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Spinning crisis into gold? Avoid creating future hardship when seeking access to government relief

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In the famous Brothers Grimm fairy tale, a miller lies to the King about his daughter's ability to spin straw into gold to get the King to marry his daughter. When the King demanded performance before the marriage, the daughter was unable to perform. However, an imp-like creature, Rumpelstiltskin, appears and trades his ability to spin straw into gold in exchange for first her necklace, then her ring, and ultimately her firstborn child. In the short term, she is successful, avoids execution, and marries the King, but the cost of her improper deal becomes apparent when she had her first child. The daughter and her child are saved in the end, but not without getting outside assistance.

While Rumpelstiltskin is a fairy tale, it offers a valuable lesson to those who may seek available federal funds to address the declared national emergency caused by the COVID-19 pandemic. Those who obtain such funds under false pretenses or recklessly disregard their sworn obligations may find themselves in serious trouble.

On March 27, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) ([P.L. 116-136](#)), the third stimulus bill passed in response to COVID-19. The act authorizes the largest expenditure of money in U.S. history. The act's stated purpose is "[t]o provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic." The 350-page act contains a variety of provisions, some more clearly related to the stated purpose than others, meant to help stimulate activity, cash flow, and security in affected parts of the economy.

The act also includes provisions to ensure that relief and response efforts have needed resources to properly respond to the virus, care for infected persons, and prevent the spread of further infection as possible. Individuals and businesses have to complete and submit appropriate requests in a format set out by implementing regulations. Borrowers should expect various strict requirements for record-keeping, proper use of funds, accounting, and reimbursement obligations for these funds since such requirements are normal for any government assistance or funding program.

If you practice in compliance, handle False Claims Act (FCA) matters, or focus on White Collar defense, your "spider sense" of concerns about how clients can avoid enforcement problems should be raised by the sheer volume of money being made publicly available in short order, coupled with the financial challenges facing the public and businesses, and the certifications to be made that require full compliance. The CARES Act contains various oversight provisions designed to assure that federal

funds are disbursed and used appropriately. In addition, various other federal laws could be invoked in the event that a recipient unlawfully obtains or misuses federal funds. A brief look at key substantive areas of the law, some of the enforcement measures already announced by the government, and some hypotheticals and practical advice, will help provide a roadmap for the types of awareness and steps that are prudent in the current environment.

Key Substantive Areas in the Law

The CARES Act addresses several areas and industries impacted by the COVID-19 crisis. This article focuses on three of them: (1) hospitals and health care systems; (2) distressed industries; and (3) small businesses.

Hospitals and Health Care Systems

The act includes provisions addressing health care coverage to provide flexibility and financial resources to health care providers during the emergency. It makes (temporary) changes to Medicare reimbursement and provides funding reauthorizations and grants to several provider and supplier types so they have resources to address COVID-19.

The act suspends Medicare “sequestration” (which would *reduce* reimbursement by two percent, from May 1, 2020, through December 31, 2020, and had reduced it by an estimated \$15 billion in fiscal year 2020). It also *increases* Medicare reimbursement to hospitals through a 20 percent add-on payment for COVID-19 inpatient treatment during the emergency, provides \$1.32 billion to community health centers in supplemental funding, and halts a scheduled payment reduction for durable medical equipment through the emergency’s duration.

The act also authorizes various types of telehealth coverage under Medicare, including allowing Federally Qualified Health Centers and Rural Health Clinics to provide telehealth services and be reimbursed by Medicare during the emergency. It also temporarily eliminates requirements that nephrologists periodically evaluate home dialysis patients in person (so patients can be treated at home via telehealth) and reauthorizes Health Resources and Services Administration (HRSA) grant programs that encourage telehealth.

Distressed Industries

The act includes \$500 billion in federal assistance to severely distressed economic sectors, including \$61 billion for aviation, as follows: (1) \$29 billion in loans and loan guarantees for air carriers, Part 145 aircraft repair stations, and ticket agents; (2) \$32 billion in payroll protection grants for air carriers and their contractors; and (3) relief to air carriers from federal excise taxes that apply to transporting passengers and cargo and the purchase of aviation jet fuel. To qualify for a loan or loan guarantee under the act, airlines must be an “air carrier” (as defined under [49 U.S.C. § 40102](#) (the “Transportation Code”). Aircraft repair station operators must be certified under 14 C.F.R. Part 145 and approved to perform inspection, repair, replacement, or overhaul services. Ticket agents must meet the definition set out by Transportation Code § 40102.

In its application, the borrower must certify that it is created or organized in the United States (or under U.S. laws) and maintains significant operations in, and a majority of its employees are based in, the United States. The borrower must further agree that it will maintain its existing employment levels as of March 24, 2020, *to the extent practicable*, and not reduce these levels by over 10 percent through September 30. Until 12 months after the date on which the loan or loan guarantee is no longer outstanding, neither the borrower nor any affiliate may purchase the borrower's or its parent's publicly listed equity securities except as provided in a pre-existing contractual obligation. Until 12 months after the date on which the loan or loan guarantee is no longer outstanding, the borrower shall not pay dividends or make other capital distributions with respect to its common stock.

Under Section 4112 of the act, the Treasury Secretary must provide air carriers and their contractors (including subcontractors) with direct aid used exclusively for the continued payment of employee wages, salaries, and benefits. Up to \$25 billion is available to passenger air carriers, up to \$4 billion to cargo air carriers, and up to \$3 billion for airline contractors. To be eligible for these grants, air carriers and contractors must agree: (1) to refrain from conducting involuntary furloughs or reducing pay rates and benefits until September 30; (2) that, through September 30, 2021, neither the recipient nor any affiliate may buy a publicly listed equity security of the recipient or any parent; and (3) that, through September 30, 2021, the recipient shall not pay dividends or make other capital distributions with respect to the recipient's common stock.

The act also provides relief to air carriers from certain federal excise taxes normally applicable to transportation services, such as taxes and fees on airline passenger tickets, the cost of carrying cargo, and the purchase of aviation jet fuel. The excise tax holiday begins on the date of enactment and ends on January 1, 2021. Cruise lines are largely foreclosed from relief because they are not organized under the U.S. laws.

Small Business Administration (“SBA”) Loans

The Act has three SBA provisions: (1) the Economic Injury Disaster Loan Program (EIDL), (2) the Paycheck Protection Program (PPP), and (3) Loan Forgiveness Provisions. The CARES Act made several changes to the Economic Injury Disaster Loan (EIDL) Program under SBA § 7(b). EIDL Loans are available to small businesses in a declared disaster area to cover economic injury resulting from the disaster. Effective January 31, 2020, all 50 states, Puerto Rico, Guam, and the North Mariana Islands are declared disaster areas for the program. EIDL Loans are processed directly through the SBA, which may enlist lenders to help process and make loans.

EIDL Loans up to \$2 million are available, have an interest rate of 3.75 percent, and a maximum term of 30 years. Loans over \$200,000 must be guaranteed by any owner having a 20 percent or greater interest in the applicant (the CARES Act removed the requirement for personal guarantees on loans under \$200,000). The Act also removed standard EIDL Program requirements that the borrower not be able to secure credit elsewhere or have been in business for at least one year, as long as it was in operation on January 31, 2020. An applicant may request an expedited disbursement to be paid within three days of request. The advance may not exceed \$10,000 and must be used for authorized costs, but otherwise is not repayable if the EIDL Loan is not approved.

The PPP permits loans up to \$10 million to certain qualified small businesses. *These loans are intended to be forgivable if the borrower maintains employees and otherwise complies with the CARES Act.* Congress appropriated \$349 billion for this program. As of April 15, 2020, the appropriations were reportedly depleted, so the SBA was notifying lenders to stop processing further applications (at least until Congress agrees to another phase of relief legislation). See “[The government’s small business loan money is gone. Now what?](#)” CNN (April 16, 2020). A “qualified small businesses” is one that: does not have over 500 employees or the maximum number of employees specified in the current SBA size standards, whichever is greater; or if the business has more than one location and over 500 employees, does not have more than 500 employees at any one location and its primary NAICS code starts with “72” (Accommodation and Food Service); or is a franchisee holding a franchise listed on the SBA’s registry of approved franchise agreements; or has received financing from a Small Business Investment Corporation.

The maximum loan amount is set by formula (average monthly payroll prior to the COVID-19 pandemic times 2.5, plus the amount of any other debt approved for refinancing, including any debt incurred as a result of COVID-19 under the EIDL Program), subject to a maximum of \$10 million.

Small business loan borrowers are eligible for loan forgiveness for new loans under the PPP and for existing SBA § 7(a) loans. For PPP borrowers, the loan forgiveness equals the amount spent by the borrower in the eight-week period after the loan origination date on the following items (not to exceed the loan’s original principal amount): payroll costs (not to exceed \$100,000 of annualized compensation per employee); interest payments on any mortgage loan incurred before February 1, 2020; payment of rent on any lease in force before February 15, 2020; and payment on any utility for which service began before February 15, 2020. The amount forgiven is not considered taxable income to the borrower.

Government Tools for Compliance

The key takeaway from the CARES Act’s enforcement provisions is that major “strings” are attached to these funds, and anyone violating these conditions risks an enforcement action. A good example for what to anticipate is to look at how similar measures in the 2008 Troubled Asset Relief Program (TARP) have been enforced.

As background, after threatened major institutional failures rocked the economy near the end of George W. Bush’s presidency, Congress passed the “Emergency Economic Stabilization Act of 2008,” (P.L. 110-343) which authorized the federal government to infuse billions through the TARP program, including up to \$700 billion to buy troubled assets. The 2008 Act imposed strict terms and conditions on how eligible recipients could use these funds and created a new oversight Inspector General, namely the Special Inspector General (SIG) for TARP (SIGTARP). In addition, the 2008 Act created a “Financial Stability Oversight Board” and charged it with “reporting any suspected fraud, misrepresentation, or malfeasance to the [SIGTARP] or the Attorney General of the United States” (see *RACs and HEAT and TARP – Oh My!*, November 17, 2009)

The [U.S. Department of Justice \(DOJ\)](#), the government's primary litigating agency, worked closely with SIGTARP to prioritize enforcement actions. [SIGTARP's webpage](#) explains that its investigations have led to the recovery of over \$11 billion in taxpayer assets through civil False Claims Act (FCA) or criminal enforcement actions, including 438 charges, 381 convictions, and 300 people sent to prison (among which 92 were bank borrowers and 76 were bankers).

The CARES Act goes much further. Rather than making *billions* available to qualified borrowers, it makes *trillions* available to an even wider group. Recognizing the serious potential for wrongdoing by fund applicants and recipients, Congress put even broader safeguards into the CARES Act and expects *active and careful monitoring of federal funds made available under the act*, as revealed by these three key enforcement provisions:

First, CARES Act § 4018 creates a “Special Inspector General for Pandemic Recovery” (SIGPR) within the Treasury Department to “conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Treasury Secretary under this Title.” The SIGPR must keep Congress informed through quarterly reports that provide details of all such loans, loan guarantees, or other investments. CARES Act § 4019 precludes the President, Vice-President, executive department heads, and members of Congress (including their wives, children and spouses) owning over 20 percent of the outstanding voting stock of an entity, from eligibility for such loans, loan guarantees, or other investments under the CARES Act.

Second, CARES Act § 4020 creates a “Congressional Oversight Commission” (which terminates by September 30, 2025) to oversee the act's implementation by the Treasury Department and the Federal Reserve System's Board of Governors. This commission must monitor the efforts by Treasury and the Fed's Board of Governors to provide economic stability to the country from problems caused by COVID-19. The Congressional Oversight Commission can hold hearings, take testimony, and obtain information from any federal department or agency deemed necessary and must *report to Congress every 30 days* about (1) the impact of purchases made under the act on the financial well-being of financial markets, institutions, and people; (2) the extent to which such information contributes to market transparency; and (3) the effectiveness of stimulus provided under the CARES Act in minimizing long-term costs to and maximizing long-term benefits for taxpayers.

Third, CARES Act § 15010 creates the “Pandemic Response Accountability Committee” (PRAC) charged with promoting transparency and conducting and supporting oversight of covered funds and the COVID-19 response; preventing and detecting fraud, waste, abuse, and mismanagement; and mitigating major risks that cut across program and agency boundaries. PRAC may conduct independent investigations, audits, and reviews relating to covered funds or the COVID-19 response; collaborate on audits and reviews relating to covered funds with any IG of an agency; and support any relevant agency IG conducting investigations, audits, and reviews relating to the covered funds and COVID-19 response. PRAC may issue subpoenas to compel testimony from anyone not a federal officer or employee and seek to enforce such subpoenas.

PRAC members are to be IGs from the Departments of Defense, Education, Health and Human Services, Homeland Security, Justice, Labor, and the Treasury; the IG of the Small Business Administration; the Treasury IG for Tax Administration; and any other IG designated by the Chairperson from any agency that expends or obligates covered funds or is involved in the COVID-19 response.

COVID-19 Fraud Cases are Being Reported and Task Forces Formed

The DOJ also will play a key enforcement role as part of the government's response to this major economic crisis. Allegations of wrongdoing related to the Coronavirus are being made, which range from smuggling mislabeled drugs claimed to be a remedy for COVID-19, to concerns that at least two U.S. Senators may have made stock trades right after receiving non-public information in briefings about the likely impact on the economy from the virus's spread. *See* Mark P. Schnapp, et al., "[Department of Justice, States, SEC Pursue COVID-19 Enforcement Actions](#)," Law.com (April 02, 2020). Not only do federal prosecutors have many criminal statutes to use for seeking criminal charges, but they can bring or intervene in civil False Claim Act actions.

With the enormous amount of federal funds made available to such a broad range of borrowers and recipients and concerns that the funds will be improperly obtained or diverted, we expect that DOJ will create more specialized task forces charged with bringing enforcement actions where merited. DOJ has an established and successful history with using task forces to address problems in times of crisis. Among the many DOJ task forces that have been used are the Savings & Loan Task Forces, the Health Care Fraud Prevention & Enforcement Action Team (HEAT) Task Forces, the TARP, and the recently announced Government Procurement and Long-Term Care Task Forces.

Expect "Coronavirus Task Forces" to be created in regions considered to be possible hotspots for fraud. These will be multi-disciplinary teams of special agents or investigators from agencies whose IGs are members of PRAC, along with the FBI, criminal and civil Assistant U.S. Attorneys, and state agency liaisons. U.S. Attorneys already are announcing preparatory measures. For instance, the U.S. Attorney for the Middle District of Georgia announced that he had appointed a federal prosecutor to investigate and prosecute these cases since the Attorney General directed U.S. attorneys to prioritize investigating and prosecuting Coronavirus fraud. *See* "[U.S. attorney appoints coronavirus fraud coordinator for Middle District](#)," The Tifton Gazette (April 2, 2020).

On March 24, 2020, U.S. Attorney General William Barr outlined a task force approach in a memorandum, "[Department of Justice COVID-19 Hoarding and Price Gouging Task Force](#)," written to "advise you of a recent Executive Order signed by the President ... relevant to our work, and to *direct the creation of a task force charged with addressing hoarding and price gouging associated with the Coronavirus (COVID-19) pandemic.*" (Emphasis supplied). Deputy Attorney General Jeff Rosen issued a memorandum the same day, "[Department of Justice Enforcement Actions Related to COVID-19](#)," that also anticipates close interagency and state coordination to address fraud and other misconduct related to the COVID-19 pandemic.

Review of Likely Enforcement Statutes to be Used

Federal prosecutors can seek criminal charges tied to various fraudulent borrowers' statements or certifications made in obtaining or misusing federally backed funds provided under the CARES Act. Federal prosecutors are instructed to seek the most serious, readily provable charges under the facts. *Bank Fraud* (18 U.S.C. § 1344) will likely be used since it provides for up to 30 years imprisonment and has a longer statute of limitations (10 years) to bring such charges (most are five years). Other statutes likely to be used include the *False Statement Statute* (18 U.S.C. § 1001); the *Mail Fraud* and *Wire Fraud* statutes (18 U.S.C. §§ 1341 and 1343); the *Conspiracy Statute* (18 U.S.C. § 371); and the *Aiding and Abetting Statute* (18 U.S.C. § 2).

In addition, federal prosecutors often obtain *Money Laundering* charges (18 U.S.C. §§ 1956 and 1957) and *criminal forfeiture* notices in indictments. Criminal forfeiture is brought as a part of a criminal prosecution and requires that charging the property used in or derived from the crime. Moreover, as some alleged crimes will involve obtaining Small Business Act loans, charges can be brought under 18 U.S.C. § 287, for *Making False, Fictitious, or Fraudulent claims*, or under 15 U.S.C. § 645(a) for *Making a False Statement to the SBA*.

Civil enforcement actions for the same conduct should be anticipated. These actions can result in huge damage awards under the *FCA* (31 U.S.C. §§ 3729–3733). FCA claims can be directly filed by the DOJ or by private whistleblowers (called “qui tam” relators) who sue in the government’s name seeking a large bounty award (from 10 to 30 percent of the damages). The DOJ annually recovers billions through FCA actions. Many defendants settle to avoid the risks of paying treble statutory damages, attorneys’ fees, and court costs, and being excluded from participation in government healthcare programs or debarred. Federal prosecutors likely will heavily rely upon this powerful enforcement tool for combatting CARES Act fraud when borrowers make false certifications in loan applications or other required representations.

A sophisticated plaintiffs’ bar is ready to file *qui tam* lawsuits, as evidenced by a March 16, 2020 [letter to Attorney General Barr](#) from the National Whistleblower Center asking DOJ to establish a task force to monitor and investigate FCA violations tied to allegations of fraud in federal programs related to the COVID-19 crisis.

Types of Certification and Conditions that Could Be Material to Payment

Almost anytime an individual or a business seeks government funding, the request or claim for the benefit includes some kind of certification. Some are *implied* certifications; more often, they are *express*. An “implied certification” is one where the conditions or eligibility for the benefit are so well known to be treated as requirements, so that any claimant is deemed to be certifying that they meet and will continue to meet the requirements. An “express certification” is one where certification language is included in the claim form or required for accessing and using the online portal to do business with the government agency.

These concepts are frequently the subject of litigation and enforcement involving federal programs. Participation in certain SBA programs requires various certifications that can result in criminal fraud

charges. Health care claims and allegations of false certifications are often the scope of enforcement actions, as are loan applications.

Borrowers' certification requirements about their eligibility for, or use of, federally backed funds will play an important role in borrowers' access to CARES Act stimulus resources. The act forecasts various certifications related to (1) the number of employees; (2) the use of funds; and (3) the type of business. In addition, existing certifications will be read to include the new statute and any conditions of payment it creates.

For instance, changes to CMS guidance unique to the specific areas of health practice will be considered to have been reviewed and complied with when filing claims. End-of-year submissions on cost reporting will be expected to account for and segregate periods where the statute may have created waiver periods for certain requirements (i.e., the Antikickback Statute and Telemedicine). Plans should be in place to address temporary requirement waivers to ensure that issues are brought into compliance (e.g., HIPAA). Certifications in government contracts relating to cyber security and accounting systems will continue to be enforced and must account for the changes this new law creates, such as in FAR clauses.

Examples of What Will Happen and Important Red Flags

To better understand how enforcement relating to these resources may take place, consider these three hypothetical scenarios that could arise based on the CARES Act's stimulus programs. Samples of how each could be addressed are addressed in the practical guidance section below.

Example 1: ABC Airlines seeks assistance as it operates in an identified distressed industry. In its application, ABC Airlines certifies to a number of issues, including that most of its employees are located within the United States. The project officer relied upon two-year-old HR data to make the certification, as he was unable to access more recent data since the specialist who would have put the data together was infected with coronavirus. While based on the 2018 data, the company certification was true, if 2020 data had been used it would not have been.

Example 2: Data analytics tracking hospital systems in the mid-Atlantic region identified a hospital during the crisis as having a 40 percent higher amount of "COVID-19" related inpatient care claims than another hospital of similar size in a six-state area. The Office of the Inspector General (OIG) for the Department of Health and Human Services audits patient claims to analyze what was considered "COVID-19 related" for making the claims and finds that a large number of patients' files lack documented test results or other findings to support the COVID-19 relationship.

Example 3: Company A seeks relief under the SBA Loan Forgiveness Program. It opens a second company, company B, and transfers some employees to the EIN established for the new company. Company A's officers also are the managing officers of Company B. Company A then files for loan forgiveness, while Company B files for a new SBA Loan. Both certify to having less than 500 employees.

Practical Guidance

1. Prepare for the Inevitable

Companies applying for and receiving federal funds under a CARES Act program must expect to receive strict scrutiny from regulators, as the federal government attempts to assure that funds are disbursed in accordance with federal law. Thus, it is imperative that companies understand at the outset: (1) the eligibility criteria to qualify for the program, (2) the program's conditions for receiving the federal funds, (3) the company's need to develop written standards ("code of conduct") for employees to use and promote compliance with program requirements and standards, (4) the need to train affected employees regarding the program requirements and standards, and (5) the need for an internal monitoring mechanism to assure that the company is complying with applicable program rules and standards. These steps must be documented to demonstrate the company's efforts to comply if regulators later audit or investigate its compliance with program requirements.

2. Train Employees

To minimize the risk of non-compliance with government program requirements, the company must provide adequate training to employees involved in its participation in the program. Training should be tailored to the circumstances, e.g., company size and resources, as well as complexity of program. For example, an airline receiving federal assistance should train its employees regarding the specific standards to qualify for federal payment, and provide this training as soon as possible, but preferably before it receives federal funds. The training should outline the applicable program's requirements, the criteria that must be satisfied to comply, and the adverse consequences of non-compliance. In addition, the training should include guidance on how to respond to various scenarios that may arise during the company's participation in the federal program. Furthermore, the company's commitment to regulatory compliance should be emphasized and the training should require employees to report any suspected non-compliance to specified officials, and allow for anonymous reporting of any concerns, with an assurance of non-retaliation for reports made in good faith.

The training material should be written, and the company should document which employees have successfully completed the training. Moreover, the written training materials should be available to employees for future reference. Such a training protocol not only reduces the risk of non-compliance, but also, in the event of isolated instances of non-compliance, demonstrates the company's good faith effort to comply with program requirements, thereby mitigating the risk of criminal and FCA liability.

3. Audit Compliance with Program Requirements

The company should task certain employees with responsibility for periodically auditing its compliance with the program requirements and standards. For example, a hospital receiving additional federal funds for COVID-19 purposes should audit the use of such funds to assure they are being used for approved purposes. The company should utilize written audit standards and document the audit results. If the audit detects non-compliance, corrective action should be taken as soon as possible and documented. Corrective action may entail employee discipline, additional training, operational

changes to reduce future non-compliance, the return of overpayments to the government, and/or reporting to regulators. The auditing function is essential to demonstrate the company's good faith effort to comply with applicable law, which mitigates the risk of criminal or FCA liability.

4. Know Where to Seek Guidance and Document It

Because of the speed with which the CARES Act was drafted and adopted, certain aspects of its programs may be ambiguous. The agencies administering the programs may be expected to issue additional guidance as gaps in the statute are recognized and common questions are raised by program participants. Companies should periodically check applicable agencies' websites for any clarifications of program standards. For example, companies participating in SBA loan programs should regularly check SBA's website for relevant information. In addition, they may contact designated agency officials to discuss questions relating to program rules and document their efforts to demonstrate their good faith attempt to comply with the law. Those companies that try to "wing it" without seeking clarification of how ambiguous program requirements apply increase their risk of government scrutiny and potential liability.

5. Avoid Unnecessary Risks

While federal funds will be a lifeline to many companies, there are significant "strings attached" to their receipt. Companies must try hard to comply with federal laws by avoiding these unnecessary risks:

- Misstating or withholding information relevant to eligibility for federal programs;
- Misstating or withholding information about compliance with program requirements;
- Making false records or statements to conceal non-compliance with program requirements;
- Failing to adopt written standards for the company's participation in a federal program;
- Failing to communicate those standards and train employees about them;
- Failing to clarify ambiguous program requirements with regulators;
- Failing to stay updated on evolving program standards;
- Failing to periodically audit the company's compliance with program requirements;
- Failing to take timely and effective corrective action if non-compliance is detected;
- Failing to return any overpayments received from a federal program.

Conclusion

When individuals and companies are facing difficult times and are worrying about the health and safety of family, employees, and friends, the threat of losing their livelihood, place to live, or their business can be overwhelming. The CARES Act offers a lifeline to those who make and keep their "promises" to the "King." Rushing paperwork, signing certifications, and failing to guarantee that an applicant is actually eligible and will abide by the conditions will provide relief in the short term, but pose a real, future threat to businesses and their people. Getting help, knowing the key information, and being prepared are critically important tools to avoid making matters worse.