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Lenders: Four Ways to Protect Your Business from Coronavirus

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The US Centers for Disease Control and Prevention is closely monitoring the outbreak of respiratory illness caused by a novel coronavirus (named by the World Health Organization as "COVID-19") that was first detected in Wuhan, China and has spread rapidly around the world. While the CDC's current position is that COVID-19 is far more dangerous for people with underlying health conditions and the elderly, it does pose a threat to the stability of the global economic climate.

Below are four action items you may want to think about with respect to your existing and future transactions:

Systems Readiness

Reach out to your borrowers to begin a dialogue. You will want to make sure that each of your borrowers has thought through the potential implications of the virus on their particular business, as well as understand whether they have put in place any processes and/or procedures to minimize those risks (e.g. staffing, telecommuting, core services needed to maintain supply chains, alternative supply-chain options). This analysis will likely be different for each of your borrowers, depending on factors such as type of business, locations, supply-chain, employee travel and sophistication of technology.

Insurance

Borrowers should not just assume that they would be covered in the event of losses due to the virus without understanding the terms of their policies. If a borrower represents to you that they are relying on business interruption insurance or other coverage in their business model, the underlying policies should be requested and reviewed by counsel.

Impact on Supply Chains

The market has already started to see some impact on importing goods from certain foreign countries. As a result, this is an important moment to work with your borrowers to ensure you understand and can mitigate the risks, whether that be through diligence, reserves or otherwise. Some tangible action items on this point include: (1) focusing your attention on any high-risk locations where a particular borrower's imports are highly concentrated, (2) monitoring any recent changes in the supply chain, especially if current appraisals assume receipt of goods that may be impacted by supply chain interruptions due to the virus, and (3) reviewing eligibility criteria and agent discretion to understand what flexibility and protections you have in any instances where you are lending on inventory while in-transit.

Issuing Commitments

For any new transactions where you will be issuing a commitment, you should carefully consider whether to include a material adverse change and/or financial market disruption condition precedent related to the virus. This may depend on a number of factors, including, for instance, the length of the proposed commitment, the type of industry in which the borrower operates, and whether the borrower's supply chain is dependent on locations more or less likely to be impacted by the virus.

As the rate of spread for COVID-19 accelerates across the globe, the ultimate picture – both in terms of human and economic costs – remains fluid; however, we are tracking the latest developments. If you have questions about the business impact of this outbreak on your transactions, please do not hesitate to contact a member of the Finance & Restructuring team.

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FOR MORE INFORMATION

If you have questions about these developments, please contact one of the following attorneys.

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