

Coronavirus *Flash Update*: Wednesday, April 22, 2020

COVID-19 Related Legislation.....	2
Transition to “Opening Up”	3
Department of Defense.....	4
Environmental Protection Agency.....	4
Federal Communications Commission.....	5
Department of Health and Human Services.....	6
Assistant Secretary for Preparedness and Response	7
Centers for Disease Control and Prevention	8
Centers for Medicare & Medicaid Services	9
Food and Drug Administration (Drugs and Devices).....	12
Food and Drug Administration and United States Department of Agriculture (Food-Related)	13
Health Resources and Services Administration.....	14
Department of Homeland Security/FEMA	14
Department of Justice/Federal Trade Commission/State Attorneys General.....	15
Antitrust.....	15
Consumer Protection.....	16
State Enforcement Actions	16
Department of Labor/EEOC	17
Occupational Safety and Health Administration.....	17
Small Business Administration.....	18
Department of Treasury/IRS/Federal Reserve.....	19
Other Agencies	22
Trade and International Business Issues.....	23
Insurance Issues.....	24
Additional Workplace (Stay-at-Home) Issues.....	27
Cyber Security & Privacy.....	27

The Latest News

- U.S. COVID-19 cases exceed 805,772 and 40,316 U.S. deaths. (Source: CDC) (**Updated 4/22/20**)
- U.S. **stock market**: Tuesday ended with a second consecutive day of losses in the U.S. benchmarks, with the Dow down 631 points, the S&P dropping 86 points, and the Nasdaq losing 297 points. (**New**)
- Late yesterday, the Senate passed by unanimous consent a \$484 **billion** [Paycheck Protection Program and Health Care Enhancement Act](#) (also called bill 3.5), which provides additional funding for several key CARES Act programs. This supplemental relief package **includes \$310**

billion for the Paycheck Protection Program, \$60 billion for the Economic Injury Disaster Loan program, **\$75 billion for health care providers** (supplemental to previous \$100 billion in the CARES Act), and \$25 billion for testing. The House is scheduled to vote on Thursday, and President Trump has said he will sign the bill. Also available are a [section-by-section summary](#) and an [overview of the health care provisions](#). (**New**)

- During last night's White House press briefing the President stated he will sign an executive order (perhaps tomorrow) **temporarily "pausing," for period of 60 days, certain U.S. immigration processes**. He said this will **not apply** to foreign nationals applying for or seeking entry to the U.S. in the temporary non-immigrant visa categories, such as tourist, F-1 student, L-1 intra company transfer, E-2 investor or other temporary work visas – and he noted it would not apply to farm workers. The President added that the 60-day pause would bar foreign nationals from receipt of green cards/immigrant visa and from coming to the U.S., but that it may apply to foreign workers coming to the U.S. on employment-based green cards. The full details will not be available until the executive order is released. (**New**)

COVID-19 Related Legislation

- **Bill 4.0:** Following Senate passage of the \$484 billion [Paycheck Protection Program and Health Care Enhancement Act](#) last night, and expected passage in the House later this week, Congress and the Administration will pick up the pace on their drafting and negotiations for the 4.0 emergency relief bill. The 4.0 bill has become the focus of issues which have not been addressed in the previous relief bills, including possible technical corrections to earlier action. Congressional leadership are working towards action in the first half of May. (**New**)
 - The House Rules Committee is scheduled to consider a resolution later today which would **allow the House to vote by proxy**. The [Resolution](#) would allow a member to cast a vote on behalf of another member and the requirements are summarized here. (**New**)
- **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
 - 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 3 relief bills tracker](#) of COVID-19 (**Updated on 4/19/20**)
 - 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.

Key Administrative and Regulatory Actions

- President Trump temporarily **halted funding of approximately \$400 million per year to the World Health Organization** due to criticisms of the organization's response to COVID-19. (4/14/20)
- The U.S. **Census Bureau** [announced](#) that it was **temporarily suspending field data collection activities until June**. The Census Bureau also requested from Congress a 120-day delay on some data reporting deadlines, including data necessary for congressional apportionment. (4/13/20)
- The White House unveiled a new hashtag, #AmericaWorksTogether, that will be used to **promote companies that are hiring employees during the economic crisis** and donating food and other supplies to health care workers. (4/7/20)
- President Trump [declared](#) a **national emergency under the Stafford Act**, which allows the federal government to marshal additional resources and authorize greater regulatory flexibility to respond to the coronavirus outbreak. (3/13/20)

Transition to "Opening Up"

- 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 (**New**).
- On Sunday, 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)
 - Re-opening decisions should be consistent with public health information and in collaboration with state public health authorities, and be pursuant to careful planning that considers all aspects of care, such as:
 - Adequate facilities, workforce, testing, and supplies
 - Adequate workforce across phases of care (e.g., availability of clinicians, nurses, anesthesiologists, pharmacy, imaging, pathology support, and post-acute care)
- A joint [statement](#) was released on Friday by the American College of Surgeons, American Hospital Association, American Society of Anesthesiologists, and Association of periOperative Registered Nurses stating that "readiness to resume elective surgery will vary by geographic location" and **outlining principles and considerations to guide the resumption of elective surgery and other procedures**. (4/17/20)

- 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 opening up. 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)
- The President [announced](#) several “**Great American Economic Revival Industry Groups**” made up of business executives, economists, academics, and others to “chart the path forward toward a future of unparalleled American prosperity.” (4/14/20)

Department of Defense

- The **Department of Defense (DOD)** [announced](#) (4/21/20) \$133 million in contracts with 3M, O&M Halyard, and Honeywell to produce 39 million N95 masks over the next 90 days (**New**).
- The White House [issued](#) (4/20/20) a memorandum extending the authorization to permit state governors to use National Guard troops to respond to COVID-19 (**New**).
- The DOD Defense Logistics Agency (DLA) [announced](#) a list of available **excess medical equipment** being made available to FEMA and HHS to be distributed to health care providers as need. (4/17/20)
- The DOD Cyber Exchange Network has updated its [information](#) on the do’s and don’ts of **network utilization and cybersecurity**, and its top telework rules. (4/17/20)
- The Under Secretary of Defense for Personnel and Readiness signed a department-wide [authorization](#) for **service members to accrue and retain an additional leave** balance of up to 120 days in response to the limits the spread of COVID-19 has had on limiting service members leave. (4/16/20)
- The Office of the Under Secretary of Defense released a [memo](#) stating that **DoD contracts** contain clauses that provide “that a contractor will not be in default because of a failure to perform the contract if the failure arises beyond the control and without the fault or negligence of the contractor.” (4/2/20)

Environmental Protection Agency

- House committee chairs [sent \(4/21/20\) a letter](#) to the **Environmental Protection Agency (EPA)** regarding its **temporary COVID-19 enforcement policy**, asking the agency to establish an end date for the policy, require facilities provide notice before endangering public health or the environment, post information on its website regarding changes to compliance obligations, and make sure staff have enough information to determine that an instance of non-compliance was caused by COVID-19 (**New**).
- On April 17, **EPA** updated its coronavirus [website](#) to include new resources for state, local, and tribal agencies and intergovernmental associations. The website consolidates press releases, information on enforcement and compliance programs, water infrastructure, grants, and other applicable resources.
- EPA is continuing to update its [Frequent Questions Related to Coronavirus \(COVID-19\)](#) website to address questions relating to disinfectants, drinking water, grants, indoor air, wastewater and septic systems, and waste.

- EPA [revised](#) (4/14/20) its prior amendment (dated 3/31/20) **allowing manufacturers** of already-registered EPA disinfectants on EPA's List N: Disinfectants for Use Against SARS-CoV-2 **to obtain certain active ingredients** from any supplier without checking with the agency for approval. In an [announcement](#), the EPA stated that the revisions streamline the process for adding additional registered sources of active ingredients to a formulation and setting up an approved pesticide manufacturing establishment.
 - EPA revised [List N: Disinfectants for Use Against SARS-CoV-2](#) to include products on EPA's List G: Products effective against norovirus, and List L: Products effecting against the Ebola virus, as EPA has determined that these products also meet its criteria for use against SARS-CoV-2.
- The EPA [issued interim guidance](#) to the Agency's regional offices to ensure that decisions about new or ongoing cleanup activities at sites across the country are made with the health and safety of communities as related to COVID-19. The **interim guidance focuses on decision making at emergency response and longer-term cleanups sites** where EPA is the lead agency or has direct oversight of, or responsibility for, the cleanup work. (4/10/20)

Federal Communications Commission

- The **Federal Communication Commission (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).
 - On April 21, the FCC [announced](#) the **second set of health care providers to receive telehealth grants (New)**. On April 16, the first six health care providers awarded funding were [announced](#).
 - The funds for both were authorized by the **CARES Act**. Also see the FCC's [Report and Order](#) for more information.
 - The FCC [suspended](#) (4/21/20) its "red light" rule for the telehealth funding program, allowing applications to proceed even if entities are delinquent on payments to the FCC (**New**).
 - The FCC **COVID-19 Telehealth Program Application Portal** opened on April 13. See [here](#) for more information, the application via the portal, details on [eligibility determination](#) and the use of a FCC [Form 460](#) with the Universal Service Administrative Company (USAC). [Register](#) to obtain an FCC Registration Number (FRN) in the Commission Registration System (CORES); and [register](#) with System for Award Management in order to receive funding.
 - The FCC has also provided [guidance](#) to address common application questions. A copy of the application will be filed by the FCC's [Electronic Comment Filing System](#) (ECFS).
 - The FCC also provided [additional detail](#) on the **Connected Care Pilot Program**. The selected pilot projects will be supported for a three-year funding period, with separate transition periods of up to six months before and after the funding period (up to four years total). The FCC plans to provide an application form ("Connected Care Pilot Program Application") that must be used when submitting project proposals to the FCC. Submitted applications must reference WC Docket No. 18-213. Applicants may file using

the ECFS, but also must send a courtesy copy of the application via email to ConnCarePltProg@fcc.gov.

- Additional details on the application, evaluation process and deadline can be found in the [Report and Order](#).
- The FCC released [guidance](#) for **applicants that receive funding commitments** from the Wireline Competition Bureau COVID-19 telehealth program on how to invoice the Commission for the funded services and/or connected devices. (4/17/20) (**New**)
- The FCC [issued](#) (4/3/20) an order waiving the content sponsorship **requirements during commercial advertising**. The purpose of the order is to permit companies that have purchased advertising time to donate the time for the purpose of broadcast public service announcements prepared by the CDC or other governmental or public health agencies regarding COVID-19.
- The FCC [provided relief](#) on April 1 to enable **rural broadband** and phone providers to immediately **waive consumer fees**, including late payment and installation and cancellation fees, in order to help Americans work from home or access remote learning.

Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** has a [COVID-19 Resources](#) page.
- HHS [announced](#) (4/21/20) nearly **\$1 billion in CARES Act grants to support older adults and persons with disabilities**. A breakdown of the grants is available [here](#) (**New**).
- The Substance Abuse and Mental Health Services Administration (SAMHSA) [announced](#) (4/20/20) that it would begin releasing \$110 million in **emergency grant funding for substance use treatment and mental health services**. Information on the grants is available [here](#) (**New**).
- HHS Secretary Alex Azar released a [statement](#) announcing plans to launch a public-private partnership with over a dozen companies to develop a national strategy for a coordinated research response to the COVID-19 pandemic. The effort will be called the **Accelerating COVID-19 Therapeutic Interventions and Vaccines (ACTIV) partnership**. (4/17/20)
 - A component of the ACTIV partnership, the National Institutes of Health [announced](#) its own partnership to speed COVID-19 vaccine and treatment options by bringing together biopharmaceutical companies for a coordinated research response. (4/17/20)
- HHS [announced](#) **five new contracts under ventilator production** under the Defense Production Act, to General Electric, Hill-Rom, Medtronic, ResMed, and Vyair, as well as two other contracts for ventilator production, to Hamilton and Zoll. HHS has finalized contracts to supply 6,190 ventilators for the Strategic National Stockpile by May 8 and 29,510 by June 1. (4/13/20)
 - An [agreement](#) was reached by HHS with General Electric, under the Defense Production Act, to produce 50,000 ventilators by July 13. (4/16/20)
- Agency for Community Living [released](#) an FAQ on their Emergency Funding Operations that includes information about **aging and disability funding** and the funding allocation by state for the funds. (4/16/20)
- HHS Administration for Children and Families (ACF) [announced](#) **\$6.3 billion in additional funding**, \$3.5 billion of which is for the **Child Care and Development Block Grant**. This funding will go to state, territory, and tribal Child Care and Development Fund (CCDF) programs and is intended to provide assistance to childcare providers. Additional [resources](#) are also available. See the ACF summary of the relevant CARES Act section [here](#). Of note, ACF provides information

on how “Lead Agencies” can estimate their CARES Act awards through the [State and Territory Allocation](#) table on the website. (4/14/20)

- The HHS Agency for Healthcare Research and Quality (AHRQ) [announced](#) that in recognition of the impact COVID-19 was having on their **grantee recipient community** that **AHRQ** will be doing providing some flexibility with SAM registration, application deadlines, no-cost extensions for expiring awards, allowability of costs not normally charged to awards, abbreviated non-competitive continuation requests, extensions of close-outs and other flexibilities. (4/13/20)
- HHS Secretary **Alex Azar** sent a [letter to hospital Administrators](#) on April 10 **reinforcing the need for data and daily reports on testing, capacity, supplies, utilization and patient flows**. The letter included a set of frequently asked questions that details federal government’s data needs, explains the division of reporting responsibility between hospitals and states, and provides clear, flexible options for the timely delivery of this critical information. (4/10/20)
- 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.
- The HHS Office of Human Research Protection (OHRP) released [guidance](#) for investigators, institutional review boards, and institutions **conducting human subjects research during the coronavirus (COVID-19) pandemic**. “The important thing to recognize is that our rules for protecting research subjects should not stop us from addressing this extraordinary public health crisis.” (4/10/20)
- The **HHS Office of Inspector General (HHS-OIG)** [issued](#) (4/3/20) a policy statement regarding the application of previously issued blanket waivers to **Anti-Kickback Statute** sanctions.
 - **OIG** announced its decision to exercise its enforcement discretion to not impose administrative sanctions under the federal Anti-Kickback Statute (AKS) for certain remuneration related to COVID-19. Specifically, **OIG** is applying *11 of the 18 waivers previously issued by CMS* for physician self-referral law sanctions to administrative sanctions.
- The **HHS Office of Civil Rights (OCR)** [released](#) a notification that it will exercise its enforcement discretion and will **not impose penalties for violations of the HIPAA Rules** against covered entities or business associates in connection with the **good faith participation in the operation of COVID-19 testing sites** during the COVID-19 nationwide public health emergency. This exercise of enforcement discretion is effective immediately but has a retroactive effect to March 13, 2020. (4/9/20)

Assistant Secretary for Preparedness and Response

- **ASPR** [posted](#) a **Hospital Resource Package** on **TRACIE**. The online resource includes COVID-19 guidance and resources for hospital administrators, hospital emergency planners, and infection control practitioners in the following topical areas: hospital surge, crisis standards of care, staffing surge and resilience, workforce protection, regulatory relief, equipment supply surge, and telemedicine. (4/16/20)
- **ASPR** has updated its website to include additional [information](#) about the Strategic National Stockpile, including new pages on SNS ventilators being deployed in response to COVID-19. (4/13/20)

Centers for Disease Control and Prevention

- For the most up to date **CDC guidance** click [here](#).
- The CDC [announced](#) (4/20/20) an [extension](#) of its March 20 order suspending travel of certain persons from countries with COVID-19 outbreaks (**New**).
- **The CDC recently updated or issued several guidance documents and resources**, including: [interim guidance](#) on safety practices for critical infrastructure workers who may have been exposed to a person with suspected or confirmed COVID-19; online [FAQ](#) for testing and reporting by laboratories; [resources](#) for businesses and employers; [guidance](#) for institutes of higher learning; [guidance](#) for cleaning and disinfecting public spaces, workplaces, businesses, schools, and homes; [guidance](#) for childcare programs; [FAQs](#) on healthcare infection prevention and control; [information](#) for airline catering kitchen workers; [information](#) for airport retail and food service workers; [information](#) for mail and parcel delivery drivers; [information](#) for rideshare, taxi, limo, and other passenger drivers; [information](#) for food and grocery pick-up and delivery drivers; [information](#) for firefighters and EMS providers; [information](#) for screening clients at homeless shelters (**New or updated**).
- The CDC has [developed](#) a **new serology test** to detect whether an individual had an immune response to SARS-CoV-2. This test will assist in the effort to determine how many individuals have been exposed to the virus which causes COVID-19. (4/17/20)
- The CDC has posted [key strategies](#) to prepare for COVID-19 in **Long-Term Care Facilities** and [released](#) information on what to consider when preparing for assisted living facilities. (4/17/20)
- The CDC has [organized](#) a central webpage for **health care professional training information** and webinars. (4/16/20)
- The CDC updated their [interim guidelines](#) for **collecting, handling, and testing clinical specimens** from persons for COVID-19. (4/16/20)
 - This guidance provides information for clinicians on **how to collect, store, and ship specimens** appropriately, including during afterhours or on weekends/holidays. The updated guidance clarifies specimen collection procedures for all swab types and aligns with other respiratory disease specimen collection guidelines.
- The CDC released a presentation that includes [guidance](#) on management of COVID-19 in **correctional and detention facilities**. (4/15/20)
- The CDC [announced](#) new recommendations for cleaning and **disinfecting your facility**, and also updated their [guidance](#) on **what to do if you are sick**. (4/14/20)
- The CDC updated its infection prevention and control [guidance](#) for **patients with suspected or confirmed COVID-19** in health care settings. And:
 - New [guidance](#) on Decontamination and **Reuse of Filtering Facepiece Respirators**. This document summarizes research about decontamination of FFRs before reuse. (4/13/20).
 - New has updated [guidance](#) for **dental settings**. (4/13/20)
- The CDC has [launched](#) a new COVID-19 **surveillance webpage** which includes links to all of the COVID-19 surveillance systems and other data sources CDC is using to track COVID-19 activity. (4/13/20)
- The CDC [announced](#) an extension of its **“No Sail” order for all cruise ships** for at least 100 days. (4/9/20)

- The CDC released new [guidance](#) (4/9/20) advising that **critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19**, provided they remain asymptomatic and additional precautions are implemented to protect them and the community.

Centers for Medicare & Medicaid Services

- The **Centers for Medicare and Medicaid Services (CMS)** created a [website location](#) for COVID-19 **stakeholder call recordings and transcripts**, and the most recent daily CMS COVID-19 news alert on **all actions** can be found [here](#) (last updated 4/16/20). The number of CMS conference calls and webinars keep a steady pace.
- CMS [announced](#) (4/21/20) **extending the implementation timeline for the final rule on interoperability and patient access as to admission, discharge, and transfer notification conditions of participation by six months**, meaning that the rules will now go into effect 12 months after the rule is published (**New**).
 - Relatedly, **CMS, HHS-OIG**, and the **Office of the National Coordinator for Health IT (ONC)** [issued](#) (4/21/20) a press release announcing that they were exercising discretion to delay enforcement of parts of the final rule (**New**).
- CMS [updated](#) (4/21/20) its March 10 guidance to Medicare Advantage plans, Part D sponsors, and Medicare-Medicaid plans (**New**).
- CMS [announced](#) (4/21/20) that it was issuing [guidance](#) allowing independent freestanding emergency departments (IFEDs) in Colorado, Delaware, Rhode Island, and Texas to provide care to Medicare and Medicaid patients (**New**).
- CMS [announced](#) (4/20/20) that clinicians who participate in the Quality Payment Program (QPP) can earn Merit-based Incentive Payment System (MIPS) **credit for participation in clinical trials using a drug or biological product to treat a patient with a COVID-19 infection** (**New**).
- On Sunday, CMS [announced](#) that **nursing homes would be required to inform residents, their families of COVID-19 cases** in their facilities. The [guidance](#) will also require nursing homes to report cases of COVID-19 directly to the CDC. This measure augments requirements for reporting infectious disease to State and local health departments. CDC will be providing a reporting tool to nursing homes that will support Federal efforts to collect nationwide data to assist in COVID-19 surveillance and response. (4/19/20)
- CMS [announced](#) (4/18/20) that it was exercising enforcement discretion to adopt a temporary policy of relaxed enforcement and is **directing all eligible qualified health plan issuers to discontinue the collection of clinical quality measure data and survey measure data** that would normally be reported between May and June 2020 (**New**).
- CMS issued a [ruling](#) stating that it is **increasing Medicare reimbursement to \$100 for COVID-19 diagnostic testing** performed using high-throughput technologies. Reimbursement for COVID-19 diagnostic tests using technology other than high-throughput technologies continue to be reimbursed at \$51. (4/16/20)
 - CMS issued a [release](#) announcing new guidance **expanding private insurance coverage to all COVID-19 diagnostic testing** and related services at no co-pay, **including antibody testing**. The release was jointly issued with the Departments of Labor and the Treasury, and it included the [guidance and FAQs](#). (4/11/20)
- CMS issued additional [information](#) on **transferring patient between post-acute facilities** which include skilled nursing facilities and nursing homes. (4/13/20)

- CMS [announced](#) the **postponement** of the 2019 benefit year HHS Risk Adjustment Data Validation (HHS-RADV) process. CMS intends to provide future guidance in the summer of 2020 on the updated timeline for 2019 benefit year HHS-RADV activities that are planned to begin in 2021. CMS previously announced a similar suspension of the Medicare Advantage RADV program. (4/13/20)
- In an April 10 [memo](#) to Medicare Advantage (MA) plans, CMS clarified that **MA plans can use diagnoses from telehealth visits in risk adjustment**. (4/10/20)
- CMS [issued](#) a “Dear Clinician” letter that outlining a summary of actions CMS has taken to ensure clinicians have maximum flexibility to reduce unnecessary barriers to providing patient care during the unprecedented outbreak of COVID-19. The summary includes information about **telehealth and virtual visits, accelerated and advanced payments, and recent waiver information**. (4/7/20)
- CMS [issued](#) a **Medicare Advantage and Part D** rate announcement for CY 2021 with an 1.66% average change in revenue relative to last year. The announcement does not catalog CMS’s actions regarding COVID-19, but these are [explained](#) in a summary included with the [announcement](#). (4/6/20)
- On March 30, CMS released an **Interim Final Rule**, which made numerous regulatory changes to provide **additional flexibility for health care providers** and temporarily remove certain limitations on care delivery. These changes have retroactive applicability to March 1. While many of these changes were developed prior to the enactment of the **Coronavirus Aid, Relief, and Economic Security Act (CARES Act)**, significant flexibility has been conferred on individuals and entities that provide health care services to Medicare beneficiaries during the COVID-19 public health emergency. Comments are due not later than June 1, 2020.
 - On April 9, CMS issued [FAQs](#) regarding this interim final rule. See this A&B [Summary](#) for the key details of the Interim Final Rule. (4/8/20)

CMS CARES Act Guidance

- The **CARES Act Provider Relief Fund** [webpage](#) has been updated to include the [Attestation Portal](#). As a reminder, providers receiving payment from the initial \$30 billion distribution must sign an attestation confirming receipt of the funds and agree to the Terms and Conditions within 30 days of payment. Additionally, CMS has set up a **CARES Act Relief hotline**: (866) 569-3522. Entities can also try contacting the Provider Hotline at the [applicable MAC](#).
- On April 10, **CMS began distributing the initial \$30 billion in COVID-19 relief funding to providers** as part of the distribution of the \$100 billion fund provided for the Public Health and Social Services Emergency Fund (PHSSEF) through the CARES Act. This initial distribution of funds will go to hospitals and providers currently enrolled in Medicare and take effect immediately.
 - Facilities and providers are allotted a portion of the \$30 billion based on their share of 2019 Medicare fee-for-service (FFS) reimbursements. **These are payments, not loans**, and will not need to be repaid. Additional details can be found [here](#).
 - **Updated Terms and Conditions** available [here](#) and the [portal](#) to attest to Terms and Conditions released April 16, 2020.
- CMS issued guidance implementing Section 3709 of the CARES Act, which **temporarily suspends the 2% payment adjustment** currently applied to all Medicare Fee-For-Service (FFS) claims due

to **sequestration**. The guidance notes that the suspension is effective for FFS claims with dates of service from May 1 through December 31, 2020.

- In response to the **Coronavirus Aid, Relief, and Economic Security Act (CARES Act)**, CMS continues to release guidance required under the Act:
 - CMS have provided [guidance](#), in accordance with the CARES Act (Sec. 3710 and 3711), which includes waivers for inpatient rehabilitation facilities (**IRF 3-hour rule**), the long-term care hospitals (**LTCH site-neutral policy and LTCH “50% rule.”**) The guidance provides detail on the add-on payment of 20% for both rural and urban hospitals, and the policy waives the requirement that Medicare Part A fee-for-service patients treated in IRFs receive at least **15 hours of therapy** per week. (4/16/20)
 - On March 30, CMS announced sweeping changes in response to requirements of the CARES Act. The changes are summarized in this CMS [release](#). The **new waivers and flexibilities** for health care providers as well as the types of waivers are outlined by CMS [here](#).
 - The **telehealth expansion waiver**, which was originally expanded in the Coronavirus Preparedness and Response Supplemental Act (1.0), was **further expanded** in the CARES Act.
 - On Friday, April 17, CMS [announced](#) the telehealth rate for rural health centers (RHCs) and federal qualified health centers (FQHCs) to provide distant site telehealth services as authorized by the CARES Act. **RHCs and FQHCs able to provide telehealth services** with interactive audio and video telecommunications will receive a **payment rate of \$92**. RHCs and HQHCs do not need to resubmit claims for payment adjustment – all claims will be automatically reprocessed in July. (4/17/20)
 - **Telehealth guidance** (3/17/20) broadened access to Medicare telehealth service regardless of patient residence and covering a wide range of services. Factsheets related to these changes:
 - CMS issued an electronic [toolkit](#) regarding telehealth and telemedicine for Long Term Care Nursing Home Facilities (3/28/20); CMS [telehealth FAQs](#) (3/17/20); HHS 1135 HIPAA waiver [factsheet](#) - HIPAA Security Rule [safeguards](#); HHS Notice of Enforcement Discretion [factsheet](#); HHS Office of Civil Rights [bulletin Guidance](#) on Business Associate Agreements
- 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](#) – \$94.7 billion has been distributed as of April 17.
 - CMS [announced](#) the **interest rate** on overdue and delinquent debts for Q3 of Fiscal Year 2020 (April-June) – **9.625%**. This updates the prior quarter’s interest rate of 10.25%, which is **currently expected to apply to the Medicare Accelerated and Advance Payments Program (AAPP)**. In addition, CMS released a [transmittal](#) reflecting this change effective April 20, 2020 for Medicare overpayments and underpayments. Specifically, the transmittal instructs Medicare contractors to implement an interest rate of 9.625% to Medicare overpayments and underpayments. We will continue to monitor for additional information and any updates or changes with respect to the AAPP. (4/14/20)
 - CMS released a **state-by-state list** showing the **breakdown of receipt of accelerated and advance payments** as of April 4, 2020. (4/13/20)

- **Medicaid:**
 - CMS Center for Medicaid and CHIP Services (CMCS) [released](#) additional **FAQs that address enhanced federal Medicaid funding (FMAP)** and related Medicaid issues under requirements from FFCRA and CARES Act. (4/14/20)

Food and Drug Administration (Drugs and Devices)

- **FDA provides a daily roundup on COVID-19** related actions. The latest update is [here](#), (**revised 4/21/20**), and here is a listing of [all announcements](#).
 - The agency published a [public database](#) of drug shortages.
 - The **Drug Enforcement Administration (DEA)** is [adjusting](#) 2020 production quotas for controlled substances in schedule II of the Controlled Substances Act, as well as quotas for the manufacture and importation of the Schedule I chemicals ephedrine, phenylpropanolamine and pseudoephedrine.
- On Monday, in response to a request from LabCorp to amend their original use Emergency Use Authorization (EUA), FDA [reissued](#) the EUA for the **first diagnostic test with a home collection option (New)**. (4/20/20)
- FDA issued a [guidance](#) (4/20/20) explaining its **temporary policy regarding state-licensed pharmacies and federal facilities** (that are not outsourcing facility) **compounding** certain human drugs for hospitalized patients during the COVID-19 public health emergency (**New**).
- FDA [issued](#) (4/18/20) an Emergency Use Authorization for general purpose face masks. This is a significant development, because it eliminates any doubt that such face masks that were not FDA-approved or FDA-cleared can nonetheless enjoy PREP Act liability protection as authorized masks under an EUA (**New**).
- FDA has [posted](#) a webpage on convalescent plasma including links to additional resources. (4/18/20)
- FDA [announced](#) expansion of COVID-19 testing options through the recognition that spun **synthetic swabs could be used to test patients** by collecting a sample from the front of the nose. The swabs are manufactured by U.S. Cotton, who developed a polyester-based Q-tip-type swab that is fully synthetic for compatibility with COVID-19 testing. (4/16/20)
- FDA issued enforcement policy [guidance](#) to help expand the availability of **telethermographic systems used for body temperature** measurements for triage use for the duration of the public health emergency. (4/16/20)
- The FDA [announced](#) an update on convalescent plasma, a potential COVID-19 treatment, and encouraging those who have recovered from COVID-19 to donate plasma to help others fight this disease. (4/16/20)
 - The FDA [launched](#) a website to provide a process for the donation of plasma. (4/13/20)
- The FDA issued [guidance](#) to communicate its temporary policy for the **compounding of certain human drug products for hospitalized patients** by outsourcing facilities that have registered with FDA under section 503B of the Federal Food, Drug, and Cosmetic Act. (4/16/20)
- FDA provided Stryker Instruments [emergency use](#) for its Sterizone VP4 Sterilizer1 N95 Respirator Decontamination Cycle, a self-contained stand-alone device. (4/14/20)
- FDA [announced](#) the [availability](#) of two final guidance for industry: “[Guidance on Chloroquine Phosphate](#)” and “[Guidance on Hydroxychloroquine Sulfate](#),” to ensure an adequate supply of these products. As a previous step, on March 28th, FDA issued an EUA to allow these products to

be donated to the Strategic National Stockpile to be distributed and used for certain COVID-19 patients. (4/14/20)

- The FDA [issued](#) an emergency use authorization (EUA) to the STERIS Corporation to allow the company to employ its system to decontaminate compatible N95 or N95 equivalent respirators for reuse by health care workers in hospital settings. (4/10/20)
 - Information regarding **manufacturing, importing, or selling sterilizers, sanitizers, purifiers, and disinfectants** is available in this A&B [advisory](#) (4/13/20).
- FDA and FTC continue to issue **Warning Letters to sellers of fraudulent COVID-19 products** for prevention for COVID-19, including CBD products. FDA also issued a [warning letter](#) (4/8/20) to a seller that markets fraudulent and dangerous chlorine dioxide products.
- FDA [announced](#) (3/31/20) the **Coronavirus Treatment Acceleration Program (CTAP)**, a new program to expedite the development of potentially safe and effective life-saving treatments.
- FDA has issued enforcement policies to increase the availability of [ventilators and accessories, face masks and respirators, gowns, other apparel and gloves, sterilizers, disinfectant devices, and air purifiers, clinical electronic thermometers, infusion pumps and accessories, remote ophthalmic devices and monitoring devices, extracorporeal membrane oxygenation, cardiopulmonary bypass devices, and digital health devices for treating psychiatric disorders](#).
 - The FDA updated its [FAQs](#) (4/2/20) on surgical masks and gown shortages.
 - FDA has provided [strategies](#) to assist in the conservation of masks and gowns, as well as glove conservation [strategies](#).

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

- **The US Department of Agriculture (USDA) [announced](#)** a \$1.9 billion **food assistance program** to provide support for farmers, ranchers, and consumers. The program will provide direct support to farmers and ranchers, and it will purchase and distribute food. This assistance was authorized in FFCRA and CARES Act. (4/17/20)
- The FDA has posted [tips for food shoppers](#) to reassure consumers there is currently no evidence of human or animal food being associated with transmission of the coronavirus. (4/16/20)
- USDA's Agricultural Marketing Service [announced](#) that for 60 days, beginning April 20, 2020, it **will not take enforcement action against the retail sale of commodities that lack an appropriate country or origin or method of production label** as required for covered commodities under COOL, provided the food does not make any country of origin or method of production claims. (4/13/20)
- USDA [announced](#) a resource **guide for rural leaders on funding** and partnership opportunities regarding COVID-19. (4/13/20)
- FDA has put out a factsheet on [best practices for retail food stores, restaurants, and food pick-up and delivery services](#) during the COVID-19 pandemic. This includes information on managing employee health, personal hygiene for employees, appropriate food safety protocols, and special safety considerations for pick-up and delivery. A visual [summary info graph](#) is also available. (4/6/20)
- **Department of Agriculture (USDA): USDA Rural Development Division** has launched a [resource page](#) to help rural residents, farmers, and businesses stay current on the Agency actions related to COVID-19.

- **USDA** and the **Department of Homeland Security** [announced](#) a temporary final rule to change certain H-2A requirements to help U.S. agricultural employers avoid disruptions in lawful agricultural-related employment, protect the nation's food supply chain, and lessen impacts from the coronavirus (COVID-19) public health emergency. (4/15/20)
- The Rural Development Office has posted a [fact sheet](#) of funding opportunities for rural residents, businesses and communities. (4/8/20)

Health Resources and Services Administration

- The **Health Resources and Services Administration (HRSA)** [announced](#) the opening of a funding opportunity for tribal organization. The \$15 million was authorized by the CARES Act and dedicated for tribal organizations, Indian health organizations, and health service providers to tribes. (4/17/20)
- HRSA awarded \$90 million for Ryan White HIV/AIDS Program recipients as authorized by the CARES Act. Several materials were provided including as [release](#) and links to recipients: [links to the awardees](#). (4/15/20)
 - Note that there are Ryan White HIV/AIDS Program Parts A, B, C, D, and F award recipients:
 - [Part A awardees](#), [Part B awardees](#), [Part C awardees](#), [Part D awardees](#), and [Part F awardees](#). (4/15/20)

Department of Homeland Security/FEMA

- The **Department of Homeland Security (DHS)** [provides](#) a weekly roundup of its response to COVID-19 (last updated 4/13/20).
- DHS [issued](#) (4/20/20) a press release announcing that the United States, Mexico, and Canada had agreed to **extend restrictions on non-essential travel across their shared borders** for an additional 30 days (**New**).
- The DHS Cybersecurity Infrastructure and Security Agency (CISA) released updated [guidance](#) on **Essential Critical Infrastructure Works to help state and local jurisdictions and the private sector**. CISA notes this version, "3.0 provides clarity around a range of positions needed to support the critical infrastructure functions laid out in the original guidance." (**Updated 4/21/20**)
- **Federal Emergency Management Agency's (FEMA)** coronavirus website visit [here](#).
 - FEMA released a [statement](#) on applying the Defense Production Act (DPA) providing additional background on how FEMA operates under the DPA and provides some examples of COVID-19 DPA actions, including contracts for ventilator production. (4/15/20)
- FEMA has [created](#) a hospital resource package webpage to provide links to Federal and non-Federal resources. (4/16/20)
- FEMA [announced](#) (4/14/20) the **funding notice for \$100 million in supplemental Emergency Management Performance Grant Program funds**. The funds are available to all 50 states and six territories as part of the CARES Act. Applications are due by April 28.
- Temporary **FEMA** rule **will ban export of some medical equipment without approval**. Some medical equipment needed to combat COVID-19 cannot be exported from the U.S. without the "explicit approval" of the Federal Emergency Management Agency, according a new rule set to

take effect this week. The “temporary final rule” will be effective from April 10 through mid-August, according to a [Federal Register notice](#). (4/10/20)

- FEMA [issued](#) (4/10/20) a temporary final rule to restrict the export of five types of personal protective equipment (PPE).
- FEMA has established **How to Help** [website](#) for individuals and organizations interested in helping the effort to combat the spread of COVID-19. Examples of assistance offered include:
 - To **sell medical supplies** or equipment to the federal government, please submit a price quote under the [COVID-19 PPE and Medical Supplies Request for Quotation](#).
 - Do you have [medical supplies or equipment to donate](#)?
 - Do you want to produce a COVID-19 related product? – email nbeoc@max.gov.
 - If you are a healthcare provider in need of medical supplies, please contact your state, local, tribal or territory department of public health.
 - Interested in doing business with FEMA and supporting the response to COVID-19 with your company’s non-medical goods and/or services? Submit your inquiry to the DHS Procurement Action Innovative Response Team at DHSIndustryLiaison@hq.dhs.gov.
- A list of FEMA [regional private sector contacts](#) and [state contacts](#) can be found here.
- President Trump [announced](#) that “**countries that deny** or unreasonably delay the acceptance of their citizens, subjects, nationals, or residents from the United States during the ongoing pandemic caused by SARS-CoV-2, **will be subject to ‘visa sanctions’**.” (4/10/20)

Department of Justice/Federal Trade Commission/State Attorneys General

Antitrust

- On Monday, DOJ [issued](#) (4/20/20) its **second expedited Business Review Letter** (“BRL”) related to COVID-19 collaborations. This BRL, which is consistent with the first expedited BRL, confirms that the **DOJ will not challenge** AmerisourceBergen’s (a drug wholesaler) **collaborative efforts to aid in distributing medications** and other health care supplies to assist in responding to the COVID-19 pandemic. AmerisourceBergen is working on numerous issues under the direction of FEMA and HHS to help resolve medical supply challenges, including facilitating the distribution of hydroxychloroquine from the federal government’s National Stockpile (**New**).
- 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). Both agencies have been active in the area in recent years following the issuance of guidance in the area in October 2016. (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)
- On April 6, Ian Conner, the director of the **Federal Trade Commission’s (FTC) Bureau of Competition** published a [blog post](#) about the importance of the agency “stay[ing] the course” when it comes to antitrust enforcement. In particular, Conner emphasized the FTC will not lower its standards for evaluating who will be effective third-party buyers of businesses or assets required to be divested to resolve FTC merger investigations.

- DOJ Antitrust Division and **Federal Trade Commission (FTC)** [announced](#) (3/24/20) they will be expediting their usual antitrust business review letter/informal opinion process on competitor collaborations to be done within 7 days (as opposed to the usual many months) of submission of information.
 - The DOJ completed its **first Business Review Letter under the new expedited review process** on April 4, [announcing](#) that “it will not challenge collaborative efforts of McKesson Corporation, Owens & Minor Inc., Cardinal Health Inc., Medline Industries Inc., and Henry Schein Inc. to expedite and increase manufacturing, sourcing, and distribution of personal-protective equipment (PPE) and coronavirus-treatment-related medication.”
 - For more information about this announcement, review this A&B [summary](#) (4/6/20).

Consumer Protection

- The Federal Trade Commission [announced](#) (4/21/20) that it has postponed its workshop seeking **input on proposed changes to the Safeguards Rule** under the [Gramm-Leach-Bliley Act](#) until July 13, 2020 and that the event will be held online. The virtual workshop will address amendments the FTC has proposed making to the Safeguards Rule, which requires financial institutions to develop, implement, and maintain a comprehensive information security program (**New**).
- On April 14, the FTC [sent warning letters](#) to ten businesses related to their marketing of products which promise to prevent, treat, or cure Coronavirus. The letters, issued to companies and the U.S. and abroad, warn the companies to cease making any unsubstantiated claims. The FDA has previously stated that there currently are no products that are scientifically proven to treat or prevent the virus. These warning letters are the latest to be issued by the FTC, and follow seven FTC-FDA letters [announced](#) on March 9 and additional joint warning letters sent since then.
- On April 13, the **Federal Bureau of Investigation (FBI)** [warned](#) of health care fraud schemes related to COVID-19, including fake testing and treatment schemes.
- On April 9, the Federal Trade Commission (FTC) provided [guidance](#) regarding education technology uses for stay-at-home learning, the importance of protecting student privacy under the Children’s Online Privacy Protection Act (COPPA) as well as the Family Educational Rights and Privacy Act (FERPA) during the coronavirus pandemic.

State Enforcement Actions

- On April 14, the Ohio Attorney General [filed](#) a lawsuit against an individual from northeast Ohio and his co-conspirators **for hoarding N95 respirator masks and selling them online** for nearly 18 times the retail price. The hoarding of an item and the related increase in prices of that item (price gouging) constitute an unreasonable and unlawful restraint of trade under the Valentine Act – Ohio’s antitrust law. For guidance and tips on how businesses can respond if they are victims of price gouging, read this A&B [advisory](#). (3/26/20)

Department of Labor/EEOC

- **Department of Labor (DOL)** [sent](#) (4/17/20) a letter to Senator Wyden clarifying that **independent contractors are eligible for COVID-19 unemployment benefits** under the CARES Act (**New**).
- DOL [announced](#) the first installment of 26 **Dislocated Worker Grants (DWGs)** totaling \$131,384,557 to help address the workforce-related impacts of the coronavirus public health emergency. These awards are funded under the CARES Act, which provided \$345 million for DWGs to prevent, prepare for, and respond to coronavirus. (4/15/20)
- The DOL [issued](#) a grant notice to help community-based organizations and public agencies to provide services to migrant and seasonal farmworkers and their dependents. (4/14/20)
- The DOL [issued](#) an updated unemployment insurance program letter explaining to state workforce agencies how to implement unemployment compensation provided for under the CARES Act. (4/10/20)
- DOL published [guidance](#) to states for the implementation of the **Pandemic Unemployment Assistance (PUA) program**. Under PUA, individuals who do not qualify for regulator unemployment compensation and are unable to continue working as a result of COVID-19, are eligible for up to 36 weeks of PUA benefits. (4/5/20)
- DOL issued (4/1/20) [regulations](#) implementing the paid leave requirements of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act under the FFCRA.
 - The DOL [announced](#) (4/21/20) that it was ending the **temporary period of non-enforcement of paid leave protections** under FFCRA (**New**).
 - The State of New York [filed](#) (4/14/20) a **lawsuit challenging several provisions of this regulation**, including the provisions exempting from paid sick leave employees whose employers do not have any work for them, the broad definition of “health care provider,” the provisions regarding intermittent leave, and the documentation requirements for an employee to substantiate leave.
 - The DOL provided [FAQs](#) further clarifying paid leave requirements under the new **Families First Coronavirus Response Act (FFCRA)**. (4/6/20)
 - The DOL posted (3/26/20) the required employee notice that must be provided by covered employers to their employees regarding the **new paid leave requirements** as required by the FFCRA. The posted [page](#) contains the link to the poster itself, as well as a new Q&A that focuses exclusively on guidance about posting the notice, particularly in light of the fact that many employees are working remotely.

Occupational Safety and Health Administration

- The Occupational Safety and Health Administration (**OSHA**) issued (4/20/20) [guidance](#) for the **construction** workforce (**New**).
- OSHA issued an [alert](#) listing **safety tips for employers** to follow to help protect manufacturing workers from COVID-19 exposure. (4/16/20)
- OSHA [issued](#) new [interim guidance](#) to advise compliance safety and health officers to evaluate an employer’s good faith efforts to comply with safety and health standards during the coronavirus pandemic. (4/16/20)

- OSHA [issued](#) its Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19). The April 13 Response Plan is enforcement guidance for OSHA personnel. It applies to all industries but is **focused on what OSHA will look for when inspecting hospitals, emergency medical centers, and emergency response facilities**. (4/13/20)
- OSHA issued its [Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 \(COVID-19\)](#). The guidance provides that until further notice, for OSHA recordkeeping and reporting purposes, employers (other than employers in the health care industry, emergency response organizations, and correctional institutions) should consider COVID-19 cases to be “work-related” only where (1) there is objective evidence that the case may be work-related; or (2) where the evidence of work-relatedness “was reasonably available to the employer.” (4/10/20)
- OSHA [issued](#) (4/13/20) guidance for **package delivery workers** to protect against COVID-19. OSHA previously [issued](#) (4/6/20) a workplace poster on how to reduce the risk of exposure to coronavirus.
- *Trying to make sense of all these changes?* A&B provides brief overviews of what you need to know:
 - DOL has released additional questions and answers as guidance for the provisions required by FFCRA. A&B provides a complete [overview and analysis](#) (4/7/20).

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](#) (**New**).
- The **SEC** [announced](#) that it would not recommend enforcement actions for failure to submit Forms 144 in paper if they are emailed instead. (4/10/20)
- **SEC** chairman and director of corporation finance [released](#) a statement encouraging earning disclosures and reports that timely, accurate, and robust. (4/8/20) The SEC staff [released](#) a statement on the same topic on April 14.
 - For additional information on challenges regarding disclosures and COVID-19, review this A&B [advisory](#) (4/13/20).
- The **SEC** issued updated [guidance](#) (4/7/20) on conducting **shareholder meetings** in light of COVID-19 concerns. Additionally, Delaware issued an [executive order](#) (4/6/20) that facilitates companies’ notice of a change in the format of an annual shareholder meeting by allowing notification to stockholders via an SEC filing and press release.
 - For an analysis of changes the Institutional Shareholder Services (ISS) has made to its voting recommendations policies in light of the coronavirus pandemic see this A&B [advisory](#). (4/10/20)

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.
 - The Department of Treasury and SBA released a joint [statement](#) summarizing the PPP’s activity: assistance was given to more than 1.6 million small businesses in all 50 states; nearly 5,000 lenders participated; 20% of the amount approved was processed by

lenders with less than \$1 billion in assets, and approximately 60% of the loans were approved by banks with \$10 billion of assets or less; no lender accounted for more than 5% of the total dollar amount of the program; and 74% of the loans were for under \$150,000. (4/17/20)

- The Small Business Administration **exhausted the \$350 billion funding** authorized by the CARES Act which operated on a first come first serve basis as long as the funding lasted. Congressional negotiations continue on an interim relief package including funds to replenish the loan programs funds, and an agreement appears to be near. (4/20/20)
- The SBA released (4/20/20) reports providing a **breakdown of [loans](#) and [advances](#)** under the Economic Injury Disaster Loan program (**New**).
- The SBA [issued](#) (4/14/20) a report providing a breakdown by industry, state, and loan size for the **more than one million loans totaling over \$247 billion approved** through April 13.
- The SBA has guidance (4/1/20) for loans under the [Paycheck Protection Program](#), the [Express Bridge Loan Pilot Program](#), the [Economic Injury Disaster Loan Program](#) for qualified entities that are impacted by COVID-19. The application for its economic injury federal disaster loans can be found [here](#).
 - The SBA, in consultation with the Treasury Department, updated its [published FAQs](#) addressing the **Paycheck Protection Program**. (Updated 4/8/20)
 - The SBA released the [interim final rule](#) (4/2/20) implementing the Paycheck Protection Program.
 - Complete details on each of the SBA CARES Act programs can be found [here](#).
 - For a deeper dive on the funding streams available for SBA loans in the CARES Act, review this A&B [publication](#) (4/1/20).
 - Treasury and the SBA issued an [interim final rule](#) (4/14/20) on how **self-employed and independent contractors** can apply for PPP loans.
 - For information on how fund managers can qualify for relief, review this A&B [advisory](#). (4/14/20)
 - A&B's Financial Restructuring & Reorganization Group has **provided proactive steps creditors can take now to prepare for whatever comes** after the coronavirus pandemic subsides in this [advisory](#) (4/9/20). For more on how the CARES Act impacts the banking industry, including **takeaways for lenders and on regulatory relief** and mortgage-related provisions, read this A&B [advisory](#) (3/30/20).

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 Department of Treasury and Internal Revenue Service (IRS) announced (4/21/20) **cross-border tax guidance related to travel disruptions**. These include [guidance](#) regarding determining U.S. tax residency, [guidance](#) on qualification for exclusions from gross income, and an [FAQ](#) for nonresident aliens and foreign corporations on prolonged presence in the U.S. due to COVID-19 (**New**).
- The Department of Treasury [announced](#) (4/20/20) Payroll Support Program agreements with Allegiant Air, American Airlines, Delta Air Lines, Southwest Airlines, Spirit Airlines, and United

Airlines and announced that several other airlines planned to participate (Alaska Airlines, Frontier Airlines, Hawaiian Airlines, JetBlue Airways, and SkyWest Airlines) (**New**).

- The **Federal Reserve** [announced](#) the **Paycheck Protection Program Liquidity Facility** (PPPLF) is fully operational and available to provide liquidity to eligible financial institutions. (4/16/20)
 - The PPPLF supports the effectiveness of the PPP by extending credit to financial institutions that make PPP loans. The Federal Reserve has also published a [FAQ](#) regarding this facility.
- The Department of Treasury [launched](#) the “**Get My Payment**” free web app which allows taxpayers who filed their tax return in 2018 or 2019 but did not provide their banking information on their return to submit direct deposit information. Once completed, **they will get their \$1,200 Economic Impact Payments direct deposit to their bank accounts** (plus \$500 for minor children), a process expected to begin on April 20. “Get My Payment” will also allow taxpayers to track the status of their payment. [Guidance](#) is also provided for non-filers of tax returns in 2018 or 2019. (4/15/20)
 - The **Social Security Administration** [announced](#) that **Supplemental Security Income (SSI)** recipients will automatically receive their Economic Impact Payments directly to their bank accounts or by paper check, just as they would normally receive their SSI benefits. (4/15/20)
 - The Department of Treasury and the IRS [announced](#) that **Social Security beneficiaries** who are not typically required to file tax returns will not need to file an abbreviated tax return to receive an Economic Impact Payment. Instead, payments will automatically be deposited into their bank accounts. (4/8/20)
 - The Treasury Department provided the [details](#) on the Economic Impact Payments program up to \$1,200 for individuals or \$2,400 for married couples. Parents also receive \$500 for each qualifying child. This program was also required by the **CARES Act**. (4/6/20)
- **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 Federal Reserve [announced](#) (4/9/20) that it will launch a lending program for **mid-sized businesses** hurt by the coronavirus, called the **Main Street Lending Program**. The new program will provide up to \$600 billion in loans to eligible businesses through two facilities.
 - A brief overview and comparison of the two **Main Street programs** can be found [here](#).
 - For more information about the Main Street programs, review this A&B [advisory](#). (4/14/20)
- The Federal Reserve provided details for the provision of up to \$2.3 trillion in loans to support the economy on April 9 and term sheet details can be found [here](#). (4/9/20)
- The **Internal Revenue Service (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).
- Responding to requests for relief from the Real Estate Roundtable and others, the **IRS** issued [Revenue Procedure 2020-23](#) on April 8 to address technical issues that would have limited the ability of partnerships and their partners to benefit from **retroactive CARES Act provisions**.
 - For a deeper dive on this topic, see this A&B [advisory](#) (4/9/20).
- The **Consumer Financial Protection Bureau** (CFPB), **Federal Reserve**, **Federal Deposit Insurance Corporation** (FDIC), and the **Office of the Comptroller of the Currency** (OCC) [issued](#) an interagency statement regarding an [interim final rule](#) to temporarily defer real estate appraisals and evaluations for up to 120 days after closing through. (4/14/20)
- The Department of Treasury, Federal Reserve, and FDIC jointly [announced](#) an **interim final rule to encourage lending to small businesses** through the SBA's Paycheck Protection Program (PPP). (4/9/20)
- The CFPB, Federal Reserve, FDIC, the **National Credit Union Administration** (NCUA), the OCC, and state banking regulators [issued](#) (4/3/20) a joint statement on supervisory and enforcement practices regarding **mortgage servicing rules** regarding COVID-19 and the CARES Act. For additional details on the joint statement, review this A&B [advisory](#) (4/6/20).
- Treasury and SBA jointly announced that **the interest rate** on what lenders could charge small businesses for loans in the [Paycheck Protection Program](#) would be **raised from 0.5% to 1%**. (4/2/20)
- In a joint [statement](#) (3/22/20), the **federal financial institution regulatory agencies** and state banking regulators encouraged financial institutions to work constructively with borrowers affected by COVID-19 and provided additional information regarding loan modifications.
 - The federal financial institution regulatory agencies **issued a revised interagency statement** providing additional information regarding loan modifications on April 7.
 - To understand how federal regulators are clarifying the CARES Act interaction with previous statements on loan modifications and reporting read this A&B [advisory](#). (4/9/20).
- The IRS granted further COVID-19 emergency relief in Notice 2020-18 (superseding its prior announcement) delaying the due date for filing Federal income tax returns and making **Federal income tax payments from April 15, 2020 to July 15, 2020**. The deadline is automatically postponed with no need for taxpayers to file Forms 4868 or 7004. Unlike prior guidance, there is no limitation on the amount of tax payments that may be deferred until July 15, 2020. Read here for both [economic impact payments and "what you need to know"](#) (updated 4/1/20) and for additional [guidance and FAQs](#).
 - The CARES Act allows employers to defer the deposit and payment of the employer's share of social security taxes and self-employed individuals to defer payment of certain self-employment taxes through December 31, 2020. These [FAQs](#) address specific issues related to the deferral of deposit and payment of these employment taxes. (4/9/20)
 - Economic impact payments for non-filers, but full details are [here](#).
 - The IRS [extended additional tax deadlines](#) for estates, individuals, and businesses until **July 15, 2020**. As a result, the extensions generally now apply to all taxpayers that have a filing or payment deadline falling on or after April 1, 2020, and before July 15, 2020.

- The **CARES Act** provides a **refundable tax credit for businesses** of all sizes that experience economic hardship due to COVID-19. [Click here](#) for A&B's guide to how the credit works.

Other Agencies

- **Department of Education (DOEd)** [announced](#) (4/21/20) that it was making more than \$6 billion available to colleges and universities to provide direct emergency cash grants to students under the CARES Act. The DOEd also released an [FAQ](#) on these grants (**New**).
 - The Department of Education [announced](#) that over \$3 billion in block grants would be provided to state governors under the CARES Act for K-12 education. (4/14/20)
 - DOEd [announced](#) on April 14 that career and technical education (CTE) programs can donate or loan personal protective equipment (PPE) and other medical supplies purchased with federal funds to public health agencies, private nonprofit hospitals, and other licensed health care providers to support the nationwide coronavirus response effort.
 - DOEd [announced](#) on April 9 that more than \$6 billion will be distributed immediately to colleges and universities to provide direct emergency cash grants to college students whose lives and educations have been disrupted by the coronavirus pandemic. Additional details can be found in this [FAQs](#) on Dept. of Education grant funds.
- **The Department of Housing and Urban Development (HUD)** [announced](#) (4/21/20) that it had issued a [notice](#) awarding \$1.5 million in funding to support fair housing activities during COVID-19 (**New**).
- **Department of Energy** has updated its [FAQs](#) from the Office of Cybersecurity, Energy Security, and Emergency Response (CESER). (4/16/20)
- **Department of State** provided an [update](#) on COVID-19 impact and assistance for **American citizens abroad**. (4/16/20)
- **Department of Transportation (DOT)**: On April 10, DOT [announced](#) the Agency was making over \$1 billion available to the National Railroad Passenger Corporation (Amtrak) to support the railroad's activities to respond to, prepare for, and prevent the spread of COVID-19.
 - DOT [issued](#) (4/7/20) a new rule regarding minimum service requirements and exemptions for **airlines** receiving financial assistance under the CARES Act.
- The **Federal Aviation Administration** [announced](#) (4/14/20) the award of **\$10 billion in funds under the CARES Act for U.S. airports**. A breakdown of the funding by airport is available [here](#). The FAA updated its [FAQs](#) on these grants.
 - It was reported (4/14/20) that the FAA is **banning pilots from taking chloroquine or hydroxychloroquine**, two drugs the President has suggested are effective against the coronavirus, for 48 hours before flying.
- **Department of Veterans Affairs (VA)**: President Trump issued an [executive order](#) on April 10, directing the Department of Veterans Affairs to allow flexibility in federal contracts for "national security reasons."

- **Senators press Lighthizer to suspend Section 301 tariffs on key medical products.** U.S. Trade Representative Robert Lighthizer should “immediately and broadly” lift Section 301 tariffs on imports needed to manufacture medical products being used to combat the coronavirus outbreak, Sens. Tom Carper (D-DE) and Pat Toomey (R-PA) [said](#) on Monday. USTR last month launched a process allowing members of the public, businesses, and government agencies to submit Section 301 tariff-exclusion requests for coronavirus-related medical products. The agency has since granted some exclusions, with nearly 500 comments submitted to the coronavirus docket as of Tuesday. Carper and Toomey wrote in an [April 17 letter](#) to Lighthizer that while they “appreciate” the actions USTR has taken so far, there is “an extreme shortage of critical medical supplies needed to respond to the COVID-19 pandemic, including hand sanitizer, nasopharyngeal swabs, facemasks, ventilators, isolation gowns, and more.” **(New)**
- **Importers Call for Broader Tariff Deferrals.** Importers hailed the temporary duty deferral [announced](#) April 19, even as many said applying it to Section 301 is also needed. Apparel faces some of the highest Most Favored Nation tariffs, which is the only category the duty deferral applies to. American Apparel and Footwear Association CEO Steve Lamar [said](#): “Deferring duty payments and import fees in a time of limited liquidity is a welcome move. As revenue has receded due to closed stores and less commerce, American companies have been faced with the difficult decision to pay their tariff bill to the U.S. government or keep American workers on payroll. The deferral of these payments will provide some of the liquidity needed to keep more Americans employed and more American companies operational during this crisis.” He said, however, that Section 301 duties should be included. **(New)**
- **CBP COVID-19 – 90 Day Postponement of Payment for the Deposit of Certain Estimated Duties, Taxes, and Fees.** On April 20, the Secretary of the Treasury and U.S. Customs and Border Protection (CBP) will be [postponing](#) for 90 calendar days the deadline for payment for the deposit of certain estimated duties, taxes, and fees for importers experiencing a significant financial hardship due to the coronavirus disease (COVID-19). This temporary postponement applies to formal entries of merchandise entered, or withdrawn from warehouse, for consumption (including entries for consumption from a Foreign Trade Zone) in March 2020 or April 2020. CBP will not return deposits of estimated duties, taxes, and fees that have already been paid. **(New)**
- **The Office of Foreign Assets Control (OFAC) Encourages Persons to Communicate OFAC Compliance Concerns Related to the Coronavirus Disease 2019 (COVID-19).** On April 16, OFAC published a [fact sheet](#) that summarizes existing exemptions and authorizations to provide humanitarian assistance in the context of the Iran, Venezuela, North Korea, Syria, Cuba, and Ukraine/Russia-related sanctions programs. Separately, OFAC [encourages](#) (4/20/20) persons, including financial institutions and other businesses, affected by the COVID-19 global pandemic to contact OFAC as soon as practicable if the person believes it may experience delays in its ability to meet deadlines associated with regulatory requirements administered by OFAC. This includes requirements related to filing blocking and reject reports within ten business days, responses to administrative subpoenas, reports required by general or specific licenses, or any other required reports or submissions **(New)**
- **U.S. Asks China to Revise Increased Export Restrictions on Medical Supplies.** The U.S. has asked China to amend its increased export control inspections that are causing delays of medical

supply shipments, according to a State Department spokesperson. “We appreciate the efforts to ensure quality control. But we do not want this to serve as an obstacle for the timely export of important supplies,” the spokesperson said in an April 17 statement. The spokesperson added that the U.S. has “raised these concerns” with China and requested that it “revise its new requirements to allow the expeditious export of vital [personal protective equipment] to the United States.” The U.S. is working “closely” with U.S. companies exporting medical supplies from China to help them “understand the new regulations and raise concerns about held-up shipments,” the spokesperson said.

- **ITC COVID-19 Related Goods: U.S. Imports and Tariffs; Institution of Investigation.** Following receipt on April 7, of a request from the House Committee on Ways and Means and the Senate Committee on Finance, under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission instituted Investigation No. 332–576, COVID–19 Related Goods: U.S. Imports and Tariffs, for the purpose of providing a report that identifies imported goods related to the response to COVID-19, their source countries, tariff classifications, and applicable rates of duty. See the FR Notice [here](#).
- 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** (**New**).
- 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 4/19/20)
- On April 14, the California Insurance Commissioner issued a [Notice](#) requiring all “insurance companies to fairly investigate all business interruption claims caused by COVID-19.” April 17, the California Department of Insurance hosted a [“Small Business Tele-TownHall”](#) addressing issues including the availability of insurance coverage for COVID-19 related business interruption claims. The **Commissioner purportedly encouraged all business owners impacted by the COVID-19 pandemic to submit claims for business interruption coverage**, if they haven’t done so already, noting that not all policies are the same and insurers have an obligation to fully investigate all claims (**New**).
- On April 17, North Carolina Insurance Commissioner Mike Causey sent a [letter](#) to business owners explaining that the “issue with commercial property insurance, specifically business interruption insurance, presents a . . . difficult problem.” He explains that “[s]tandard business interruption policies are not designed to provide coverage for viruses, diseases, or pandemic-related losses because of the magnitude of potential losses.” Finally, the Commissioner notes that **paying business interruption claims for COVID-19 related claims “could cripple the insurance industry causing many companies to fail, which would put the protection of homes, automobiles, and**

businesses at risk.” Therefore, the North Carolina Department of Insurance has advised that it cannot “legally force insurers to cover a risk which they didn’t intend to cover” but that they are “looking for ways to protect businesses in the future.”

- On April 15, the Pennsylvania Senate introduced [Senate Bill 1114](#), which if passed would mandate that all policies insuring against loss related to property damage “shall be construed to include among the covered perils coverage for loss or property damage due to COVID-19 and coverage for loss due to a civil authority order” related to the COVID-19 pandemic. The **bill provides that Insureds classified as small business would receive 100% of the policy limit for eligible claims**. All other businesses would receive 75% of the policy limit for eligible claims. The act would apply to all policies in effect prior to March 6, 2020. The Senate Bill follows a similar bill introduced by the Pennsylvania house, as well as bill introduced in South Carolina, Rhode Island, Louisiana, New York, New Jersey, Massachusetts, and Ohio. Note that New Jersey’s bill was pulled from consideration prior to the General Assembly vote.
- On April 14, US Congressman Mike Thompson (CA-05) announced the introduction of [H.R. 6494](#), the **Business Interruption Insurance Coverage Act of 2020**. The bill has bipartisan support and, if passed, would require each insurer “that offers or makes available business interruption insurance coverage” to “make available, in all of its policies providing business interruption insurance, coverage for losses resulting from . . . any viral pandemic . . . any forced closure of businesses, or mandatory evacuation . . . or . . . any power shut-off conducted for public safety purposes.” The bill further provides that any exclusions in force on the date of the enactment of the act “shall be void. to the extent” they exclude the above-specified losses. Policy exclusions may be reinstated if authorized in writing by the insured or if the insured fails to pay any increased premium charged by the insurer for providing the business interruption coverage. Insurers must provide 30 days’ notice of the increased premium or reinstatement of the exclusions.
- On April 13, Representative Pramila Jayapal (WA-07) sent a [letter](#) to the CEOs of several insurance companies expressing “**concern about reports that commercial insurance companies are declining to cover COVID-19 related claims filed by small and medium-sized businesses.**” She further wrote that she believes “that commercial insurance companies should honor all clearly covered coronavirus-related losses; work closely with the office of state Attorneys General to resolve disputes; and set up accessible means by which policyholders can get answers on their coverage and resolve disputes quickly without having to resort to time-consuming and expensive litigation.”
- **Litigation relating to business interruption coverage** in the wake of the COVID-19 pandemic and related civil authority orders is picking up steam. More than two dozen lawsuits have been filed against insurers in both state and federal courts. These lawsuits consist of both declaratory judgment actions seeking clarification as to whether policy terms will cover COVID-19 related business interruption claims as well as actions seeking damages for breach of insurance contract and bad faith. Notably, there has been a **stark increase in the number of class action lawsuits** filed. Meanwhile, at least one insurer—Travelers—has filed suit against an insured seeking a declaration that it does not have an obligation to pay COVID-19 related business interruption claims. Finally, several plaintiffs have asked the Judicial Panel on Multidistrict Litigation to establish an MDL to consolidate nationwide COVID-19 related business interruption coverage lawsuits. Notable filings include: (**New**)

- *Travelers Casualty Insurance Company v. Geragos & Geragos*, 2:20-cv-3619 (C.D. Cal.) (Insurer seeks declaration that it is not obligated to pay COVID-19 related business interruption claims).
- *Troy Stacy Enterprises Inc. v. The Cincinnati Insurance Company*, 1:20-cv-312 (S.D. Ohio, filed 4/19/20) (Class Action. Plaintiffs allege wrongful denial of business interruption coverage relating to COVID-19 closures on behalf of nationwide “business income coverage,” “civil authority coverage,” “extra expense coverage” and “sue and labor” coverage damages and declaratory judgment classes).
- *Newchops Restaurant Comcast LLC v. Admiral Indemnity Company*, 2:20-cv-1949 (E.D. Pa., filed 4/17/20) (Pending MDL transfer. Plaintiff seeks declaration that policy covers business interruption losses due to COVID-19 and that the policy’s virus and bacteria exclusions do not apply because coverage was triggered by civil authority orders).
- *PGB Restaurant Inc. v. Erie Insurance Company*, 1:20-cv-2403 (N.D. Ill., filed 4/19/20) (Class action. Plaintiffs allege insurer wrongfully denied plaintiffs’ claims for lost business income due to the COVID-19 pandemic. Plaintiff seeks relief on behalf of a class of all similarly situated Illinois businesses).
- Several similar federal class actions have been filed in district courts in Florida, Wisconsin, Ohio, California, and New York. Those cases include: *Café International Holding Company LLC v. Chubb Limited*; *Westchester Surplus Lines Insurance Co.*, 1:20-cv-21641 (S.D. Fla.) (Class Action – Nationwide class); *Rising Dough Inc. v. Society Insurance*, 2:20-cv-623 (E.D. Wis.) (Class Action – Nationwide class); *Bridal Expressions LLC v. Owners Insurance Company*, 1:20-cv-833 (N.D. Ohio) (Class Action – Nationwide class); *GIO Pizzeria & Bar Hospitality LLC v. Lloyds London*, 1:20-cv-3107 (S.D.N.Y.) (Class Action – Nationwide class); *Caribe Restaurant & Nightclub v. TOPA Insurance Company*, 2:20-cv-3570 (C.D. Cal.) (Class Action -Nationwide class); and *Christie Jo Berkseth-Rojas v. Aspen American Insurance Company*, 3:20-cv-948 (N.D. Tex.) (Class Action – Nationwide Class). Many of these are included in recently filed requests to consolidate into an MDL.
- Several similar lawsuits have been filed in Texas, Alabama, California, Wisconsin, and Pennsylvania state courts. Those cases include: *Lombardi’s Inc. v. Indemnity Insurance Co. of America*, DC-20-05751-A (Dallas County District Court, Texas); *Founder Institute Incorporated v. Hartford Fire Insurance Company*, T20-873 (Santa Clara County Superior Court); *Tambellini Inc. v. Erie Insurance Exchange*, GD-20-005137 (Allegheny County Court of Common Pleas, filed 4/17/20); *The Inns by the Sea v. California Mutual Insurance Company*, T20-90 (Monterey County Superior Court); *Colectivo Coffee Roasters Inc. v. Society Insurance*, 2020-cv-002597 (Milwaukee County Circuit Court) (Class Action); *PTG Live Events LLC v. The Cincinnati Insurance Company*, 2020-cv-002596 (Milwaukee County Circuit Court) (Class Action); *Ascent Hospitality Management Company LLC v. Employers Insurance Company of Wausau*; *Liberty Mutual Insurance Company*, 01-cv-20-90144 (Jefferson County Circuit Court); and *Pez Seafood DTLA LLC v. The Travelers Indemnity Company* (Los Angeles Superior Court Central District).

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: [Part I \(A-M\)](#) and [Part II \(N-Z\)](#). (**Updated 4/20/20**)
- 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. (**New**)
- The COVID-19 pandemic has forced a **greater awareness of force majeure clauses in commercial leases** and it has been essential to have a good foundation of the basics which can be found in this A&B [guide to force majeure basics](#). (4/17/20)
- The CDC released [guidance](#) advising that **critical infrastructure workers may be permitted to continue work following potential exposure to COVID-19**, provided they remain asymptomatic and additional precautions are implemented to protect them and the community. (4/9/20)
- Following the [CDC's recommendation](#) of wearing face coverings as “additional, voluntary public health measure,” we are seeing a trend of **local government orders mandating the use of facemasks or cloth face coverings in public and/or the workplace**.

Cyber Security & Privacy

- The Federal Trade Commission [issued recommendations for businesses on how to reduce privacy and data security risks while video conferencing](#). These tips range from limiting participants, to establishing preferred video conferencing business practices, to carefully checking that links are not security threats before sharing or clicking on them. (4/16/20)
- The United States Senate held a “paper hearing” on **using big data in the fight against COVID-19**. Opening statements and questions [are available here](#). (4/9/20)
 - 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)
- The U.S. Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) and the United Kingdom's National Cyber Security Centre (NCSC) issued a [joint alert](#) regarding COVID-19-related themes **malicious cyber actors** are using to attack vulnerable services and exploit COVID-19. The alert explains how malicious actors are making their attacks as well as steps businesses can take to protect themselves. (4/8/20)
- The COVID-19 pandemic provides an opening for a variety of malicious cyber-attacks. The **FBI details threats and ways to protect yourself**. (4/1/20)
 - This A&B [advisory](#) (4/7/20) discusses the current COVID-19 cybersecurity threat landscape, including scams that target individuals, attempts to compromise company systems, telework vulnerabilities, and business email compromise.

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](#)
- [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 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](#)