

## Coronavirus *Flash Update*: Monday, May 18, 2020

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### The Latest News

- **U.S. COVID-19 cases** exceed 1,480,609 and 89,754 U.S. deaths. (Source: CDC) (**Updated 5/18/20**)
- **U.S. stock market:** On Friday the markets finished up, with the Dow rising 60 points, the S&P 500 up 11 points, and the Nasdaq gaining 70 points for the day. Weekend trading in stock futures were pointing to improvements as of Sunday night. (**New**)
- Last Friday, the **Federal Reserve** released its six month financial stability [report](#) signaling **possible risks ahead**, stating that **asset prices “remain vulnerable** to significant price declines should the pandemic take an unexpected course, the economic fallout prove more adverse, or financial system strains reemerge.” The report added that the **commercial real estate market was expected to be among the hardest hit** if the financial stress remains. (**New**)
- The Small Business Administration, with assistance from the Department of Treasury, [released](#) the **Paycheck Protection Program Loan Forgiveness process** on Friday, including the [application and instructions](#). The SBA also [updated](#) its Round 2 loan statistics, noting that it had processed

2.75 million in applications from 5,479 lenders and totaling \$194.8 billion in loans. The [Round 2 PPP data](#) has been updated as well. **(New)**

- The Kaiser Family Foundation (KFF) has [released a survey](#) of state Medicaid officials showing that with the increase in unemployment, Medicaid enrollment is rising, and state Medicaid budget shortfalls are expected. With 38 states reporting, nearly all projected both significant Medicaid enrollment and spending increases in fiscal year 2021 (most state fiscal years start on July 1). In separate [analysis](#), KFF estimates that **nearly 17 million people could be newly eligible for Medicaid** nationwide and about 6 million for marketplace subsidies. **(New)**
  - The Urban Institute [monthly state revenue data](#) shows **state revenues down between 20% to 50%** which paints a grim picture for many state budgets. **(New)**
  - In a May 13 statement, the National Governor's Association released a [statement](#) saying that "states are being forced to make cuts that will devastate the essential services the American people rely on and **destroy the economic recovery before it even gets off the ground.**" **(New)**

## COVID-19 Federal & State Legislation

- **Bill 4.0:** Late Friday, the House of Representatives voted to **approve the HEROES Act by a largely party line vote of 208-199**. The bill included a managers amendment which scales back the student loan forgiveness language in the original draft to focus on borrowers already distressed rather than blanket loan forgiveness. **(New)**
  - Senate Majority Mitch McConnell has stated that **the Senate does not plan to take up the House HEROES Act**, or any other stimulus package, in the short term and will focus this coming week on Trump Administration nominations. The **House** is in pro forma session until May 27 and **will take up non-COVID-19 related legislation next week** including the Water Resources Development Act and the defense reauthorization bill. **(New)**
  - Despite the public statements on the HEROES Act, and the timing of any next steps on bill 4.0 by either body, the House bill's substance has accelerated intense lobbying on what should or should not be included in what, many believe, will be the last stimulus package until fall, perhaps until after the election. The HEROES Act included **many provisions which already hold bipartisan support** in concept, if not yet in detail. Those issues include additional aid to individuals and families, additional aid to cash strapped states, revisions to Medicare Accelerated and Advance payment program pertaining to interest rate and recoupment time frame, and improvements to the Strategic National Stockpile and other supply chain issues. **(New)**
  - For the full details on the HEROES Act, H.R. 6800:
    - The text is available [here](#).
    - A [1-pager](#) and 71 page [section-by-section summary](#) are available here.
    - And an outline of the [state and local funding provisions](#) is here.
- **Bill 3.5: Paycheck Protection Program and Health Care Enhancement Act, (H.R. 266)** was enacted on April 24. Also available are a [section-by-section summary](#) and an [overview of the health care provisions](#).
  - A&B detailed summaries are below:

- A&B [Summary](#) – 3.5 Small Business Provisions
  - A&B [Summary](#) – 3.5 Health Care Enhancement Provisions
- **Bill 3.0: Coronavirus Aid, Relief, and Economic Security (CARES) Act, (H.R. 748)** passed on March 27. A congressional section by section summary is available [here](#).
  - A&B detailed summaries are below:
    - A&B [Summary](#) – CARES Act Health Provisions
    - A&B [Overview](#) – CARES Act Health Care Grants and Reimbursement Changes
    - A&B [Overview](#) – CARES Act Key Health Care Appropriations
    - A&B [Analysis](#) – CARES Act Funding Sources
    - A&B [Summary](#) – CARES Act Small Business Provisions
    - A&B [Summary](#) – CARES Act Educational Provisions and Appropriations
    - A&B [Summary](#) – CARES Act Individual and Business Tax Provisions
    - A&B [Summary](#) – CARES Act Unemployment Provisions
    - A&B [Summary](#) – CARES Act Labor Provisions
    - A&B [Guide](#) – how the CARES Act refundable Employer Retention tax credit for employers works
    - A&B [Hospital Provisions from all 4 bills tracker](#) of COVID-19 (**Updated 5/17/20**)
    - A&B [Provider Relief Funds disbursements tracker](#) – (**Updated 5/17/20**)
    - A&B [Quick Guide](#) to the health care Provider Relief Fund General Distribution Attestation and Application Process – (New 5/12/20)
    - 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
- **State Legislation: legislative resource to track how states** and localities are responding to the COVID-19 pandemic with emergency relief programs for small and medium-sized businesses. Follow our tracker [here](#). (Last updated 5/5/20)

## Transition to “Reopening”

- **State/Other Actions**
  - For the latest information on state reopening decisions, see [A&B 50-State Openings tracker](#) - updated in each A&B Coronavirus Flash. (**Updated 5/15/20**)
- **Administration Actions**
  - The President [announced](#) “Operation Warp Speed,” a national program to accelerate the development, manufacturing, and distribution of COVID-19 vaccines, therapeutics, and diagnostics. (5/15/20) (**New**)
  - The CDC [released its report](#) on activities and initiatives to transition to reopening. (5/15/20) (**New**)
  - The CDC released (5/14/20) guidelines and decision tools for reopening:
    - [Schools](#)
    - [Workplaces](#)
    - [Restaurants and bars](#)

- [Mass transit](#)
- [Youth Programs/ Camps](#)
- [Childcare Programs](#)
- **FEMA** released an [Exercise Starter Kit](#) with sample documents organizations can use to conduct planning workshops to navigate the complexities of returning to full operations during the COVID-19 pandemic. (5/12/20)

## Federal Communications Commission

- The FCC [announced](#) that **774 broadband and telephone providers** have extended a pledge to assist residential and small business customers that are impacted by the COVID-19 pandemic. The commitment now extends through June 30. (5/14/20)
  - FCC also [extended](#) temporary waivers through June 30 for Telecommunications Relay Service providers. (5/14/20)
- The **Federal Communication Commission (FCC)** [approved](#) the sixth set of COVID-19 **Telehealth Program Applications**. FCC approved an additional **33 funding applications**, totaling \$8.36 million. This brings the total COVID-19 Telehealth Program to 82 health care providers in 30 states for a total of \$33.26 million in funding. (5/13/20)

## Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** Coronavirus [toolkit](#) page has been updated. (**Updated 5/15/20**)
- The HHS **Office of Inspector General** has updated its [FAQs](#) and updated its COVID-19 [webpage](#). (5/14/20) (**New**)
- HHS has a **tracking feature that allows public viewing of all COVID-19 HHS grant and cooperative agreement awards** on its [website](#). The grants were distributed through programs in the ACF, ACL, ASPR, CDC, DHHS/OS, HRSA, IHS, NIH, and SAMHSA. (**Updated 5/14/20**)
- The President [announced](#) changes to the supply and maintenance of the **strategic national stockpile (SNS)**, which will include **new requirements** for a 90 day supply of testing, ventilators, respirators, and other materials in preparation for future COVID-19 resurgence. (5/14/20)
- The Agency for Healthcare Research and Quality (AHRQ) [announced](#) a new funding opportunity that will award \$5 million to support novel, high-impact studies that **evaluate the responsiveness of the U.S. health care system** to the COVID-19 pandemic. (5/14/20)
- Substance Abuse and Mental Health Services Administration [announced](#) a \$40 million grant program to **prevent suicide** and support states and communities during the COVID-19 pandemic. (5/13/20)
- HHS, in coordination with the Department of Defense and **FEMA**, signed a \$134 million contract [award](#) with the Federal Resources Supply Company to provide **PPE kits** for medical personnel at over **15,000 nursing home locations**. (5/13/20)
- Despite enforcement delays [final interoperability rules](#) will have significant impact on health care participants. To learn more about these complex rules read this A&B [advisory](#). (5/8/20)

## Centers for Disease Control and Prevention

- The **Centers for Disease Control and Prevention (CDC)** [COVIDView Weekly Summary](#) is available. **(Updated 5/15/20)**
  - The CDC weekly COVID [forecast](#). (Updated 5/14/20)
- The CDC has issued COVID-19 [guidance](#) for the general population's use of **emergency shelters** during natural disasters. (5/15/20) **(New)**
- The CDC has [updated its approved disembarkations](#) list for **cruise ship crew members** in U.S. waters following certain attestation requirements. (5/15/20) **(New)**
- The CDC announced the award of \$10.25 billion to states, localities and territories to expand COVID-19 **testing and surveillance**. The [state-by-state funding list](#) includes previous allocations. (5/15/20) **(New)**
- The CDC updated its [guidance](#) for veterinary clinics in treating **companion animals** during the COVID-19 response. (5/14/20) **(New)**
- The CDC released a [health advisory warning](#) of COVID-19 related multisystem inflammatory syndrome in children. (5/14/20) **(New)**
- The CDC updated or issued new information on laboratory testing ([FAQs](#), [biosafety guidelines](#), [website](#)). (Updated 5/13/20)

## Centers for Medicare & Medicaid Services

- The **Centers for Medicare and Medicaid Services (CMS)** latest [news alerts](#). **(Updated 5/15/20)**
  - And for the latest COVID-19 related CMS guidance and FAQs visit the CMS Current Emergencies [webpage](#). **(Updated 5/15/20)**
- CMS has updated its [FAQs](#) for Medicare fee-for-service billing. (5/15/20) **(New)**
- CMS has updated its list of [blanket waivers](#). **(Updated 5/15/20)**
- CMS [announced](#) a call for nominations for the new contractor-led **Coronavirus Commission on Safety and Quality in Nursing Homes**. The Commission will conduct a comprehensive assessment of the overall response to the COVID-19 pandemic in nursing homes and will inform immediate and future actions to address the virus in order to safeguard the health and quality of life for this vulnerable population of Americans. (5/14/20)
- CMS released a **new Toolkit** on actions by states and other organizations to mitigate COVID-19 prevalence in **nursing homes**. The toolkit is not CMS guidance but is comprised of best practices from front line health care providers, Governors' COVID-19 task forces, associations, and experts. (5/14/20)
- CMS provided [guidance](#) regarding **Medicaid Managed Care** Options in responding to COVID-19. (5/14/20)
- CMS [released](#) a new FAQ on Price Transparency: Requirements for Providers to Make Public Cash Prices for COVID-19 Diagnostic Testing. (5/13/20)
- CMS has posted a [video](#) to review the most common **questions regarding telehealth** visit benefits under the 1135 waiver authority during the public health emergency. (5/8/20)
  - For a better understanding of the COVID-19 **telehealth waivers and regulatory flexibilities**, review this **new A&B Guide**. (5/12/20)

- A&B Health Care Public Policy Practice provides a **detailed [summary](#) of the CMS interim final rule**. The interim final rule is intended to provide additional flexibilities for individuals and entities that provide health care services to Medicare, Medicaid, Basic Health Program, and Exchange beneficiaries to assist in the response to threats associated with COVID-19. Comments are due July 7, 2020. (5/6/20)

## **HHS/CMS/HRSA CARES Act [Provider Relief Funds](#)**

- HHS [announced](#) it was disbursing another \$22 billion in CARES Act **Provider Relief Funds** last Friday for hospitals in “hot spots” or COVID-19 high impact areas (\$12 billion) and for rural providers (\$10 billion). The CMS Provider Relief Fund [webpage](#) has been updated and additional portals opened: (**Updated 5/14/20**)
  - The CDC released [updated data](#) on the Provider Relief Funding General Distribution payments. The data reflect payments distributed to health care providers who have attested to receiving one or more payments and agreed to the Terms and Conditions as of May 13 and in total, **\$34.09 billion of the \$50 billion General Distribution has been attested to.** (**Updated 5/15/20**)
  - Provider Relief Funds general distribution [FAQs](#) updated. The updated FAQs clarify that “**providers may not receive a second distribution** payment if the provider received a first distribution payment of **equal to or more than 2% of patient revenue.**” It also states providers should update their capacity and COVID-19 census data “to ensure that HHS can make timely payments **in the event that the provider becomes a high-impact provider.**” (**Updated 5/15/20**)
  - A&B [Quick Guide](#) to the health care Provider Relief Fund General Distribution Attestation and Application Process – (Update 5/12/20)
  - The CARES Provider Relief Fund hotline is (866) 569-3522.

## **Food and Drug Administration (Drugs and Devices)**

- **FDA** provides a **daily roundup on COVID-19** related actions. The latest update is [here](#), and here are the latest [announcements](#). (**Updated 5/15/20**)
  - **FDA** maintains its COVID-19 [FAQs](#) for the general public. (Updated 5/14/20)
  - The agency also maintains a [public database](#) of drug shortages. (**Updated 5/15/20**)
- The FDA released [information](#) to alert the public to early data that suggests **potential inaccurate results** from using the Abbott ID NOW point-of-care test to diagnose COVID-19. (5/14/20) (**New**)
- The FDA has updated its [guidance](#) for compounders that experience PPE shortages. (5/14/20) (**New**)
- The FDA [issued](#) an emergency use authorization to Hologic, Inc. for its Aptima SARS-CoV-2 assay which runs on its high-throughput Panther System and is **estimated to produce 1 million tests per week**. (5/14/20) (**New**)
- The FDA issued an [emergency use authorization](#) for **infusion pumps** and infusion pump accessories. (5/13/20)
- The FDA posted a new [webpage](#) with information on the use of thermal imaging systems. (5/13/20)

## National Institutes of Health

- The National Institutes of Health (NIH) [announced](#) it was beginning clinical trial testing of hydroxychloroquine and azithromycin to treat COVID-19. (5/14/20)

## Health Resources and Services Administration

- The Health Resources and Services Administration (HRSA) provides COVID-19-related information, resources, and FAQs [here](#). (**Updated 5/17/20**)
- HHS [announced](#) that HRSA has awarded \$15 million in five health workforce programs to 159 organizations to increase telehealth capabilities in response to the COVID-19 pandemic and as authorized by the CARES Act. (5/14/20)

## Department of Homeland Security/FEMA

- The **Department of Homeland Security (DHS)** [issues](#) a weekly roundup of its response to COVID-19. (Last updated 5/11/20)
- FEMA has released [state-by-state PPE data](#) which includes the delivery or shipping of more than 97 million respirators, 133.7 million surgical masks, 10.5 million face shields, 22.4 million surgical gowns, 989 million gloves, 10,600 ventilators and 8,450 federal medical station beds. Also posted is an [at-a-glance document](#) on the PPE deliveries per region. (5/15/20) (**New**)
- FEMA has [updated its policy](#) on **medical care costs eligible for public assistance** and better coordination between the COVID-19 emergency response and other emergency disasters. (5/14/20) (**New**)
- FEMA has posted a [public meeting notice](#) for **Thursday, May 21** to develop a voluntary agreement under the Defense Production Act to **improve the effectiveness of the distribution of critical medical resources** to respond to future pandemics. (5/14/20) (**New**)
- The **DHS Cybersecurity and Infrastructure Security Agency (CISA)** [issued](#) an announcement with the FBI to raise awareness of the threat to COVID-19-related research. Malicious actors have been observed attempting to identify and illicitly obtain valuable intellectual property (IP) and public health data related to vaccines, treatments, and testing from networks and personnel affiliated with COVID-19-related research. (5/13/20)

## Department of Justice/Federal Trade Commission/Litigation

### Consumer Protection/Anti-fraud/Anti-Trust

- The Department of Justice Antitrust Division [issued its third expedited business review letter](#) (BRL) related to COVID-19 collaborations, this time in connection with collaboration by pork producers and processors. COVID-19 outbreaks forced many meat plants to close, leading to a reduction in processing capacity. As a result, some hogs are now unmarketable because they have grown too large to fit on processors' production line equipment. **DOJ approved the National Pork Producers Council's proposal to allow its members to coordinate with each**

other and the USDA and share information to address these supply chain issues. [Consistent with its prior expedited BRLs](#), DOJ said it would not challenge conduct aimed at addressing COVID-19 if it is (i) “compelled by an agreement with a federal agency or a clearly defined federal government policy” and (ii) “supervised by a federal agency.” DOJ found that most of the proposed coordinated conduct would occur at the direction of the USDA, and that information to be shared independent of the government – including euthanization methods, protocols, equipment, or processors – would be unlikely to raise concerns under the antitrust laws. (5/15/20) **(New)**

## Litigation Issues

- The impact of the coronavirus pandemic may be a scheduling challenge for the courts, but bankruptcy cases remain active. For an examination of the implications of a bankruptcy case where the majority shareholder seeks to enforce its blocking rights, read this A&B [advisory](#). (5/8/20)

## Department of Labor/OSHA

- The **Department of Labor’s Employment and Training Administration** [announced](#) the publication of updated [guidance](#), including FAQs, regarding the Pandemic Emergency Unemployment Compensation program. Under the CARES Act, the DOL created a temporary federal unemployment compensation program that provides funding to states. (5/14/20)
- The **Occupational Safety and Health Administration (OSHA)** jointly with the CDC [announced guidance](#) for **meat and poultry** processing workers and employees. (5/15/20) **(New)**
- **OSHA** [announced](#) an alert for rideshare, taxi, and car service safety during the COVID-19 pandemic. (5/14/20)

## 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. (4/3/20)
  - The SBA [released](#) the Paycheck Protection Program **Loan Forgiveness process**, which includes the [application and instructions](#). (5/15/20) **(New)**
  - The SBA [updated](#) its Round 2 loan statistics, noting that it had processed 2.75 million in applications from 5,479 lenders and totaling \$194.8 billion in loans. The [Round 2 PPP data](#) has been updated as well. **(Updated 5/16/20)**
  - The SBA and Treasury **updated their [FAQs](#) on the Paycheck Protection Program**. (Updated 5/13/20)
    - The SBA also extended the **repayment date** for the **safe harbor** to May 18, 2020.
  - The SBA issued an [interim final rule](#) for the PPP, relating to **electric cooperatives**. (5/14/20)
  - The SBA issued an [interim final rule](#) related to the PPP, covering issues related to **partner compensation, seasonal employers**, additional loan disbursements, and reporting of disbursements. (5/13/20)



- Review this A&B [advisory](#) for information on **relief under the CARES Act for fund managers**. (5/5/20)

## 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 **Federal Reserve Board** has [announced](#) a temporary change to the **supplementary leverage ratio rule**, providing flexibility to certain depository institutions to expand their balance sheets in order to provide credit to households and businesses during the pandemic. (5/15/20) (**New**)
  - **The Federal Reserve Board** [issued](#) a Report on the Economic Well-Being of U.S. Households. (5/14/20)
  - The **Federal Reserve** [announced](#) that it published updates to the [term sheet for the Term Asset-Backed Securities Loan Facility \(TALF\)](#) and identified the information that would be disclosed monthly for TALF and the Paycheck Protection Program Liquidity Facility, including the name of each participant, the amounts borrowed, and the value of pledged collateral. The Federal Reserve also issued [FAQs](#) on TALF. (5/12/20)
  - The Federal Reserve [announced](#) an expansion of the scope and eligibility for the **Main Street Lending Program**, essentially creating a third option to help credit flow to small and medium-sized businesses. [FAQs](#) regarding the Main Street Lending Program were released. (4/30/20)
  - For more information on **how to chart a course through all three Main Street Lending Program options**, read this A&B [advisory](#). (5/6/20)
- The Federal Deposit Insurance Corporation (FDIC) [announced](#) a [notice of proposed rulemaking](#) to **mitigate the deposit insurance assessment effects** of participating in the Paycheck Protection Program, the Paycheck Program Lending Facility, or Money Market Mutual Fund Liquidity Facility. (5/12/20)

## Other Agencies

- The USDA [announced](#) its **Farmers to Families Food Box program** which is intended to move farm products directly to food pantries and community food programs. (5/15/20) (**New**)
- The USDA [has extended](#) its waivers for child nutrition program operators who need flexibility to continue their **nutrition programs through the summer**. (5/15/20) (**New**)
- The **Consumer Financial Protection Bureau** issued a [statement](#) on supervisory and enforcement practices regarding Regulation Z billing error resolution timeframes in light of the COVID-19 pandemic. (5/13/20)
  - The **Consumer Financial Protection Bureau** released a [website](#) providing consumers information on housing assistance. It includes a tool that allows homeowners and renters to determine if they live in a residence with a federally-backed mortgage. (5/12/20)
- **Cybersecurity**: For an update on **recent key developments in privacy, data security, and all things cyber**, read this A&B [Digital Download](#). (5/12/20)

- The **Environmental Protection Agency (EPA)** issued an **additional temporary amendment** to [Pesticide Registration Notice 98-10](#) to include **food-contact surface sanitizer products containing the active ingredient isopropyl alcohol**. This allows manufacturers of food-contact surface sanitizer products containing isopropyl alcohol to use similar sources of this active ingredient without EPA approval. This amendment should increase availability of food-contact surface sanitizers, benefiting facilities processing low moisture products like grains, cereal, flour, and industrial baked goods, which have been experiencing sanitizer shortages. (5/15/20) **(New)**
  - The EPA, with the U.S. Department of Agriculture, [announced](#) assistance to help 16 communities boost economic opportunities for their local farmers, while promoting clean air, safe water, open space, and healthy food choices. (5/14/20)
  - The EPA launched an [app](#) to easily identify disinfectants on List N, for use against SARS-CoV-2, and [announced](#) an [expedited review process](#) for additional disinfectants for List N that require applications and data review. (5/12/20)
- The **Federal Housing Finance Agency** [announced](#) that Fannie Mae and Freddie Mac are making available a new payment deferral, allowing borrowers who are able to return to making their normal monthly mortgage payment to repay their missed payments at the time the home is sold, refinanced, or at maturity. (5/13/20)
- In a program jointly launched by the Department of **Housing and Urban Development (HUD)**, the **Consumer Financial Protection Bureau**, the Federal Housing Finance Agency and the Department of Veterans Affairs, a [website](#) has been created to offer **joint housing and mortgage assistance**. (5/15/20) **(New)**
- Review this A&B [advisory](#) for information regarding the expansion of **Ginnie Mae’s Pass-Through Assistance Program to multifamily mortgage-backed securities issuers**. (5/12/20)
- The President also released an [executive order](#) to **increase the development of domestic medical supply manufacturing** through an **International Development Finance Corporation** loan program. (5/14/20)
- The **Department of Transportation (DOT)** Federal Motor Carrier Safety Administration [published](#) a [final rule](#) updating hours of service rules for commercial motor vehicle drivers to increase safety on America’s roadways. (5/14/20)
  - DOT [announced](#) that it was issuing a second [enforcement notice](#) regarding airline ticket refunds and a [notice of adjustments to service obligations](#) to allow carriers to reduce their service obligations. (5/12/20)

## Trade and International Business Issues

- **Ways and Means Chairman Neal Says Another Round of Tariff Deferral ‘Sensible.’** International Trade Today reporter Mara Lee talked with House Ways and Means Committee Chairman Richard Neal (D-MA) about his concern that some businesses were not able to take advantage of a 90-day deferral to pay duties. Neal said he shared his concerns with U.S. Trade Representative Robert Lighthizer, further noting that “because of the economic circumstances we find ourselves in, I think providing some relief on that front is sensible.” (5/15/20) **(New)**
- **U.S.: Wait until Crisis Subsides to Address WTO’s Role.** Amid the ongoing public health emergency, the U.S. will prioritize the “exigencies” of the crisis before it will discuss the World Trade Organization’s role in the recovery or preparations for the next crisis, the country said at

the General Council meeting on Friday, arguing WTO initiatives should take a back seat for the time being. “More Americans have been infected with and died from COVID-19 than any other nationality,” U.S. WTO Ambassador Dennis Shea said, according to his [remarks](#). “So please understand these urgent matters of life and death back home have clear priority over any effort we may undertake at the WTO.” (5/15/20) (**New**)

- **Pandemic Presents an Opportunity for U.S., India to Iron Out Trade Deal.** The U.S. and India should build on their cooperative efforts to battle the coronavirus pandemic and improve their trade relationship, India analysts said this week, contending that increased engagement could provide the impetus needed to complete an initial trade deal. The countries have been working together under the auspices of the G20 and other international fora as well as bilaterally to address the public health crisis. Additionally, India last month agreed to relax its ban on exports of hydroxychloroquine after President Trump and Indian Prime Minister Narendra Modi discussed supply chain issues related to the pandemic. (**New**)
- **MO COVID-19 Suit May Not Bypass China's FSIA Protection.** The state of Missouri recently filed a lawsuit against China and Chinese governmental organizations alleging that the “COVID-19 pandemic is the direct result of a sinister campaign of malfeasance and deception carried out by defendants.” Several other states announced plans to file similar lawsuits. Private plaintiffs who suffered injury and losses due to COVID-19 have also filed a number of class actions seeking damages against China. However, the lawsuits face an uphill battle as the Foreign Sovereign Immunities Act, or FSIA, provides broad immunities to foreign countries and related entities. (**New**)
- **U.S., China Seem Headed Toward Tech Decoupling, S&P Says.** Incentives are strong for China and the U.S. to retain the phase one trade deal, an economist at S&P Global wrote May 14, in a [report](#) called “U.S. and China Kick Trade Deal Can Down The Road.” While the report’s author said it’s possible the Trump administration would hike tariffs on China to punish that country for COVID-19, “we have long thought that, from an economic perspective, technology not trade is the core issue in the U.S.-China relationship. Technology has been and will continue to be the key driver of growth in China. It is at the heart of intellectual property, market access, and level playing field debates.” Chief Economist Shaun Roche said the two countries are on a path toward technological decoupling, no matter how the purchases shake out that are promised in the phase one deal. (5/13/20) (**New**)
- Examining the strong performance of **environmental, social, governance (ESG) funds**, the developments in the UK and Europe and more are investigated in the [A&B advisory](#). (5/8/20)
- With everyone focused on COVID-19, this A&B [advisory](#) analyzes the **implications of Brexit on cross-border litigation in Europe**. (5/5/20)

#### 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. (**Updated weekly - 5/17/20**)
- On May 15, the Louisiana Senate proposed an [Amended Senate Bill 477](#). The original bill would have retroactively required insurers to provide business interruption coverage for COVID-19 related business income losses, regardless of policy language. The **May 15 amended bill nixes**

**the controversial retroactive requirements and instead requires that all policies issued after August 1** “include a notice of all exclusions on a form prescribed by the commissioner of insurance” which shall “be conclusively presumed to become a part of the policy of contract when issued and delivered.” **(New)**

- On May 11, the Pennsylvania Insurance Commissioner [warned businesses](#) that **failure to comply with Governor Wolf’s closure orders could compromise business interruption coverage claims** as “many insurance policies contain provisions that exclude coverage for businesses or individual’s engaging in illegal acts or conduct.” **(New)**
- The National Association of Insurance Commissioners has issued a [Business Interruption COVID-19 Data Call Letter](#) to Property and Casualty Insurers indicating that state insurance regulators in 50 states, the District of Columbia, and the U.S. territories “have agreed to participate in a data call to collect data related to business interruption insurance and COVID-19.” Insurers are “requested to complete both parts of the COVID-19 business interruption data call” and to **submit a “Premiums Data Template” by May 22**, and a **“Claims Data Template” by June 15**, with mid-monthly update filings thereafter. The pace of new business income coverage claims flooding state and federal courts nationwide has not slowed over the last few weeks.
- **Notable filings and orders** include:
  - On May 14, the Pennsylvania Supreme Court summarily denied Plaintiff Tambellini’s application for extraordinary relief seeking to move the case directly to the Pennsylvania Supreme Court pursuant to its **rarely-invoked King’s Bench Powers**. **(New)**
  - On May 13, attorneys with Lief Cabraser Heimann & Bernstein, LLP filed suit in the United States District Court for the District of Oregon on behalf of SERO, INC. dba Beast against Sero’s insurer Berkley North Pacific Group (“Berkley”) alleging that Berkley “summarily denied” Beast’s claim for business interruption coverage. The Complaint alleges claims for breach of contract, breach of the covenant of good faith and fair dealing, unfair trade practices and declaratory relief. Plaintiff seeks to represent both a nationwide class and an Oregon subclass of similarly situated restaurants. This is Lief Cabraser’s third complaint filed on behalf of an insured in connection with COVID-19 business interruption claims. The case is *SERO, INC., et al. v. Berkley North Pacific Grp., et al.*, No. 3:20-cv-00776 (D. Or.). **(New)**
  - On May 13, Magna Legal Services LLC (“Magna”) filed suit against its insurer Hartford Fire Insurance Co in the Philadelphia Court of Common Pleas. Magna alleges that Hartford wrongfully and arbitrarily denied coverage for business income losses resulting from COVID-19 related closure orders. Magna relies on civil authority provisions that purportedly provides coverage when access to its property is forbidden by an order of a civil authority, as well as specific coverage for losses caused by bacteria and viruses. The case is *Magna v. Hartford Fire Ins. Co., et al.*, No. 200500735 (Philadelphia Ct. of C.P.). **(New)**
  - On May 7, Slate Hill Daycare Center Inc. filed a purported class action in the Southern District of New York against its insurer Utica National Insurance Group. Plaintiff alleges that the insurer issued a uniform letter to insureds informing policyholders that their policies would not provide coverage for business income losses related to COVID-19 related closures and that all such losses are subject to the policies’ virus exclusion. **Plaintiff seeks to represent a nationwide class of child care providers and**

seeks declaratory relief. The case is *Slate Hill Daycare Center Inc., et al. v. Utica Nat'l Ins. Grp.*, No. 7:20-cv-03565 (S.D.N.Y.) (**New**)

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**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:**

### **What you should know:**

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

### **Situation Updates:**

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

### **Information for Businesses:**

- [Interim Guidance for Businesses and Employers](#)
- [Information for Communities, Schools, and Businesses](#)
- [Environmental Cleaning and Disinfection Recommendations – Community Facilities](#)
- FEMA: [Coronavirus Response](#)
- SBA: [COVID-19 Resources](#)
- DOL: [Guidance for Preparing Workplaces for Coronavirus](#)
- DOL: [OSHA Resources for Workers and Employers on COVID-19](#)
- WHO: [Get Your Workplace Ready for COVID-19](#)
- CISA: [Risk Management for COVID-19](#)
- EPA: [Disinfectants for Use Against COVID-19](#)
- Federal Reserve: [Coronavirus Disease 2019 \(COVID-19\) Resources](#).

- FDIC: [Coronavirus \(COVID-19\) Information for Bankers and Consumers](#).
- OCC: [COVID-19 \(Coronavirus\)](#).
- Conference of State Bank Supervisors: [Information on COVID-19 Coronavirus](#).
- NYDFS: [Coronavirus: Information for Industry and Regulated Entities](#).
- NMLS: [State Agency Communication/Guidance on Coronavirus/COVID-19](#)

## Information for Travel and Transportation:

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

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

- [Information for Healthcare Professionals](#)
- [Resources for State, Local, Territorial and Tribal Health Departments](#)
- [Resources for Healthcare Facilities](#)
- [Infection Prevention and Control Recommendations for Patients with COVID-19 or Persons Under Investigation in Healthcare Settings](#)
- [Information for Laboratories](#)
- [Resources for First Responders](#)
- [Guidance for Public Health Professionals Managing People with COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)
- [FAQs and Considerations for Patient Triage, Placement and Hospital Discharge](#)
- [What Law Enforcement Personnel Need to Know](#)
- [Guidance for Homeless Shelters](#)
- [Guidance for Hemodialysis Facilities](#)
- CMS: [Information on COVID-19 and Current Emergencies](#)
- CMS: [Guidance for Hospice Agencies](#)
- CMS: [Emergency Medical Treatment and Labor Act Requirements and Implications Related to COVID-19](#)
- CMS: [FAQs for State Survey Agency and Accrediting Organizations](#)
- EPA: [Disinfectants for Use Against COVID-19](#)

## Information for 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](#)

## 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)
  - **May 4**
    - [Food, Drug & Device/FDA Advisory: Examining the Drug Supply Chain -- How the Public Health Emergency Impacts DSCSA](#)
  - **April 30**
    - [College & Universities Advisory: Schools Face Class Action as Parents and Students Sue for Refunds](#)
    - [White Collar Government & Internal Investigations Advisory: New PPP Funding Ups Ante for Compliance Failure--Audits on the Horizon](#)
  - **April 29**
    - [Health Care / Health Care Litigation Advisory: COVID-19 A Tipping Point for Telehealth Expansion](#)
  - **April 28**
    - [Labor & Employment Advisory: The New Executive Order Suspends Entry of Immigrant Visa Applicants into the U.S. for 60 days](#)
  - **April 24**
    - [Commercial Litigation Advisory: COVID-19 Impacts on Statutes of Limitations](#)
  - **April 23**
    - [International Trade & Regulatory Advisory: FEMA Issues Guidance on Exemptions for Critical PPE Export Restrictions](#)
  - **April 22**
    - [Labor & Employment Advisory: Developing a Plan to Bring Your Employees Back to Work](#)
  - **April 21**
    - [Financial Advisory: Forbearance Agreements in the age of COVID-19 and National Shelter-in-Place Orders](#)
    - [Antitrust / Mergers & Acquisitions / International Trade & Regulatory Advisory: COVID-19 Affect European Foreign Direct Investment Reviews: New EU Guidance Potentially Heralds Increased Protectionism](#)
  - **April 20**
    - [Financial Advisory: FHFA Limits Servicer Advancing Obligations for Loans in COVID-19 Forbearance](#)
  - **April 17**
    - ["INSIGHT: Businesses Better Brace for Post-Coronavirus Lawsuits" Bloomberg Law](#)

- [Antitrust / Labor & Employment Advisory: Federal Antitrust Agencies Remind Businesses That Colluding on Labor Issues Remains Illegal During Pandemic](#)
- [Labor & Employment / Health Care / Corporate & Finance Advisory: Ramping Up: What Does Restarting Look Like?](#)
- **April 16**
  - [International Tax Advisory: Risky Business - Allocating Losses When Your Supply Chain Is Disrupted](#)
  - [Finance Advisory: Ginnie Mae Expands Pass-Through Assistance Program to Finance Servicing Advances in Response to COVID-19](#)
- **April 15**
  - ["Force Majeure Clauses in the Face of COVID-19: Commercial Leasing Guidance \(CA\)," Lexis Practice Advisor](#)
  - [Federal Tax Advisory: IRS Issues COVID-19 Forbearance Guidance for REMICs and Investment Trusts](#)
- **April 14**
  - [Investment Advisory: Federal Reserve Announces Main Street Lending Program to Provide Liquidity to Small & Mid-Size Businesses](#)
  - [Investment Management Advisory: Relief Under the CARES Act for Fund Managers](#)
- **April 13**
  - ["As Pandemic Triggers Continuity Plans, What RIAs and BDs Should Ask Themselves," Financial Planning](#)
  - [FDA & Environment Advisory: Cleaning Up After COVID-19? What You Need to Know Before You Manufacture, Import, or Sell Sterilizers, Sanitizers, Purifiers, and Disinfectants](#)
  - [Securities Law Advisory: SEC Reminds Companies to Keep Their Disclosures Looking Forward](#)
- **April 10**
  - [Securities Law Advisory: ISS Offers COVID-19-Conscious Policy Guidance](#)
- **April 9**
  - [Federal Tax Advisory: IRS Provides Partnerships a Mechanism to Claim Benefit of Retroactive CARES Act Provisions](#)
  - [Financial Services Advisory: Agencies Update Their Interagency Statement on Reporting Loan Modifications](#)
  - [Early Securities Class Actions Highlight COVID-19 Litigation Risk \(Law360\)](#)
  - [FDA Compliance & Enforcement Advisory: FDA Issues New Guidance on Supply-Chain Disruption Notifications During COVID-19 Emergency](#)
  - [Financial Restructuring & Reorganization Advisory: Protecting Recoveries in a Pandemic: What Creditors Can Do Right Now](#)
- **April 7**
  - [Updated FAQs Regarding Paid Leave Obligations Under the Families First Coronavirus Response Act](#)
  - [Cyber Alert: Cybersecurity and COVID-19: Four Categories of Cyber Threats and Practical Tips in Response](#)



- **April 6**
  - [Antitrust Advisory: Production and R&D Joint Ventures in a Pandemic: Reducing Antitrust Risk](#)
  - [Financial Services Advisory: Regulatory Agencies Issue Mortgage Servicing Guidance and FAQs for the CARES Act](#)
  - [White Collar, Government Investigations Advisory: CARES Act Follows Familiar Blueprint for Oversight and Enforcement](#)
- **April 3**
  - [EU State Aid Measures in the Fight Against COVID-19 Pandemic](#)
- **April 2**
  - [USPTO Announces Additional Limited Extensions Due to the COVID-19 Pandemic](#)
  - [Deadline for Reg BI and Form CRS Compliance Remains on Track](#)
  - [What Does the Coronavirus Mean for Companies and Their Critical Offshore Services?](#)
- **April 1**
  - [Federal Tax Advisory: Downward Stock Attribution for CFC Purposes](#)
  - [Hospital EMTALA Obligations Under Recent COVID-19 Waivers](#)
  - [CMS Issues Blanket Waivers from Physician Self-Referral Law Sanctions](#)
- **March 31**
  - [Additional Families First Coronavirus Response Act Paid Leave FAQs for Employers](#)
  - [SEC Extends Timeframe for Regulatory Relief for Investment Advisers and Investment Companies](#)
  - [Responsibility for Construction Site Safety in a Coronavirus World](#)
- **March 30**
  - [Keep Mystery to a Minimum in Your SEC COVID-19 Disclosures](#)
  - [How the CARES Act Will Affect Banking During the Coronavirus Emergency](#)
  - [Economy in Chaos: Is Bankruptcy Inevitable for My Business?](#)
  - [CMS Announces Expansion of Medicare's Accelerated and Advance Payment Program](#)
- **March 27**
  - [Utilization of Electronic Signatures and Records: What You Need to Know](#)
  - [SEC Extends Conditional Filing Relief to Companies Affected by COVID-19](#)
  - [COVID-19: What It May Mean for Landlords and Lenders Under Their CRE Facility Agreements](#)
  - [Congress Further Expands Medicare Telehealth Benefits with the CARES Act](#)
- **March 26**
  - [USTR to Consider Additional Tariff Exclusions Due to COVID-19 Pandemic](#)
  - [COVID-19 and Price Gouging](#)
  - [SEC Continues to Keenly Monitor Insider Trading During COVID-19 Pandemic](#)
- **March 25**
  - [Is the COVID-19 Outbreak an "Act of God"? Why It May Matter for Your Contracts](#)
  - [FDA and USDA Food Safety Response to COVID-19 & DHS "Critical Infrastructure" Classification of Food and Agriculture Sector](#)
  - [Does Your Force Majeure Provision Extend to the Coronavirus?](#)

- [Competition Authorities Across Europe Relax Competition Law Enforcement During COVID-19 Outbreak](#)
- [COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
- **March 24**
  - [Health Care Providers with Exposure to COVID-19: What You Need to Know](#)
  - [Regulators Further Clarify Guidance Regarding Loan Modifications and Reporting](#)
  - [Avoiding Antitrust Risk as Industries Respond to the Coronavirus: Businesses Look to Collaborate & Federal Government Offers Expedited Avenues](#)
- **March 23**
  - [FDA Continues to Accelerate Availability of COVID-19 Tests](#)
  - [CFTC Issues No-Action Letter Offering Regulatory Relief for CPOs](#)
  - [Building a Case for Force Majeure in Construction Contracts](#)
- **March 20**
  - [Employee Benefits & Executive Compensation Advisory: Coronavirus Impact on Health Benefits: A Deeper Dive](#)
  - [FDA Compliance & Enforcement Advisory: FDA Temporarily Postpones Routine Domestic Inspections](#)
- **March 19**
  - [Antitrust / Mergers & Acquisitions Advisory: COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
  - [Construction Advisory: Five Best Practices for Construction Industry Stakeholders During the Coronavirus Pandemic](#)
  - [Labor & Employment Advisory: Employee Leave Requirements Under the Families First Coronavirus Response Act](#)
  - [Labor & Employment / Health Care Advisory: Coronavirus \(COVID-19\) FAQs for Employers](#)
- **March 18**
  - [Cyber Alert: Six Practical Tips for Practicing Cyberhygiene in the Middle of a Global Pandemic](#)
  - [Advisory: Are You an "Essential Business" in California Counties Where Shelter-in-Place Order Have Been Issued?](#)
- **March 17**
  - [Finance Advisory: Coronavirus and Securitization: Disclosure and Diligence Issues](#)
- **March 16**
  - [Securities Law Advisory: SEC Provides Guidance on the Possible Impacts of COVID-19 on Annual Meetings](#)
  - [Health Care / Cybersecurity Preparedness & Response Advisory: COVID-19 and HIPAA: Privacy, Security, and Breach Response During a Global Pandemic](#)
- **March 13**
  - [Financial Services & Products Advisory: FINRA Guidance: COVID-19 and Business Continuity Planning](#)
  - [Food, Drug & Device/FDA Advisory: FDA Seeks Help to Solve Personal Protective Equipment Shortages](#)

- [Securities Litigation Advisory: Securities Litigation Risk Arising Out of the Coronavirus Pandemic](#)
- **March 12**
  - [FDA Compliance & Enforcement Advisory: FDA Postpones Foreign Inspections Through April 2020: Considerations for Industry](#)
- **March 10**
  - [Labor & Employment / Health Care Advisory: Coronavirus, Employers, and Domestic Travel: A Complicated Business Decision](#)
- **March 6**
  - [Securities Law Advisory: SEC Provides Conditional Relief to Companies Affected by COVID-19](#)
- **March 5**
  - [Health Care Advisory: Congress Expands Medicare Telehealth Benefit Amid Coronavirus Concerns](#)
- **February 28**
  - [Labor & Employment / Health Care Advisory: The Coronavirus: Employer and Workplace Considerations](#)