President Biden recently signed the Bankruptcy Threshold Adjustment and Technical Corrections Act (the "Adjustment Act"), which restores the $7,500,000 debt limit for Small Business Reorganizations under Subchapter 5 of Chapter 11. It also amends sections 104(a) and (b) of the Bankruptcy Code so that the debt limit will periodically be adjusted for inflation as provided in those sections. Under the Adjustment Act, the raised debt limit (as well as certain other provisions) are made retroactive to any case that was commenced on or after March 27, 2020 and is pending on June 21, 2022, the date of enactment of the Adjustment Act. A summary of the provisions can be found here.

As you've no doubt heard, the New York City Council voted on February 24, 2022, to amend the Zoning Resolution of the City of New York to remove the geographic limitations on sidewalk cafes. Prior to this amendment, sidewalk cafes were only permitted within certain areas (zoning districts) of the city. This amendment does not change the sidewalk cafe application approval process, nor does it pertain to roadway seating.

This amendment is one of many steps in the process towards the City implementing a permanent Open Restaurant program that will eventually replace the pandemic-era Open Restaurant program. It is our understanding that the City Council is still negotiating the terms of the permanent program, including the designation of the City agency in charge of related rule-making and oversight. Additional information can be found here.

As of January 1, 2022, the US London Interbank Offered Rate, or LIBOR, can no longer be used for new loan or derivatives contracts. The phase-out of the benchmark rate, discredited by a market manipulation scandal at the height of the 2008 financial crisis, may not come as a surprise, as it was formally announced by the ICE Benchmark Administration in November 2020. Publication of the rate will cease altogether on June 23, 2023. Most big banks have been preparing for the switch, and their existing loan contracts already contain fallback language to provide for a new rate after the final LIBOR publication in 2023. But some regional banks and smaller institutions have been slower to make the transition, so borrowers are advised to take care to review their loan contracts for references to LIBOR and LIBOR replacement provisions. A more detailed discussion on this transition can be found here.

On October 28, 2021, New York Governor Kathy Hochul signed legislation (S.4394-A/A.5144-A) that significantly expands protections for workers who engage in whistleblowing activity. The new amendments expand not only the type of whistleblowing activity covered under the law but also the categories of workers protected, the forms of retaliatory action prohibited, the statute of limitations to bring a claim, and the remedies available in the event that a violation is found, while also creating new obligations for employers. These provisions will become effective on January 26, 2022. A summary of the legislation's key provisions can be found here.

Earlier this month, the Small Business Administration ("SBA") announced changes to its COVID Economic Injury Disaster Loan Program ("COVID EIDL"). The changes are intended to increase availability of, and access to, funding for small businesses that suffered working capital losses due to the coronavirus pandemic. The changes include:

- Increased loan cap from $500,000 to $2 million; with a $10 million aggregate cap for any group of companies owned, directly or indirectly, by a common parent;
- A payment deferment period of 24 months from loan origination;
- Expansion of permitted loan uses to include payment and pre-payment of commercial and federal debt;
- Simplification of "affiliate" definition to any business that the applicant controls or in which the applicant has a 50% or greater ownership interest; and
- Simplification of application process to a model aligned with the process for the Restaurant Revitalization Fund.

These changes apply to new COVID EIDL applicants and to applicants that already received COVID EIDL funds. Businesses that already received COVID EIDL funds may apply for increases under the new rules. It appears that the SBA will apply the 24-month deferment period to all existing COVID EIDL loans automatically. It is not clear whether the new, expanded permitted uses apply to the use of existing loans.

The SBA currently is accepting and approving applications for new loans of $500,000 or less, and is accepting and

approving applications to increase existing loans to $500,000 or less. Applications for loans greater than $500,000, or to increase existing loans to greater than $500,000, may be accepted but will not be approved before October 8, 2021. New applicants may submit an intake form here. Those with an existing COVID EIDL account can log into that account on the SBA Portal and apply for an increase.

These loans continue to have 30-year terms, a 3.75% interest rate, collateral requirements for loans in excess of $25,000, and guaranty requirements for loans in excess of $200,000.

For further assistance please contact your primary GEABP attorney.

On April 27, 2021, the Small Business Administration ("SBA") hosted a webinar in which it provided information concerning the Restaurant Revitalization Fund ("RRF") online application portal, which will open to applicants on Monday, May 3 at Noon Eastern Time. Some of the latest information raises questions and uncertainties with respect to the RRF. Rather than waiting on clarification from the SBA on these issues, we and other professionals generally recommend that interested applicants work to get applications submitted to the best of their ability as soon as possible—particularly given that demand is expected to far exceed the available grant funds. Details on the submission process can be found here.

On Saturday, April 17, 2021, the Small Business Administration ("SBA") released new commentary for the Restaurant Revitalization Fund ("RRF"), including a sample application form, program guide and details concerning the SBA's implementation of the RRF grant program. The RRF grant program, which makes $28.6 billion available to restaurants and various other food and beverage providers, was established pursuant to the American Rescue Plan enacted just over a month ago (see our prior Client Alert on RRF Grants here).

The SBA's newly published guidance provides some clarifications as well as updated information for RRF applicants. Our Alert regarding this new information can be found here.

Under the Worker Adjustment and Retraining Notification Act (WARN) Act and similar state "mini-WARN" statutes, employers with 100 or more full-time employees (or 50 or more full-time employees in New York) are required to give 60 (or 90 in New York) days' notice of certain triggering events, including plant closings and mass layoffs (including furloughs that extend for more than 6 months). While a government mandated closure in response to a burgeoning global pandemic would seem to provide a strong basis to assert a WARN exception, a recent decision in *Benson v. Enterprise Leasing Company of Florida, LLC, et al.*, signals that these WARN exceptions are unlikely to bring a quick end to any litigation. More background on the decision can be found here.

Although the Small Business Administration (SBA) still has not announced when it will begin accepting applications for Restaurant Revitalization Grants and has not yet released a final version of the application, a draft version appears to have been published by the Office of Management and Budget. The draft application can be found at this link.

We cannot assess how similar the apparent draft application will be to the eventual final application, but given the importance of these grants to the food and beverage industry and statements indicating that the SBA believes the total grants applied-for will exceed the Congressionally apportioned funding, we wanted to circulate this development to our clients.

Review of this draft application, including the information requests in that draft, may help interested applicants to complete the final application more quickly, once it is available.

On March 31, President Biden announced “The Made In American Tax Plan” (the “Biden Tax Plan”) to fix the corporate tax regime and ensure large corporations pay their fair share.

In particular, the Biden Tax Plan would increase the federal corporate income tax rate from the current 21 percent to 28 percent, and will impose a 15 percent “book income” minimum tax on large corporations. It will also reform certain tax benefits available to US corporations under the current law in respect of foreign earnings, and will tighten the anti-inversion rules to make it even harder for US corporations to move offshore.

Also, the Biden Tax Plan intends to ensure that the Internal Revenue Service has the resources it needs to effectively enforce the laws against corporations. There will be a broader enforcement initiative in the coming weeks that will address tax evasion among corporations and high-income taxpayers.

Although there are few details available at this time, taxpayers should expect significant development soon and begin assessing their respective circumstances and planning strategies as early as possible.