

COVID-19 ALERT:

Key Considerations for Businesses

In this communication, we have highlighted certain measures that businesses should consider in connection with the impacts of COVID-19, also known as the coronavirus. Although there is not one plan that fits every business, businesses are encouraged to review these and other matters that impact them or their industry, as well as to take steps now to proactively address the potential impacts of the unprecedented coronavirus.

- ▶ **Safety and Communication:** Consider and develop policies for a safe office and work space, including cleaning procedures, restricting work for ill employees, employee quarantine following exposure, banning “hot spot” travel, and limiting in-person nonessential meetings, events, visitors, and travel. Communication with employees is critical, including on policies, resources and contact persons.
- ▶ **Human Resources and Business Continuity:** Plan for partial or full staff remote work arrangements, as may be necessary or as appropriate, to address essential in-office support, provide business continuity and offer a safe work environment, while balancing other matters, such as occupational safety, childcare, privacy, equal employment and paid sick leave obligations. Employee policies should apply to all employees equally. See our firm’s employment and labor blog for more details. www.csemploymentblog.com
- ▶ **Customer/Client Contracts:** Review all contracts for provisions that may be triggered by the inability or delay in performing obligations, such as force majeure clauses, termination rights, minimum requirements, insurance and indemnification provisions, as well as any existing or potential defaults due to the inability to comply with terms.
- ▶ **Suppliers/Vendors:** Review with suppliers, service providers, vendors and manufacturers their business continuity plans, options and protections, particularly those located in countries or regions with currently more severe impacts, and consider whether such contracts or arrangements can be shifted or reallocated to existing or alternative suppliers or producers, as needed.
- ▶ **Insurance:** Review insurance coverage for business interruption, travel insurance, event insurance, commercial general liability, workers’ compensation, and even D&O insurance for claims arising from the coronavirus, including existing policy limits and deductibles and whether there are other sources of insurance or indemnification available.
- ▶ **Financing Arrangements:** Review loan documents and other key financial arrangements for covenant breaches, material adverse change provisions and defaults that may be triggered, as well as the ability to drawdown funds or increase advances under existing arrangements, and what alternative credit or financing options are available to the business at this time (by existing lenders or otherwise).
- ▶ **Pending Transactions:** For mergers, acquisitions and “change of control” transactions that are in process, review the interim covenants, material adverse effect provisions and closing conditions in the purchase or merger agreement, as well as the termination rights (including whether any break-up fees or liquidated damages provisions are triggered if the deal is abandoned).

Corporate, Finance & Business Transactions Department

Key Contacts



Jordan Fisch
Co-Chair
646.563.8933
jfisch@coleschotz.com



Jennifer L. Horowitz
Co-Chair
201.525.6214
jhorowitz@coleschotz.com



Roger Iorio
Member
201.525.6312
riorio@coleschotz.com



Christopher Kula
Member
646.563.8929
ckula@coleschotz.com

- ▶ **Adherence to Government Directives:** Stay abreast of, and ensure compliance with, Federal, State and local government directives/policies.
- ▶ **Contractual and Regulatory Reporting Obligations:** Review stockholders' agreements, LLC agreements, limited partnership agreements, side letters and other organizational documents for any disclosure or notice obligations to investors or lenders that may be triggered, and address proper and appropriate timing of any communications. Comply with all tax and regulatory reporting obligations, subject to availability of extensions.
- ▶ **Privacy and Cybersecurity:** Consider and address cybersecurity risks, including by communicating security protocols to personnel, providing secure, remote access to the businesses' network, and ensuring sufficient information technology support will be available.
- ▶ **Government Support:** Consider taking advantage of available Federal, State or local governmental programs intended to support businesses impacted by the coronavirus. Of note, the SBA and NYC have recently announced low to zero interest loan programs aimed at small businesses to help them overcome the temporary loss of revenue due to the impacts of the coronavirus.

See below links for more information on such programs:

<https://www1.nyc.gov/site/sbs/businesses/covid19-business-outreach.page>

<https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-provide-disaster-assistance-loans-small-businesses-impacted-coronavirus-covid-19>

This situation is top of mind for us all right now. As circumstances continue to change, we will continue to be available to our clients. Our team is readily available to discuss any questions or concerns you may have, so please do not hesitate to reach out to your firm contact or to any of the attorneys listed on this news alert.

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