**BUSINESS-OWNER CORONAVIRUS CHECKLIST**

By Ciano & Goldwasser LLP

In the wake of the COVID-19 coronavirus pandemic, Ciano & Goldwasser has composed a checklist of items that businesses should be doing right now to best position themselves to survive this unprecedented crisis. Please refer to the Minute Men Website for additional information and links related to these items.

* **APPLY FOR A SMALL BUSINESS ASSOCIATION (SBA) LOAN.** The SBA has offered forgivable loans through the newly created Paycheck Protection Program that do not require collateral or a personal guarantee. As of April 16, 2020, the SBA has currently put all applications on hold because all funds have been expended. If you have not yet applied for a small business loan, please check the [SBA website](https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp) regularly for updates regarding when the application program will re-open.
* **POST THE DEPARTMENT OF LABOR’S (DOL) FFCRA NOTICE.** The Families First Coronavirus Response Act (FFRCA) requires all employers with 500 or fewer employees to provide (1) two weeks of paid sick leave for certain qualifying conditions related to COVID-19 and (2) unpaid FMLA leave to employees who need to care for their child under the age of 18 who is out of school or child care due to COVID-19. Each covered employer must post [a notice of the FFRCA requirements](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf) in a conspicuous place on its premises. If the workplace is closed or employees are unlikely to see the posted notice due to COVID-19, the employer should post this notice by emailing employees or posting this notice on an employee information website.
* **REVIEW INSURANCE POLICIES AND SUBMIT A CLAIM.** Business interruption insurance, also known as business income insurance, helps replace lost income and pay for expenses when a business suffers an impact by a covered loss.  For most businesses, interruption insurance will cover “Net Income” that would have been earned, as well as the costs for continuing normal operating expenses while operations are suspended. Many businesses have business interruption insurance but have been told that coverage

does not apply to a “pandemic.” However, there has been much legal movement in this area of law in response to COVID-19. If you suffered a business loss and suspect you have business interruption or civil authority coverage, you should formally tender the claim to your insurance company or insurance agent and consult an attorney regarding the viability of your claim. See Minute Men Website links for further details.

* **REVIEW LINE OF CREDIT AND LOAN TERMS.** Businesses should review their loan documents for provisions that could trigger a covenant default or related issue. If you have drawn down on your existing debt facilities, calendar your maturity and payment dates and stay in frequent communication with your banking representatives.
* **TIGHTEN CYBER SECURITY.** Implementing work-from-home policies during the pandemic may expose your network to new threats. Companies across the country are now utilizing “virtual meeting devices” both internally and with their clients and customers. Perhaps the most frequently used tool for this meeting is “Zoom.” Due to [hacking and other privacy concerns](https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-teleconferencing-and-online-classroom-hijacking-during-covid-19-pandemic) associated with the use of Zoom and other platforms, companies need to implement new (stricter) cyber security controls and conduct more penetration tests and training to protect their network. Consider adding additional layers of authentication to their current security protocols and remain vigilant about potential cybercrimes in connection with treasury functions.
* **VERIFY COMPLIANCE WITH OHIO’S STAY AT HOME ORDER.** Ohio’s Stay At Home Order required all “nonessential” businesses to close their doors. The deadline for the date that these businesses can re-open has been extended through May 1, 2020. Review [the Order](https://content.govdelivery.com/attachments/OHOOD/2020/04/02/file_attachments/1418062/Signed%20Amended%20Director%27s%20Stay%20At%20Home%20Order.pdf) and determine whether your business is essential and compose a written justification for why your business is essential in the event that local health departments come to enforce the Order’s provisions.

On April 16, 2020 Governor Mike DeWine stated that "[w]e have a plan to start Ohio back and we are going to implement that plan on May 1." He added that process will be in phases and measured against hospitalization and personal protection equipment (PPE) metrics. The details of the phased plan have not been released. Please check back at the Minute Men Website for updates.

* **PROTECT EMPLOYEES.** Employers should review the health guidance on COVID-19 being issued by the various government agencies, including the [CDC](https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html) and [OSHA](https://www.osha.gov/Publications/OSHA3990.pdf). Employers should also review the [EEOC guidance](https://www.eeoc.gov/facts/pandemic_flu.html) on the treatment of employees who may be symptomatic. Employers should adopt new policies that reflect how they are implementing the new safety protocols. Best practices include providing a clean and hygienic workplace (e.g. disinfecting surfaces, providing disposable tissues, alcohol-based hand sanitizers, cleaning agents and antiseptic wipes, having soap available for regular handwashing, encouraging regular handwashing, and increasing the frequency of surface cleaning), encouraging sick or symptomatic employees to stay at home, and implementing social distancing policies and strategies.
* **MANAGE YOUR LIQUIDITY.** Having adequate cash on hand will allow your business to navigate the economic impact of COVID-19. Thus, it is essential to be proactive, manage expenses, meet your financial obligations, and stay in compliance with covenants in any loan agreements.
* **DEVELOP A CONTINGENCY AND COMMUNICATION PLAN.** Employers should carefully craft contingency and centralized communication plans to navigate this period. Pre-determined communication and crisis plans can assist the employer in complying with the law while simultaneously taking immediate and uniform action to respond to occurrences such as employees showing symptoms of COVID-19, changes in operations, and implementing safety precautions.
* **EVALUATE LEGAL IMPLICATIONS OF A REDUCTION IN WORKFORCE.** Evaluate whether to implement furloughs, and what the implications of such measures are under the Fair Labor Standards Act (FLSA). If you are considering implementing a reduction-in-workforce, remember to consider the drafting of separation/severance agreements with valid releases of claims, considering the Older Worker Benefits Protection Act (OWBPA). Also consider introducing reduced hours to save expenses without dropping full-time employees below the 30-hour per week threshold to remain eligible for group health insurance benefits. Finally, do not forget to consider whether and when notices are required under the federal Worker Adjustment Retaining and Notification (WARN) Act and state mini-WARN Act. Remember, to also keep up to date on any changes in the unemployment filing process, so that you can inform any employees with whom you sever relationships (See [ODJFS Coronavirus Info](http://jfs.ohio.gov/ouio/CoronavirusAndUI.stm)).
* **DEVELOP A TELEWORK PLAN.** If your business is amenable to teleworking, it is best to compose and distribute a letter regarding your expectations as an employer during this time. Clearly communicate expectations such as: the daily hour requirements, how communication will be conducted, employee’s obligation to be available for work, any payroll modifications, any schedule modifications, how employees will be notified regarding changes in operations, how employees should notify the employer if they become ill, how the employees will receive mail, how and which employees will have access to necessary equipment, and a continued expectation of confidentiality.
* **DEFER ANY HEALTH INSURANCE AND UNPAID WORKERS COMPENSATION INSURANCE PREMIUM INSTALLMENTS.** The Bureau of Workers’ Compensation has stated that “[u]npaid insurance premium installment amounts due for March, April, and May for the current policy year can be deferred until June 1, 2020, at which time the matter will be reconsidered. This is for private and public employers. The deferral is automatic--no application is necessary. Employers that wish to submit payments for March, April, and May are free to do so. BWC will not lapse (cancel) coverage or assess penalties for amounts not paid because of the coronavirus (COVID-19) pandemic.” Visit [this link](https://www.bwc.ohio.gov/downloads/blankpdf/COVID-19-BWCFAQs.pdf) to the BWC FAQ for details.

The Ohio Department of Insurance has also permitted employers to defer all health insurance premium payments until June 1, 2020. The deferred payments are interest free for up to 60 calendar days from the original premium due date. Also note that the ODI requires health insurers of all employers to continue covering their workers during this time, even if the employee would otherwise become ineligible because of a decrease in the hours that they work per week. Visit [this link](https://mcusercontent.com/057006582e78b5ce7133cd628/files/56c19ee8-c37a-4259-b48f-2057c41faa4c/Ohio_Bulletin_On_Insurance_Premium_Flexibility_for_Employers_01423952xA180B_.pdf) to the ODI Bulletin for details.

* **MAINTAIN DETAILED DOCUMENTATION OF COVID-19’S IMPACT ON YOUR BUSINESS.** Just as companies must proactively protect their employees’ health and safety, companies should proactively prepare for contractual complications that may arise due to COVID-19. If a company’s contractual obligations have been affected by COVID-19 in any capacity, it is important to take the time now to prepare for the possible invocation of force majeure clauses. Additionally, the EPA is requiring detailed documentation if your business is claiming noncompliance with environmental legal obligations due to COVID-19. Keep detailed records of COVID-19’s impact on your business functions and on any inability to perform your company’s contractual duties, document COVID-19’s impact on your company’s supply chains, and review existing contracts and consider whether to consult an attorney to assist you in interpreting the force majeure clauses contained therein. See the Minute Men Website for further details.