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Client Alert: COVID-19's Impact on Business: Important Considerations

The coronavirus has presented the world with challenges the vast majority of us have never encountered in our lifetimes. First and foremost, we *must* ensure the well-being of our family, friends, coworkers and loved ones while we navigate these historically unprecedented waters. In addition, business leaders are likely worried about the current economic environment and the prospects for their companies and are preparing for many possible contingencies, including disruption, evolving business continuity and restructuring strategies. To that end, we respectfully submit that:

1. Business leaders, including boards of directors, should consider their fiduciary duties and obligations. In order to make certain that the business survives, what needs to be communicated? How do lenders need to be reassured? How can cash be conserved and cash flow be ensured?
2. Business leaders consider the further implications and ramifications of cash flow and liquidity issues resulting from the temporary cessation of business activities, interruptions in supply chains, and the impact of governmental emergency regulations. Ask yourself, or seek guidance, concerning whether it will become necessary or prudent to draw down lines of credit, or find other sources of financing.
3. Find a way to see whether you can work with secured creditors, major suppliers and vendors to negotiate payment deferrals, recaps or forbearance agreements.

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Many businesses are experiencing revenue declines or total disruptions and anticipate being in a weakened financial position in the next quarter or two. Some lenders are willing to be flexible, to cooperate and to collaborate to reach a mutually beneficial solution. For those that aren't, consider new government programs aimed at putting a temporary halt to foreclosures or seek legal counsel to discuss alternatives.

4. Please consider calling us if certain of your key customers, vendors or suppliers have a business in crisis and end up in a bankruptcy, receivership and/or other insolvency proceedings.

5. If you are a landlord and your tenants are unable to pay rent or are intending to close their operations for an extended period of time, consider new government regulations aimed at deferring foreclosures and have a conversation with us or consider hiring a mediator to come to an agreement regarding waiving or temporarily reducing rent rather than resorting to more drastic measures. The obverse is also possible if you are a tenant.

6. If you are in a position of unexpected financial strength, find yourself able to borrow more, or are eager to divest an underperforming asset or business line, consider whether this may be the right time to buy or sell distressed debt or assets. Interest rates are historically low, and this can create business opportunities.

If you have any questions regarding these business considerations or other Financial Restructuring issues, please do not hesitate to contact Mark Berkoff, Rudy Radasevich, Tom Wolford or your Neal Gerber Eisenberg attorney.

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