

## Restructuring and Bankruptcy

# COVID-19: Managing Financial Disruption



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COVID-19 presents an unprecedented global public health challenge that is placing significant stress on economic activity and financial markets. Widespread mitigation efforts including social distancing and travel restrictions are most directly affecting businesses such as airlines and manufacturers reliant on an international supply chain. However, at this point it is not possible to accurately predict COVID-19's second and third order effects.

Just as a business needs to take appropriate steps to safeguard the health and well-being of its employees, it should also ensure its financial viability during this period of significant disruption and uncertainty. While each enterprise necessarily faces unique challenges, as a general matter a business would be well served to assess its current financial situation, with a particular focus on maintaining sufficient liquidity and compliance with its financing agreements so as to not trigger a default. Recognizing that addressing the risk of financial distress is among the many challenges facing businesses at this time, the following are examples of the principal issues they should address in this regard.

### **Financial Planning**

- **Maintain Liquidity:** During periods of financial and operational stress, the cliché “Cash is King” rings true. Conduct a table top exercise with leaders from finance, operations and legal to determine impact of COVID-19 on cash flow, with a goal of creating a 13-week cash flow forecast. Update the forecast on a regular basis to incorporate new events and insights regarding the impact that COVID-19 is having on employees, customers and suppliers. Consider delaying non-essential expenditures to address potential liquidity shortfalls.
- **Providing Credit:** Consider changing credit terms for customers with liquidity restraints or whose revenue will be reduced due to common mitigation responses to COVID-19, such as travel restrictions and event cancellations. Options include obtaining third-party guarantees, letters of credit, or moving to COD before fulfilling the customer's next order. Before making any such request, confirm that all applicable agreements with the customer permit the changing of such terms.
- **Insurance:** Review coverage and consider making a claim under (1) business interruption insurance, (2) civil authority coverage and (3) trade-disruption insurance.
- **Contracts:** Evaluate and understand terms of any key contracts where COVID-19 may impair the ability to timely perform. In particular, focus on “force majeure” clauses and cure periods in the event of a potential breach.

### **Maintain Access to Credit**

- Evaluate credit documents for covenant default triggers.

- Evaluate credit documents for substantive compliance with all reporting obligations. These often include matters relating to litigation, material contracts and events that have a material impact on the business – all of which may arise as a result of COVID-19.
- Where business interruption insurance is available, review loan covenants to determine if proceeds of that policy may be added back to EBITDA or Net Income when calculating compliance with financial covenants.

### **Supply Chain Risks**

- Know and understand your supply chain and map it several tiers down to understand how your business inputs may be affected by COVID-19.
- Identify critical vulnerabilities and take action. For key suppliers, identify potential alternatives (in particular any local sources) and seek to diversify supply chain to mitigate disruption.
- Anticipate disruptions in key counterparty supply chain and evaluate potential implications on cash flow, EBITDA, financial covenants, etc.

As during any period of significant disruption, clear and credible communication within an organization and to customers, suppliers and lenders is key. Recognize that no one has experienced the substantial and widespread disruption that COVID-19 is causing. Customers, suppliers and lenders are usually more willing to make reasonable accommodations to assist an enterprise experiencing financial distress when they have transparency into the problem, and the business leaders maintain credibility by providing accurate information and demonstrating that they have carefully considered the interests of all stakeholders.

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*Conscious of the human, operational and financial strain that coronavirus is placing on businesses and organizations worldwide, Jenner & Block has assembled a multi-disciplinary Task Force to support clients as they navigate the legal and strategic challenges of the COVID-19 / Coronavirus situation.*

*For additional information and materials, please visit our COVID-19 / Coronavirus Resource Center.*

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