

As the federal and state governments start the process of re-opening the economy, there are a myriad of issues to consider. The following are **10 things businesses** should **think about** to prepare for the transition to a post-COVID world (as bumpy as that may be).

1

Consider How to Re-Open Facilities

Careful consideration and planning will need to be given to re-opening partially or completely closed facilities. Federal guidelines were issued on 4/16/20, but leave the practical implementation to states and businesses. How do you maintain social distancing? Temperature Checks? Who needs to work at a location, and who can/should continue to work remotely? Is PPE needed? Do you have sufficient sanitation locations?

See [here](#) for more information.

2

Accounting for Employee Circumstances

Consider how to address employees who are uncomfortable working from, or traveling to, a business facility. Do your policies address such a situation? Can/should accommodations be made? How do you address “vulnerable individuals” or those who live with “vulnerable individuals” (as defined in the federal guidelines).

See [here](#) for more information.

3

Sanitize Your Work Processes

It is key to remember everyone working from home may not have done so correctly. Were work emails/work computers used exclusively? If not, how do you ensure to capture work product? Was work saved to desktops or hard drives rather than on your network? Consider how to confirm compliance with document retention policies, and how to sanitize the use of non-work devices.

4

Consider Your Supply Chain—Part 1

A important business impact of the pandemic will be the re-evaluation and re-orientation of current supply chains. How did your supply chain work during the pandemic? Is it prudent to diversify (by number or location) your suppliers?

5

Consider Your Supply Chain—Part 2

Consider the financial position of your suppliers—are any on weak financial footing? Do you have the right to demand financial information or other assurances of performance? Assess what to do if the information or assurances are not sufficient. Are alternatives available? What contractual provisions apply to the current situation?

6

Prepare for Customer Questions

As you consider your supply chain, your customers may be evaluating you. Are you obligated to provide financial information or other assurances of performance? If so, consider what that would look like, and how to disclose the same while protecting your business.

7

Consider Your Customers

Assess the financial stability of your customers. Are there steps to take to ensure payment of invoices? Are there steps to take to protect yourself against potential customer creditors or in a bankruptcy proceeding? Be aware of your rights and obligations when a customer becomes insolvent or files for bankruptcy.

See [here](#) for more information on financial distressed caused by COVID-19.

8

Consider Your Contracting Practices

Assess your contracting practices in light of the pandemic. Do you have sufficient rights vis-à-vis suppliers or customers to secure performance or payment? Did you, or a customer or supplier, invoke a force majeure provision? How would you change contracting practices to protect your business in the future?

See [here](#) for information on preparing for post COVID-19 litigation.

9

Consider Whether the Crisis has Created Opportunities

Consider whether the crisis has created opportunities for your business. Does a potential customer need a new source of supply? Is a coveted business “cheaper” than it was before the crisis? Are there assets in work-out or bankruptcy that can be purchased? Are there people available to fill key roles in your organization? Do you have access to capital to seize on these opportunities when they arise?

10

Consider Your Risk Mitigation Strategies

Pre-crisis, you developed disaster recovery plans, you purchased insurance, you cultivated reporting systems. How did they work? How could they be improved? It is often said, those that don't know history are doomed to repeat it. What would you do different? Can you create a better process, policies, protections for your business? Do you need to prepare for any disputes or possible litigation arising out of the crisis? Do you need to evaluate planned future gatherings or events?

For more information contact

MICHAEL F. MARHOFER, Partner, Chair, Private Equity Group;
Co-Chair, Corporate & Securities Practice Group; Executive Committee Member
mmarhofer@beneschlaw.com | T: 216.363.4695

SEAN T. PEPPARD, Partner, Corporate & Securities Practice Group;
Chair, Fintech Practice Group
speppard@beneschlaw.com | T: 216.363.4688