

Coronavirus *Flash Update*: Friday, May 1, 2020

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The Latest News

- U.S. COVID-19 cases exceed 1,064,645 and 62,560 U.S. deaths. (Source: CDC) (**Updated 5/1/20**)
- **U.S. stock market:** Thursday ended with the major U.S. benchmarks posting losses for the day, but capping off historic monthly gains, with the Dow dropping 288 points, the S&P down 27

points, and the Nasdaq slipping 25 points. For the month, the Dow finished up 11.1%, the S&P gained 12.7%, and the Nasdaq rose 15.5%. (**New**)

- The Department of Labor released the weekly **unemployment report** showing that 3.8 million Americans applied for unemployment benefits last week, bringing the six-week total to over 30 million. (4/30/20) (**New**)
 - The Bureau of Economic Analysis **released** its advance estimate of United States GDP for Q1 2020, showing a decrease of 4.8% at an annualized rate. (4/29/20) (**New**)
- The U.S. **Supreme Court** opens a two-week **session** on Monday which will be conducted by telephone, a first for the Nation’s highest court. The ten telephone arguments will allow live audio broadcasts, also a first. (5/1/20) (**New**)
- The President stated that his **social distancing guidance, which expired on April 30, will not be extended** allowing the guidance to “be fad[ed] out, because now the governors will be doing it.” The President added that the governors would be making the reopening decisions and other guidance about social distancing. (**New**)

COVID-19 Related Legislation

- **Bill 4.0:** On Thursday, House Speaker Nancy Pelosi (D-CA) gave a strong nod to additional state and local government emergency funding during her weekly news briefing, stating that discussions were underway for “almost \$1 trillion” in additional **state and local emergency funds** including dollars for **broadband**. Senate Majority Leader Mitch McConnell (R-KY) appears to be softening his position by stating that the Senate Republicans were open to helping state and local governments. (**New**)
 - Possible action on the 4.0 package is unlikely before late May or possibly after Memorial Day.
- Signs of Congress’s reopening grow more evident with four Senate hearings scheduled next week; the House has not scheduled an official return date but several committees are holding virtual hearings.
- **Bill 3.5: Paycheck Protection Program and Health Care Enhancement Act, (H.R. 266)** passed on April 23 and signed by the President on April 24. Also available are a [section-by-section summary](#) and an [overview of the health care provisions](#).
 - A&B detailed summaries are below:
 - A&B [Summary](#) – **3.5 Small Business Provisions**
 - A&B [Summary](#) – **3.5 Health Care Enhancement Provisions**
- **Bill 3.0: Coronavirus Aid, Relief, and Economic Security (CARES) Act, (H.R. 748)** passed on March 27. A congressional section by section summary is available [here](#).
 - A&B detailed summaries are below:
 - A&B [Summary](#) – **CARES Act Health Provisions**
 - A&B [Overview](#) – **CARES Act Health Care Grants and Reimbursement Changes**
 - A&B [Overview](#) – **CARES Act Key Health Care Appropriations**
 - A&B [Analysis](#) – **CARES Act Funding Sources** (Updated 4/24/20)
 - A&B [Summary](#) – **CARES Act Small Business Provisions**
 - A&B [Summary](#) – **CARES Act Educational Provisions and Appropriations**
 - A&B [Summary](#) – **CARES Act Individual and Business Tax Provisions**

- A&B [Summary](#) – CARES Act Unemployment Provisions
- A&B [Summary](#) – CARES Act Labor Provisions
- A&B [Guide](#) – how the CARES Act refundable Employer Retention tax credit for employers works
- A&B [Hospital Provisions from all 4 bills tracker](#) of COVID-19 (**Updated 4/30/20**)
- A&B [Provider Relief Fund disbursements tracker](#) – Provider Relief Fund was established through the CARES Act, with additional funds from Bill 3.5. (**Updated 4/30/20**)
- A&B [Summary](#) of oversight and enforcement provisions in the CARES Act
- Congress has passed three coronavirus emergency response bills and the first two are below:
 - **Bill 1.0: Coronavirus Preparedness and Response Supplemental (CPPRS)** ([H.R. 6074](#)) passed on March 5.
 - **Bill 2.0: Families First Coronavirus Response Act (FFCRA)** ([H.R. 6201](#)) passed on March 18

Transition to “Reopening”

- For the latest information on state reopening decisions, see the [A&B 50-State Openings Tracker](#) to be updated with each A&B Coronavirus Flash Update. (**Updated 4/29/20**)
- The EPA and the CDC jointly provided new re-opening [guidance](#) for **cleaning and disinfecting** public spaces, workplaces, businesses, schools, and homes. (4/29/20) (**New**)
- FEMA released [guidance](#) for ‘Planning Considerations for Organizations in Reconstituting Operations’ as states begin to unveil reopening plans. (4/30/20) (**New**)
- The White House released its **COVID-19 testing overview** and [blueprint](#) (4/27/20) as part of its **Opening Up America Again** initiative. The plans describe the partnership necessary between the private sector and the federal and state governments.
- CMS [announced](#) recommendations to **re-open health care facilities to provide non-emergent non-COVID-19 care, including elective surgeries**. The [recommendations](#) state that non-COVID-19 care should be offered as clinically appropriate if the state, locality, or facility has the resources to provide such care **and** the ability to quickly respond to a surge in COVID-19 cases if necessary. (4/19/20)
- During a meeting with governors, President Trump released “**Opening Up America Again**” [guidelines](#) but left the decision of when his recommended phases should begin to state governments. (4/16/20)
 - The Office of Personnel Management and Office of Management and Budget [issued](#) (4/20/20) a memorandum to federal agency and department heads to align operations with these national guidelines.
- As state and local governments consider the **transition to re-opening businesses**, most are preparing for what might be their **next steps** to protecting health and safety of their work force while reopening.
 - A&B’s Labor & Employment Group identifies issues likely to arise as workers are invited to return to their jobs and that employers may confront in developing return-to-work action plans in this [advisory](#). (4/22/20)

- This A&B [advisory](#) lays out what restarting might look like, including how to communicate to your employees, vendors and customers, and planning for continued health and safety issues. (4/17/20)

Environmental Protection Agency

- The **Environmental Protection Agency (EPA)** [announced](#) that it is making \$1 million in grant funding available to states to help local environmental justice communities address COVID-19 concerns faced by low-income and minority communities. (4/30/20) (**New**)

Federal Communications Commission

- The **Federal Communication Commission (FCC)** [announced](#) (4/29/20) a waiver of certain requirements for individuals who have lost their employment during the coronavirus pandemic and who qualify for Lifeline benefits to enroll in the Lifeline program. The Lifeline program provides monthly discounts on broadband and voice services to qualifying low-income consumers. (**New**)
- FCC and Department of Education [announced](#) (4/27/20) \$16 billion in CARES Act funding for **elementary and secondary schools to use for remote learning**.
- The FCC adopted a [program](#) appropriating \$200 million in COVID-19 telehealth grants (the COVID-19 Telehealth Program) and \$100 million in grants through the Connected Care Pilot Program to **assist hospitals and other health care providers cover telehealth costs**. (3/31/20)
 - As authorized by the **CARES Act** the FCC [announced](#) the **fourth set of health care providers to receive telehealth grants**. (4/29/20) (**New**)
 - The FCC [suspended](#) its “red light” rule for the telehealth funding program, allowing applications to proceed even if entities are delinquent on payments to the FCC. (4/21/20)

Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** [announced](#) (4/28/20) that it had begun distribution of an additional portions of the CARES Act Provider Relief Fund. HHS previously distributed \$30 billion under the fund and on Monday, the Health Resources and Services Administration (HRSA) began the allocation for treatment of the uninsured.
 - HRSA launched a new COVID-19 **Uninsured Program Portal**, allowing health care providers who have conducted COVID-19 testing or provided treatment for uninsured COVID-19 individuals on or after February 4, 2020 to request claims reimbursement. Providers can access the portal at [COVIDUninsuredClaim.HRSA.gov](https://www.hrsa.gov/COVIDUninsuredClaim). In addition, HHS stated it has received data from hospitals throughout the country and is preparing to release funds to hospitals for the allocation for COVID-19 **high-impact area funding** and that more information is coming soon. (4/28/20)
 - Additional information about the Provider Relief Fund **targeted allocations** is available [here](#). Terms and conditions for fund recipients are available [here](#).
- The Substance Abuse and Mental Health Services Administration (SAMHSA) [announced](#) an additional \$250 million in emergency COVID-19 funding to increase access to and to improve the

quality of community mental and substance use disorder treatment. Information on the grants is available [here](#). (4/27/20)

- The HHS Coronavirus [toolkit](#) page has been updated. (Updated 4/28/20)
- HHS Secretary Alex Azar [renewed](#), effective April 26, 2020, the January 31, 2020 determination that a public health emergency exists and has existed since January 27, 2020, nationwide.
- HHS has a **tracking feature that allows public viewing of all COVID-19 HHS grant and cooperative agreement awards** on its [website](#). The initial grants were distributed through programs in the ACL, CDCD, NIH, and ASPR.

Assistant Secretary for Preparedness and Response

- The **Assistant Secretary of Preparedness and Response (ASPR)** and CMS jointly [released](#) a concept of operations for nursing home infection prevention and control. (4/30/20) (**New**)

Centers for Disease Control and Prevention

- The **Centers for Disease Control and Prevention (CDC)** [COVIDView Weekly Summary](#) is available. (4/24/20)
- The CDC updated or issued new guidance regarding reopening and continued mitigation efforts for [retirement communities and independent living facilities](#); [communities, schools, workplaces, and events](#); [people experiencing homelessness](#); [community and faith-based organizations](#); [institutes of higher education](#); [schools and childcare facilities](#); [dental settings](#); [law enforcement agencies and personnel](#); [shared and congregate housing](#); [tribal communities](#); [parks and recreational facilities](#); [businesses and workplaces](#); [shared and congregate housing](#); and [correctional and detention facilities](#). (4/30/20) (**New**)
- The CDC updated its [guidelines](#) for **collecting, handling, and testing clinical specimens** from persons in COVID-19 testing. (**Updated 4/29/20**)
- The CDC released [COVID19Surge](#), which is a **spreadsheet-based tool that hospital administrators and public health officials** can use to estimate the surge in demand for hospital-based services during the COVID-19 pandemic. (4/23/20)

Centers for Medicare & Medicaid Services

- On April 30, the **Centers for Medicare and Medicaid Services (CMS)** [announced](#) a second round of waivers and rule changes in response to the COVID-19 pandemic (**New**), including:
 - [COVID-19 Emergency Declaration Blanket Waivers & Flexibilities for Health Care Providers \(PDF\)](#) (**Updated 4/30/20**)
 - [Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency \(CMS-5531 IFC\) \(PDF\)](#) (**4/30/20**)
 - [List of Hospital Outpatient Services \(PDF\)](#) and [List of Partial Hospitalization Program Services Accompanying the 4/30/2020 IFC \(PDF\)](#) (**4/30/20**)
 - [List of lab test codes for COVID-19, Influenza, RSV \(PDF\)](#) (**Updated 4/30/20**)
 - [Home Health Agencies \(PDF\)](#) (**Updated 4/30/20**)
 - [Physicians and Other Practitioners \(PDF\)](#) (**Updated 4/30/20**)

- [Ambulances \(PDF\)](#) (Updated 4/30/20)
- [Hospitals \(PDF\)](#) (Updated 4/30/20)
- [Teaching Hospitals, Teaching Physicians and Medical Residents \(PDF\)](#) (Updated 4/30/20)
- [Long Term Care Facilities \(Skilled Nursing Facilities and/or Nursing Facilities\) \(PDF\)](#) (Updated 4/30/20)
- [Hospices \(PDF\)](#) (Updated 4/30/20)
- [Inpatient Rehabilitation Facilities \(PDF\)](#) (Updated 4/30/20)
- [Long Term Care Hospitals & Extended Neoplastic Disease Care Hospitals \(PDF\)](#) (Updated 4/30/20)
- [Rural Health Clinics \(RHCs\) and Federally Qualified Health Centers \(FQHCs\) \(PDF\)](#) (Updated 4/30/20)
- [Laboratories \(PDF\)](#) (Updated 4/30/20)
- [End Stage Renal Disease \(ESRD\) Facilities \(PDF\)](#) (Updated 4/30/20)
- [Durable Medical Equipment \(PDF\)](#) (Updated 4/30/20)
- [Participants in the Medicare Diabetes Prevention Program \(PDF\)](#) (Updated 4/2/20)
- [Medicare Advantage and Part D Plans \(PDF\)](#) (Updated 4/30/20)
- [State Medicaid & Basic Health Programs \(PDF\)](#) (4/30/20)
- [Medicare Shared Savings Program Participants \(PDF\)](#) (4/30/20)
- CMS [issued](#) FAQs related to the Emergency Medical Treatment and Labor Act (EMTALA) that clarify requirements and considerations for hospitals and other providers. (4/30/20) (New)
- CMS [announced](#) a new independent Commission that will conduct a comprehensive assessment of the nursing home response to the coronavirus pandemic. (4/30/20) (New)
 - More information on the Commission is available [here](#). (4/30/20) (New)
 - A&B's Health Care and Health Care Litigation Groups explore how to take advantage of remote health care now and prepare for continued telehealth operations after the pandemic ends in this [advisory](#). (4/29/20) (New)

CMS CARES Act Guidance

- CMS [released](#) guidance to State Survey Agencies (SAs) for cost surveys and certification efforts in the award and administration of supplemental funding provided by the CARES Act, with a focus on areas where there is community spread of COVID-19. (4/30/20) (New)
- The CMS CARES Act **Provider Relief Fund** [webpage](#) has been updated to include the [Attestation Portal](#).
 - HHS **Providers that do not receive an automatic payment** should go to the Provider Relief portal linked from hhs.gov/providerrelief and follow the instructions on how to claim the distribution. The **portal became available beginning 5:00 p.m. ET, Friday, April 24**. The CARES Provider Relief hotline is (866) 569-3522. Entities can also try contacting the Provider Hotline at the [applicable MAC](#).
- HHS announced on April 22 that the agency would be **disbursing the remaining CARES Act Provider Relief Funds to health care providers**. The CARES Act authorized \$100 billion for the Provider Relief Act and the first \$30 billion was previously distributed on April 10. This [announcement](#) outlined that the five allocation categories for the **remaining \$70 billion**.

- This CARES Act Relief Fund [website](#) provide additional detail on the terms and conditions, and the [portal](#) reflects the information required. (4/24/20)
- This detailed A&B [Provider Relief Fund disbursements](#) tracker provides a full overview of yesterday's \$70 billion disbursement and the previous \$30 billion (**Updated 4/30/20**).
- The **CARES Act** required CMS to expand its **accelerated and advance payment program**, and CMS released a [statement](#) and [fact sheet](#) providing guidance on the policy. (3/28/20) According to the latest CMS [update](#) – over \$100 billion has been distributed as of April 24.
 - CMS [announced](#) on Sunday that it is suspending its Advance Payment Program to Part B suppliers effective immediately and applications would no longer be received. The Agency is also **reevaluating the amounts that will be paid under its Accelerated Payment Program** but will continue to receive applications. (4/26/20)
 - CMS released a **state-by-state list showing the breakdown of receipt of accelerated and advance payments** as of April 4. (Updated 4/24/20)
- **Medicaid:**
 - CMS Center for Medicaid and CHIP Services (CMCS) [released](#) (4/23/20) a [COVID-19 Telehealth Toolkit](#) to accelerate adoption of broader telehealth coverage policies in the Medicaid and Children's Health Insurance Programs (CHIP).

Food and Drug Administration (Drugs and Devices)

- **FDA** provides a **daily roundup on COVID-19** related actions. The latest update is [here](#), (**updated 4/30/20**), and here is a listing of [all announcements](#).
 - **FDA** also updated its COVID-19 [FAQs](#) for the general public. (**Updated 4/30/20**)
- FDA issued [guidance](#) to clarify the scope of the public health emergency exemption and exclusion under the **Drug Supply Chain Security Act** to help ensure adequate distribution of finished prescription drug products throughout the supply chain to combat COVID-19. (4/30/20) (**New**)
- FDA [added](#) (4/30/20), under the ventilator emergency use authorization (EUA) rules, a **ventilator developed by NASA** that is tailored to treat patients with COVID-19. (**New**)
- FDA issued a [press release](#) (4/27/20) summarizing its efforts to ensure the availability of hand sanitizer.
- FDA updated [information](#) (4/27/20) to mammography facilities, including what they should do if they close, remain open on reduced operations, cannot schedule an annual medical physicist survey, or have non-compliance citations as a result of COVID-19.
- FDA issued [FAQs](#) (4/27/20) on **Emergency Use Authorizations for medical devices** during the COVID-19 pandemic.
- The agency also published a [public database](#) of drug shortages. (Updated 4/26/20)
- Information regarding **manufacturing, importing, or selling sterilizers, sanitizers, purifiers, and disinfectants** is available in this A&B [advisory](#) (4/13/20).

Food and Drug Administration and United States Department of Agriculture (Food-Related)

- The White House [issued](#) (4/28/20) an executive order to **keep meat and poultry processors open** under the Defense Production Act. The order delegates to the USDA the authority to

“determine the proper nationwide priorities and allocation of all the materials, services, and facilities necessary to ensure the continued supply of meat and poultry, consistent with the guidance for the operations of meat and poultry processing facilities jointly issued by the CDC and OSHA.” The White House also issued a [fact sheet](#) on efforts related to ensuring the safety of the nation’s food supply chain.

National Institutes of Health

- The National Institutes of Health (NIH) [announced](#) (4/29/20) a new initiative aimed at speeding innovation, development and commercialization of COVID-19 testing technologies. As part of this initiative, NIH is urging all scientists and inventors with a rapid testing technology to compete in a national COVID-19 testing challenge for a share of up to \$500 million over all phases of development. **(New)**
- NIH [announced](#) (4/29/20) that a clinical trial shows that Remdesivir, an investigational broad-spectrum antiviral treatment, accelerates recovery in hospitalized patients with advanced COVID-19. **(New)**

Health Resources and Services Administration

- The **Health Resources and Services Administration (HRSA)** launched its new COVID-19 Uninsured Program [Portal](#) on Monday, April 27. The portal will provide guidance to health care providers to request reimbursement for the testing and treatment for uninsured COVID-19 patients.
- HRSA [awarded](#) \$20 million (4/30/20) to increase telehealth access and infrastructure to providers and families. **(New)**
 - HRSA previously launched a [website](#) to help health care providers use telehealth and educate patients on it. (4/22/20)
- HRSA provides COVID-19-related FAQs [here](#). **(Updated 4/29/20)**

Department of Homeland Security/FEMA

- The **Department of Homeland Security (DHS)** [provides](#) a weekly roundup of its response to COVID-19. (Updated 4/27/20).
- FEMA [announced](#) (4/30/20) that it will coordinate two **shipments totaling a 14-day supply of personal protective equipment (PPE)** to more than 15,400 Medicare and Medicaid-certified nursing homes across the nation, including all 50 states, the District of Columbia, Puerto Rico, and Guam. By the beginning of July, each facility will receive two separate packages containing a seven-day supply of eye protection, surgical masks, gowns, and gloves. Each package will be individualized for each nursing home based upon their level of staffing. **(New)**
 - FEMA issued a [fact sheet](#) on **best practices to preserve personal protective equipment**. (4/28/20)
- President Trump signed an [executive order](#) temporarily **“pausing,” for period of 60 days, certain U.S. immigration processes**. This 60-day processing suspension does not apply to essential persons, U.S. citizen spouse or child, nurse, doctor, COVID-19 researcher, EB-5 investor, or other

special person awaiting an IV appointment. The President noted he would revisit the issue after 60 days and depending on the economy may choose to extend the suspension. (4/22/20)

- Review this A&B [advisory](#) (4/28/20) for more information on the order, who it applies to, who is exempted, and what employment-based visas are affected.
- **FEMA refines scope of medical supply export ban.** The FEMA offered more details on its plans for exemptions to a temporary rule banning some medical supplies from being shipped overseas. In an [April 21 Federal Register notice](#), FEMA codified and tailored the exemptions, which provide a path for some exporters to make sales of medical products not in high demand in the U.S. See A&B advisory about it [here](#).

Department of Justice/Federal Trade Commission/State Attorneys General

Antitrust

- DOJ and FTC [issued](#) a joint statement reminding companies – especially those in the health care or other essential sectors – of the criminal and civil **antitrust risks for colluding or sharing excessive confidential information about employment topics in light of COVID-19** (including changes to salaries/wages/benefits, employment terms, “no poach” agreements, or even invitations to rivals on those topics). (4/13/20)
 - For more information, the A&B Antitrust and Labor & Employment Groups provide a [deeper dive](#) to understanding the safeguards businesses should implement to reduce their antitrust risks. (4/17/20)

Consumer Protection/Anti-fraud

- The **Consumer Financial Protection Bureau** (CFPB) issued an interpretative [rule](#) (4/29/20) to provide guidance to creditors and other covered persons involved in the mortgage origination process. **(New)**
- On April 29, the FTC provided [guidance](#) for businesses to **avoid scams** while applying for loans through the SBA’s Paycheck Protection Program (PPP) or Economic Injury Disaster Loans (EIDL) program. FTC advises businesses to get information directly from the SBA’s website ([sba.gov/coronavirus](#)) and not apply for a loan before verifying the lender. If businesses identify scams, they are asked to submit a complaint at [ftc.gov/complaint](#). **(New)**
- On April 28, DOJ filed its [second price gouging complaint](#) under the Defense Production Act, charging a California attorney and Arizona businessman with attempting to profit from the pandemic by conspiring to sell one million KN95 respirator masks for double or triple the purchase price. To conceal their markup on the masks, defendants created and signed an escrow agreement for a purported investor that falsely stated that the profits on the re-sale of the masks would not exceed 10 percent. That “investor” was an undercover law enforcer. **(New)**
 - The DOJ previously filed a [price gouging criminal complaint](#) on April 24, charging a New York man with amassing and selling items designated as “scarce” under Executive Order 13910, including facemasks, surgical gowns, isolation suits and disposable gloves. According to the DOJ, the defendant set up a “COVID-19 Essentials” section in his sneaker and apparel store and sold products at up to 1,328% over cost.

- On April 23, the **FTC** [sent](#) **twenty-one warning letters to U.S. marketers to stop making unsubstantiated claims that their products and therapies can treat or prevent COVID-19**. The products at issue included acupuncture, intravenous, ozone, and stem cell therapies, and various vitamins and supplements. One day later, the FTC [sent](#) letters to ten multi-level marketing companies (MLMs) demanding that they remove and address claims that they or their participants are making about their products' ability to treat or prevent coronavirus disease or about the earnings people who have recently lost income can make, or both. The letters warn the companies that they are responsible for their distributors' false or misleading claims. The letter recipients are required to notify the FTC within 48 hours about specific actions they have taken to address the agency's concerns.

Litigation Issues

- **Higher education** protected students' and employees' health by closing their campuses and moving – virtually overnight – to online learning. Now they face **high-risk class actions** from students and their parents. A&B's Colleges & Universities Team provides insight into current litigation in this [advisory](#). (4/30/20) (**New**)
- In response to COVID-19, individual courts have often made their own rules on how to proceed, and businesses are caught in the gridlock. For a deeper understanding of how individual states are treating statutes of limitations and some key takeaways, read this A&B [advisory](#). (4/24/20)

Department of Labor/OSHA

- **Department of Labor (DOL)** [issued](#) a notice providing deadline relief and other guidance under Title I of the **Employee Retirement Income Security Act of 1974 (ERISA)** to help employee benefit plans, plan participants and beneficiaries, employers and other plan sponsors, plan fiduciaries, and other service providers impacted by the coronavirus outbreak. (4/28/20) (**New**)
 - DOL has also provided COVID-19 [FAQs](#) for employee plan participants and beneficiaries. (4/28/20) (**New**)
- DOL and the Occupational Safety and Health Administration (**OSHA**) issued a [statement](#) of enforcement policy regarding meat and poultry processing facilities. (4/28/20) (**New**)
 - The OSHA and the CDC previously [issued](#) (4/26/20) interim guidance for meat and poultry processing workers and employees.

Securities and Exchange Commission

- The **Securities and Exchange Commission (SEC)** [announced](#) (4/20/20) that it was issuing two exemptive orders to address the impact of COVID-19 regarding Consolidated Audit Trail (CAT) implementation. The orders are available [here](#) and [here](#).
 - **SEC** chairman and director of corporation finance [released](#) statement encouraging earning disclosures and reports that timely, accurate, and robust. (4/14/20)
 - For additional information on challenges regarding disclosures and COVID-19, review this A&B [advisory](#) (4/13/20).

Small Business Administration

- **Small Business Administration (SBA)** – In response to the **CARES Act** requirements, the SBA formally [launched](#) its **Paycheck Protection Program (PPP)** for small businesses on April 3.
 - On April 30, the SBA issued a new PPP [interim final rule](#) that (**New**):
 - (1) Created a **limit of \$20 million for all PPP loans issued to a corporate family**. As a result, effective immediately, the total amount of PPP funds granted to a “corporate family” (businesses that are majority owned by a common parent) cannot exceed \$20 million.
 - (2) **Expanded the criteria** for certain non-bank institutions to become eligible to make PPP loans.
 - Any non-bank or non-insured depository institution that has performed any one of—as opposed to all of—originating, maintaining, or servicing more than \$50 million in business loans or other commercial financial receivables during a 12 month period in the past 36 months can now be a lender in the PPP.
 - In addition, non-bank lenders that are either (1) a community development financial institution (other than a federally insured bank or federally insured credit union) or (2) a majority minority-, women-, or veteran/military-owned lender, can now be a lender in the PPP if such lender has originated, maintained, or serviced more than \$10 million in business loans or other commercial financial receivables during a 12 month period in the past 36 months.
 - The SBA and Treasury [announced](#) (4/28/20) that they would review all PPP loans over \$2 million, in addition to other loans as appropriate, to ensure that applicants meet eligibility criteria.
 - A&B’s White Collar, Government & Internal Investigations Team summarizes the latest stimulus addition and **emerging enforcement developments** related to the certification, receipt, and use of PPP funds, including for banks processing the related loans, in this [advisory](#). (4/30/20) (**New**)
 - The SBA issued (4/28/20) two interim final rules, one announcing additional criterion for [seasonal employers](#) under PPP and the other on [disbursements](#).
 - The SBA resumed accepting Paycheck Protection Program applications from participating lenders on Monday, April 27.
 - The SBA resources for loans under the [Paycheck Protection Program](#) has been updated. (Updated 4/26/20)
 - The SBA and Treasury updated (4/29/20) their [FAQs](#) on PPP, adding new Questions 38 and 39. (**Updated 4/29/20**)
 - For information on how fund managers can qualify for relief, review this A&B [advisory](#). (4/14/20)
- The SBA has guidance for loans under the [Express Bridge Loan Pilot Program](#), the [Economic Injury Disaster Loan Program](#) for qualified entities that are impacted by COVID-19.

Department of Treasury/IRS/Federal Reserve

- The Department of Treasury [website](#) for **CARES Act** programs, including specific sections on assistance for [American workers and families](#), [small businesses](#), [state and local governments](#), and [preserving jobs for American industry](#).
- The Federal Reserve [expanded](#) (4/30/20) access to its Paycheck Protection Program Liquidity Facility (PPPLF) to additional lenders and expands the collateral that can be pledged. (**New**)
- The Federal Reserve [announced](#) (4/30/20) an expansion of the scope and eligibility for the Main Street Lending Program to help credit flow to small and medium-sized businesses. (**New**)
 - [FAQs](#) regarding the Main Street Lending Program were released April 30. (**New**)
 - For more information about the Main Street programs, review this A&B [advisory](#). (4/14/20)
- The Federal Reserve and Federal Deposit Insurance Corporation (FDIC) [announced](#) (4/27/20) that they were [extending](#) the comment period for 30 days on their proposed guidance for resolution plans submitted by certain large foreign banks.
- The Federal Reserve [announced](#) (4/27/20) that it was expanding the scope and duration of the [Municipal Liquidity Facility](#) (MLF) to purchase up to \$500 billion of short-term notes to states, counties with at least 500,000 residents, and cities with at least 250,000 residents. The Federal Reserve Bank of New York issued an [FAQ](#) on the MLF.
- **Ginnie Mae** [announced](#) an expansion of its issuer assistance program to help mortgage servicers facing liquidity shortfalls to apply for assistance in meeting their contractual obligations. (4/10/20)
 - The APM introduces a new version of the existing Pass-Through Assistance Program (PTAP) **for use by issuers facing a temporary liquidity shortfall** directly attributable to the COVID-19 National Emergency. The existing PTAP program had been tailored to natural disaster situations with more limited impact.
 - For more details on how Ginnie Mae will be implementing the Pass-Through Assistance Program during the coronavirus pandemic, see this A&B [advisory](#) (4/16/20).
- The **Internal Revenue Service (IRS)** provided [guidance](#) (4/30/20) clarifying that **no deduction is allowed** under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered **PPP loan**. (**New**)
- The IRS updated (April 29) its [FAQs](#) related to the **employee retention credit** under the CARES Act. (**New**)
- The IRS released [state-by-state](#) data for the Economic Impact Payments with 88 million individuals receiving payments worth nearly \$158 billion. (**Updated 4/28/20**)
- The IRS issued [Revenue Procedure 2020-26](#), which provides safe harbors for payment forbearances (and “related modifications”) arising from the COVID-19 emergency on mortgage loans held by real estate mortgage investment conduits (REMICs) and investment trusts and on mortgage loans contributed to REMICs. (4/13/20)
 - For a deeper dive on this topic, see this A&B [advisory](#) (4/15/20).

Other Agencies

- The **United States Patent and Trademark Office** announced (4/28/2020) that it would further extend certain [patent](#) and [trademark](#) deadlines to June 1, 2020, given the ongoing effects of the COVID-19 pandemic. These extended deadlines apply to those situations identified in the USPTO's [March 31, 2020, guidance](#), such as responses to Office Actions. (**New**)
 - For more detail, read Alston & Bird's April 2, [advisory](#) explaining how and when to claim these extensions.
- The **Federal Housing Finance Agency** [announced](#) (4/27/20) that borrowers in forbearance with a Fannie Mae and Freddie Mac-backed mortgage are not required to repay missed payments in one lump sum. [Fannie Mae](#) and [Freddie Mac](#) issued similar press releases.
- The **Department of Education** [announced](#) today that nearly \$1.4 billion in additional funding will be directed to Minority Serving Institutions (MSIs), including Historically Black Colleges and Universities (HBCUs) and Tribally Controlled Colleges and Universities (TCCUs), as well as institutions serving low-income students to help ensure learning continues during the coronavirus national emergency, as authorized by the CARES Act. (4/30/20) (**New**)
- On April 21, the **FHFA** [announced](#) that it was aligning Fannie Mae's and Freddie Mac's policies so that servicers of Fannie Mae and Freddie Mac single-family mortgage loans that are in forbearance as a result of COVID-19 will only have an obligation to advance four months of missed principal and interest payments.
 - For a deeper dive on this topic, see this [advisory](#) from A&B's Finance Group. (4/22/20)
- The **Department of Housing and Urban Development (HUD)** [issued](#) a brochure for tenants having problems paying rent including state contacts. (4/27/20)
 - HUD also provided COVID-19 [FAQs](#) for Public Housing Agencies. (updated 4/22/20)
- The **Department of Transportation (DOT)** [announced](#) (4/30/20) that the **Federal Aviation Administration (FAA)** will award \$1.187 billion in airport safety and infrastructure grants under the CARES Act. (**New**)
 - DOT also [announced](#) (4/29/20) a plan to address the impact of the COVID-19 pandemic on air carriers participating in the Essential Air Services (EAS) program. (**New**)
- The FAA granted an [exemption](#) (4/30/20) to the timeframes for completing recurrent training and testing requirements for certain air ambulance personnel. (**New**)
 - The FAA also [published](#) (4/29/20) a **Special Federal Aviation Regulation** that provides regulatory relief to persons who have been unable to comply with certain training, recent experience, testing, and checking requirements due to the COVID-19 outbreak. (**New**)

Trade and International Business Issues

- The **Department of Justice (DOJ) Wades Into Antidumping (AD)/Countervailing Duty (CVD) Case on Mattresses, Says New Duties Could Harm COVID-19 Response.** DOJ recently [interceded](#) in an antidumping and countervailing duty case on mattresses to warn that imposition of new tariffs could run counter to efforts to combat the COVID-pandemic. In a brief filed April 22 with the International Trade Commission, lawyers from DOJ's Antitrust Division argued that new AD/CV duties could increase the price of mattresses, making it harder for hospitals to increase the number of beds they have available for patients with the disease.

- **The Federal Maritime Commission (FMC) Adopts Final Rule for Detention and Demurrage Charges.** FMC will adopt a [final rule](#) to give industry guidance on how it assesses the “reasonableness” of detention and demurrage charges, the agency said. The rule, which was proposed in September and has garnered new attention due to charges caused by COVID-19-related shipping delays, is expected to give industry clarity on how FMC will consider whether detention and demurrage policies incentivize the movement of cargo or whether they are unjustified. The rule will become effective upon its publication in the Federal Register. (4/28/20)
- A&B European Antitrust, Mergers & Acquisitions, and International Trade & Regulatory Groups [examines](#) (4/21/20) **changes in the way European competition authorities will review foreign direct investment** during (and potentially long after) the coronavirus pandemic and [reviews](#) what COVID-19 may mean for **European commercial mortgage-backed securities servicers**.
- A&B’s International Tax Group investigates the nuances of regulations from U.S. and international agencies and offers useful guidance from the **OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations** and actions enterprises can take now to prepare for the tax implications of COVID-19-related disruptions in this [advisory](#) (4/16/20).

Insurance Issues

- For a **50-state review of business interruption insurance related issues** see this new COVID-19 [Insurance Litigation and Regulatory Issues Tracker](#). The tracker is updated weekly. (last update 4/26/20)
- On April 30, the Council of the District of Columbia issued a [memorandum](#) requesting to place certain measures on the agenda for the May 5 legislative meeting, including changes to the law that would impose “new requirements for business interruption insurance to pay for certain business closures during the pandemic.” **(New)**
- On April 29, the Kansas Insurance Department issued an updated [COVID-19 FAQ](#) explaining that “it is the Department’s understanding that it is unlikely that a business policy would cover losses related to COVID-19, as most business policies have communicable disease exclusions.” The Missouri Department of Insurance has similarly [advised consumers](#) that the most common “trigger” for business interruption coverage “is when an insured property sustains a ‘direct physical loss’ from a disaster such as a tornado” and further notes that “[i]f a type of event is not listed in [a] policy, then it is probably not covered.” And the Louisiana Department of Insurance has [explained](#) that, based upon its review of the policy forms of seven admitted insurers “[p]erils or causes of loss that are neither listed on, nor described in, the policy are typically not covered” by business interruption policies. **(New)**
- On April 24, the Florida Office of Insurance Regulation Commissioner [reportedly](#) informed a committee of the Governor’s Re-Open Florida Task Force that while all business interruption policies are written differently, most will not provide coverage for losses related to the COVID-19 pandemic.
- On April 23, the Idaho Department of Insurance issued [Bulletin No. 20-08](#) in which it notes that “all business interruption policies are not identical, and the coverage provided by a given policy depends on the specific wording of the contract.” However, the Department notes that “policies typically pay” when four criteria are met, including that “[t]he policyholder has sustained physical damage to insured property.” **(New)**

Additional Workplace (Stay-at-Home) Issues

- Government Closure/Stay-at-Home orders have been released in multiple state and local jurisdictions. For the key Stay-at-Home order details in one document, view this A&B COVID-19 50-State Closure Tracker [here](#). (**FINAL Stay-at-Home Tracker – Current as of 4/21/20**)
- Review this A&B [advisory](#) (4/21/20) to learn more about how shelter-in-place orders and the continuing economic stoppage is likely to trigger both monetary and covenant defaults of countless obligors under CMBS, bridge, construction, and agency loans over the next several months.

Cyber Security & Privacy

- Governments world-wide are using location and other mobile device data to slow the spread of COVID-19. We analyze these efforts in this A&B [advisory](#). (4/13/20)

For background and the most up-to-date information, please visit the Centers for Disease Control and Prevention Coronavirus Disease 2019 website: [HERE](#). The additional federal agency links are provided by the White House Coronavirus Task Force:

U.S. Department of Health and Human Services:

- Twitter ([here](#))
- Facebook ([here](#))

Centers for Disease Control and Prevention:

- Twitter ([here](#))
- Facebook ([here](#))

What you should know:

- [Workplace, School, and Home Guidance](#)
- [People at Risk for Serious Illness from COVID-19](#)
- [How COVID-19 Spreads](#)
- [Symptoms](#)
- [Steps to Prevent Illness](#)
- [Testing](#)
- [Frequently Asked Questions](#)
- [What to Do If You Are Sick with COVID-19](#) (**updated 4/28/20**)
- [Stigma Related to COVID-19](#)
- [Facts about COVID-19](#)
- [Information for People at Higher Risk and Special Populations](#)
- [Communication Resources](#)

Situation Updates:

- [Situation Summary](#)
- [Cases in the U.S.](#)
- [Global Locations with COVID-19](#)
- [Risk Assessment](#)
- [CDC in Action: Preparing Communities](#)

Information for Businesses:

- [Interim Guidance for Businesses and Employers](#)
- [Information for Communities, Schools, and Businesses](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- FEMA: [Coronavirus Response](#)
- SBA: [COVID-19 Resources](#)
- DOL: [Guidance for Preparing Workplaces for Coronavirus](#)
- DOL: [OSHA Resources for Workers and Employers on COVID-19](#)
- WHO: [Get Your Workplace Ready for COVID-19](#)
- CISA: [Risk Management for COVID-19](#)
- EPA: [Disinfectants for Use Against COVID-19](#)
- Federal Reserve: [Coronavirus Disease 2019 \(COVID-19\) Resources.](#)
- FDIC: [Coronavirus \(COVID-19\) Information for Bankers and Consumers.](#)
- OCC: [COVID-19 \(Coronavirus\).](#)
- Conference of State Bank Supervisors: [Information on COVID-19 Coronavirus.](#)
- NYDFS: [Coronavirus: Information for Industry and Regulated Entities.](#)
- NMLS: [State Agency Communication/Guidance on Coronavirus/COVID-19](#)

Information for Travel and Transportation:

- [Information for Travel](#)
- [Guidance for Ships](#)
- [Guidance for Airlines and Airline Crew](#)
- State: [Travel Advisories](#)
- State: [Traveler's Checklist](#)
- State: [Smart Traveler Enrollment Program](#)
- DOT: [FAQs from FTA Grantees Regarding COVID-19](#)

Information for Health Care Providers, First Responders, and Research Facilities:

- [Information for Healthcare Professionals](#)
- [Resources for State, Local, Territorial and Tribal Health Departments](#)
- [Resources for Healthcare Facilities](#)
- [Infection Prevention and Control Recommendations for Patients with COVID-19 or Persons Under Investigation in Healthcare Settings](#)
- [Information for Laboratories](#)
- [Resources for First Responders](#)

- [Guidance for Public Health Professionals Managing People with COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)
- [FAQs and Considerations for Patient Triage, Placement and Hospital Discharge](#)
- [What Law Enforcement Personnel Need to Know](#)
- [Guidance for Homeless Shelters](#)
- [Guidance for Hemodialysis Facilities](#)
- CMS: [Information on COVID-19 and Current Emergencies](#)
- CMS: [Guidance for Hospice Agencies](#)
- CMS: [Emergency Medical Treatment and Labor Act Requirements and Implications Related to COVID-19](#)
- CMS: [FAQs for State Survey Agency and Accrediting Organizations](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

Information for Law Enforcement:

- [What Law Enforcement Personnel Need to Know](#)
- [Bureau of Prisons COVID-19 Resources](#)

Information for Families and Households:

- [Information on COVID-19 for Pregnant Women and Children](#)
- [Interim Guidance for Household Readiness](#)
- [Environmental Cleaning and Disinfection Recommendations for U.S. Households](#)
- [Guidance for Preventing the Spread of COVID-19 in Homes and Residential Communities](#)
- [FAQ: COVID-19 and Children](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

Information for Schools and Childcare Providers:

- [Interim Guidance for Administrators of U.S. Childcare Programs and K-12 Schools](#)
- [Resources for Institutes of Higher Education](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- USDA: [USDA Makes It Easier, Safer to Feed Children in California Amid Coronavirus Outbreak](#)
- EPA: [Disinfectants for Use Against COVID-19](#)
- DOE: [Resources for Schools and School Personnel](#)

Information for Community Events and Gatherings:

- [Interim Guidance for Mass Gatherings and Large Community Events](#)
- [Interim Guidance for Community- and Faith-Based Organizations](#)

Agency Resources and Information:

- [U.S. Department of Health and Human Services](#)
- [Centers for Medicare and Medicaid](#)
- [U.S. Food & Drug Administration](#)
- [U.S. Department of Agriculture](#)

- [U.S. Department of Defense](#)
- [U.S. Department of Education](#)
- [U.S. Department of Energy](#)
- [U.S. Department of Homeland Security](#)
- [U.S. Department of Labor](#)
- [U.S. Department of State](#)
- [U.S. Department of Veterans Affairs](#)
- [U.S. Environmental Protection Agency](#)
- [U.S. Small Business Administration](#)

Alston & Bird Coronavirus Links

- Alston & Bird Coronavirus [Task Force](#) Web page
- To [Subscribe](#) to Alston & Bird Advisories
- For Alston & Bird [COVID-19 Insights and Events](#)
- **Previous Alston & Bird Coronavirus Advisories** (not included in the above)
 - **April 10**
 - [Securities Law Advisory: ISS Offers COVID-19-Conscious Policy Guidance](#)
 - **April 9**
 - [Federal Tax Advisory: IRS Provides Partnerships a Mechanism to Claim Benefit of Retroactive CARES Act Provisions](#)
 - [Financial Services Advisory: Agencies Update Their Interagency Statement on Reporting Loan Modifications](#)
 - [Early Securities Class Actions Highlight COVID-19 Litigation Risk \(Law360\)](#)
 - [FDA Compliance & Enforcement Advisory: FDA Issues New Guidance on Supply-Chain Disruption Notifications During COVID-19 Emergency](#)
 - [Financial Restructuring & Reorganization Advisory: Protecting Recoveries in a Pandemic: What Creditors Can Do Right Now](#)
 - **April 7**
 - [Updated FAQs Regarding Paid Leave Obligations Under the Families First Coronavirus Response Act](#)
 - [Cyber Alert: Cybersecurity and COVID-19: Four Categories of Cyber Threats and Practical Tips in Response](#)
 - **April 6**
 - [Antitrust Advisory: Production and R&D Joint Ventures in a Pandemic: Reducing Antitrust Risk](#)
 - [Financial Services Advisory: Regulatory Agencies Issue Mortgage Servicing Guidance and FAQs for the CARES Act](#)
 - [White Collar, Government Investigations Advisory: CARES Act Follows Familiar Blueprint for Oversight and Enforcement](#)
 - **April 3**
 - [EU State Aid Measures in the Fight Against COVID-19 Pandemic](#)
 - **April 2**
 - [USPTO Announces Additional Limited Extensions Due to the COVID-19 Pandemic](#)

- [Deadline for Reg BI and Form CRS Compliance Remains on Track](#)
- [What Does the Coronavirus Mean for Companies and Their Critical Offshore Services?](#)
- **April 1**
 - [Federal Tax Advisory: Downward Stock Attribution for CFC Purposes](#)
 - [Hospital EMTALA Obligations Under Recent COVID-19 Waivers](#)
 - [CMS Issues Blanket Waivers from Physician Self-Referral Law Sanctions](#)
- **March 31**
 - [Additional Families First Coronavirus Response Act Paid Leave FAQs for Employers](#)
 - [SEC Extends Timeframe for Regulatory Relief for Investment Advisers and Investment Companies](#)
 - [Responsibility for Construction Site Safety in a Coronavirus World](#)
- **March 30**
 - [Keep Mystery to a Minimum in Your SEC COVID-19 Disclosures](#)
 - [How the CARES Act Will Affect Banking During the Coronavirus Emergency](#)
 - [Economy in Chaos: Is Bankruptcy Inevitable for My Business?](#)
 - [CMS Announces Expansion of Medicare's Accelerated and Advance Payment Program](#)
- **March 27**
 - [Utilization of Electronic Signatures and Records: What You Need to Know](#)
 - [SEC Extends Conditional Filing Relief to Companies Affected by COVID-19](#)
 - [COVID-19: What It May Mean for Landlords and Lenders Under Their CRE Facility Agreements](#)
 - [Congress Further Expands Medicare Telehealth Benefits with the CARES Act](#)
- **March 26**
 - [USTR to Consider Additional Tariff Exclusions Due to COVID-19 Pandemic](#)
 - [COVID-19 and Price Gouging](#)
 - [SEC Continues to Keenly Monitor Insider Trading During COVID-19 Pandemic](#)
- **March 25**
 - [Is the COVID-19 Outbreak an "Act of God"? Why It May Matter for Your Contracts](#)
 - [FDA and USDA Food Safety Response to COVID-19 & DHS "Critical Infrastructure" Classification of Food and Agriculture Sector](#)
 - [Does Your Force Majeure Provision Extend to the Coronavirus?](#)
 - [Competition Authorities Across Europe Relax Competition Law Enforcement During COVID-19 Outbreak](#)
 - [COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
- **March 24**
 - [Health Care Providers with Exposure to COVID-19: What You Need to Know](#)
 - [Regulators Further Clarify Guidance Regarding Loan Modifications and Reporting](#)
 - [Avoiding Antitrust Risk as Industries Respond to the Coronavirus: Businesses Look to Collaborate & Federal Government Offers Expedited Avenues](#)
- **March 23**
 - [FDA Continues to Accelerate Availability of COVID-19 Tests](#)
 - [CFTC Issues No-Action Letter Offering Regulatory Relief for CPOs](#)

- [Building a Case for Force Majeure in Construction Contracts](#)
- **March 20**
 - [Employee Benefits & Executive Compensation Advisory: Coronavirus Impact on Health Benefits: A Deeper Dive](#)
 - [FDA Compliance & Enforcement Advisory: FDA Temporarily Postpones Routine Domestic Inspections](#)
- **March 19**
 - [Antitrust / Mergers & Acquisitions Advisory: COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
 - [Construction Advisory: Five Best Practices for Construction Industry Stakeholders During the Coronavirus Pandemic](#)
 - [Labor & Employment Advisory: Employee Leave Requirements Under the Families First Coronavirus Response Act](#)
 - [Labor & Employment / Health Care Advisory: Coronavirus \(COVID-19\) FAQs for Employers](#)
- **March 18**
 - [Cyber Alert: Six Practical Tips for Practicing Cyberhygiene in the Middle of a Global Pandemic](#)
 - [Advisory: Are You an "Essential Business" in California Counties Where Shelter-in-Place Order Have Been Issued?](#)
- **March 17**
 - [Finance Advisory: Coronavirus and Securitization: Disclosure and Diligence Issues](#)
- **March 16**
 - [Securities Law Advisory: SEC Provides Guidance on the Possible Impacts of COVID-19 on Annual Meetings](#)
 - [Health Care / Cybersecurity Preparedness & Response Advisory: COVID-19 and HIPAA: Privacy, Security, and Breach Response During a Global Pandemic](#)
- **March 13**
 - [Financial Services & Products Advisory: FINRA Guidance: COVID-19 and Business Continuity Planning](#)
 - [Food, Drug & Device/FDA Advisory: FDA Seeks Help to Solve Personal Protective Equipment Shortages](#)
 - [Securities Litigation Advisory: Securities Litigation Risk Arising Out of the Coronavirus Pandemic](#)
- **March 12**
 - [FDA Compliance & Enforcement Advisory: FDA Postpones Foreign Inspections Through April 2020: Considerations for Industry](#)
- **March 10**
 - [Labor & Employment / Health Care Advisory: Coronavirus, Employers, and Domestic Travel: A Complicated Business Decision](#)
- **March 6**
 - [Securities Law Advisory: SEC Provides Conditional Relief to Companies Affected by COVID-19](#)

- **March 5**
 - [Health Care Advisory: Congress Expands Medicare Telehealth Benefit Amid Coronavirus Concerns](#)
- **February 28**
 - [Labor & Employment / Health Care Advisory: The Coronavirus: Employer and Workplace Considerations](#)