all the difference.

State Insurance Regulators and Legislators Respond to COVID-19

April 17, 2020

Insurance regulators across the United States have enacted emergency regulations, issued administrative guidance, and requested carriers to take certain actions to try to address the financial impact of the COVID-19 pandemic on individuals and businesses.

Events Cancellation Insurance

April 14, 2020

For companies forced to postpone or cancel live events during the COVID-19 pandemic, event cancellation insurance may serve as a way to protect assets and mitigate losses.

Business Interruption Insurance

April 1, 2020

Regulatory and legislative authorities are taking actions, in the form of directives and orders, that could directly impact companies' business interruption coverage. A review of insurance policies and insurers' responses can assist in preserving companies' rights to coverage. See also our [*Webinar*](#).

IV. COMPETITION AND ANTITRUST

A. GLOBAL

Competition Authority Merger Filing Status During COVID-19

UPDATED: May 19, 2020

As governments around the world work to stem the COVID-19 pandemic, merger control authorities in jurisdictions around the globe are adapting their operations and procedures.

B. UNITED STATES

The Antitrust Division and FTC Issue Statement on COVID-19 and Labor Market Competition

April 14, 2020

The joint statement recognizes that while the COVID-19 pandemic offers businesses an opportunity for procompetitive collaboration and benefits, it also increases significant risk of anticompetitive conduct in the labor market. Here are some issues and factors that businesses should consider to mitigate antitrust risk, as the Antitrust Division and Federal Trade Commission continue to consider enforcement actions for antitrust violations.

US Antitrust Laws: Investment Guidance for Deals, Dealmakers Amid Economy's Inevitable Rebound

April 13, 2020

US antitrust laws already on the books facilitate rapid investment without government delay: important practical tools and rules for dealmakers and their counsel in the wake of the COVID-19 pandemic and the current economic challenges.

COVID-19 Antitrust Considerations: The Boundaries of Industry Collaboration

March 18, 2020

In responding to the COVID-19 pandemic, the mantra of “working together” is heard often. But as businesses confront sudden and extensive demand and supply disruptions—and a range of sometimes conflicting information and guidance from the public sector about the health crisis—questions inevitably arise about the extent to which the private sector can coordinate its responses consistent with the antitrust laws.

C. UNITED KINGDOM AND EUROPE

Potential UK Reforms Could Increase Screening of Certain Foreign Takeovers

June 4, 2020

The UK Parliament’s Foreign Affairs Committee has issued a “call for evidence” as part of its ongoing review of the UK government’s role in intervening in certain foreign takeovers of UK companies and potentially blocking foreign asset stripping in the United Kingdom where a transaction could have national security implications therein.

COVID-19: Temporary Amendments to German Competition Law Enter Into Force

May 29, 2020

Two key amendments to the German competition law entered into effect on May 29, 2020, temporarily extending merger control review periods and temporarily suspending interest payments for antitrust fines further to a bill adopted by the German Parliament to mitigate the consequences of the COVID-19 pandemic on trade.

COVID-19: UK Competition Law Exemption for Dairy Industry

May 20, 2020

On May 2, the UK Parliament adopted the Dairy Produce Order, which temporarily relaxes the application of UK competition law to certain types of cooperation between either dairy produce suppliers or logistic service providers to address issues in the supply chain caused by the ongoing COVID-19 pandemic, such as decreased demand from the hospitality sector and reduced collections from retailers.

European Commission to Allow State Recapitalization of Firms Hit by COVID-19

May 13, 2020

The European Commission has revised its Temporary Framework for State Aid to support the economy during the COVID-19 pandemic to allow capital injections by EU member states into nonfinancial firms affected by the pandemic.

COVID-19: EU Relaxes Competition Rules for Cooperation in Dairy, Potato, and Flower Sectors

May 7, 2020

The European Commission, on May 4, announced the adoption of exceptional derogations from EU competition rules to allow certain types of cooperation in the following sectors: milk and milk products, potatoes, and live plants and flowers, as part of a wider package to support the agri-food industry during the ongoing COVID-19 pandemic.

The Return of the 'Comfort Letter'

May 1, 2020

The European Commission published its first comfort letter in nearly 20 years, on April 29, in an effort to foster cooperation among businesses during the COVID-19 pandemic. Here is what companies should know about the specific practices permitted under the comfort letter, as well as the specific conditions and safeguards for cooperation.

CMA Issues Guidance on UK Merger Assessments During COVID-19

April 24, 2020

New guidance from the UK Competition and Markets Authority warns that it will not relax its substantive or evidentiary standards for merger investigations during the COVID-19 pandemic. Statutory deadlines will not be altered, although aspects of investigations may be subject to delay, and the authority will continue to impose interim measures. The authority also set out its position on mergers involving "failing firms," indicating some flexibility in its interpretation of the counterfactual test.

European Commission Approves £50 Billion UK 'Umbrella' State Aid Scheme During Pandemic

April 7, 2020

The European Commission has approved a £50 billion (EUR 57 billion) "umbrella" UK state aid scheme to support small and medium-size enterprises and large corporates in the United Kingdom affected by the COVID-19 outbreak. The umbrella scheme was approved, on April 6, under the State Aid Temporary Framework, as amended.

European Commission Further Relaxes Rules on Investment Aid to Firms Amid COVID-19

April 6, 2020

The European Commission revised its Temporary Framework for State Aid to support the economy during the COVID-19 pandemic, allowing investment aid to companies involved in the fight against the pandemic, as well as new forms of operating aid for companies in severely impacted sectors or regions.

V. INTELLECTUAL PROPERTY

USPTO Announces Further COVID-19 Relief for Large and Small Entities

June 4, 2020

The USPTO on May 27 made further accommodations for small and micro entities affected by the COVID-19 pandemic. For these entities, patent filings that would have been deemed timely filed by June 1 under previous PTO COVID-19 extensions will now be deemed timely if filed by July 1, 2020. Large entities may seek relief after May 31, 2020 on a case-by-case basis upon petition for an extension of time or to revive along with payment of any fee that may be required. For all entities, a statement that the delay in filing (or payment) was due to the COVID-19 outbreak, as required in previous notices, is still required.

The Intersection of Artificial Intelligence, COVID-19, and Copyright

May 20, 2020

While artificial intelligence promises to be useful in responding to the COVID-19 pandemic, companies should be aware of potential copyright considerations.

Small and Micro Entities with COVID-19–related Inventions Now Have Inexpensive Track to Patent

May 11, 2020

On May 8, the US Patent and Trademark Office (USPTO) announced a new COVID-19 Prioritized Examination Pilot Program (Pilot Program), under which eligible small and micro entities will receive prioritized examination without payment of the additional fees for prioritized examination. As such, eligible small and micro entities will save \$2,000 and \$1,000, respectively, when making requests for prioritized examination under the new Pilot Program.

COVID-19–Related IP Office Closures and Extensions Around the Globe

May 8, 2020

As governments around the world work to stem the COVID-19 pandemic, intellectual property (IP) offices in jurisdictions around the globe are temporarily closing and/or extending deadlines.

USPTO Launches ‘Patents 4 Partnerships’ Platform to Fight COVID-19

May 7, 2020

Underscoring the significance of utilizing IP in the ongoing fight against the COVID-19, the USPTO on Monday publicly unveiled a new online database that acts as a patent “marketplace” aimed at facilitating the voluntary licensing and commercialization of key technologies related to the prevention, diagnosis, and treatment of COVID-19.

IP Rights: Has COVID-19 Made You a Government Contractor? What You Need to Know About

April 13, 2020

As the federal government seeks innovative solutions from a broader group of suppliers to respond to the COVID-19 pandemic, new or nontraditional contractors will want to familiarize themselves with the IP rights associated with different contracting vehicles and circumstances. New government contractors will want to be sensitive to rights concerning their IP so that they do not convey greater rights to the government than they intend.

Trade Secrets: Protecting Trade Secrets During Shelter-in-Place

April 3, 2020

Given the number of employees and independent contractors working remotely, it is a good time for companies to reassess their trade secret policies and remind all personnel of their obligations to maintain and protect the confidentiality of company information.

Patents: Possible Patent Infringement Risk for Companies Making COVID-19 Equipment Without DPA Contracts

April 2, 2020

With each passing day, more US companies are voluntarily rising to answer the president’s call to manufacture facemasks, ventilators, and other critical COVID-19 protective equipment, but, without a government contract, they may not be exempt from patent infringement liability. Companies should

take certain precautions to minimize their potential exposure and liability to a patent infringement claim.

VI. REAL ESTATE

Russia Adopts Rules Allowing to Renegotiate Leases and Postpone Lease Payments

May 20, 2020

Russia has adopted rules allowing for the renegotiation of real estate leases and postponement of lease payments in certain cases. These rules affect both landlords and tenants. In this LawFlash we address the basics of these rules as adopted on the federal level. The rules may differ depending upon where the real estate in question (buildings, premises, or land plots) is located, as some Russian regions have adopted their own regulations on this subject matter.

Real Estate: Federal, State, and Local Government Actions

April 16, 2020

In response to the current COVID-19 pandemic, federal, state, and local governments have taken various actions to limit or prohibit foreclosures and evictions during the public health emergency. Some of these actions also require forbearance in the enforcement of mortgage loans and leases.

Leasing Considerations

March 27, 2020

Tenants and landlords should consider whether certain provisions such as force majeure, frustration of purpose, and/or impracticability of performance can protect them under current or proposed leases.

VII. BANKRUPTCY

Out-of-Court Restructurings During the COVID-19 Pandemic

May 27, 2020

While the full extent of COVID-19's impact on the economy remains to be seen, it will likely create significant restructuring activity for companies already experiencing financial distress and otherwise healthy companies distressed by the pandemic. We have already seen an increase in chapter 11 filings, and more will follow.

"Germany's Chapter 11": Protective Shield Proceedings Increase with COVID-19 Insolvencies

May 26, 2020

As the economic effects of the COVID-19 pandemic continue to be felt, Germany's protective shield proceeding under Section 270b of the Insolvency Code is a way for companies to restructure under the direction of management.

UK Government Introduces Corporate Insolvency and Governance Bill 2020

May 21, 2020

On May 20, the UK government set out its hotly anticipated Corporate Insolvency and Governance Bill, which, once enacted, will bring into force previously announced insolvency reforms.

Beware of Debtor Tax Traps in Restructuring and Bankruptcy

May 20, 2020

The economic outcome from the COVID-19 pandemic is still uncertain but is likely to remain catastrophic in many respects. Of late, popular name brands and companies have filed for bankruptcy as stay-at-home orders and social distancing requirements remain largely in effect. Morgan Lewis tax lawyers alert those considering bankruptcy or restructuring to various tax traps that may arise during these processes.

Massachusetts Ban on Certain Debt Collection Practices Blocked on First Amendment Grounds

May 7, 2020

An injunction blocking enforcement of an emergency prohibition on debt collection phone calls and lawsuits during the COVID-19 crisis was granted, on May 6, on grounds that it violates the First Amendment rights of collection agencies without adding meaningful protections for consumers.

Business Interruption Insurance Amid COVID-19: How Aggregation Can Affect Recovery Value

May 1, 2020

During the COVID-19 pandemic, it is important for policyholders to remember that key insurance principles, including the principle of aggregation in the United Kingdom, could make a significant difference to any claim on their policies.

Debtors Need Not Apply? New Developments on SBA Authority to Deny PPP Loans to Debtor Applicants

April 28, 2020

The SBA, on April 24, issued an update to an interim final rule, crystalizing its view that applicants that have sought protection under the US Bankruptcy Code are not qualified borrowers under the PPP.

Bankruptcy During COVID-19: Three Expedited Options

April 27, 2020

Prepackaged bankruptcies, prearranged bankruptcies, and expedited sales are available options for businesses in need of accelerated restructurings during the COVID-19 pandemic.

COVID-19: Light-Touch Administration – What Is It and How Does It Work?

April 24, 2020

A number of UK insolvency trade association bodies and professionals are advocating for the use of what is known as a light-touch administration for companies in financial distress as a result of the COVID-19 pandemic.

US Bankruptcy Courts Offer Extraordinary Relief Amid COVID-19

April 22, 2020

Bankruptcy courts have implemented procedures to allow the ongoing—albeit virtual—administration of bankruptcy cases.

COVID-19 Business Interruption Losses: The Potential Keys to Unlocking Insurance Recovery

April 21, 2020

As the COVID-19 pandemic evolves, governmental executive and legislative authorities are taking actions in the form of emergency declarations and proposed legislation that could improve a company's ability to mitigate business income losses by maximizing its insurance recovery. Keeping an eye on these developments and documenting your losses accordingly could make all the difference.

Insurance Overview for Business Owners for COVID-19 Losses and Liabilities, Including Business Interruption, Event Cancellation Coverage, Communicable Disease Coverage, and Virus Exclusions (Webinar Recording)

April 2, 2020

With significant business disruptions occurring as a result of COVID-19, companies should consider how insurance coverage, including business interruption, supply chain, event cancellation, and communicable disease coverages, can help mitigate losses.

Access to Bankruptcy Courts and Federal Stimulus in the Wake of COVID-19

April 2020

The article, published by *Insol International*, discusses how the courts are operating during the pandemic and bankruptcy-related stimulus measures.

VIII. SHAREHOLDER ACTIVISM

Six Considerations for Plan Fiduciaries During the COVID-19 Pandemic

May 21, 2020

ERISA fiduciaries may want to identify steps they should be taking and decisions they should be considering to adjust their processes in the face of the COVID-19 pandemic. This publication identifies six such points that could be appropriate for consideration by retirement plan fiduciaries, such as fiduciary committees, as the pandemic and related economic fallout continue to evolve.

Boards of Directors Must Continue to Meet Fiduciary Duties During Pandemic

April 27, 2020

As the COVID-19 pandemic disrupts everyday life throughout the world, boards of directors of corporations working around the clock to understand, address, and mitigate its effects on business operations must direct attention to their fiduciary duties. Boards must act affirmatively, and with an eye on the future, to assure that duties to corporations and stockholders continue to be met.

Impact of COVID-19 on Shareholder Activism (Webinar Recording)

March 27, 2020

Shareholder activism may be impacted, as global financial markets continue to experience unprecedented levels of volatility and many companies have seen market capitalizations shrink.

IX. THE PRACTICALITIES OF COMPLETING TRANSACTIONS

Notarizing and Authenticating Documents During COVID-19

May 12, 2020

The unprecedented conditions created by the COVID-19 pandemic and resulting government shutdown orders have placed significant roadblocks for the last step of documenting a contract or other legal document: authentication.

COVID-19: How to Authenticate Documents During a Pandemic

May 7, 2020

US companies trying to close international deals or set up new branches in foreign countries are struggling to secure apostilles to certify documents due to quarantine mandates and office closures resulting from the COVID-19 pandemic. See also our publication (April 1, 2020): [COVID-19: How to Notarize Documents During a Pandemic](#).

X. CONTRACTS

UK Takeover Panel: COVID-19 and UK Lockdown Insufficient to Trigger MAC Conditions

May 29, 2020

The offeror for Moss Bros sought to rely on standard material adverse change conditions to lapse the offer, on the basis of the impact of the COVID-19 pandemic and related UK governmental measures on Moss Bros. The Panel Executive ruled that the impact on Moss Bros' business was not sufficiently material to permit the lapsing of the offer.

Distressed M&A – Considerations Amid a Pandemic (Webinar Recording)

May 26, 2020

We discuss the distressed asset sale process and critical legal issues and risks associated with distressed M&A transactions in the wake of COVID-19.

Drafting a Force Majeure Clause in the COVID-19 Era

May 12, 2020

The conditions created by the COVID-19 pandemic and resulting government shutdown orders have raised questions across various industries regarding contractual rights and obligations during the crisis. One contract provision in particular is garnering significant attention: the force majeure clause. Recently, these clauses have evolved from boilerplate provisions at the end of a contract to now being front and center in many contract negotiations. In this blog post, we will review considerations for drafting force majeure clauses within the current environment.

INDUSTRY-SPECIFIC CONSIDERATIONS

I. ENERGY

The CARES Act: Key Takeaways for Energy Companies

UPDATED: April 21, 2020

The CARES Act aims to offer economic relief to companies and their employees due to the COVID-19 pandemic in the United States. Although the CARES Act does not expressly provide relief for energy companies, many of its provisions impact energy sector companies.

A. WORKFORCE

Mission Critical Benefits in a Pandemic Economy (Webinar Recording)

May 27, 2020

Join us for a webinar covering practical employee benefits and compensation advice for companies operating in the current COVID-19 economy. Relief programs to be discussed include relevant aspects of the CARES Act, the PPP, other stimulus relief, and the use of benefits-related tools in challenging economic times.

Reopening the Workplace: Strategies and Tips for Unionized Employers (Webinar Recording)

May 5, 2020

The webinar covers returning to the workplace and what labor-management challenges employers can expect to face.

Essential Energy Workers Amid COVID-19

April 21, 2020

US Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA) guidance has expanded the scope of essential critical infrastructure workers.

NRC Guidance: Dispositioning Violations for Security Personnel Amid COVID-19

April 17, 2020

The Nuclear Regulatory Commission's (NRC's) Office of Enforcement (OE) provided guidance to NRC inspection staff for exercising enforcement discretion for licensees impacted by the COVID-19 pandemic.

NRC Guidance on Exemptions from Part 26 Work-Hour Controls

April 9, 2020

The NRC has issued temporary staff guidance for coronavirus-related Part 26 exemption requests.

Critical Infrastructure Workers: Possible Documentation to Authorize Travel During Restrictions

March 25, 2020

Recent guidance was issued from the US Department of Homeland Security.

B. NRC REGULATORY RELIEF

NRC Guidance: Enforcement Discretion for Noncompliance with Radiological Emergency Response Plans

May 28, 2020

The NRC's Office of Enforcement (OE) recently issued [Attachment 3 to Enforcement Guidance Memorandum](#) (EGM) 20-002, providing guidance to NRC Staff to disposition violations of emergency preparedness (EP) regulations during the COVID-19 public health emergency.

NRC Issues Final Guidance on Regulatory Relief from Part 37 Security Requirements During COVID-19

May 22, 2020

The NRC issued a letter to holders of licenses other than operating power reactor licenses (separate information regarding requests for temporary exemptions from certain security requirements at operating reactors has been issued) to possess Category 1 or 2 quantities of radioactive material (RAM) as defined in Appendix A to 10 C.F.R. Part 37.

NRC Guidance: Enforcement Discretion for Byproduct Material Licensees

May 21, 2020

The NRC's OE recently issued Attachment 2 to Enforcement Guidance Memorandum (EGM) 20-002, providing guidance to NRC inspection staff for exercising enforcement discretion for certain byproduct material licensees that suspended their use of licensed material and are maintaining the licensed material in safe storage because of the COVID-19 public health emergency.

Update: NRC Releases Specific Guidance on Requesting Exemptions from Emergency Preparedness Requirements

May 19, 2020

The NRC staff released specific [guidance](#) to all licensees on how to request exemptions from emergency preparedness (EP) biennial exercise requirements on May 14. The guidance supplements the [NRC's April 30 teleconference](#), during which it acknowledged that there may be instances in which licensees are unable to comply with certain EP requirements, including required training and drills, during the COVID-19 public health emergency.

Update: NRC Releases Guidance on Requesting Exemptions from Fire Protection Requirements

May 19, 2020

The NRC staff released specific [guidance](#) to operating and decommissioning reactor licensees on requesting exemptions from fire protection requirements during the COVID-19 public health emergency on May 14. The guidance supplements the NRC's April 29 teleconference, during which it contemplated such regulatory relief pathways. Morgan Lewis [reported](#) on the teleconference earlier this month.

NRC Issues Draft Guidance on Regulatory Relief from Part 37 Security Requirements During COVID-19

May 6, 2020

The NRC issued a draft letter to holders of licensees (other than operating power reactor licensees) to possess Category 1 or 2 quantities of RAM, as defined in Appendix A to 10 CFR Part 37.

NRC Issues Guidance to Research and Test Reactor Licensees on Relief from MC&A Requirements

May 4, 2020

The NRC issued a letter, on April 30, regarding the NRC's expedited review of requests for regulatory relief from certain material control and accounting (MC&A) requirements during COVID-19.

NRC Announces Forthcoming Guidance, Exemptions from Emergency Preparedness Requirements

May 1, 2020

The NRC staff hosted a public meeting via teleconference, on April 30, to discuss regulatory relief from emergency preparedness requirements during COVID-19.

Exemptions for Fire Protection: NRC Hosts Public Teleconference Meeting, Provides Further Guidance

May 1, 2020

The NRC staff hosted a public meeting via teleconference on April 29 to discuss available regulatory relief pathways from fire protection requirements during COVID-19.

NRC Issues Guidance for Regulatory Relief at Fuel Facilities

April 30, 2020

The NRC issued temporary staff guidance intended to help staff review and process requests for regulatory relief from fuel facilities, on April 21.

NRC Issues Additional Guidance on Regulatory Relief from Respiratory Protection Program Requirements

April 30, 2020

The NRC issued a letter, on April 27, clarifying and expanding the guidance on respiratory protection requirements that it previously provided to stakeholders.

NRC Hosts Public Teleconference on Exemptions for Parts 30 and 34 Licensees

April 29, 2020

The NRC staff hosted a public meeting via teleconference, on April 23, to discuss available regulatory relief pathways for materials licensees subject to 10 CFR Parts 30 and 34 during COVID-19.

NRC Hosts Public Teleconference Meeting on Exemptions for Medical Licensees

April 29, 2020

The NRC staff hosted a public meeting via teleconference, on April 22, to discuss available regulatory relief pathways for medical licensees during COVID-19.

NRC Staff Issues Guidance for Exercising Enforcement Discretion During COVID-19 Pandemic

April 24, 2020

The NRC staff issued [SECY-20-0034](#), on April 22, informing the NRC of the staff's plan to exercise enforcement discretion for licensee noncompliance with regulatory requirements resulting from illnesses or other factors caused by the COVID-19 public health emergency. The staff's approach applies to all classes of licensees and provides long-awaited guidance on the subject of enforcement discretion.

NRC Considering Expedited Review of Certain Part 20 Exemption Requests

April 20, 2020

NRC regulations require licensees to maintain a respiratory protection program.

Nuclear Reactors: New Reporting Guidance from NRC

April 10, 2020

The NRC provided guidance on reporting requirements in light of the COVID-19 pandemic.

Regulatory Relief for Radioactive Material Licensees During COVID-19 Pandemic

April 7, 2020

The NRC outlined how licensees might seek relief from certain regulatory requirements as a result of the COVID-19 pandemic.

C. FERC GUIDANCE

FERC to Convene Technical Conference on Long-Term Impacts of COVID-19 Pandemic

May 21, 2020

The FERC issued a notice on May 20 that it will convene a Commissioner-led technical conference to consider the ongoing, serious impacts that the emergency conditions caused by the COVID-19 pandemic are having on the energy industry. The conference will be free, open to the public, and held remotely on Wednesday and Thursday, July 8-9, 2020.

FERC Defers Implementation of Certain Cybersecurity and Operational Reliability Standards

April 21, 2020

The FERC agreed to defer implementation of certain cybersecurity and operational reliability standards administered by the North American Electric Reliability Corporation (NERC) that has important compliance milestones later this year.

FERC Grants Regulatory Relief, Commits to Exercise Prosecutorial Discretion

April 3, 2020

The FERC announced a plan to assist regulated entities in managing enforcement- and compliance-related burdens during the COVID-19 pandemic.

D. OTHER GOVERNMENT AGENCY GUIDANCE

PHMSA Discretion to Enforce Certain New Gas Pipeline Safety Regulations

May 6, 2020

In response to President Donald Trump's declaration of a national emergency due to the COVID-19 pandemic, the Pipeline Hazardous Materials Safety Administration (PHMSA) issued a notice that it does not intend to take enforcement action related to certain new gas pipeline safety regulations with which gas pipeline operators must comply by July 1.

OSHA Reminds Employers: Antiretaliation Provisions Still Apply

April 16, 2020

OSHA released a statement, on April 8, reminding employers that they cannot retaliate against workers who report unsafe or unhealthy working conditions during the COVID-19 pandemic.

COVID-19: EPA Releases Interim Guidance for Cleanup Sites

April 14, 2020

The EPA has released additional interim guidance for field work decisions at cleanup sites under EPA authority, emphasizing its commitment to ensuring the health and safety of the public, its staff, and others performing work at the sites. In its guidance, the EPA provides principles to consider when evaluating whether to proceed with or pause field work related to Superfund (CERCLA) cleanups, Resource Conservation and Recovery Act (RCRA) corrective actions, Toxic Substance and Control Act PCB cleanups, Oil Pollution Act spill responses, and Underground Storage Tank Program actions.

The Antitrust Division and FTC Issue Statement on COVID-19 and Labor Market Competition

April 14, 2020

The joint statement recognizes that while the COVID-19 pandemic offers businesses an opportunity for procompetitive collaboration and benefits, it also increases significant risk of anticompetitive conduct in the labor market. Here are some issues and factors that businesses should consider to mitigate antitrust risk as the Antitrust Division and Federal Trade Commission continue to consider enforcement actions for antitrust violations.

PHMSA Notice to Operators: Stay of Enforcement and Enforcement Discretion for Certain Requirements Due to COVID-19

March 27, 2020

The PHMSA issued a notice to operators stating that the PHMSA does not intend to take any enforcement action with respect to operator qualification (OQ) and control room management (CRM) requirements, and will consider exercising enforcement discretion regarding certain drug-testing requirements.

II. FINANCIAL SERVICES

A. BANKING

CFTC Delays Phase 5 Initial Margin Implementation Date

June 5, 2020

The US Commodity Futures Trading Commission has approved an interim final rule extending the Phase 5 initial margin compliance deadline for uncleared swaps by one year.

CARES ACT: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: June 4, 2020

The CARES Act's Paycheck Protection Program provides loans targeted to small businesses to help keep their workers employed during the COVID-19 pandemic, and offers loan forgiveness to borrowers maintaining a high percentage of employees on payroll. This LawFlash provides the latest developments in PPP loan availability, eligibility, and forgiveness, as well as a comprehensive overview of the PPP and related guidance.

FAQs and Revised Term Sheet Released for Revived TALF Program

UPDATED: May 18, 2020

The US Treasury Department and Federal Reserve Bank of New York recently released a new set of FAQs and a revised term sheet for the new Term Asset-Backed Securities Loan Facility (TALF) program, which is intended to address the liquidity crisis caused by the COVID-19 global pandemic through nonrecourse lending collateralized by issuances of eligible asset-backed securities. The changes include clarifying that certain US-organized and managed investment funds will be permitted to borrow TALF loans, and adding a required borrower certification that it is otherwise "unable to secure adequate credit accommodations."

COVID-19: What Servicers Should Know About Managing Mortgage Loan Forbearances

May 12, 2020

Federal and state regulators and Congress continue to release new guidance and requirements to assist mortgage borrowers facing economic hardships resulting from the COVID-19 pandemic. Due to the high volume of borrower requests, the associated burden on servicers, and the unknown duration of the COVID-19 pandemic, it is critical for servicers to be compliant with all forbearance-related requirements and to be responsive to borrower communications and inquiries.

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: May 6, 2020

The US Congress, on April 23, passed the Enhancement Act, which expanded funding for the existing PPP.

CARES ACT and Federal Reserve Offer Economic Assistance to Stabilize US Economy

UPDATED: May 1, 2020

The Federal Reserve took additional actions on April 9 to provide up to \$2.3 trillion in loans to support the US economy during the COVID-19 pandemic. This LawFlash covers the new and expanded programs, and provides comprehensive coverage of the Coronavirus Economic Stabilization Act.

CARES Act and the Federal Reserve: Main Street Lending

Part 2 (Webinar Recording)

Part 1 (Webinar Recording)

Part 2: May 1, 2020

Part 1: April 13, 2020

In Part 2, we discuss the newly issued term sheets and guidance on the Main Street Lending Program, including changes relevant to borrowers and lenders across all industries and sizes. Part 1 includes an overview of the Federal Reserve programs, including Main Street and other federal COVID-19 relief programs, and the loan programs under the CARES Act. The presentation highlights key aspects of the Main Street Lending Program broadly, with a focus on primary and secondary corporate credit facilities, the PPP term financing, and the municipal liquidity facility.

COVID-19: Light-Touch Administration – What Is It and How Does It Work?

April 24, 2020

A number of UK insolvency trade association bodies and professionals are advocating for the use of what is known as a light-touch administration for companies in financial distress as a result of the COVID-19 pandemic.

Fintechs and the Paycheck Protection Program – Lending Comes with Opportunities and Risks

April 22, 2020

The US Senate approved an additional \$310 billion in funds for the PPP, on April 20, and the House of Representatives is expected to approve these additional funds within days. As fintech companies accelerate their participation in the re-funded program, it is important to remain aware of the liability risks of doing so.

IRS Guidance for Securitization Industry

April 15, 2020

The IRS issued relief to the securitization industry, providing that certain forbearances and related modifications to mortgages will generally not cause REMICs and other securitization vehicles to lose their special tax status if such modifications arise from new programs/procedures created by the CARES Act or by similar programs/procedures to address the coronavirus emergency.

CARES Act: Compliance

April 14, 2020

While the CARES Act makes borrowers primarily responsible for demonstrating loan eligibility under the SBA's PPP, lenders must also ensure compliance with the CARES Act's terms for both loan eligibility and forgiveness.

Monetary Authority of Singapore Measures for Financial Institutions to Focus on Supporting Customers

April 10, 2020

As the outbreak of the coronavirus continues, the Monetary Authority of Singapore has introduced a number of initiatives to assist Singapore financial institutions in supporting their customers.

Basel Committee Extends Deadlines for Uncleared Margin Requirements

April 9, 2020

To help address market participants in the face of the COVID-19 crisis, the Basel Committee on Banking Supervision and the International Organization of Securities Commissions have provided a one-year extension to the fifth and sixth phases of the implementation schedule of the rules requiring margin for uncleared swaps.

CARES Act Provisions Impacting the Banking Sector

April 7, 2020

The CARES Act offers broad-based economic support for companies contending with the disruptions caused by the COVID-19 pandemic. This LawFlash provides a comprehensive overview of the aid that is available to or directly affects banks and related companies.

Effective Immediately: UK Government Increases 'Prescribed Part' from £600,000 to £800,000

April 6, 2020

With effect from April 6, the UK government has increased the "prescribed part"—a portion of floating charge realizations that is set aside for unsecured creditors on a company's insolvency—from £600,000 to £800,000.

CARES Act: Advice for Borrowers and Lenders

April 3, 2020

Both borrowers and lenders need to be aware of issues arising from a new US government loan program for small businesses relative to existing capital structures.

UK Government Announces Insolvency Law Reforms Due to COVID-19

March 31, 2020

The measures include temporarily suspending wrongful trading liability for directors and implementing a new restructuring plan and moratorium to provide companies with a period to explore rescue options during the COVID-19 pandemic.

HM Revenue & Customs to Get Preferential Status as of December 1, 2020

March 11, 2020

With effect from December 1, 2020, the UK's HM Revenue & Customs will be given preferential creditor status for certain taxes that a company has collected but failed to pay to HMRC on the date it enters insolvency. This was announced in the UK government's 2020 budget on March 11, 2020, and the government has confirmed that legislation will be introduced in the Finance Bill 2020.

B. INVESTMENT FUNDS

COVID-19: IRA Providers Have Until August 31, 2020 to File Form 5498 for 2019

June 2, 2020

New formal guidance from the Internal Revenue Service (IRS) extends the deadline for providers of individual retirement accounts and individual retirement annuities (IRAs) to file Form 5498 in response to the COVID-19 pandemic.

Guide to the 2020 Term Asset-Backed Securities Loan Facility (TALF) Program

May 29, 2020

The US Treasury Department and the Federal Reserve Bank of New York (the New York Fed) have announced the complete terms of a new Term Asset-Backed Securities Loan Facility (TALF) program, which is intended to address the liquidity crisis caused by the COVID-19 global pandemic through nonrecourse lending collateralized by issuances of eligible asset-backed securities (ABSs).

COVID-19: A Roadmap to Relief for IRA Owners and Providers

May 26, 2020

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and recent formal and informal guidance from the Internal Revenue Service (IRS) provide important 2020 relief for owners and beneficiaries of individual retirement accounts and individual retirement annuities (IRAs) and IRA providers in response to the COVID-19 pandemic.

COVID-19: UK Government Launches Future Fund

May 21, 2020

The UK Future Fund is aimed at supporting continued growth and innovation for UK-based companies in a variety of sectors amid the COVID-19 pandemic.

Sports Investment Amid COVID-19: Playing Smart in Turbulent Times

May 21, 2020

Investors pursuing global investment opportunities across the sports industry should be aware of the key considerations likely to apply to the mergers and acquisitions (M&A) process amid the COVID-19 pandemic.

SEC Announces Temporary Rules to Enhance Availability of Regulation Crowdfunding

May 19, 2020

Temporary relief provided by the SEC focuses on financial statements and timing and cancellation requirements with regard to Regulation Crowdfunding, and is expected to make it easier and faster for small businesses to complete offerings.

Competition Authority Merger Filing Status During COVID-19

Updated May 19, 2020

The Morgan Lewis Brussels antitrust and competition team has long-standing knowledge in handling international merger filings and coordinating multijurisdictional merger transactions. We have prepared a chart compiling information we have received from the local competition authorities before which we regularly represent our clients and/or act with our trusted local counsel.

COVID-19 Considerations for RICs and REITs and Temporary Relief on Certain Stock Distributions

May 15, 2020

New guidance from the IRS will allow RICs and REITs to retain more capital by distributing less cash to shareholders in certain stock distributions—welcome relief during the current economic volatility resulting from the COVID-19 pandemic.

SEC Enforcement Division: COVID-19–Related Enforcement Matters and What Lies Ahead

May 15, 2020

In a recent keynote speech, Co-Director of the SEC’s Division of Enforcement Steven Peikin made it clear that the Division has made COVID-19–related enforcement matters a top priority and is dedicating significant time and resources to respond to such issues.

COVID-19: Opportunistic and Dislocation Funds Pursuing Credit Strategies

May 11, 2020

The widespread economic disruption precipitated by the COVID-19 global pandemic and oil price volatility has caused debt portfolios to come under scrutiny and fund sponsors and investors to consider opportunities in the marketplace. Many asset managers are forming funds focused on liquid credit opportunities, secondary portfolio purchases and, as with the expansion of nonbank lending after the 2008 global financial crisis, providing customized solutions to distressed and other borrowers that are either unable or unwilling to borrow from traditional banks.

COVID-19: Implications for Institutional Investors (Webinar Recording)

May 11, 2020

Hedge fund managers should consider—in addition to the potential economic exposure from unsteady financial markets—numerous risks to their business and the funds they manage from operational and other disruptions that may occur as a result of the global pandemic.

III. HEALTHCARE

A. UNITED STATES

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: June 4, 2020

The CARES Act’s Paycheck Protection Program provides loans targeted to small businesses to help keep their workers employed during the COVID-19 pandemic, and offers loan forgiveness to borrowers maintaining a high percentage of employees on payroll. This LawFlash provides the latest developments in PPP loan availability, eligibility, and forgiveness, as well as a comprehensive overview of the PPP and related guidance.

Telehealth: COVID-19 Pandemic Unleashes New Practice Modality (Webinar Recording)

June 1, 2020

Join us during the Morgan Lewis Technology May-rathon as we discuss the current state of telehealth laws and rules in the United States from both a federal and state perspective, especially as impacted by the COVID-19 pandemic.

COVID-19: Temporary Amendments to German Competition Law Enter Into Force

May 29, 2020

Two key amendments to the German competition law entered into effect on May 29, 2020, temporarily extending merger control review periods and temporarily suspending interest payments for antitrust fines, further to a bill adopted by the German Parliament to mitigate the consequences of the COVID-19 pandemic on trade.

How to Find the Money: What Avenues of Financial Relief Can Healthcare Entities Pursue? (Webinar Recording)

May 28, 2020

In this webinar, we discuss the issues associated with the pursuit of funds under business interruption insurance coverage and FEMA public assistance and how they may intersect with the acceptance of terms and conditions associated with the CARES Act provider relief funds.

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

UPDATED: May 28, 2020

The CARES Act's Paycheck Protection Program provides loans targeted to small businesses to help keep their workers employed during the COVID-19 pandemic, and offers loan forgiveness to borrowers maintaining a high percentage of employees on payroll. This LawFlash provides the latest developments in PPP loan availability, eligibility, and forgiveness, as well as a comprehensive overview of the PPP and related guidance.

CMS and OIG Offer Additional Details on Blanket Waivers and AKS Policy Statement

May 18, 2020

The Centers for Medicare & Medicaid Services (CMS) and the US Department of Health and Human Services Office of Inspector General have provided additional guidance and clarification on the application of Stark Law blanket waivers and enforcement of the Anti-Kickback Statute amid the COVID-19 pandemic, helping providers establish new arrangements or modify existing arrangements to accommodate unprecedented demands.

CARES Act: Paycheck Protection Program Provides Small Business Loans to Support Employees

March 27, 2020 (Updated May 18, 2020) NEW

The CARES Act's PPP provides loans targeted to small businesses to help keep their workers employed during the COVID-19 pandemic, and offers loan forgiveness to borrowers maintaining a high percentage of employees on payroll. This LawFlash provides the latest developments in PPP loan availability, eligibility, and forgiveness, as well as a comprehensive overview of the PPP and related guidance.

CARES Act Relief Payments to For-Profit Medical Care Providers May Be Taxable on Receipt

May 7, 2020

For-profit medical care providers that receive CARES Act grants to provide funds for healthcare-related expenses or lost revenues attributable to the COVID-19 may be taxed for those receipts. Because Congress did not otherwise exclude or address the tax treatment of these grant payments, taxability would be determined based upon applicable tax law and guidance, which require that such funds be reported as taxable income. For-profit healthcare providers that received these grants should consider this issue and its resulting tax implications.

Healthcare Regulators Begin to Ease Restrictions on Elective, Nonurgent Procedures

May 7, 2020

CMS released guidance, on April 19, updating its previous recommendation to delay all elective surgeries and procedures during the COVID-19 pandemic. In response, state and local officials are issuing updated orders easing or removing restrictions previously placed on elective, nonurgent surgeries and procedures.

CMS Issues New FAQs Clarifying EMTALA Obligations During COVID-19

May 6, 2020

CMS recently issued FAQs clarifying requirements and considerations for hospitals and other providers related to the Emergency Medical Treatment and Labor Act (EMTALA) during the COVID-19 pandemic.

CMS Expands Hospice Flexibilities to Fight COVID-19

May 6, 2020

CMS posted an expanded set, dated April 29, of Medicare regulatory flexibility measures for hospice organizations related to the COVID-19 pandemic, supplementing the previous COVID-19 hospice flexibilities guidance from March 29.

Paycheck Protection Program and Healthcare Enhancement Act Infuses Additional Funding Into COVID-19 Healthcare Efforts

April 24, 2020

US President Donald Trump signed the Enhancement Act (HR 266) into law on April 24. HR 266 appropriates \$483 billion in new spending, including \$321 billion for the PPP, an additional \$75 billion for the Public Health and Social Services Emergency Fund, and \$25 billion to support expanded testing across the United States.

OSHA Guidance Marks Dramatic Shift in Enforcement Focus Amid COVID-19 Pandemic

April 20, 2020

OSHA issued an interim enforcement response plan for COVID-19, which allows field offices flexibility and discretion in handling COVID-19–related complaints, referrals, and illness reports.

Medicare Accelerated/Advanced Payment Program — Medicare Administrative Contractors Update Application Forms/Process, Health Law Scan

April 16, 2020

Not to be confused with the \$100 billion in Provider Relief Funds established as grants to healthcare providers through the CARES Act, Congress also broadened the access to the Medicare Accelerated/Advanced Payment Program (AAPP) as a tool to address financial concerns associated with reduced cash flow during the pandemic.

CARES Relief Fund Nourishes Ailing Healthcare Providers, but Can Be a Recipe for Future FCA Liability

April 15, 2020

Medicare providers that receive grant money under the CARES Act Relief Fund must pay close attention to the terms and conditions of the assistance and rigorously document how the funds are used in order to avoid potential future False Claims Act allegations.

FEMA Issues Rules Prohibiting Exports of Personal Protective Equipment Needed for US Response to COVID-19

April 15, 2020

FEMA exercised the authority recently granted to it by executive orders and pursuant to the DPA to regulate and redirect respirators, surgical masks, gloves, and other PPE designated as scarce or threatened materials that are prepared for export. FEMA and CBP will work together to identify “commercial quantities” of these items to be redirected for domestic use.

The Rise of Employee Activism and Public Shaming of Employers and How Unions Are Taking Advantage (Webinar Recording)

April 14, 2020

We discuss how healthcare workers are fighting back, union organizing in healthcare, and what unionized employers are facing and are legally obligated to do.

Stark Law and Anti-Kickback Statute Enforcement: For HHS, It’s Not Business as Usual

April 14, 2020

The US Department of Health and Human Services recently announced the use of blanket waivers for healthcare providers under the Stark Law, and its Office of Inspector General noted it would exercise enforcement discretion in imposing administrative sanctions related to such blanket waivers under the Anti-Kickback Statute.

PREP Act and Other Considerations for Hospitals Experimenting with COVID-19 Treatments (Webinar Recording)

April 7, 2020

Our speakers address the different ways that research on novel treatments can be undertaken in the hospital setting, along with the regulatory considerations of those different approaches; the ways in which health systems might work with manufacturers to get access to experimental treatments; and the PREP Act, which provides tort liability protections for the use of covered countermeasures.

Telehealth Amid COVID-19: What Providers Need to Know to Serve Their Patients

April 3, 2020

CMS released a stunning and far-reaching interim final rule to address COVID-19 crisis. The rule is a comprehensive set of policy changes designed to—almost overnight—shift the provision of healthcare services to Medicare beneficiaries from face-to-face care to remote care through telehealth.

The CARES Act’s Impact on Healthcare Providers and the Healthcare Industry

March 30, 2020

The CARES Act establishes mechanisms for relief that healthcare providers are anxious to access. This alert outlines those mechanisms.

How Hospitals Can Balance Public Health Concerns, Patient Privacy in Responding to Coronavirus

March 9, 2020

Guidance from the Office for Civil Rights and CMS reiterates that existing privacy laws and emergency preparedness standards provide an effective framework for providers during the COVID-19 outbreak.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

COVID-19: The Return of the 'Comfort Letter'

May 1, 2020

The European Commission published its first comfort letter in nearly 20 years, on April 29, in an effort to foster cooperation among businesses during the COVID-19 pandemic. Here is what companies should know about the specific practices permitted under the comfort letter, as well as the specific conditions and safeguards for cooperation.

EU Issues Temporary Business Cooperation Framework and First 'Comfort Letter' in Almost 20 Years

April 13, 2020

The European Commission has provided antitrust guidance to companies cooperating in response to COVID-19, particularly in the health sector, for critical hospital medicines and medical equipment, and has also exceptionally issued a "comfort letter" on a cooperation project in the generic pharmaceuticals sector aimed at ensuring the supply of critical hospital medicines.

IV. LIFE SCIENCES

A. UNITED STATES

Inspections Remain on Hold; FDA Collaborates with CDC to Develop a Process to Resume Program

May 28, 2020

Life sciences companies should consider offering FDA creative solutions for submissions that require preapproval inspections.

FDA and USDA Clarify Cooperation in Protecting Domestic Food Supply Chain

May 21, 2020

The Food and Drug Administration (FDA) and the US Department of Agriculture (USDA) have announced a memorandum of understanding (MOU) to help prevent potential disruptions to the food supply chain, particularly fruit and vegetable processing plants, resulting from the COVID-19 pandemic.

Small and Micro Entities with COVID-19-related Inventions Now Have Inexpensive Track to Patent

May 11, 2020

The USPTO on May 8 announced a new Pilot Program, under which eligible small and micro entities will receive prioritized examination without payment of the additional fees for prioritized examination.

As such, eligible small and micro entities will save \$2,000 and \$1,000, respectively, when making a request for prioritized examination under the new Pilot Program.

FSIS, FDA Announce More Flexibility in Regulatory Requirements During Pandemic

May 7, 2020

The FDA recently issued a final guidance providing the Accredited Third-Party Certification Program some flexibility. The US Department of Agriculture Food Safety Inspection Service (FSIS) recently extended its policies for the labeling of products intended for food products going to retail through the end of July.

The CARES Act: Impact for Drug, Device, and Food Manufacturers and Suppliers

March 31, 2020

The CARES Act includes \$11 billion in appropriations for vaccines, therapeutics, and other medical needs, and \$34.9 billion supporting agriculture, rural development, the FDA, and related industries. Here we address the CARES Act's drug, device, and food product provisions, and outline the impact of those provisions on manufacturers and other affected parties.

Workforce Issues Affecting the Lifesciences Sector (Webinar Recording)

April 9, 2020

An overview of workforce issues that pharmaceutical industry employers are confronting during COVID-19.

Healthcare Provider Updates: PREP Act and Other Considerations for Hospitals Experimenting with COVID-19 Treatments

April 7, 2020

Our COVID-19 Healthcare Provider Update Webinar Series addresses the evolving, unprecedented legal issues that arise from the COVID-19 pandemic.

FDA Notification and Supply Chain Issue

April 1, 2020

Companies should now notify the FDA if they experience shortages in their supply chains.

B. UNITED KINGDOM, EUROPE, AND MIDDLE EAST

Germany Approves New Forms for Patient Consents

May 11, 2020

New patient consent forms in Germany cover the use of patient care data and clinical and biomedical research.

UK Government Announces Funding for Innovative Companies, New COVID-19 Future Fund

April 28, 2020

The UK government has announced two new schemes for funding to innovative companies and startups, launching in May 2020.

European Commission Provides Antitrust Guidance to Companies Cooperating in the Health and the Generic Pharmaceuticals Sector

April 13, 2020

The European Commission will not tolerate coordination between businesses that seek to exploit the crisis as a cover for anticompetitive collusion.

V. RETAIL AND ECOMMERCE

Retail Reopens Guide

May 20, 2020

As local and national governments begin easing pandemic-related restrictions on in-person activities, businesses must weigh how best to proceed with reopening, including restarting or expanding operations, reintegrating remote-working or furloughed employees, implementing new state and local orders, and protecting the safety of employees and customers. Here are a few key considerations. For more information, please see our Retail Reopens Guide.

Recipe for Reopening Restaurants and Retail Food Establishments

May 13, 2020

As the public health emergency caused by the COVID-19 continuously evolves, the FSIS and the FDA are actively releasing new, and updating existing, policy statements and temporary guidance providing flexibility on certain regulatory requirements during the pendency of the COVID-19 pandemic.

Reopening the Workplace: A Preliminary Guide for UK Employers

April 30, 2020

Key issues that UK employers should begin considering now to minimize difficulties as they reopen or expand their operations include reintegrating staff, assessing internal policies in light of the pandemic, testing for the COVID-19, and more.

Reopening the Workplace: Practical Considerations for Employers (Webinar Recording)

April 29, 2020

Our panelists cover key considerations and discuss practical implementation steps for employers to consider as jurisdictions contemplate lifting pandemic-related workplace restrictions.

Retail Companies and COVID-19 Impact (Webinar Recording)

April 14, 2020

Our panelists discuss relief provided by the CARES Act to retail companies and additional areas of risk that should be reviewed carefully for any retail company, as a result of the impact of COVID-19.

Retail Did You Know? CARES Act Provides Important Relief for Retail & Hospitality Companies

April 3, 2020

This edition of Morgan Lewis's Retail Did You Know? examines how the CARES Act impacts companies in the retail and hospitality sector, which has been severely impacted by the COVID-19 pandemic due to the government-mandated shutdown of "nonessential businesses" in some states, as well as the decrease in customer traffic given the uncertain economic climate. Companies in the

retail and hospitality sectors should carefully consider the eligibility requirements for CARES Act relief measures.

VI. SPORTS

COVID-19 and the Sports Industry: Preparing for Kickoff

May 27, 2020

Investors pursuing global investment opportunities across the sports industry should be aware of the key considerations likely to apply to the M&A process amid the COVID-19 pandemic.

Sports Investment Amid COVID-19: Playing Smart in Turbulent Times

May 21, 2020

Investors pursuing global investment opportunities across the sports industry should be aware of the key considerations likely to apply to the M&A process amid the COVID-19 pandemic.

Sports Organizations: Consider These Actions During and After COVID-19

April 24, 2020

The impact of the COVID-19 pandemic on the global sports industry and its affiliated sectors is substantial and unprecedented. Constructive stakeholder engagement at all levels is crucial to ensuring business continuity. Organizations should be cognizant that decisions made now will attract postcrisis scrutiny and start planning for postpandemic recovery and growth.

How COVID-19 Made Esports the 'Only Game in Town'

April 21, 2020

By the second week of March, the National Basketball Association, National Hockey League, Major League Soccer, and Major League Baseball had suspended games due to the COVID-19 pandemic. The good news for those missing the rush from watching a competitive game is that not all sports are suffering from the same challenges. Esports, the now-mainstream billion-dollar industry, is on its way to being the most resilient sport during these devastating times.

COVID-19: What's Next for the English Premier League?

April 9, 2020

We explore some of the legal issues arising out of the current suspension of the 2019–20 season and the legal challenges the Premier League and its key stakeholders will be considering in relation to the prospect of a total cancellation.

VII. TECHNOLOGY

What Companies Need to Do Ahead of July 1 Enforcement - Practical Advice on Privacy: Guide to the CCPA

June 4, 2020

With the July 1 enforcement of the California Consumer Privacy Act (CCPA), the state attorney general has finally submitted the final text of the proposed CCPA regulations to the California Office of Administrative Law. This article discusses the current landscape and provides practical steps that companies can take before enforcement begins.

Successful Cyberincident Response in 2020

May 29, 2020

Since the global COVID-19 pandemic began, attempted cyberattacks have increased dramatically. It is no longer a question of whether bad actors will target a company; it's a question of when a cyberattack will occur. Now more than ever, companies must diligently prepare for a cyberincident response. Such preparation can save a company's reputation and money, and can prevent or limit liability in litigation or government investigations related to the incident.

Effect of COVID-19 on the Fintech Sector (Webinar Recording)

May 28, 2020

The coronavirus outbreak and its effects have provided unprecedented challenges globally to the financial and fintech sectors. Turbulence is being felt in the startup environment as well as among more established fintechs and challenger banks. But the fintech sector and digital economy only continue to grow and various relief programs including the CARES Act are affecting what fintechs are doing in the short term.

COVID-19: UK Government Launches Future Fund

May 21, 2020

The UK Future Fund is aimed at supporting continued growth and innovation for UK-based companies in a variety of sectors amid the COVID-19 pandemic.

Considering Facial Recognition Technology as Businesses Reopen

May 20, 2020

As businesses across America begin to reopen in the wake of the COVID-19 pandemic, many will likely implement new social distancing and sanitization procedures. That got us thinking about how companies may choose to use touchless authorization technologies like facial recognition as the main form of entry into their facilities, rather than continuing to use tools such as keypads or fingerprint scanners that require many people to repeatedly touch the same surfaces daily.

The Intersection of Artificial Intelligence, COVID-19, and Copyright

May 20, 2020

While artificial intelligence promises to be useful in responding to the COVID-19 pandemic, companies should be aware of potential copyright considerations.

Germany Approves New Forms for Patient Consents

May 11, 2020

New patient consent forms in Germany cover the use of patient care data and clinical and biomedical research.

New York Department of Financial Services Issues Guidance on Cybersecurity During COVID-19

April 29, 2020

New York's DFS issued guidance on April 13 alerting regulated entities of a significant increase in cybercrime during the COVID-19 pandemic.

UK Government Announces Funding for Innovative Companies, New COVID-19 Future Fund

April 28, 2020

The UK government has announced two new schemes for funding to innovative companies and startups, launching in May 2020.

The CARES Act: Impact on the Technology Industry

April 3, 2020

The CARES Act aims to offer economic relief to companies and their employees due to the COVID-19 pandemic in the United States. Many of the CARES Act provisions impact the technology industry, although the CARES Act does not expressly provide industry-specific relief.

Outsourcing Service Providers and Service Agreements

March 30, 2020

Both service providers and customers find themselves under unique pressures and in uncharted circumstances testing the parameters and strengths of their solutions and business continuity plans.

SUGGESTED COVID-19 RESOURCES

Public, government, and educational institutions and nongovernmental organizations around the world are continuing to publish guidance related to the crisis. Some examples include:

American Bar Association (ABA): COVID-19 Task Force

This resource provides information about COVID-19 and the delivery of legal services. It includes resources on remote service delivery, court access and rules changes, legal needs, public benefits programs, and pro bono mobilization.

Cornell University: ILR & COVID-19 Information Hub

This resource focuses on COVID-19 implications for work, employment, and labor, and is designed to serve as a resource for policymakers, workers, and employers.

Stanford University: Freeman Spogli Institute for International Studies

This resource offers from its experts analysis and recommendations relating to the 2019 novel coronavirus.

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