

Coronavirus *Flash Update*: Monday, May 4, 2020

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The Latest News

- **U.S. COVID-19 cases** exceed 1,153,340 and 67,222 U.S. deaths. (Source: CDC) (**Updated 5/4/20**)
- **U.S. stock market:** On Friday the markets started the new month with a sharp decline from April’s overall gains. The Dow dropped 622 points, the S&P 500 lost 81 points, and the Nasdaq fell 284 points for the day. Weekend trading in stock futures were pointing to further declines as of Sunday night. (**New**)
- The U.S. Department of Justice filed a [statement of interest](#) in a Virginia federal court siding with Lighthouse Fellowship Church on Chincoteague Island concerning **First Amendment’s freedom of religion rights**. The church violated Virginia’s 10 person social distancing cap on gatherings. (**New**)

- The Small Business Administration and Treasury Department reported this weekend that **2.2 million Paycheck Protection Program loans totaling \$175.7 billion from more than 5,400 lenders have been processed**, with an average loan size of \$79,000. The average in the first round was \$206,000 - less than half of the additional funding remains available. (**New**)
- A Bipartisan Policy Center-Morning Consult [survey](#) found that **one-third of small businesses that have shed workers** as a result of COVID-19 either do not plan to or are unsure if they can re-hire them. (4/27/20) (**New**)

COVID-19 Related Legislation

- **Bill 4.0:** This week **Senators return to Washington for the first time in six weeks** as both bodies continue to draft provisions for the next emergency relief bill. Congressional Democrats stated they will release their priorities for the next relief package within the week. The House remains out of session until May 11. (**New**)
 - **Reflecting the new normal**, the Architect of the Capitol purchased masks for all offices recommending use while in public spaces on the Congressional campus. Congressional **guests must be met at security and escorted at all times**. The degree to which Senate offices will be resuming normal function remains up to each Senator and in some cases, Senators have asked their staff to continue to work from home for another week. (**New**)
 - The U.S. Capitol Attending Physician stated last week that they had an insufficient number of **COVID-19 tests to meet the needs of returning Senators** and their staff this week and House members next week. Late Friday, HHS Secretary Azar announced the Administration had arranged for 3 rapid testing machines and 1000 tests for use with the returning Congress. However, Senate Majority Leader Mitch McConnell (R-KY) and House Speaker Nancy Pelosi (D-CA) released a joint statement declining the Administration's offer, stating "Our country's testing capacities are continuing to scale up nationwide and Congress wants to keep directing resources to the front-line facilities where they can do the most good the most quickly." (**New**)
- **Bill 3.5: Paycheck Protection Program and Health Care Enhancement Act**, ([H.R. 266](#)) 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 5/3/20**)
- A&B [Provider Relief Fund disbursements tracker](#) – Provider Relief Fund was established through the *CARES Act*, with additional funds from Bill 3.5. (**Updated 5/3/20**)
- A&B [Summary](#) of **oversight and enforcement** provisions in the CARES Act
- Congress has passed three coronavirus emergency response bills and the first two are below:
 - **Bill 1.0: Coronavirus Preparedness and Response Supplemental (CPPRS)** ([H.R. 6074](#)) passed on March 5.
 - **Bill 2.0: Families First Coronavirus Response Act (FFCRA)** ([H.R. 6201](#)) passed on March 18

Transition to “Reopening”

- **State/Other Actions**
 - For the latest information on state reopening decisions, see the [A&B 50-State Openings Tracker](#) - updated in each A&B Coronavirus Flash Update. (**Updated 5/3/20**)
 - A&B’s Labor & Employment Group identifies issues likely to arise as workers are invited to return to their jobs and that employers may confront in developing return-to-work action plans in this [advisory](#). (4/22/20)
- **Administration Actions**
 - The Department of Labor is seeking ideas from the public about the **challenges facing businesses in the process of reopening**. A [dialogue page](#) has been created to facilitate this input. (5/1/20) (**New**)
 - The President stated that his **social distancing guidance, which expired on April 30, will not be extended** allowing the guidance to “be fad[ed] out, because now the governors will be doing it.” The President added that the governors would be making the reopening decisions and other guidance about social distancing. (4/30/20)
 - FEMA released [guidance](#) for ‘Planning Considerations for Organizations in Reconstituting Operations’ as states begin to unveil reopening plans. (4/30/20)
 - The EPA and the CDC jointly provided new re-opening [guidance](#) for **cleaning and disinfecting** public spaces, workplaces, businesses, schools, and homes. (4/29/20)
 - The White House released its **COVID-19 testing overview** and [blueprint](#) (4/27/20) as part of its **Opening Up America Again** initiative. The plans describe the partnership necessary between the private sector and the federal and state governments.
 - CMS [announced](#) recommendations to **re-open health care facilities to provide non-emergent non-COVID-19 care, including elective surgeries**. The [recommendations](#) state that non-COVID-19 care should be offered as clinically appropriate if the state, locality, or facility has the resources to provide such care **and** the ability to quickly respond to a surge in COVID-19 cases if necessary. (4/19/20)
 - During a meeting with governors, President Trump released “**Opening Up America Again**” [guidelines](#) but left the decision of when his recommended phases should begin to state governments. (4/16/20)

Environmental Protection Agency

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

Federal Communications Commission

- The **Federal Communication Commission (FCC)** [announced](#) a waiver of certain requirements for individuals who have lost their employment during the coronavirus pandemic and who qualify for Lifeline benefits to enroll in the Lifeline program. The Lifeline program provides monthly discounts on broadband and voice services to qualifying low-income consumers. (4/29/20)
- The FCC adopted a [program](#) appropriating \$200 million in COVID-19 telehealth grants (the COVID-19 Telehealth Program) and \$100 million in grants through the Connected Care Pilot Program to **assist hospitals and other health care providers cover telehealth costs**. (3/31/20)
 - As authorized by the **CARES Act** the FCC [announced](#) the **fourth set of health care providers to receive telehealth grants**. (4/29/20)

Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** Coronavirus [toolkit](#) page has been updated. (**Updated 5/1/20**)
- The HHS Office of Minority Health [announced](#) a competitive **funding opportunity** to invest up to \$40 million for the development and coordination of a strategic network of national, state, territorial, tribal, and local organizations to deliver **COVID-19 information to racial and ethnic minority, rural, and socially vulnerable communities** hardest hit by the pandemic. (5/1/20) (**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 4/30/20**)
- The Substance Abuse and Mental Health Services Administration (SAMHSA) [announced](#) \$15 million in **supplemental grants awards** for **Tribal COVID-19 behavioral response**. (5/1/20) (**New**)
- SAMHSA [announced](#) an additional \$250 million in emergency COVID-19 funding to increase access to and to improve the quality of **community mental and substance use disorder** treatment. Information on the grants is available [here](#). (4/27/20)

Assistant Secretary for Preparedness and Response

- The **Assistant Secretary of Preparedness and Response (ASPR)** Office of Biomedical Advanced Research and Development Agency (BARDA) [announced](#) it was expanding testing capacity by expanding its partnership with Hologic, Inc. for the development of a second high-throughput

molecular assay for SARS-CoV-2. Starting later in May, the new test expects to begin producing at least one million Aptima® SARS-CoV-2 assays per week. (5/1/20) (**New**)

- ASPR and CMS jointly [released](#) a concept of operations for nursing home infection prevention and control. (4/30/20)

Centers for Disease Control and Prevention

- The **Centers for Disease Control and Prevention (CDC)** [COVIDView Weekly Summary](#) is available. (**Updated 5/1/20**)
 - The CDC weekly COVID [forecast](#). (5/1/20) (**New**)
- The CDC has updated its [webpage](#) on **contact tracing**, including resources from the CDC and other federal agencies and private sector organizations. (5/2/20) (**New**)
- The CDC released [information](#) guidance for public spaces called COVID-19 Considerations for Cleaner Air Shelters and **Cleaner Air Spaces to Protect the Public** from Wildfire Smoke. (5/1/20) (**New**)
- The CDC released a [report](#) on the Public Health Response to the **Initiation and Spread of Pandemic COVID-19 – United States, February 24-April 21, 2020**. (5/1/20) (**New**)
- The CDC released a [report](#) on COVID-19 in **Meat and Poultry Processing Facilities – Selected States, April 2020**. (5/1/20) (**New**)
- The CDC has released a [document](#) called “Operational Considerations for Personal Protective Equipment in the Context of Global supply shortages for Coronavirus Disease 2019 (COVID-19) Pandemic: non-US Healthcare settings.” (4/30/20) (**New**)
- The CDC [announced](#) they are leading SARS-CoV-2 Sequencing for Public Health Emergency Response, Epidemiology and Surveillance (SPHERES), a **new national genomics consortium** to coordinate SARS-CoV-2 sequencing across the United States. (4/30/20) (**New**)
- The CDC has released [Ten Clinical Tips](#) on COVID-19 **for health care providers** involved in patient care and topics include treatment and prophylaxis, and co-infections and severe illness. (4/30/20) (**New**)
- The CDC released a [report](#) on Characteristics and Clinical Outcomes of Adult Patients **Hospitalized with COVID-19 – Georgia, March 2020**. (4/29/20) (**New**)
- The CDC updated or issued new guidance regarding reopening and continued mitigation efforts for [transportation and delivery workers](#), [first responders and law enforcement](#), [retirement communities and independent living facilities](#); [communities, schools, workplaces, and events](#); [people experiencing homelessness](#); [community and faith-based organizations](#); [institutes of higher education](#); [schools and childcare facilities](#); [dental settings](#); [law enforcement agencies and personnel](#); [shared and congregate housing](#); [tribal communities](#); [parks and recreational facilities](#); [businesses and workplaces](#); [shared and congregate housing](#); and [correctional and detention facilities](#). (4/30/20)
- The CDC updated its [guidelines](#) for **collecting, handling, and testing clinical specimens** from persons in COVID-19 testing. (4/29/20)

Centers for Medicare & Medicaid Services

- The **Centers for Medicare and Medicaid Services (CMS)** latest [news alerts](#). (**Updated 5/1/20**)
- **CMS announced** a second round of waivers and rule changes in response to the COVID-19 pandemic, including: (4/30/20)
 - [COVID-19 Emergency Declaration Blanket Waivers & Flexibilities for Health Care Providers \(PDF\)](#) (4/30/20)
 - [Medicare and Medicaid IFC: Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency \(CMS-5531 IFC\) \(PDF\)](#) (4/30/20)
 - [List of Hospital Outpatient Services \(PDF\)](#) and [List of Partial Hospitalization Program Services Accompanying the 4/30/2020 IFC \(PDF\)](#) (4/30/20)
 - [List of lab test codes for COVID-19, Influenza, RSV \(PDF\)](#) (4/30/20)
 - [Home Health Agencies \(PDF\)](#) (4/30/20)
 - [Physicians and Other Practitioners \(PDF\)](#) (4/30/20)
 - [Ambulances \(PDF\)](#) (4/30/20)
 - [Hospitals \(PDF\)](#) (4/30/20)
 - [Teaching Hospitals, Teaching Physicians and Medical Residents \(PDF\)](#) (4/30/20)
 - [Long Term Care Facilities \(Skilled Nursing Facilities and/or Nursing Facilities\) \(PDF\)](#) (4/30/20)
 - [Hospices \(PDF\)](#) (4/30/20)
 - [Inpatient Rehabilitation Facilities \(PDF\)](#) (4/30/20)
 - [Long Term Care Hospitals & Extended Neoplastic Disease Care Hospitals \(PDF\)](#) (4/30/20)
 - [Rural Health Clinics \(RHCs\) and Federally Qualified Health Centers \(FQHCs\) \(PDF\)](#) (4/30/20)
 - [Laboratories \(PDF\)](#) (4/30/20)
 - [End Stage Renal Disease \(ESRD\) Facilities \(PDF\)](#) (4/30/20)
 - [Durable Medical Equipment \(PDF\)](#) (4/30/20)
 - [Participants in the Medicare Diabetes Prevention Program \(PDF\)](#) (Updated 4/2/20)
 - [Medicare Advantage and Part D Plans \(PDF\)](#) (4/30/20)
 - [State Medicaid & Basic Health Programs \(PDF\)](#) (4/30/20)
 - [Medicare Shared Savings Program Participants \(PDF\)](#) (4/30/20)
- CMS [issued](#) FAQs related to the Emergency Medical Treatment and Labor Act (EMTALA) that clarify requirements and considerations for hospitals and other providers. (4/30/20)
- CMS [announced](#) an independent commission to address **safety and quality in nursing homes**. The agency also [released](#) guidance to State Survey Agencies (SAs) for nursing home cost surveys and certification efforts in the award and administration of supplemental funding provided by the CARES Act, with a focus on areas where there is community spread of COVID-19. (4/30/20)
- CMS has posted a [FAQ](#) on HHS-operated risk adjustment for individual and small group health plans for the coverage of telehealth COVID-19 care. (4/27/20) (**New**)
- A&B's Health Care and Litigation Groups explore how to **take advantage of remote health care** now and prepare for continued telehealth operations after the pandemic ends in this [advisory](#). (4/29/20)
- 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)

- CMS [announced](#) that it is suspending its Advance Payment Program to Part B suppliers effective immediately and applications would no longer be received. The Agency is also **reevaluating the amounts that will be paid under its Accelerated Payment Program** but will continue to receive applications. (4/26/20)
- CMS released a **state-by-state [list](#) showing the breakdown of receipt of accelerated and advance payments**. (Updated 4/24/20)

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: (5/2/20) (**New**)
 - The initial announcement stated that **high impact eligible facilities** would be the 395 hospitals that provided inpatient care for 100 or more COVID-19 patients through April 10. \$10 billion would be distributed based on a fixed amount per COVID-19 admission and \$2 billion would be based on a hospital’s Medicare and Medicaid disproportionate share and uncompensated care payments. (**New**)
 - The announcement stated that eligible entities for the **rural payments** are: (**New**)
 - Rural acute care general hospitals
 - Critical access hospitals
 - Rural health clinics
 - Rural community health centers
 - The rural provider payments would be based on a minimum base payment plus a percent of annual expenses.
 - Attestation Portal (<https://covid19.linkhealth.com/#/step/1>) provides the initial steps to be completed for distribution to be followed by requirements in the revenue portion of the portal, which is required for both:
 - Providers eligible for funds which must be applied for; and
 - Providers who received an automatic payment terms and conditions for fund recipients are available [here](#).
 - The Provider Relief Funds webpage has not been updated to reflect the \$12 billion increase for high impact areas or the additional eligibility and distribution methodology information. In addition, the breakdown of the high impact distributions and rural distributions has been removed.
 - The [state-by-state congressional district distribution totals](#) for the initial \$30 billion which began on April 10 has been posted. (5/1/20) (**New**)
 - The CARES Provider Relief hotline is (866) 569-3522. Entities can also try contacting the Provider Hotline at the [applicable MAC](#).
- HHS through the Health Resources and Services Administration [began distribution](#) of another \$20 billion from the CARES Act Provider Relief Fund for the care of the uninsured, which augments the \$30 billion which was released in the first tranche from the fund. (4/28/20)

- HRSA launched the [COVIDUninsured Portal](#) allowing health care providers who have conducted COVID-19 testing or provided treatment for uninsured COVID-19 individuals on or after February 4, 2020 to request claims reimbursement.
- HHS Provider Relief Fund [first disbursements](#) of \$30 billion began on April 10 and the initial information outlined five allocation categories for the **remaining \$70 billion** (the CARES Act authorized \$100 billion – bill 3.5 has authorized an additional \$75 billion).
 - This detailed A&B [Provider Relief Fund disbursements](#) tracker provides a full overview of the \$70 billion disbursement and the previous \$30 billion (**Updated 5/3/20**).

Food and Drug Administration (Drugs and Devices)

- FDA provides a **daily roundup on COVID-19** related actions. The latest update is [here](#), (**updated 5/1/20**), and here is a listing of [all announcements](#).
 - FDA maintains its COVID-19 [FAQs](#) for the general public. (**Updated 5/1/20**)
 - The agency also maintains a [public database](#) of drug shortages. (**Updated 5/1/20**)
- The FDA [issued](#) an emergency use authorization for the investigational antiviral drug Remdesivir for the treatment of suspected or laboratory-confirmed COVID-19 in adults and children hospitalized with severe disease. (5/1/20) (**New**)
- FDA issued [guidance](#) to clarify the scope of the public health emergency exemption and exclusion under the **Drug Supply Chain Security Act** to help ensure adequate distribution of finished prescription drug products throughout the supply chain to combat COVID-19. (4/30/20)
- FDA [added](#), under the ventilator emergency use authorization (EUA) rules, a **ventilator developed by NASA** that is tailored to treat patients with COVID-19. (4/30/20)

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

- The White House [issued](#) an executive order to **keep meat and poultry processors open** under the Defense Production Act. The White House also issued a [fact sheet](#) on efforts related to ensuring the safety of the nation's food supply chain. (4/28/20)

National Institutes of Health

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

Health Resources and Services Administration

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

Department of Homeland Security/FEMA

- The **Department of Homeland Security (DHS)** [provides](#) a weekly roundup of its response to COVID-19. (Updated 4/27/20).
- FEMA released a [fact sheet](#) on using the Critical Care Decontamination System. The FDA has issued emergency use authorizations for vaporized hydrogen sterilizer systems to be used in the decontamination of N95 respirators. (4/30/20) (**New**)
- FEMA [announced](#) that it will coordinate two **shipments totaling a 14-day supply of personal protective equipment (PPE)** to more than 15,400 Medicare and Medicaid-certified nursing homes across the nation, including all 50 states, the District of Columbia, Puerto Rico, and Guam. By the beginning of July, each facility will receive two separate packages containing a seven-day supply of eye protection, surgical masks, gowns, and gloves. Each package will be individualized for each nursing home based upon their level of staffing. (4/30/20)
 - FEMA issued a [fact sheet](#) on **best practices to preserve personal protective equipment**. (4/28/20)
- President Trump signed an [executive order](#) temporarily “pausing,” for period of 60 days, certain **U.S. immigration processes**. The President noted he would revisit the issue after 60 days and depending on the economy may choose to extend the suspension. (4/22/20)
 - Review this A&B [advisory](#) for more information on the order, who it applies to, who is exempted, and what employment-based visas are affected. (4/28/20)
- **FEMA refines scope of medical supply export ban**. The FEMA offered more details on its plans for exemptions to a temporary rule banning some medical supplies from being shipped overseas. In an [April 21 Federal Register notice](#), FEMA codified and tailored the exemptions, which provide a path for some exporters to make sales of medical products not in high demand in the U.S. See A&B advisory about it [here](#). (4/23/20)

Department of Justice/Federal Trade Commission/Litigation

Consumer Protection/Anti-fraud

- The **Consumer Financial Protection Bureau (CFPB)** issued an interpretative [rule](#) to provide guidance to creditors and other covered persons involved in the mortgage origination process. (4/29/20)

- The FTC provided [guidance](#) for businesses to **avoid scams** while applying for loans through the SBA's Paycheck Protection Program (PPP) or Economic Injury Disaster Loans (EIDL) program. FTC advises businesses to get information directly from the SBA's website (sba.gov/coronavirus) and not apply for a loan before verifying the lender. If businesses identify scams, they are asked to submit a complaint at ftc.gov/complaint. (4/29/20)
- DOJ filed its [second price gouging complaint](#) under the Defense Production Act, charging a California attorney and Arizona businessman with attempting to profit from the pandemic by conspiring to sell one million KN95 respirator masks for double or triple the purchase price. (4/28/20)
- The FTC [sent](#) **twenty-one warning letters to U.S. marketers to stop making unsubstantiated claims that their products and therapies can treat or prevent COVID-19**. The products at issue included acupuncture, intravenous, ozone, and stem cell therapies, and various vitamins and supplements. (4/23/20) One day later, the FTC [sent](#) letters to ten multi-level marketing companies (MLMs) demanding that they remove and address claims that they or their participants are making about their products' ability to treat or prevent coronavirus disease or about the earnings people who have recently lost income can make, or both. The letters warn the companies that they are responsible for their distributors' false or misleading claims. (4/24/20)

Litigation Issues

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

Department of Labor/OSHA

- **Department of Labor's (DOL) Employee Benefits Security Administration (EBSA)** [issued](#) FAQs under the Consolidated Omnibus Budget Reconciliation Act (COBRA) and [revised COBRA model notices](#). Plan administrators can use these model notices to notify plan participants and beneficiaries of their rights under COBRA and qualified beneficiaries of their rights to elect COBRA. (5/1/20) (**New**)
- **DOL** [issued](#) a notice providing deadline relief and other guidance under Title I of the **Employee Retirement Income Security Act of 1974 (ERISA)** to help employee benefit plans, plan participants and beneficiaries, employers and other plan sponsors, plan fiduciaries, and other service providers impacted by the coronavirus outbreak. (4/28/20)
 - DOL has also provided COVID-19 [FAQs](#) for employee plan participants and beneficiaries. (4/28/20)

- DOL and the Occupational Safety and Health Administration (OSHA) [issued](#) a safety alert for restaurants, food, and beverage businesses providing curbside pickup and takeout service. (5/1/20) **(New)**
- OSHA issued a [statement](#) of enforcement policy regarding meat and poultry processing facilities. (4/28/20)

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

Department of Treasury/IRS/Federal Reserve

- The Department of Treasury [website](#) for **CARES Act** programs, including specific sections on assistance for [American workers and families](#), [small businesses](#), [state and local governments](#), and [preserving jobs for American industry](#).
- Treasury released updated Paycheck Protection Program [FAQs](#) on issues pertaining to loan forgiveness, seasonal workers, and non-profit hospitals (questions 40-42). (5/3/20) (**New**)
- The Federal Reserve [expanded](#) access to its Paycheck Protection Program Liquidity Facility (PPPLF) to additional lenders and expands the collateral that can be pledged. (4/30/20)
- The Federal Reserve [announced](#) an expansion of the scope and eligibility for the Main Street Lending Program to help credit flow to small and medium-sized businesses. (4/30/20)
 - [FAQs](#) regarding the Main Street Lending Program were released. (4/30/20)
 - For more information about the Main Street programs, review this A&B [advisory](#). (4/14/20)
- The **Internal Revenue Service (IRS)** provided answers to [common questions](#) on the Economic Impact Payment Program and stated that checks continue to be sent. (4/30/20) (**New**)
- IRS provided [guidance](#) clarifying that **no deduction is allowed** under the Internal Revenue Code for an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered **PPP loan**. (4/30/20)
- The IRS updated its [FAQs](#) related to the **employee retention credit** under the CARES Act. (4/29/20)
- The IRS released [state-by-state](#) data for the Economic Impact Payments with 88 million individuals receiving payments worth nearly \$158 billion. (Updated 4/28/20)

Other Agencies

- The **United States Patent and Trademark Office** announced (4/28/2020) that it would further extend certain [patent](#) and [trademark](#) deadlines to June 1, 2020, given the ongoing effects of the COVID-19 pandemic. These extended deadlines apply to those situations identified in the USPTO's [March 31, 2020, guidance](#), such as responses to Office Actions.
 - For more detail, read Alston & Bird's [advisory](#) explaining how and when to claim these extensions. (4/2/20)
- The **Department of Education** [announced](#) today that nearly \$1.4 billion in additional funding will be directed to Minority Serving Institutions (MSIs), including Historically Black Colleges and Universities (HBCUs) and Tribally Controlled Colleges and Universities (TCCUs), as well as institutions serving low-income students to help ensure learning continues during the coronavirus national emergency, as authorized by the CARES Act. (4/30/20)
- On April 21, the **FHFA** [announced](#) that it was aligning Fannie Mae's and Freddie Mac's policies so that servicers of Fannie Mae and Freddie Mac single-family mortgage loans that are in forbearance as a result of COVID-19 will only have an obligation to advance four months of missed principal and interest payments.
 - For a deeper dive on this topic, see this [advisory](#) from A&B's Finance Group. (4/22/20)

- **The Department of Housing and Urban Development (HUD)** on May 1 [announced](#) the allocation of \$685 million in funding for public housing authorities to assist low-income Americans living in public housing. (5/1/20) (**New**)
 - **HUD issued** a brochure for tenants having problems paying rent including state contacts. (4/27/20)
 - **HUD** also provided COVID-19 [FAQs](#) for Public Housing Agencies. (updated 4/22/20)
- The **Department of Transportation (DOT)** [announced](#) that the **Federal Aviation Administration (FAA)** will award \$1.187 billion in airport safety and infrastructure grants under the CARES Act. (4/30/20)
 - DOT also [announced](#) a plan to address the impact of the COVID-19 pandemic on air carriers participating in the Essential Air Services (EAS) program. (4/29/20)
- The FAA granted an [exemption](#) to the timeframes for completing recurrent training and testing requirements for certain air ambulance personnel. (4/30/20)
 - The FAA also [published](#) a **Special Federal Aviation Regulation** that provides regulatory relief to persons who have been unable to comply with certain training, recent experience, testing, and checking requirements due to the COVID-19 outbreak. (4/29/20)
- The **Department of Veterans Affairs (VA)** Board of Veterans' Appeals [announced](#) it was expanding access to **virtual hearings** to all veterans awaiting their board hearing. (5/1/20) (**New**)
- The VA [announced](#) it is participating in **the plasma from COVID-19 patients clinical trials** aimed at finding ways to potentially prevent symptoms of the coronavirus disease. (5/1/20) (**New**)
- The VA [announced](#) it was providing supplies and **clinical personnel to non-VA facilities** in 38 states to care for COVID-19 patients. (5/1/20) (**New**)

Trade and International Business Issues

- **Reliance on international trade for food security likely to grow during the COVID-19 pandemic.** Food security is increasingly dependent on international trade, making it critical to keep trade in food flowing, WTO Deputy Director-General Alan Wolff [noted](#) on April 30. In remarks delivered at the "Trade Dialogues on Food" webinar, he said that, on balance, governments have been quick to recognize the value of international trade for global food security during the COVID-19 crisis and are taking concrete action to protect the global food supply chain from disruption. (4/30/20) (**New**)
- **The Federal Maritime Commission (FMC) Adopts Final Rule for Detention and Demurrage Charges.** FMC will adopt a [final rule](#) to give industry guidance on how it assesses the "reasonableness" of detention and demurrage charges, the agency said. The rule will become effective upon its publication in the Federal Register. (4/28/20)
- A&B European Antitrust, Mergers & Acquisitions, and International Trade & Regulatory Groups [examines](#) (4/21/20) **changes in the way European competition authorities will review foreign direct investment** during (and potentially long after) the coronavirus pandemic and [reviews](#) what COVID-19 may mean for **European commercial mortgage-backed securities servicers**.

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 5/3/20)
- The pace of new business income coverage claims flooding state and federal courts nationwide has continued at break-neck pace over the last few weeks. Notably, plaintiffs firm Lief Cabraser Heimann & Bernstein LLP has joined the fray, [reportedly](#) indicating that they intend to file many lawsuits on behalf of restaurant owners going forward. They filed the first such suit on April 30 on behalf of San Francisco’s Michelin-starred Coi Restaurant and Los Angeles’ Alta Adams against insurers Farmers’ Group and Mid-Century Insurance Company. The suit was filed in San Francisco Superior Court and alleges breach of contract, bad faith, and fraud claims. (**New**)
- On April 30, the Council of the District of Columbia issued a [Memorandum](#) requesting to place certain measures on the agenda for the May 5th Legislative Meeting, including changes to the law that would impose “new requirements for business interruption insurance to pay for certain business closures during the pandemic.”
- On April 29, the Kansas Insurance Department issued an updated [COVID-19 FAQ](#) explaining that “it is the Department’s understanding that it is unlikely that a business policy would cover losses related to COVID-19, as most business policies have communicable disease exclusions.” The Missouri Department of Insurance has similarly [advised consumers](#) that the most common “trigger” for business interruption coverage “is when an insured property sustains a ‘direct physical loss’ from a disaster such as a tornado” and further notes that [i]f a type of event is not listed in [a] policy, then it is probably not covered.” And the Louisiana Department of Insurance has [explained](#) that, based upon its review of the policy forms of seven admitted insurers “[p]erils or causes of loss that are neither listed on, nor described in, the policy are typically not covered” by business interruption policies.

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

U.S. Department of Health and Human Services:

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

Centers for Disease Control and Prevention:

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

What you should know:

- [Workplace, School, and Home Guidance](#)
- [People at Risk for Serious Illness from COVID-19](#)
- [How COVID-19 Spreads](#)

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

Situation Updates:

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

Information for Businesses:

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

Information for Travel and Transportation:

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

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

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

Information for Law Enforcement:

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

Information for Families and Households:

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

Information for Schools and Childcare Providers:

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

Information for Community Events and Gatherings:

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

Agency Resources and Information:

- [U.S. Department of Health and Human Services](#)
- [Centers for Medicare and Medicaid](#)
- [U.S. Food & Drug Administration](#)
- [U.S. Department of Agriculture](#)
- [U.S. Department of Defense](#)
- [U.S. Department of Education](#)
- [U.S. Department of Energy](#)
- [U.S. Department of Homeland Security](#)
- [U.S. Department of Labor](#)
- [U.S. Department of State](#)
- [U.S. Department of Veterans Affairs](#)
- [U.S. Environmental Protection Agency](#)
- [U.S. Small Business Administration](#)

Alston & Bird Coronavirus Links

- Alston & Bird Coronavirus [Task Force](#) Web page
- To [Subscribe](#) to Alston & Bird Advisories
- For Alston & Bird [COVID-19 Insights and Events](#)
- **Previous Alston & Bird Coronavirus Advisories** (not included in the above)
 - **April 21**
 - [Financial Advisory: Forbearance Agreements in the age of COVID-19 and National Shelter-in-Place Orders](#)
 - **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](#)