

ALERTS

Employer Concerns — New York Businesses and Nonprofits Required to Have All Employees Work From Home

March 23, 2020

To confront the public health crisis posed by the rapid spread of COVID-19, New York State Governor Andrew Cuomo issued three executive orders over three days. He first required a reduction of nonessential in-office workforces by 50% by March 20, 2020 (Executive Order 202.6). He then ordered a reduction by 75% by March 21, 2020 (Executive Order 202.7). Governor Cuomo finally required a reduction of in-office workforces by 100% starting March 22, 2020 at 8 pm (Executive Order 202.8). The Orders provide that businesses and nonprofits utilize, to the maximum extent possible, telecommuting or work from home procedures. The latest order is effective through April 19, 2020. Violations can result in up to a year in prison and or a fine.

As set forth in the initial order, these in-office restrictions do not apply to essential businesses, or entities providing essential services or functions, such as “banks and related financial institutions,” healthcare, utilities, grocery stores, pharmacies, sanitation, news media and “vendors that provide essential services or products, including logistics or technology support.” The latest order makes clear that entities providing essential services or functions may provide essential services to both essential businesses and nonessential businesses, and may operate to the extent necessary to provide the essential service or function. The New York State Development Corporation released guidance on determining essential businesses and entities providing essential services or functions that are not covered by the in-office restrictions. With respect to financial

institutions, the guidance notes that these include banks, insurance, payroll, accounting and “services related to financial markets.”

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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