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MEMORANDUM

From: Gary Jay Kushner
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Re: COVID-19 Update: FDA Issues Reopening Guidance for Retail Food Establishments that Closed in Response to COVID-19

The U.S. Food and Drug Administration (FDA) has issued two resources for retail food establishments that are reopening after closing or partially closing in response to COVID-19. The resources include a food safety checklist with considerations for retail food establishments when restarting or resuming operations and an infographic identifying best practices for reopening during the COVID-19 pandemic. Much of the guidance will be familiar. In light of the evolving nature of the COVID-19 pandemic, FDA recommendations warrant particular review and possible modification to companies' existing policies and practices. In addition to FDA's guidance, retail food establishments should be cognizant of any state or local requirements for retail food establishments as they reopen, and FDA encourages retail food establishments to partner with their local health authorities to discuss specific requirements for retail food establishments prior to reopening.

Food Safety Checklist and Infographic

The food safety checklist includes considerations for reopening in the following categories:

- facility operations; water, plumbing, and ice;
- food contact and non-food contact surfaces (clean, disinfect, sanitize);
- food temperature control;
- product inspection, rotation;
- warewashing equipment;
- handwashing stations;
- employee health/screening; and
- social distancing.

Many of the items on the checklist and on the infographic are reminders of general food safety requirements for the operation of a retail food establishment that can be found in the FDA Food Code (e.g., ensuring food temperature control and warewashing equipment are functioning correctly, confirming hot and cold water are available).

Other considerations in the checklist and infographic are unique to the COVID-19 pandemic response and are consistent with previous FDA and Centers for Disease Control and Prevention

(CDC) guidance (e.g., establishing a protocol to check employee health consistent with CDC guidance; implementing measures to provide a 6-foot distance between individuals, to the extent possible; cleaning and disinfecting common use areas more frequently). The checklist also includes a consolidated list of resources previously released by FDA, the CDC, and the Occupational Safety and Health Administration (OSHA).

In addition, the infographic recommends that retail food establishments restrict the number of workers, customers, and visitors in sit-in dining areas, bars, and in shared spaces like kitchens, breakrooms, waiting areas, and offices to maintain at least 6-feet of distance between people. To help minimize contact at check-out and pay stations, the infographic also suggests establishments consider installing partitions or temporarily moving workstations, if feasible.

We encourage retail food establishments resuming operations to review FDA's guidance documents. As noted by FDA, it also is important for retail food establishments to consult state and local laws, including orders lifting or easing restrictions implemented in response to COVID-19, to identify any relevant requirements or guidance for reopening or resuming dine-in operations. To the extent possible, restaurant and foodservice operators might also consider devising system-wide policies that incorporate FDA's guidance, as well as key themes that might be derived from considering various local requirements.

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We will continue to monitor FDA's response to the COVID-19 pandemic. We are actively monitoring reopening requirements and counseling clients as they craft workable, compliant corporate policies. Please contact us if you have any questions regarding developments in the wake of evolving COVID-19 policies, recommendations, and other developments at the federal, state, or local level.