Economic Damage Of COVID-19

As of June 15, the U.S. had 2.1 million confirmed cases and over 115,000 deaths attributed to the COVID-19 virus. The economic damage has been equally staggering. More than 42 million Americans have filed initial claims for unemployment benefits. Though COVID cases continue to rise, all 50 states have begun to reopen their economies. The National Bureau of Economic Research (NBER) has formally declared the U.S. entered a recession in February. Massive job losses, declining factory output, shrinking personal incomes, and a collapse in consumer spending drove NBER's decision. The bureau offered no insight into the expected depth or duration of the recession. The U.S. lost over 22 million jobs the first two months of the recession. Employment fell by 1.4 million in March and 20.7 million in April. Every sector and subsector suffered losses. A million plus jobs were lost in restaurant and bars, retail trade, professional services, health care, manufacturing, other services, arts and recreation and construction. A limited resumption in economic activity helped the U.S. to add 2.5 million jobs in May. The greatest gains came in restaurants/bars (1,357,000 jobs), construction (464,000 jobs), retail (368,000 jobs), health care (312,000 jobs), and other services (272,000 jobs). This represented 43 percent of the jobs lost in construction, 22 percent in restaurants/bars, but less than 20 percent in the other sectors. The Bureau of Labor Statistics (BLS) reported the unemployment rate improved from 14.7 percent in April to 13.3 percent in May. The rate is based on a survey of households, and when BLS staff processed the responses they misclassified hundreds of thousands of Americans as "employed but absent from work" when they should have been classified as simply "unemployed." If these workers had been properly classified the unemployment rate would be at least 3.0 percentage points higher. BLS first noted the problem in March but has yet to correct the error. Unemployment claims totaled 1.54 million the week ending June 5, down 339,000 from the week before. Total claims have fallen for 10 consecutive weeks but remain elevated. From mid-March through early June, more than 44.2 million workers have filed claims. That compares with 2.6 million during the comparable period last year. Nearly 21 million workers filed continuing benefits claims the week ending June 5, meaning they'd been out of work two or more weeks. That's down from 24.9 million the week of May 9 but up from 1.7 million workers over the comparable period in '19. In a recent survey of 60 prominent academic and business economists, The Wall Street Journal found 68.4 percent expect the recovery to begin Q3/20. Just over a fifth, 22.8%, said it had already begun in Q2/20.

The spot price for West Texas Intermediate, the U.S. benchmark for light, sweet crude, averaged $37.32 per barrel the first week of June, up from $15.71 the first week of May. The Federal Reserve Bank of Dallas estimates most firms need crude $30 to $35 per barrel to cover the operating costs of existing wells and above $50 to profitably drill a new well. The U.S. Energy Information Administration (EIA) forecasts WTI to remain below $40 per barrel through Q1/21 and not reach $50 per barrel until late in Q4/21. At its April meeting, OPEC and its allies agreed to reduce overall crude oil production by nearly 10 million barrels per day (b/d). A Platt's review of production and export data found the coalition had managed to reduce its output by 8.3 million b/d for the month, with only Nigeria and Iraq pumping substantially more than their quotas. At its June meeting, OPEC hopes to extend production cuts and adopt a stricter approach to ensuring members' compliance. Baker Hughes reports that the North American rig count fell to 279 the week ending June 5, the lowest level on record. During the Fracking Bust of '14 – '17, the rig count bottomed out at 404. In March and April, the industry cut 13,200 local jobs. BP, Baker Hughes, Cameron International, Chevron, Helmerich & Payne, Halliburton, Marathon and Schlumberger have announced layoffs in recent weeks. From mid-March through the end of May, 15 U.S. exploration firms, nine oil field service firms, and one midstream operator have filed for bankruptcy.

Houston Area Lost Jobs

The nine-county Metro Houston area has lost 330,100 jobs since the economy shut down due to the COVID-19 pandemic, according to Texas Workforce Commission (TWC) data. Payroll employment has fallen to 2,873,800, about where it stood in October '13. Losses have occurred across all sectors of the economy, with restaurants and bars, health care and social assistance, and construction suffering the most. Only a handful of sectors—general merchandise stores, hardware stores, computer systems design—have added jobs. The data, as bad as it is, likely understates the extent of the losses. The TWC jobs report is based on a survey of employers. The survey asks for the number of workers on payroll in the pay period that includes the 12th day of the month. Any layoffs since mid-April don't appear in TWC's report. Data from another series, initial claims for unemployment insurance, suggest at least 150,000 area workers have filed for benefits since mid-April.

The region lost 221,000 jobs during the '80s energy bust, or one in every seven jobs. Houston's economy is significantly larger now, so the 330,100 jobs lost in the COVID-19 recession represents a smaller share of employment, about one in ten jobs in the region. Houston needs to lose 420,000 jobs today to match the one-in-seven ratio of the '80s. If TWC reports Houston lost another 90,000 jobs in May, it will have reached the same level of job losses as experienced in the 1980s energy bust.

The region's unemployment rate, as low as 3.9 percent in February, rose to 14.2 percent in April.

Another 2.12 Million Americans File for Unemployment

U.S. states' jobless rolls shrank for the first time during the coronavirus pandemic in a sign people are starting to return to work, even as millions more Americans filed for unemployment benefits. Continuing claims, which tally Americans' ongoing benefit claims in state programs, fell to 21.1 million for the week ended May 16, Labor Department figures showed. That suggests the job market is starting to rebound as businesses reopen. Analysts had expected an increase in continuing claims. But the economic damage from the pandemic is still hitting hard throughout the country. Initial jobless claims for regular state programs totaled 2.12 million in the week ended May 23, to bring the 2 1/2-month total above 40 million. The median estimate in a Bloomberg survey of economists called for 2.1 million claims. While the latest initial-claims tally was down from the prior week's 2.45 million and marked the eighth straight weekly decline, it's still far above the 212,000 average of initial claims in the first two months of 2020 and the pre-pandemic record of 695,000. The report also showed that filings under the separate, federal Pandemic Unemployment Assistance program -- which expands unemployment benefits to those not traditionally eligible, such the self-employed and gig workers -- fell to 1.19 million from 1.25 million on an unadjusted basis, covering 32 states.

The latest week's figure for the federal pandemic claims brought the total number under federal and state programs to 3.11 million last week, down from 3.43 million the prior week. Many states are still reporting zero claims under the federal program. Total continuing claims under all state and federal programs -- which provides the broadest look at the number of Americans claiming unemployment benefits -- rose to 31 million in the week ended May 9 from 27.3 million. State unemployment offices have struggled to keep up with record demand for benefits amid the economy's sudden stop and wave of layoffs since mid-March. Many applicants have waited on edge for the payments without receiving them. California, the most populous state, said Wednesday it's seeking 1,800 additional staff to help process claims, joining about 3,000 current and temporary employees working on the issue. The state said 700 employees worked over the Memorial Day weekend, particularly to process claims that arrived via paper.

Businesses Struggle to Lure Workers Away from Unemployment

Businesses looking for a quick return to normal are running into a big hitch: workers on unemployment benefits are reluctant to give them up. That's complicating plans to reopen states and get the U.S. economy back on track. For some workers, unemployment benefits are now paying more than their old jobs did. For others, safety concerns or a lack of child care, as most schools and day-care centers remain closed, are making them hesitant to go back. That means reopening may not go as quickly or as smoothly as some elected officials and business owners had hoped. U.S. employers cut 20.5 million jobs in April, or nearly all of the 22 million jobs added in the past decade. The longer it takes to recover that lost employment, the more extended the economic downturn caused by the pandemic will be. The pressure for businesses to staff back up is especially intense as many have tapped federal loans contingent on paying employees. The government's Paycheck Protection Program forgives the loans if companies bring back all workers within eight weeks of receiving funds that can be used to pay operational expenses such as payroll and rent. Congress passed a coronavirus stimulus package in March that boosted unemployment benefits by $600 a week. About half of all U.S. workers stand to earn more if laid off than they did at jobs before the pandemic, until that increase expires at the end of July. Some governors, like Iowa's Kim Reynolds and Nebraska's Pete Ricketts, have said that furloughed employees who are called back full time can no longer receive unemployment benefits. The South Dakota Department of Labor and Regulation issued a fraud warning last month after several employers informed the state that workers receiving benefits had refused to return to work after being called back. Marcia Hultman, the state's labor and regulation secretary, said she issued the warning because so many people are requesting benefits for the first time. "The intent of the unemployment-insurance program at any time is temporary assistance until you can return to work," she said.

Most states typically provide 26 weeks of unemployment benefits, but in response to the pandemic, states will be allowed to provide 13 additional weeks of federally funded assistance. States with high unemployment may extend benefits further. Under the federal government's pandemic unemployment assistance program, states can provide benefits to workers who are self-employed or who otherwise wouldn't qualify for regular unemployment compensation.

What Bloomberg's Economists Say

"The May employment report showed that lifting lockdown measures in the beginning of the month drove broad-based improvement across various labor-market metrics... Despite this improvement, a significant gap between wage income growth and its recent trend suggests that an additional round of fiscal measures in the second half of the year, directly aimed at supporting the labor market, may still be required." The unexpected improvement wasn't limited to the U.S. figures. North of the border, Canadian employment rose 290,000 in May, compared with forecasts of a 500,000 slump, its statistics office reported Friday. The data show a U.S. economy pulling back from the brink as states relax restrictions and businesses bring back staff amid record government stimulus, including loans that were contingent on rehiring workers. At the same time, the lack of an effective treatment for Covid-19 -- which has already killed more than 100,000 in the U.S. -- means infections may persist and possibly surge in a second wave, with the potential to further shake the labor market and extend the economic weakness. One caution noted by the U.S. Labor Department: the unemployment rate "would have been about 3 percentage points higher than reported," so 16.3% if data were reported correctly, according to the agency's statement. That refers to workers who were recorded as employed but absent from work due to other reasons, rather than unemployed on temporary layoff. Hiring in May was broad-based, with hard-hit restaurants rebounding along with retail and health care. But state and local government workers were hammered for a second month, with 571,000 job cuts. Manufacturing payrolls rose by 225,000, following a 1.32 million decline in April. The share of the unemployed on temporary layoff fell to 73% from a record-high 78.3%. Goldman Sachs Group Inc. economists said before the report that if job losses remain concentrated in furloughs, "it would increase the scope for a more rapid labor market recovery."
Average hourly earnings for employed private workers rose 6.7% in May from a year ago, following 8% in April, as the return of low-wage workers skewed pay figures back downward a bit.

SHRM Survey: 45% of U.S. Workplaces Don't Have a Return to Work Date

A SHRM (Society for Human Resource Management) survey shows that while 53 percent of U.S. workplaces plan to reopen by July 15, 45 percent have yet to set a return to work date.

- Sixty-eight percent of organizations probably or definitely will adopt broader or more flexible work from home policies for all workers;

- Twenty-nine percent probably or definitely will allow workers to work from home full-time through the rest of 2020;
- Eighty-six percent of organizations are implementing or considering the required use of PPE (e.g., masks, gloves, etc.); of these, 80 percent are providing and paying for PPE;
- Nearly three-quarters (73 percent) of organizations are implementing or considering on-site medical/temperature screenings;
- Fifty-nine percent say childcare accommodations will be handled on a case-by-case basis; only seven percent are considering or providing on-site childcare services.

Energy Job Cuts Add to Industry Pain

Oil field service giant Schlumberger said it plans to cut an undisclosed number of jobs in Houston as the oil crash continues to ravage the industry so vital to the city and Texas.
Schlumberger officials said the economic fallout of the coronavirus pandemic forced the company to speed up a restructuring plan for its shale operations in North America.
Over the past three weeks, Schlumberger cut 125 jobs while closing plants in Moore, Okla., Corpus Christi and the Eagle Ford Shale play. In a statement, company officials said "much of our operational capacity is unneeded, and some of our facilities are underutilized." Schlumberger had 103,000 employees at the beginning of May. Last month, as the company announced its $7.4 billion first-quarter loss, it said that it laid off 1,500 people in North America during those three months. The company also cut wages, furloughed workers and slashed its budget as the pandemic and a price war combined to squeeze the industry, forcing many of the company's customers — production companies — to further slash their output. Evidence of production cuts continues to mount in oil fields around the nation and especially in Texas, where the number of operating rigs declined for a ninth-straight week. There are 374 rigs at work in the U.S., about a third of the 988 operating a year ago. With the seven-day loss of 34 rigs, there are fewer at work now than there were at the depth of the 2014-16 oil bust. Most of the rig losses this week were in Texas, where operators idled 28. The state is host to about half of the nation's oil and gas rigs. EOG Resources said its rig shutdowns will cut its output by up to 225,000 barrels of oil per day during the next months. The Houston oil and gas producer said it also is delaying completing about 150 new wells until the second half of the year. Bill Thomas, EOG's chief executive, said the company would rather shut down rigs and lower production than sell into a low-price market. EOG's announcement comes a day after it said it lost $9.8 million in the first quarter, down from $635.4 million in the same period last year. Like many energy companies in the industry that posted losses as revenues remained steady, EOG's bottom line was pinched as it reduced the value of assets because of oil's price collapse. Irving oil company Pioneer Natural Resources said it would cut executive pay and slash other costs as it contends with oil's collapse.
Pioneer made a $289 million profit in the first quarter but is bracing for financial pain in the second quarter. CEO Scott Sheffield's $1.25 million base salary will be cut by 20 percent while the pay of other executives will be reduced by 15 percent and corporate officers take a 10 percent cut, according to a filing with the U.S. Securities and Exchange Commission. The 12 members of Pioneer's board of directors are taking a 20

percent cut on their annual $70,000 retainers while the company reduces matches to retirement plans for both employees and executives.

Coronavirus Layoffs Remake Silicon Valley Job Market

The tech industry has been one of the most resilient sectors during the Covid-19 induced economic downturn. Microsoft and Amazon reported strong sales growth for the first quarter even as quarantining measures came into effect. But major layoffs at big companies including Uber and Airbnb, as well as a host of smaller startups, have shaken any sense that the tech industry is insulated from the broader employment destruction—and, for many, undermined hope that jobs lost would be easily replaced.
In its boom times, companies have offered bountiful pay and benefit packages in the race to secure talent. Uber announced it was laying off a further 3,000 people, two weeks after announcing around 3,700 job cuts, bringing the total to about a quarter of its workforce. In recent weeks, rival Lyft Inc. said it would slash 17% of its staff, and Airbnb said it is cutting about 25% of its jobs after bookings on its site plummeted with people largely unable to travel. The three account for almost 10,000 positions lost just this month, with many more jobs gone across Silicon Valley, adding to the ranks of the nearly 36.4 million applications for unemployment benefits in the U.S. in the weeks since the Covid-19 outbreak hit. Tech startups have seen more than 56,000 layoffs since the coronavirus pandemic hit. Several tech companies that have avoided job cuts have publicly or quietly instituted hiring slowdowns. Among those easing off is Microsoft, which has temporarily frozen recruitment for some roles while continuing to hire in strategically important areas, according to a spokesman. Google, the search giant owned by Alphabet Inc., publicly announced last month a slowdown in hiring.
What's now unfolding could reshape the long-term prospects for job seekers in Silicon Valley. Recruiters and some executives have said they don't expect tech hiring to rebound quickly once an economic recovery sets in. Two months of experience with the bulk of their employees working remotely also could change employment practices, potentially diminishing the focus on fabled Silicon Valley campuses that companies such as Apple and Facebook built and shifting some work overseas to cheaper workers. Recruiters and tech employees say changes in the job market could mean people with sought-after experience likely will find new employment in the post-coronavirus tech economy. Tech's job losses remain a small slice of the nearly 36.4 million applications for unemployment benefits in the U.S. in the weeks since the Covid-19 outbreak hit. U.S. information technology employment fell by a record 112,000 jobs in April, erasing a year's worth of gains, trade group CompTIA said earlier this month, citing Labor Department statistics. Total jobs lost in the San Francisco Bay Area, the center of tech in the U.S., have reached at least 118,000, according to a tracker maintained by the San Francisco Chronicle. Despite the downturn, though, some tech workers are finding jobs with companies that see the layoffs as a chance to secure talent they struggled to land only a couple of months ago because they couldn't compete with some of the big tech companies then still gobbling up workers. Large tech companies are also busy hiring in some of their fastest-growing areas. Amazon Web Services and Zoom Video Communications Inc., the videoconferencing software that has become a fixture of stay-at-home life, are among those still hiring. Facebook Chief Executive Mark Zuckerberg last month said the company would add at least 10,000 people in product and engineering roles this year.

For Many, Remote Work Is Becoming Permanent in Wake of Coronavirus

Companies across the economy are considering a permanent shift to remote work in the aftermath of the coronavirus outbreak, following the lead of tech-sector giants. Facebook Inc. Chief Executive Mark Zuckerberg on Thursday announced plans to reconfigure operations over the next decade to enable up to half of its 45,000 employees to work from home. The move follows an announcement last week by Twitter Inc. to allow employees to work from home indefinitely. E-commerce company Shopify Inc. on Thursday also said it plans to let most employees work remotely in the future. From the open office to agile development, trends in the tech sector have a way of percolating into the broader corporate world. Some companies outside tech are following suit in the move to permanent remote work. Before the coronavirus hit, marketing and advertising mogul Martin Sorrell thought that the leased office spaces and WeWork footprint at his London-based media company S4 Capital PLC were necessary. But he reassessed that about a month into the wide-ranging lockdowns that have thrust everyday business online. "We are breaking our leases and thinking about having people spend more time at home," he said. More than 80% of enterprise-technology providers said corporate customers last month were shopping for communications, collaboration and other remote-work tools, up from 76% in March, according to a survey of more than 200 U.S. tech firms by IT industry trade group CompTIA. LinkedIn Corp. executives are also seeing emerging trends that show remote work might become more widely accepted, said Karin Kimbrough, chief economist at the Microsoft Corp. subsidiary. In the past month, LinkedIn recorded a 28% increase in remote job postings and a 42% increase in searches using the terms "remote" or "work from home," Ms. Kimbrough said at a recent web conference. Craig Malloy, CEO of software company LifeSize, said the response to the pandemic has revealed the viability of remote work for many businesses that had access to the necessary technology, but were hesitant to expand the practice. "This is the tipping point for widespread remote work and we expect to see employers continuing to enable permanent work-from-home arrangements for distributed teams," Mr. Malloy said. That transition will need to go beyond sticking with emergency measures put in place to keep businesses running amid regional lockdowns, said Darren Murph, head of remote at software developer GitLab Inc., where everyone works remotely.

"What we're experiencing now isn't truly intentional remote work, it's crisis-induced work from home," Mr. Murph said. But due to the emergency measures, companies will come to realize that a dispersed workforce is a far more efficient and productive way of doing business, and many will be prompted to install more permanent remote-work infrastructure and applications, Mr. Murph said. "The current crisis has accelerated the adoption of remote work by at least 10 years," he said.

The Office Is Far Away. Can Its Culture Survive?

American companies are experimenting with new ways to replicate the camaraderie that once defined day-to-day life inside an office as a pandemic-induced period of remote work approaches three months—with no clearly-defined end in sight.

Millions of workers have proved they can do their jobs at home for now—sometimes surpassing their productivity in the office. But as more managers come to accept the reality that employees may be apart for a while longer, they are fretting about how they can instill culture and encourage innovation when employees who once spent days together now rarely see each other in person. Another reminder of how difficult it can be to maintain morale remotely came this week as companies looked for new ways to connect with employees reeling from civil unrest and anguish over racial disparities.

In an employee meeting Wednesday, WW International Inc. Chief Executive Officer Mindy Grossman shared her personal perspective on recent events and the company then made time for employees to reflect in silence during a roughly seven-minute guided meditation—all done via a video call, she says. At the Denver nonprofit Uncharted, CEO Banks Benitez broke the organization's employees into breakout groups to share their feelings. "Obviously, Zoom is not the ideal format for this stuff," he says. "It's where we are." Some companies trying to keep their staff unified during a period of extended uncertainty are leaning on old methods of corporate communications to build connections. At trash hauler Waste Management Inc., not all employees had email when it sent about 20,000 employees home in March, says Jim Fish, the company's chief executive. So it introduced an internal app in April that linked to brief video messages from Mr. Fish and other top executives. Eyeglass maker Warby Parker doubled the number of all-company town halls, and now holds brief sessions twice a week to keep every employee in the loop. KIND's strategy is to hold two to three virtual water-cooler check-ins a week in which anyone can show up and chat. Many of the firm's 320 employees only stay for about 15 minutes. Teams within the New York-based company also moved interoffice competitions online as well, including a recent challenge to see who could hold a plank the longest. Even before the pandemic, certain companies in recent years elected to shift many of their employees to remote work, believing that would yield better access to talent, a better culture and more productivity. Even big-company bosses who are new to remote work had prior training at communicating a shared set of values and goals to decentralized offices spread around the world. Yet there are signs that some employees are losing touch with their company's essence during this period of extended uncertainty. More than half of the 2,050 full-time U.S. workers across many industries who responded to a survey conducted for Prudential Financial in March and April say they felt less connected to their organizations as remote workers. Prudential Vice Chairman Robert Falzon says at his own company those who worked together on new products before the pandemic seem more in sync than those who only interacted remotely. He worries about a slow decay in company culture if the remote-working arrangement continues. "This should be keeping leaders up at night," Mr. Falzon says. Some of the tactics deployed early in the crisis to reassure employees are starting to lose their effectiveness, says Jimmy Etheredge, chief executive officer of Accenture North America. Mr. Etheredge still holds the occasional meeting for 60,000 Accenture employees in North America, but is also encouraging team leads and project managers to do their own regular check-ins with workers so they can quickly solve their own issues. Employees, he says, are "being town-halled to death." Ellen Kullman, chief executive of 3-D printing startup Carbon, says she fears virtual work setups could eventually lead to a decline in new ideas. She knows employees sometimes come up with new creations following a conversation in a lunch line or a quick catch-up with a colleague outside the building. Carbon is known for its collaborations with Ford and Adidas. Many of the company's 500 employees have rallied in recent weeks to ensure the company's 3-D printing technology could make face shields or nasopharyngeal swabs for Covid-19 testing. Some have tried to replicate walk-and-talk meetings by connecting via Zoom while walking near their homes, she says. But to maintain the pace of new inventions, Ms. Kullman says some employees will need to return to offices because only so many ideas can be hatched from afar. A number of companies say they have been successful in working remotely, in part, because employees already know each other. After years of working alongside one another, many can decipher colleagues' facial expressions on video calls, for instance, or anticipate a co-worker's preferences. Over time, executives worry that new hires who are remote, who have not developed such bonds, may have trouble acclimating, or that an organization's core culture could deteriorate. Nearly all of the 65 employees at Buoy Health, a startup whose AI-based health assistant was started by doctors and scientists at Harvard University and is used by states and companies as part of Covid-19 screenings, have worked together at offices in Boston and New York. Buoy recently hired four employees remotely, and has five more positions it aims to soon fill. "What I'm worried about if we have to scale from where we are today to doubling or tripling in size, now you have a majority of people who have never met each other in person," says Andrew Le, the company's chief executive. "Will that cultural debt add up?" Before the pandemic, Buoy's teams went out for drinks after work. In an attempt to recreate some of those exchanges, employees have organized virtual gatherings to fight against the doldrums of being home all the time under intense work pressure. They include a dedicated Slack channel to discuss "quarantine binges," an online book club, remote trivia tournaments and a companywide game show based around the Netflix reality dating series "Love Is Blind" that ended with a virtual dance party. Even so, the most difficult conversations at work are still better done in person, Dr. Le says. That could be a performance review or disagreements about the direction of a product. "You kind of need everything at your disposal—whether that be a warm handshake, or a pat on the back after, or multiple expressions of listening and understanding." Andi Owen, chief executive of furniture giant Herman Miller Inc., says she can't find a substitute for dropping by an employee's desk and asking about his or her children. "That unplanned kind of interaction that contributes so much to how we build relationships with people and how we build culture, those things are what are missing," she says.

Bosses Begin Testing Workers for COVID-19

Covid-19 testing regimes are taking hold at big companies as they try to get back to business and prevent outbreaks on the job. Employees at Smithfield Foods Inc., Ford Motor Co. and UnitedHealth Group Inc. UNH -0.81% have begun reporting to tents and clinics or getting kits in the mail for coronavirus testing. The tests, combined with mandatory face masks and social-distancing practices on the job, are intended to protect staff and provide managers with a real-time sense of the virus's presence in their ranks. Yet long waits for results—up to 72 hours—and an uncertain timetable for when rapid-result testing will reach most workplaces, mean that companies' grasp on workers' health remains imperfect at best, even with costly testing. Employers are puzzling over whom to test, and how often, particularly given that tests typically cost $100 or more each. Companies should test enough to catch problems early, but not so often that logistics outweigh the benefits, said Raj Behal, chief quality officer at primary-care chain One Medical, which counted Google Inc. among its pre-pandemic clients. He advises clients to consider the size of a worker population, and whether workers must be near others on the job. Businesses that stayed open during the pandemic mainly focused testing on sick workers and sites with outbreaks. Now more companies plan to regularly test asymptomatic workers, corporate medical consultants say. Employers are limited in what they can ask about workers' health or living situations, though more are using apps and surveys to track symptoms—introducing a tricky dance between privacy and workplace safety.

Employers Must Update Employee Handbooks Due to COVID-19

As a result of the COVID-19 pandemic, the landscape of the workplace has changed and there are state and federal laws that impose new obligations on all employers. While some changes to employer handbooks may be temporary to alleviate immediate issues caused by COVID-19, some changes may become permanent - the new normal. The below details some handbook updates that should be considered both for the short and long-term.

Time and Attendance - policies should articulate the times and days employees are expected to report to the workplace or work from home; circumstances when an employee may be permitted to work from home; approval process; and employee obligations to ensure their productivity. Employers should also develop a strict overtime policy to prohibit nonexempt and hourly employees from performing any tasks outside of their normal working hours without prior approval.

Technology and Confidentiality - review technology policies to ensure adequate procedures are in place to safeguard confidential and proprietary business information. The Company's policies should also reserve the employer's right to access the use of all devices utilized to perform company business and/or communicate with clients and vendors, including employees' personal devices.

Vacation and Sick - employers should implement policies and procedures to administer the new legal mandates providing time off to employees for numerous protected reasons. Employers may also want to modify their paid time off policies to have a policy for paid sick time off that is separate from vacation and personal time off so that they are not bound by the use restrictions imposed by state and local paid sick time laws. As a result of health and safety concerns pertaining to travel, employers should follow CDC guidelines relating to travel and may require employees to provide notice and obtain approval before finalizing travel plans. Employers may require employees to self-quarantine for a period of time following a vacation.

Facilities - employers should implement clear policies and procedures for the use of all common areas, including conference rooms, kitchens, bathrooms and supply closets. Similarly, procedures should be established for the use of Company equipment, including coffee machines, water coolers, telephones, photocopiers and postal machines.

Visitors - all employers should develop a visitor policy that requires advance notice, pre-screening protocols and restrictions on where visitors may go in the workplace. It may also be advisable to limit the number of visitors to the workplace and encourage teleconferencing for meetings when it is practical.

Hygiene and Dress Code - establish hygiene requirements for all employees and visitors that include wearing masks, gloves, cleaning workstations, working with office doors closed, hand washing and the use of hand sanitizer. We recommend posting notices around the office and in restrooms reminding employees about the employer's hygiene expectations.

Travel and Expense Reimbursement - employers should amend their travel policy to discourage non-essential business travel and to require prior-approval for any business trips. In addition, travel policies should restrict travel to locations that are considered high-risk based on CDC guidelines and may restrict the duration of trips, the number of employees that attend a single event, and the activities employees may participate in while on a business trip. Employers may want to modify their expense reimbursement policy to include supplies for employees working remotely as well as personal protective equipment ("PPE") and commuting expenses.

Leaves of Absence for Protected Reasons - employers will need to develop policies to address the numerous changes to laws that provide leave to employees that are unable to work for protected reasons.

Can Employers Use COVID-19 Waivers to Limit Liability?

With employees returning to work and companies reopening their doors to customers, employers are looking for ways to limit liability related to potential COVID-19 cases contracted in the workplace. To do so, many are considering waivers for not only their employees, but also for customers. Such waivers, however, are somewhat limited in their effectiveness and employers should consider the pros and cons before attempting to implement them. You may also want to consider an alternate strategy that may offer you some of the assurances you seek without many of the negatives associated with waivers.

No waiver or other attempt at limiting liability can replace the need to maintain a safe workplace. You should start by ensuring you are in strict compliance with local orders, state regulations, and guidance from government agencies like the Centers for Disease Control and Prevention (CDC), Occupational Safety and Health Administration (OSHA), Equal Employment Opportunity Commission (EEOC), and local health authorities.

Businesses may avoid the potentially ominous effect of forcing customers to sign waivers by using questionnaires or notices. A questionnaire asks entrants to the premises questions about whether they have any of the symptoms of COVID-19 or were exposed to it. A questionnaire could also communicate the employer's reasonable actions to comply with government guidelines for sanitation, social distancing, mask wearing, and other efforts that the employer uses to keep their guests and employees safe. This strategy could allow the employer to show it took affirmative steps to exclude sick people from its workplace. But businesses still need to consider how their customers will react to such a questionnaire. Implementing a questionnaire may deter some customers who find it an impediment or feel it invades their privacy, while others may feel safer coming to your business because you screen everyone who enters. Notices provide a more streamlined approach, communicating the same information as a questionnaire about the business' steps to keep its premises safe, without requiring the individual to physically sign away any perceived rights. Communicating the rules and restrictions without asking questions or for a signature, notices require fewer steps from employers and customers than waivers and questionnaires. Either approach requires employers to provide a handout or post signage at all entrances to the building that broadcast safety information and reasonable actions and prohibit sick or exposed persons from entering the building. These strategies allow people to feel safer and accept the risks when they enter the workplace. Waivers have limited but potentially valuable benefits if enforceable. Employers should weigh those benefits against the potential impact on their business and carefully consider all their options, such as questionnaires or notices that communicate information and allow guests to assume risk. No strategy can eliminate a company's obligation to take reasonable actions to protect its employees and customers. The CDC, OSHA, and state or local authorities publish guidelines and guidance that businesses should follow. Demonstrating you followed such guidance will be the best proof your company acted reasonably in responding to COVID-19 risks.

Whether an employer institutes employee or customer waivers, they should develop written plans to reopen that include training for their employees on these guidelines and that document their efforts to comply. Ignoring these guidelines will make workplaces less safe and potentially expose employers to civil suits and government enforcement actions.

As States Reopen, the Boss Wants to Know What You're Up to This Weekend

Companies have a new question for employees: Any plans this weekend? As U.S. states reopen, sending residents back to work as well as social life, employers are urging workers to be cautious when they are off duty, and at least one local official has begun advising employers to ask staffers about activities in their off hours. Some companies are concerned that the many safeguards put in place at work to limit the spread of the coronavirus—from policies requiring masks on the job to separated desks—could be undone if workers are taking risks off the job. Yet employers have to tread carefully, legal authorities say, making sure to exert influence without violating employee privacy. Protecting workers as many cities begin to loosen restrictions is only the latest challenge employers must navigate as businesses settle into a new normal rife with uncertainties.

As the weather warms, reports of large gatherings have emerged from North Carolina to Hawaii and places in between. Companies have limited sway over employees' lives outside the workplace, legal experts say. Bosses can educate workers about the potential risks and ask them to stay away from the office but can't bar them from going to a bar, a party, or using mass transit in their personal time. The New York Stock Exchange has asked those returning to its historic trading floor in lower Manhattan to avoid arriving via public transportation. Floor traders must also sign a liability waiver that prevents them from suing the NYSE if they get infected at the exchange. Employees generally have no legal obligation to disclose information such as how they spend their personal time, employment lawyers say. But there are ethical considerations when it comes to things like whether a family member has become ill, workplace experts say, so that managers can alert an employee's colleagues. In a roughly 40-page guide published for employees, VF Corp., owner of brands such as Vans and the North Face, advises staffers to avoid close contact with people outside of their homes and to stay away from mass gatherings to maintain proper distancing. It also recommends they avoid ride-sharing, car-pooling or public transportation, if possible, and to steer clear of lunch and after-work gatherings. The company does temperature screenings and asks employees a series of questions verbally as they enter its distribution centers and other facilities. Steve Rendle, VF's chief executive, said the company has debated how to best keep employees safe as more regions reopen, while balancing privacy concerns. The Denver-based company could ask employees where they traveled and whether they came into contact with anyone with a confirmed case of the virus, he said. The company is exploring how to reduce risks of an employee's personal travel, but so far hasn't implemented new policies. VF operated four manufacturing sites, 23 distribution centers and more than 1,300 retail stores as of March 2020. What's more, employers must trust that staffers will be truthful about their behaviors before arriving at work. Envoy, a workplace software platform, is developing a questionnaire product for companies to inquire about workers' symptoms that day and whether they have recently been near someone diagnosed with Covid-19. The company's technology is already used in many offices to check-in visitors, track packages and assign meeting rooms. Warby Parker doesn't ask employees how they spend their personal time, but it has deployed daily questionnaires and safety checks at a manufacturing facility in Sloatsburg, N.Y. Employees are asked if they have recently been in a medical facility that is treating coronavirus patients, for instance, or if they share a household with somebody known to have a confirmed case of Covid-19. But the company knows there are challenges to keeping employees safe beyond its own retail stores and facilities.

EEOC Warns Against Discrimination During Back-To-Business Push

In its latest round of updates to a series of COVID-19 Frequently Asked Questions, the Equal Employment Opportunity Commission just warned employers they cannot prevent older workers from returning to work even if they want to protect such workers from the effects of COVID-19. The updates also provide additional guidance regarding ADA reasonable accommodations, preventing workplace harassment in a remote work environment, and addressing other workplace discrimination concerns. The latest round of updates to its FAQs saw the EEOC specifically identify age discrimination as a cause for concern given the current state of affairs. The agency acknowledged that public health authorities have identified those age 65 and over as being at higher risk for a severe case of COVID-19 if they contract the virus. However, because the Age Discrimination in Employment Act (ADEA) prohibits employers from discriminating against those 40 and older, the law prohibits you from involuntarily excluding an individual from the workplace based on their being 65 or older – "even if the employer acted for benevolent reasons such as protecting the employee due to higher risk of severe illness from COVID-19." The EEOC also discussed the concept of providing flexibility to older workers and the legal considerations to keep in mind. Unlike the Americans with Disabilities Act (ADA), the ADEA doesn't include a right to reasonable accommodation for older workers due to age. However, the guidance notes that you are free under federal law to provide flexibility to workers age 65 and older even if it results in younger workers ages 40 to 64 being treated less favorably based on age in comparison. Make sure to check with your legal counsel before taking any steps that would result in such a situation, however, because there may be nuances under state or local law that need to be taken into consideration. Further, the EEOC notes that workers age 65 and older also may have medical conditions that would separately bring them under the protection of the ADA. If this is the case, you should keep in mind that these workers may request reasonable accommodation for their disability as opposed to their age, and that you should run through your typical interactive process with them.

In other updated portions of the FAQ guidance, the EEOC confirmed that workers are not entitled to an ADA reasonable accommodation simply to avoid exposing a vulnerable family member to a potential case of COVID-19. "Although the ADA prohibits discrimination based on association with an individual with a disability," the agency said, "that protection is limited to disparate treatment or harassment." It confirmed that the federal disability rights statute does not require you to accommodate an employee without a disability based on any disability-related needs of a family member or anyone else. However, employers are certainly permitted to provide such flexibilities if they choose to do so, the agency said. For example, you can allow an employee without a disability to work remotely to protect a family member of theirs who has a disability from potential COVID-19 exposure. You should be careful when doing so, however. Not only does the EEOC warn employers not to engage in disparate treatment on a protected basis when offering such flexibilities, you need to consider whether doing so could require you to offer remote work as an ADA reasonable accommodation to that employees or others similarly situated at some point in the future. The EEOC also noted that employers may provide information to employees about requesting disability accommodations before employers announce a date for a return to the workplace, so long as they provide it to all employees. The notice may include a list of all medical conditions identified by the CDC that may place people at higher risk of serious illness if they contract COVID-19, provide instructions on whom the employees should contact, and suggest that the employer is willing to consider requests for employees who have those conditions on a case-by-case basis. The EEOC noted that requests for accommodation may also come in the form of requests for alternative screening methods upon entering the workplace. As always, you should ensure that the individuals receiving the requests for accommodation understand how to handle them in compliance with applicable nondiscrimination laws. The updated guidance also sends a stern warning to employers that illegal harassment is still a viable concern even if your workforce is mostly working on a remote basis. "Harassment may occur using electronic communication tools – regardless of whether employees are in the workplace, teleworking, or on leave," the agency said. The EEOC reminded employers that your employees are prohibited by law from harassing other employees through emails, calls, video platforms, or chat communications. The agency recommends that you should ensure your managers understand how to recognize harassment and know how to quickly identify and resolve potential problems. For example, the agency said that if one of your managers learn that a teleworking employee is sending harassing emails to another worker, they should take the same actions it would take if the employee was in the workplace. You may also choose to send a reminder to your entire workforce noting your harassment prohibitions, reminding them that harassment will not be tolerated, and inviting anyone who experiences workplace harassment to report it to management. The EEOC went out of its way to address how you should respond to "pandemic-related harassment" against employees who are or are perceived to be Asian. The agency recommends that you should be particularly alert at this time to demeaning, derogatory, or hostile remarks directed to employees who are or are perceived to be of Chinese or other Asian national origin, including about the coronavirus or its origins.

The latest round of updates from the EEOC also covered topics that may find their way to your workplace during these unprecedented times.
Specifically:

- **Caregivers/Family Responsibility:** You are permitted to provide flexibilities to workers who are juggling work responsibilities and parenting during this time of school closures and distance learning (such as telework, modified schedules, or other benefits), but need to make sure you are not treating employees differently based on sex or other EEO-protected characteristics. "For example," the EEOC says, "female employees cannot be given more favorable treatment than male employees because of a gender-based assumption about who may have caretaking responsibilities for children."
- **Pregnancy:** Just as with older workers, you may not involuntarily exclude an employee from the workplace due to pregnancy. "Even if motivated by benevolent concern," the EEOC says, "an employer is not permitted to single out workers on the basis of pregnancy for adverse employment actions, including involuntary leave, layoff, or furlough. You may also have an obligation to accommodate a pregnant worker under the ADA (if a pregnancy-related medical condition arises) or through the Pregnancy Discrimination Act (which requires you to treat women affected by pregnancy and childbirth the same as others who are similar in their ability or inability to work, which may entitle them to job modifications including telework, changes to work schedules or assignments, and leave).

Sources: Littler; Houston Business Journal; Houston Chronicle; Greater Houston Partnership; Wall Street Journal; Bloomberg; U.S. Bureau of Labor Statistics; ASA Staffing