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In the current COVID-19 context, directors will need to make urgent but carefully considered decisions about incurring debt. The application of these temporary relief measures and safe harbour regime will need to be determined on a case by case basis by directors, while exercising due care, diligence and caution when assessing whether each debt is necessary (and in the ordinary course of business) for the business to survive in the current climate. Despite the temporary relief measures, if the company is approaching insolvency, case law states that directors must start to take the interests of creditors into account. This means directors should, on an ongoing basis,
