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Considerations for Financial Institutions and their Customers

At this time of significant challenge due to the outbreak of COVID-19, the American financial system is strong and resilient. Financial institutions across the country stand ready to support their customers, employees, and the communities that they serve. To adapt to the ever-changing environment, some are implementing programs such as fee waivers, deferred payments, loan modifications and emergency low-rate and zero-rate loans. Other measures include assistance with mobile and online banking and trading platforms, as well as donating to public health relief and response efforts.

With unprecedented volatility in the capital markets, there are bound to be substantial financial losses. While this inevitably leads to a rise in litigation against financial institutions, it is important to focus on the cause of any losses. The relevant inquiry is whether an investment decision was appropriate at the time it was made and whether the requisite information available at that time was provided. Financial advisors have a duty to ensure that a recommended transaction or investment strategy is suitable based upon factors such as individual circumstances of investment experience, income and net worth considerations, as well as financial goals and risk tolerance. However, financial advisors, bankers, and the institutions that they work for are not guarantors against loss, and unforeseen market disruptions after an investment is made do not call into question the reasonableness of the investment. Similarly, investment

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advice given during periods of volatility should be based upon the circumstances at that time and should take into consideration changes of circumstance with respect to a customer's suitability. We encourage the financial industry and their clients to work together in navigating this unprecedented landscape.

If you have any questions regarding these considerations or other Securities Litigation issues, please do not hesitate to contact Tina Winer or your Neal Gerber Eisenberg attorney.

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