On June 3, 2020, the U.S. Environmental Protection Agency (EPA) submitted to the Office of Management and Budget (OMB) a final significant new use rule (SNUR) on long-chain perfluoroalkyl carboxylate (LCPFAC) and perfluoroalkyl sulfonate (PFAS) chemical substances. On March 3, 2020, EPA published a proposed supplemental SNUR for LCPFAC chemical substances that would make inapplicable the exemption for persons who import a subset of LCPFAC chemical substances as part of surface coatings on articles. Under the proposed supplemental SNUR, issued under Section 5(a)(2) of the Toxic Substances Control Act (TSCA), this subset of LCPFAC chemical substances also includes the salts and precursors of these perfluorinated carboxylates. The supplemental proposal would require importers to notify EPA at least 90 days before commencing the import of these chemical substances in certain articles for the significant new use described in the proposed
SNUR. The required significant new use notification would initiate EPA’s evaluation of the conditions of use associated with the intended significant new use. Manufacturing (including import) or processing for the significant new use would be prohibited from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. As noted in our February 28, 2020, memorandum, “Proposed Supplemental SNUR Would Remove Exemption for LCPFAC Chemical Substances Used as Surface Coatings on Articles,” one of the goals of the proposed supplemental SNUR is to establish the ground rules for EPA’s consideration of the article exemption in future SNUR actions. The final SNUR that is under OMB review is not publicly available, so it remains to be seen whether EPA has successfully established policies and procedures that both align with statutory requirements and also are workable, effective, predictable, transparent, and justified scientifically.

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