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SILICON FLATIRONS VIRTUAL SERIES, LEGAL PERSPECTIVES ON
PHYSICAL DISTANCING AND ITS IMPACTS—
LEGAL IMPLICATIONS OF COVID-19 FOR STARTUPS:
RETURNING TO THE WORKPLACE

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A LexMundi Member

CAN YOU REOPEN AND, IF SO, HOW?

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- Are government orders in place?
 - State
 - Local (municipal/county)
- Contain timeframes/phases for return?
- Contain conditions for return?

SHOULD YOU REOPEN?

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- What are the dynamics of disease spread and health-care system utilization in your area?
- Your decision might be different depending on location.
- Some companies are delaying reopening until June 1, at the earliest.

TIMING OF RETURN

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- Staged/phased?
- Consider:
 - Type of business
 - Location
 - Layout of workplace
 - Health of workers

TESTING/SCREENING

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- Daily questionnaires on COVID-19 symptoms
- Daily temperature screening and thermal scanning (100.4/99.2)
- COVID-19 testing
- Considerations:
 - Job related and consistent with business necessity
 - Advance notice to employees
 - Training in administration
 - Least invasive manner
 - Not conclusive
 - Consent for health-care provider to communicate results
 - Confidentiality and data privacy laws

OTHER SAFETY MEASURES

- Personal protective equipment (PPE)
 - Mandatory?
 - Who provides?
- Cleaning/disinfection protocols (individual and workspace)
- Physical distancing
 - Ingress and egress
 - Common areas (restrict access or remove some chairs)
 - Office layout, traffic flows, partitions
 - Staggered shifts, virtual rather than in-person meetings
- Signage, training, and reminders on safety/situational awareness

EMPLOYEE CONCERNS/QUESTIONS

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- Provide a COVID-19 coordinator to execute on protocols and answer questions
- Accommodation requests, including requests for extended remote work arrangements
- Exposure concerns/protocols for symptomatic employees
- Refusal to return to the worksite
 - Cannot mandate return for vulnerable individuals or if proper safety precautions have not been taken
 - May not want to mandate for others

LEGAL RISKS

- FFCRA
 - Sick pay
 - Family and medical leave
- Discrimination laws, disability, age, and national origin (including complaints and investigations)
- Wage and hour laws
- Health and safety laws
- Workers' compensation laws

THANK YOU

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- Questions?



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