

# Daily COVID-19 Bulletin – April 30, 2020

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Gibson Dunn's lawyers regularly counsel clients on issues raised by the COVID-19 pandemic, and we are working with many of our clients on their response to COVID-19. The following is a round-up of today's client alerts on this topic prepared by the Gibson Dunn team. Our lawyers are available to assist with any questions you may have regarding developments related to the outbreak. As always, for additional information, please feel free to contact the Gibson Dunn lawyer with whom you usually work, or any member of the firm's **Coronavirus (COVID-19) Response Team**.

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## GLOBAL OVERVIEW

### **Criminal Bankruptcy Fraud: Will the COVID-19 Crisis Make It the New Prosecutorial Darling?**

The COVID-19 crisis and the resulting disruption to business have adversely affected many corporate entities' financial stability and outlook. Even rock-solid, liquid companies have been jolted into a new reality, and may be evaluating options for restructuring their business in accordance with Chapter 11 of the Bankruptcy Code. In rarer cases, a company may opt to liquidate under Chapter 7.

In such circumstances, counsel, directors, and executives of these corporate entities are well-served to understand the statutes criminalizing fraudulent actions related to bankruptcy, and the attendant risk of costly government investigations, litigation expenses, fines, and jail time. Although there has not been extensive historical application of these statutes to corporate entities, prosecutors and investigators invariably follow the money in their pursuit of alleged fraud, and bankruptcy is thus a natural area of focus in a financial crisis. Prosecutors looking to bring charges befitting the economic environment may be enticed by the many options bankruptcy fraud statutes offer to pursue what they perceive as financial wrongdoing.

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### **EU Merger Control and the Acquisition of Distressed Businesses in the Wake of COVID-19**

As a result of the current pandemic and the work-from-home restrictions throughout much of the world, the European Commission has adjusted how it deals with merger reviews. The Commission continues to process already filed merger notifications (notwithstanding difficulties in getting feedback from third parties for the purpose of market testing). By contrast, for mergers that have yet to be filed, the Commission encourages parties to "*delay [new] notifications, where possible*". Nevertheless, the Commission has confirmed that it stands ready to deal with cases where the parties can show "*very compelling reasons*" to proceed with a merger notification without delay.

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### **Pursuing Crisis-Related Investment Opportunities – Considerations for Private Equity Fund Managers**

The coronavirus pandemic ("COVID-19") has had far-reaching implications on virtually every aspect of the global economy, and the private equity industry has faced its share of challenges. As investment advisers and private equity fund managers navigate this uncertain terrain, many have identified alternative types of investments, including private investments in public equity ("PIPEs") and various types of debt investments, as promising alternatives to their existing funds' original investment strategies. With private equity firms holding an estimated \$2 trillion of 'dry powder' and companies in dire need of capital, it should come as no surprise that, since late March, companies have raised approximately \$8 billion from private equity funds in PIPE transactions, as sponsors eye dividends and an eventual equity stake in lieu of a more customary control investment approach. This client alert identifies a number of issues fund managers should consider as they evaluate opportunities outside of their existing funds' primary investment focuses.

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### **COVID-19 United Kingdom Weekly Webinar (May 4, 2020)**

# GIBSON DUNN

The COVID-19 pandemic is undoubtedly the biggest public health crisis of our times. Like many other countries, the UK Government has exercised broad powers and passed new laws that impact how we do business and interact as a society. To address the pandemic, the Government announced several sweeping regulations and ushered through the Coronavirus Act 2020. These actions have a broad impact on law, public policy and daily life, impacting areas including health, social welfare, commerce, trade, competition, employment and the free movement of people.

Join our team of Gibson Dunn London lawyers, led by partner and former Lord Chancellor Charlie Falconer QC, for a discussion of these changes and to answer your questions on how they will affect British businesses and community, including the impact on new and ongoing business relationships. This webinar will cover governance - key issues for boards; HMRC's response to tax residence and cross-border employment tax matters; and commercial real estate update - challenges or opportunities?

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